

September 2009

RECOVERY ACT

Funds Continue to
Provide Fiscal Relief
to States and
Localities, While
Accountability and
Reporting Challenges
Need to Be Fully
Addressed
(Appendixes)



GAO

Accountability * Integrity * Reliability

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Appendix I: Arizona

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Arizona. The full report on all of our work, which covers 16 states and the District of Columbia, is available at www.gao.gov/recovery/.

We reviewed two programs in Arizona funded under the Recovery Act—Highway Infrastructure Investment and the Weatherization Assistance Program. We selected these for different reasons. Contracts for highway projects using Highway Infrastructure Investment funds have been under way in Arizona for several months, and provided an opportunity to review financial controls, including the oversight of contracts. The Weatherization Assistance Program funding provided a significant addition to the annual appropriations for the program assisting more low-income households to achieve energy efficiency while providing long-term financial relief. Furthermore, it provided an opportunity to determine the state and local procedures in place to ensure monitoring, tracking, and measurement of weatherization program success. We reviewed contracting procedures and examined four specific contracts under Recovery Act Highway Infrastructure Investment funds. In addition to these two programs, we also updated funding information on three Recovery Act education programs with significant funds being disbursed—the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF) and Recovery Act funds under Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and the Individuals with Disabilities Education Act (IDEA), Part B. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Arizona and local governments stabilize their budgets and to stimulate infrastructure development and expand existing programs—thereby providing needed services and potential jobs. The following provides highlights of our review of these funds:

Highway Infrastructure Investment

- The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned \$522 million in Recovery Act funds to Arizona. As of September 1, 2009, the federal government has obligated \$293 million to Arizona and \$18 million has been reimbursed by the federal government.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

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- As of September 3, 2009, Arizona has awarded 47 contracts totaling \$135.1 million for statewide highway projects. Arizona has provided for at least one construction contract for Recovery Act highway project in each of its 15 counties with all counties receiving at least \$100,000 in statewide Recovery Act Federal Highway funds and 13 of the 15 counties each receiving at least \$1.8 million.
 - Arizona has awarded only three construction contracts for local highway projects because of a lack of local shovel-ready projects. The lack of projects was due to some localities' not understanding the allocations that they would receive as well as their unfamiliarity with federal highway requirements.

Weatherization Assistance Program

- The U.S. Department of Energy has allocated to Arizona about \$57 million in funding for the Recovery Act Weatherization Assistance Program for a 3-year period. As of September 1, 2009, approximately \$49 million has been allocated to local service providers to conduct weatherization training and make energy efficiency improvements with approximately \$28.5 million eligible for reimbursement.
- Arizona expects to expend the full Recovery Act funding allocation before the 3-year period and plans to weatherize approximately 6,400 units statewide, which according to state officials, could result in as much as \$1.8 million in overall energy savings annually.
- As of September 11, 2009, Arizona had expended \$771,485 of Recovery Act weatherization funds, or about 1.4 percent of the total allocation. While most local service providers were ready to begin weatherization work, they waited until they were provided final Davis-Bacon Act local wage requirements.

Updated Funding Information on Education Programs

- Education has awarded Arizona approximately \$557 million of the state's approximately \$1 billion of SFSF available funds. Of that, Arizona had planned to provide approximately \$250 million to elementary and secondary local education agencies and approximately \$183 million to public institutions of higher education. As of September 8, 2009, Arizona had not disbursed any SFSF funds to local education agencies or community colleges, but has disbursed approximately \$154 million to the state's three universities.
- Additionally, Education has awarded Arizona about \$195 million in Recovery Act ESEA Title I funds. Arizona has allocated about \$185 million, or 95 percent of these funds, to local education agencies

(LEA). Based on information available as of September 8, 2009, Arizona has disbursed about \$3 million to local education agencies. These funds are to be used to help educate disadvantaged youth.

- Education has also awarded Arizona about \$184 million in Recovery Act funds under IDEA, Part B. As of September 8, 2009, local education agencies have been allocated all \$184 million and have received \$2.2 million of the funds. The IDEA funds are to be used to support special education and related services for children and youth with disabilities.

Arizona Using Recovery Act Funds to Provide Short-Term Relief; Anticipates Fiscal Challenges to Continue after Recovery Act Funds Expire

In the face of declining revenues and economic activity, Arizona is using Recovery Act funding to help balance the state budget and minimize the large program reductions to the fiscal years 2009 and 2010 budgets. According to state budget officials, Arizona's general fund full year collections for fiscal year 2009 were \$7.69 billion, a decrease of 18.4 percent compared to fiscal year 2008, after various accounting adjustments, such as fund transfers. To address this revenue gap, the state reduced its overall general fund appropriations by approximately \$1.4 billion in fiscal year 2009, or 14 percent compared to fiscal year 2008, and applied \$750 million in Recovery Act funding to reduce expenditures, according to the Joint Legislative Budget Committee.² However, despite these cuts and the Recovery Act federal assistance, Arizona had an estimated remaining budget shortfall of \$479 million. While the state has a balanced budget requirement, according to the budget committee staff, the Arizona constitution permits the state to address any year-end shortfall in the next fiscal year. As a result, Arizona's fiscal year 2009 estimated shortfall of \$479 million was carried over and addressed in the fiscal year 2010 budget.

For fiscal year 2010, which began in Arizona on July 1, 2009, Recovery Act funding will continue to temporarily stabilize the state budget. As of September 4, 2009, Governor Brewer has signed, vetoed or line item vetoed all fiscal year 2010 budget bills transmitted to her by the Arizona legislature. Arizona's anticipated shortfall for fiscal year 2010 of \$3.16 billion was largely resolved by the Governor's actions on the budget bills, according to the Joint Legislative Budget Committee. The budget includes

²In our April 2009 report we noted that Arizona depleted its budget stabilization fund, or rainy-day fund.

Recovery Act funding of approximately \$1.13 billion.³ However, according to the Governor, the bills did not amount to a comprehensive state revenue strategy for fiscal year 2010 and future fiscal years. In particular, the Governor exercised line item veto authority on the Department of Education and Department of Economic Security reductions, while acknowledging this level was higher than the state's current available revenues can sustain. In her transmittal letter, the Governor cited her intent to restore education funding and preserve spending levels to meet Recovery Act requirements. The Governor vetoed legislation which affected funding and the assessment of fees for a number of smaller state agencies and commissions and also allowed the 3-year-old temporary suspension of the State Equalization Assistance Property Tax, which supports K-12 education, to expire, according to the Governor's budget office.⁴ As officials explained, because this tax is levied at the local level—increasing the proportional contribution of local monies to education funding—the return of this tax effectively means a decrease in the state's formula contribution to education funding. According to the Governor's budget officials, the legislature had made several additional cuts to state support for education funding which would have pushed Arizona below the education expenditure level that it must maintain to meet requirements for SFSF funds.⁵ However, the Governor exercised line item veto authority on certain Department of Education reductions in order to maintain education expenditures at the required levels. The Joint Legislative Budget Committee now estimates a remaining shortfall of approximately \$350 million. The Governor is now planning to call the legislature back into session to address the outstanding budgetary challenges. In addition to the budget shortfall, reduced revenues have resulted in the state treasurer having to make short-term borrowings from other state and local

³Recovery Act funds used to stabilize the state's operating budget include approximately \$816 million in state funds made available as a result of the increased Federal Medical Assistance Percentage for Medicaid (discussed in detail in [GAO-09-1016](#)) and \$311 million in SFSF funding. These figures do not include \$250 million in SFSF funds for elementary and secondary education that were anticipated in fiscal year 2009, but which will now be made available in fiscal year 2010.

⁴Arizona Senate Bill 1025: The General Revenue Act. In her transmittal letter, the Governor stated her willingness to support a permanent repeal, but as part of a comprehensive proposal that addresses the state's revenue shortfall.

⁵Among other provisions, the Recovery Act requires states to assure that states' support for education will not fall below the levels provided in fiscal year 2006. Also, the return of this tax could affect the LEAs' budgets and LEAs may have to modify their applications for SFSF monies.

government funds to cover cash deficits in order to continue state operations. In addition, the state is preparing to establish an external line of credit of \$500 million, according to the Governor's office.

The Governor has proposed that she and the legislature continue to work to address the state's revenue shortfall. As part of a five-part long-term solution to Arizona's fiscal condition, the Governor has asked the legislature to consider a temporary sales tax increase, particularly in light of the fact that the Recovery Act funding will expire. The staff of the Joint Legislative Budget Committee has estimated that a voter-approved temporary sales tax increase of 1 cent for the first 24 months and a half-cent for the following 12 months would generate revenue totaling approximately \$2.5 billion for fiscal years 2010 through 2013. In addition, the Governor called for a state tax reform to promote investment in Arizona, revenue stability and job growth and sustainability. According to state officials, members of the legislature have proposed individual and corporate income tax reductions—estimated to reduce revenue by \$400 million in fiscal years 2012 and 2013—and to permanently repeal the State Equalization Assistance Property Tax—estimated to cost \$250 million in fiscal year 2010 and up to \$281 million in fiscal year 2013.

Arizona is currently looking for additional ways to address its projected fiscal challenges and is developing budgetary plans to avoid a sudden drop in revenues as the Recovery Act funding period ends, according to Governor's staff members. The \$750 million spent in fiscal year 2009 and \$1.13 billion obligated for fiscal year 2010 to address budget shortfalls leave Arizona with only a projected \$417 million in Recovery Act funding remaining for fiscal year 2011. Current estimates project a deficit between \$0.89 billion and \$2.2 billion in the state's general fund for fiscal year 2011, depending on various budget solutions being considered. The Governor's staff continues to develop plans to work with state agencies on internal organizational changes that can help reduce expenditures. In addition, on August 17, 2009, the Arizona Senate President established the Arizona Budget Commission, which will assess how appropriations are allocated by state agencies; streamline the agencies' organization, operation and costs; and create a best-practices management model for state government.

Arizona May Have Insufficient Funds to Cover Administration Costs of Recovery Act Oversight without Expedient Review of State Proposals

Given Arizona's budgetary challenges, officials in the Governor's Office of Economic Recovery (OER) and the Arizona State Comptroller expressed their concern about having adequate funding to cover the additional administrative costs associated with compliance of the Recovery Act provisions. States have been given the option to recoup costs for central administrative services, such as providing oversight and meeting reporting requirements of the Recovery Act, as outlined in Office of Management and Budget (OMB) memorandum M-09-18.⁶ The OMB memo presented two alternative methods—using estimated costs or billing for services. Both alternatives are longstanding methods that have been allowed under the guidance in OMB Circular A-87. However, as understood by the state's Comptroller, the cost recovery processes that OMB currently allows will not cover all the additional administrative costs under the Recovery Act, and he expressed two major concerns over the OMB Circular A-87 cost allocation methodologies. First, according to the Comptroller, the state will not be able to fully recapture the cost of depreciable equipment that is dedicated specifically for Recovery Act purposes. For example, equipment such as a computer server that is purchased by the state to comply with Recovery Act reporting or monitoring would be depreciated over the life of the asset and not over the period of Recovery Act programs. The life of the asset would be longer than the period of Recovery Act programs, resulting in the state receiving an allowance for depreciation for a shorter period. Therefore, the state comptroller maintains that Arizona would not receive full cost recovery. Second, the traditional cost allocation methodologies require that the state charge administrative costs according to a formula based on the actual amount of money spent.

To address Arizona's concerns about insufficient funds to cover the administrative costs, the Arizona State Comptroller, along with other state comptrollers, collaborated with their national association, the National Association of State Auditors, Comptrollers, and Treasurers (NASACT), to address these issues, and on August 7, 2009, requested on behalf of the states, a waiver of certain requirements of OMB Circular A-87. The request

⁶OMB Memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities* (May 11, 2009), provides that states may charge Recovery Act grants up to 0.5 percent of total Recovery Act funds received by the state under cost recovery processes under current guidance of OMB Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*. Under the provisions of OMB Circular A-87, states can recoup administrative costs through the Statewide Cost Allocation Plan (SWCAP), which is submitted to the Department of Health and Human Services annually for review and approval. There are two alternatives, use of estimated costs for centralized services, or billed services.

asked for a change (1) to increase the allowance for depreciation of assets that are dedicated to Recovery Act purposes; and (2) to allow states to apply a prorated allocation of central service agency costs based on the ratio of state agency Recovery Act funds received as compared to total Recovery Act funds received by the state.

Additionally, Arizona submitted a proposal to the Department of Health and Human Services's (HHS) Division of Cost Allocation to simplify the calculation and accounting for central administrative costs related to Recovery Act programs.⁷ Arizona proposed that it be allowed to base the allocation of central service agency costs based on budgeted dollars that would not be adjusted to the actual amount of money spent.

According to the state Comptroller, OMB reviewed the waiver request and advised that the request to increase the depreciation allowance was a policy issue and would not be treated as a waiver. Regarding the second waiver request, OMB advised that the Division of Cost Allocation would approve cost allocation methodologies on a state-by-state basis.

As of September 15, 2009, Arizona is awaiting a decision from OMB on the policy issue for depreciation allowance and from HHS for approval of the cost allocation methodology. The state, pending a decision from HHS on the cost allocation methodology, plans to go forward using the second option—billing for services—allowed by OMB Memorandum M-09-18. However, the state comptroller is concerned that by the time OMB and HHS make a decision, recipients of Recovery Act funds in Arizona will have already spent significant portions of these funds leaving the state with a much smaller pool of remaining funds from which the state could collect the administrative costs. Therefore, the ability of the state to collect for all administrative costs could be jeopardized.

⁷The Division of Cost Allocation within HHS administers state cost allocation plans, which provide a process whereby state central service costs can be identified and assigned to benefited activities.

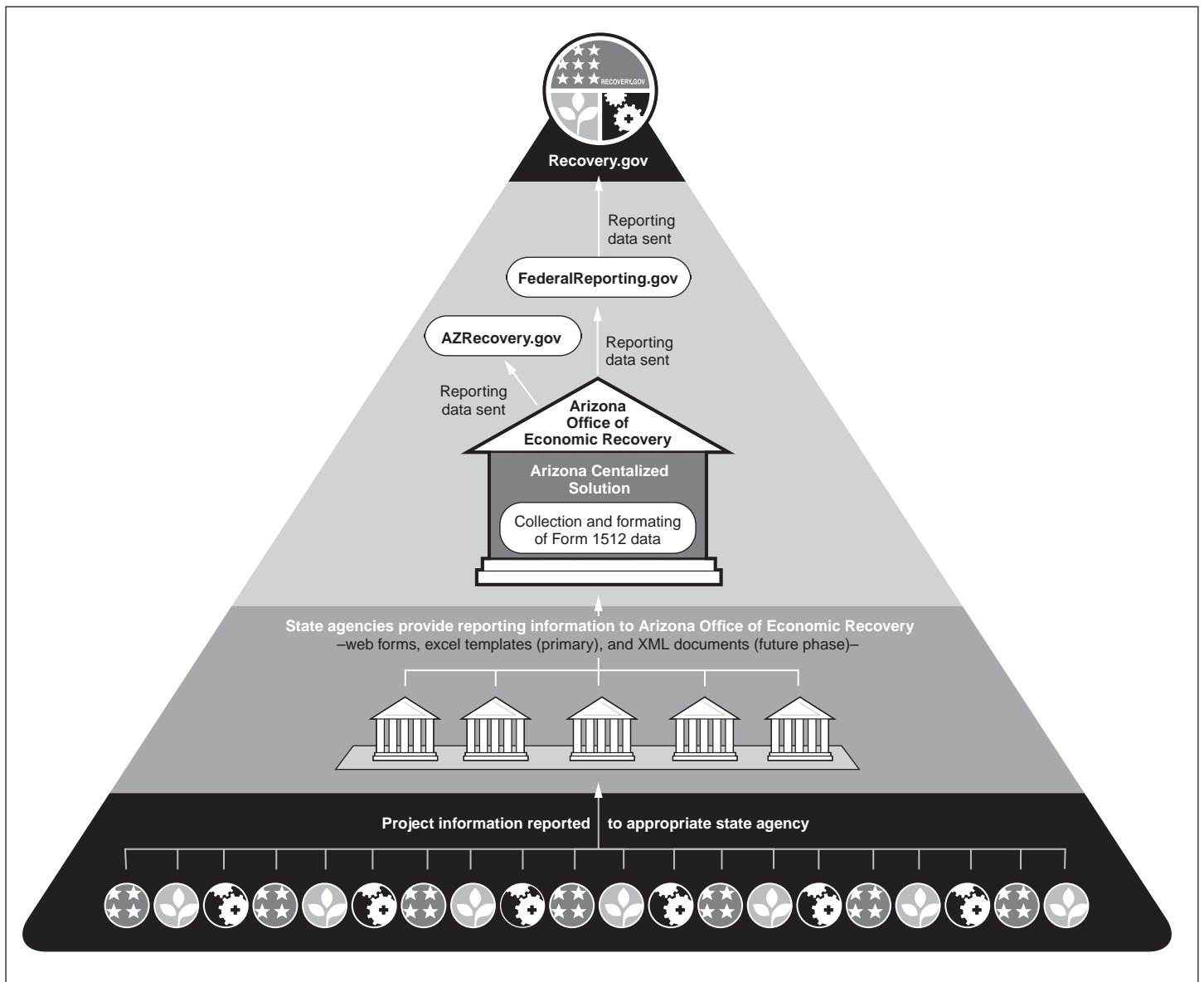
Arizona's Strategy to Meet October Reporting Deadline Is Based on Implementing a System Intended to Centrally Collect and Report Data on State Agencies' Use of Recovery Act Funds

Recipients of Recovery Act funds are required to submit quarterly reports under section 1512 of the act to the federal agencies providing those Recovery Act funds. These reports are to include, among other requirements, (1) the total amount of Recovery Act funds received by each recipient from the federal agency, (2) a list of all projects and activities for which Recovery Act funds were expended or obligated, (3) an evaluation of the completion status of each project or activity, and (4) an estimate of the number jobs created and number of jobs retained by each project or activity. Recipients are to submit the first report by October 10, 2009, for the quarter ending September 30, 2009. The Recovery Act requires that the reporting be done by entities, other than individuals, that receive money directly from the federal government. These entities are to submit their data using www.federalreporting.gov which will then be made available to the public at www.recovery.gov.

Arizona officials from the Governor's office explained that the Governor envisions her office as the responsible party for Recovery Act funds received by the state of Arizona. Therefore, OER plans to centrally collect data and to submit these quarterly 1512 reports for the state agencies. Some of the benefits envisioned by the Governor for single reporting are the ability to expedite the reporting process, provide a common system for reporting, and use built-in audit capabilities. Arizona will employ a centralized reporting solution that, according to OER officials, will comply with OMB reporting guidance. The centralized solution is based on a software application known as Stimulus 360 that is customized to meet the Recovery Act reporting requirements. State agencies that receive Recovery Act funds will send the required reporting data to the OER team. The Governor's OER team will compile this data into a single entry and report the information through www.federalreporting.gov, the reporting portal, to www.recovery.gov.

Using this centralized approach, the Governor's team will extract financial data already available from the state's accounting system on Recovery Act funds that state agencies are using, add in any other data from the agencies, and upload these combined data into the centralized reporting solution. (See figure 1.) According to OER officials, their team will provide reporting and auditor resources to review data quality and perform data validation and data cleanup. The state comptroller noted that the inherent risk of double reporting certain data elements, such as the number of jobs created, by both the state agency and other subrecipients, such as a vendor performing the work, would be reduced with centralized reporting.

Figure 1: Arizona's Centralized Reporting System for October Reporting



Source: GAO.

As an additional check on data accuracy, each state agency will be responsible for validating its data prior to submitting it to the state. For example, as discussed later in this appendix, data for transportation projects are housed in the Arizona Department of Transportation's

(ADOT) existing reporting system, LCPTracker, and will undergo numerous levels of review by ADOT prior to reporting these data to OER for inclusion in the centralized reporting system.

To coordinate with and obtain cooperation from the state agencies on using the centralized solution, the Governor's team started meeting in July 2009 with the directors of state agencies. The Governor's team explained its preference for the centralized reporting method over each state agency reporting separately. The team also gathered information on reporting requirements and subsequently began planning for a test run of the centralized reporting method. According to OER officials, as of September 8, 2009, all state agencies plan to use the Governor's centralized reporting methodology.

Early Identification of Key Long-Term Recovery Act Impacts on the State Could Help the State, Its Agencies, and Localities Ensure They Will Have the Necessary Data and Tools to Ensure Accountability

Recognizing that the state and agencies have focused their limited resources in the short term on putting the Recovery Act funds to work in Arizona and meeting the October reporting deadline, staff in OER are beginning to think about what unique economic impact of Recovery Act funds the state would want to track and measure over the long term, separately from the federal government data requirements. By doing so, the state will be positioned to identify any lessons learned from its implementation of the Recovery Act program and to provide accountability to the public on the act's effects. OER staff acknowledged, however, that they have limited resources to do longer term planning, but are moving forward as resources become available. Determining at the start of the Recovery Act program which long term effects to track would help the state to ensure it is collecting data from the outset that it will need, as well as has the systems and skilled staff in place to complete analysis.

For agencies, localities, and other Recovery Act funding recipients outside of OER, considering ways to use collected data and measure long-term effects of Recovery Act funding is valuable, assuming resources for planning and analysis are available. Officials within the Arizona Department of Education stated that they hope to use data to identify correlations between uses of program funds and improvements in student performance. Consequently, they can continue successful efforts if alternative funding is available. Likewise, officials managing the ESEA Title I education program acknowledged the benefits of determining research questions on final Recovery Act impacts so that they can prepare as needed. In addition, officials within the state Department of Commerce managing the Recovery Act weatherization funds are positioning the

department to estimate the amount of energy saved as a result of work completed with these funds. These are positive steps consistent with the state's long-term planning objectives. The state could also help to ensure that other agencies and localities, as appropriate, are taking such steps to make the best use of funds.

SFSF Funds Help Address Education Cuts in Some Programs, but K-12 Funds Delayed

The Recovery Act created the State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHE). The initial award of SFSF funding required each state to submit an application to Education that provided several assurances. These included assurances that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal years 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use education stabilization funds, but states have some ability to direct IHEs in how to use these funds.

In July 2009, we reported that the Governor had applied to the U.S. Department of Education for SFSF funds that would allow the state to offset budget cuts and that Education approved this application. According to the Governor's office, Arizona plans to use the government services funds for programs to support children's services, community health centers, and officer salaries in the state's Department of

Corrections. As of August 28, 2009, Education had awarded to Arizona approximately \$557 million of its nearly \$1 billion in available SFSF funds. The state had planned to provide \$433 million to school districts and charter schools (otherwise referred to as local education agencies) and public IHEs for fiscal year 2009 expenditures, with approximately \$250 million available to local education agencies (LEA) and approximately \$183 million to public IHEs. However, based on guidance from Education, the state now plans to provide some of these funds in fiscal year 2010 instead, as discussed in the following section.

Arizona Plans to Make First Round of SFSF Funds Available to LEAs in Fiscal Year 2010 Rather than 2009 as Planned after Additional Guidance from U.S. Department of Education

The OER is creating an application process and deadlines for the LEAs and plans to distribute the first round of \$250 million SFSF funds to LEAs in fiscal year 2010. In our July 2009 report, we reported that because Arizona was facing a nearly \$3 billion budget deficit, the Governor and legislature had backfilled \$250 million in general fund appropriation reduction for K-12 programs with SFSF funds. However, based on communications with Education after the issuance of our report, Arizona was not able to effect this budgetary change.⁸ Education and OER have agreed to procedures that will allow SFSF funds to be utilized in Arizona consistent with the intent of the Recovery Act. OER revised its original approach and plans to make the SFSF funds available in September 2009, upon receipt of applications from LEAs.

According to the Governor's office and Joint Legislative Budget Committee staff, the postponement in draw down of the funds has complicated the state's budget balancing efforts. In addition, the state had to borrow money in order to cover the first monthly state aid payment to LEAs in fiscal year 2010 because the SFSF funds were not available, according to the Office of the Arizona State Treasurer.⁹ Office of the

⁸Education advised the state that this action would be inconsistent with some of the Recovery Act requirements, as at the time of the state's initial drawdown request, LEAs had not been asked to submit applications for the SFSF funds. In addition the funds would have gone to the state's general fund and only indirectly to LEAs, although Education noted that, per the act, the funds must go directly to LEAs.

⁹As part of the fiscal year 2009 budget plans adopted by the Arizona governor and state legislature in June 2008, Arizona shifted \$602.6 million for K-12 education, effectively delaying 2 months of fiscal year 2009 school payments to fiscal year 2010. According to the Office of the Treasurer, this was accomplished by rolling over half of the May 2009 and all of the June 2009 payments to July 1, 2009. In addition, in May 2009, a further adjustment was made for fiscal year 2009, according to the Office of the Treasurer staff, such that the remainder of the May 2009 payment was deferred until October 2009.

Treasurer staff noted this has increased the total amount the state has borrowed to maintain cash flow for state operations, and has played a role in the state's bond rating being placed on negative watch by one rating agency. Furthermore, according to a Governor's office budget official, the state anticipated challenges to making a scheduled state aid payment to school districts for September 2009 due to the state's cash flow situation. Therefore, the state intends to provide up to \$300 million in SFSF funds to schools in lieu of a September 15 state aid payment, according to a Governor's office budget official.

SFSF Funds Help Institutions of Higher Education Avoid Steep Tuition Surcharges, and Cuts in Personnel and Student Services

Of the \$182.8 million in SFSF funds originally planned for public IHEs in fiscal year 2009, the Governor allocated about \$154 million to the three universities in the state and the remaining approximately \$29 million to the 11 eligible community college districts. In fiscal year 2009, the level of state support for public IHEs was approximately \$1.06 billion.¹⁰ As of August 3, 2009, the three public universities each had submitted applications for SFSF and received the full amount of allocated SFSF funds. The three universities requested the SFSF monies as a reimbursement for fiscal year 2009 employee benefits, personnel services—such as salaries for faculty and instructors—and supplies. As of September 8, 2009, the community colleges are in the process of completing inter-government agreements with the state with respect to their SFSF disbursements.

According to the Arizona Board of Regents and the three university presidents in their SFSF applications, the SFSF funds helped the universities absorb budget reductions the state had implemented in order to address budget deficits. More specifically, the universities had their state support reduced by \$29 million in fiscal year 2008 and \$163 million in fiscal year 2009, amounting to approximately 17 percent of the overall state appropriations in fiscal year 2009 for the universities. Faced with these reductions, the universities took various actions such as operating reductions, academic restructuring, and layoffs and furloughs for faculty,

¹⁰Public Higher Education in Arizona is comprised of two systems; the state universities and the community colleges. The universities' governing body is the Arizona Board of Regents (ABOR), which provides policy guidance to Arizona State University, Northern Arizona University, and the University of Arizona in such areas as academic affairs, financial and human resource programs, tuition and financial aid, and strategic planning. The community colleges operate independently as districts, each governed by an elected board.

staff, and administrators. In addition, the universities anticipated an average tuition surcharge for the 2009-2010 academic year of \$2,051 before receiving Recovery Act funding, according to Regents' staff calculations. Table 1 shows the state appropriation reductions and the anticipated tuition surcharges for each university for fiscal year 2009.

Table 1: State Fiscal Stabilization Funding for Arizona's Public Universities

	Student body	General fund appropriation reduction, fiscal year 2009 (dollars in millions)	SFSF funding, fiscal year 2009 (dollars in millions)	Anticipated tuition surcharge before Recovery Act offset (2009-2010)	Actual tuition surcharge (2009-2010)
Arizona State University	67,082	\$66.1	\$69.82	\$1,609	\$510
University of Arizona	38,057	\$69.0	\$60.82	\$2,568	\$766
Northern Arizona University	22,307	\$19.2	\$23.49	\$1,975	\$422

Source: Arizona Board of Regents.

According to the three university presidents, the SFSF monies were necessary to avoid additional personnel reductions and furloughs and the resulting reduction of programs and student services. Furthermore, the availability of SFSF monies allowed the universities to significantly reduce the tuition surcharges for the 2009-2010 academic year to an average of \$566, based on Regents' staff calculation. From this perspective, the state universities and Board of Regents executive staff deemed the Recovery Act a success. Nevertheless, the tuition calculations show surcharges escalating for the 2012-2013 academic year, by approximately \$2,693 on average, once Recovery Act funding expires. Absent additional state or federal funding, the universities will need to develop budget plans to explicitly address their anticipated funding challenges.

Funds Starting to Flow to LEAs As Arizona Has Approved Many Applications for ESEA Title I Funding

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of ESEA. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of the funds by September 30, 2010.¹¹ Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Recovery Act Title I, Part A funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

The state educational agency (SEA) in Arizona has allocated \$185 million of the \$195 million in ESEA Title I Recovery Act funds to LEAs. The SEA official said that the remaining \$10 million has been set aside for administration and reallocation to LEAs. In the ESEA Title I Recovery Act funding process, each LEA submits an application that contains a detailed plan on how and when the funds will be used, and SEA officials review the application to ensure that LEAs' spending plans comply with applicable laws and regulations. When the SEA approves an LEA's application it also obligates ESEA Title I funds to the LEA. As seen in table 2 below, as of September 8, 2009, the SEA had approved 84 applications for about \$46.3 million. SEA officials expect to approve all applications and obligate \$185 million of ESEA Title I funds by September 30, 2009.

¹¹LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver, and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

Table 2: Number and Dollar Value of LEA Applications for Recovery Act ESEA Title I by Status, September 8, 2009

	Number of applications	Dollar value (in millions)	Amount of ESEA Title I Recovery Act funds disbursed to LEAs (in millions)
Applications approved by SEA	84	\$46.3	\$3.0
Applications submitted but not approved	133	38.9	
Applications to be submitted	209	99.4	
Total LEAs eligible for ESEA Title I Recovery Act funds	426	\$184.7	

Source: SEA grants management system for Recovery Act funds for state fiscal years 2009 and 2010.

Note: Totals may not add due to rounding.

LEAs with approved applications submit monthly cash management reports to SEA and the SEA provides funds to them with Recovery Act funds for their expected Recovery Act ESEA Title I program expenditures. As of September 8, 2009, LEAs had received \$3.0 million in ESEA Title I Recovery Act funds. SEA officials stated that the grants approved are in accordance with ESEA Title I and related statutory and regulatory requirements to improve students’ academic achievement, and include projects such as hiring specialists to provide strategic and intensive reading intervention to students who are not meeting Arizona’s reading standards.

SEA Applied for Authority to Approve LEAs’ Requests to Waive Certain Requirements in the Use of ESEA Title I Recovery Act Funds

On August 26, 2009, the SEA applied to Education for the authority to grant LEAs’ requests to waive various requirements for ESEA Title I Recovery Act funding.¹² As we reported in our July 2009 Recovery Act report, some LEAs will likely seek waivers from requirements to provide funds for public school choice-related transportation and supplemental educational services, such as tutoring, because they go unused, and this waiver will provide more funding for other ESEA Title I projects in those districts.¹³ As seen in table 3, as of September 8, 2009, a number of the 84 LEAs with approved applications are requesting waivers for various required activities.

Table 3: Number of LEAs Requesting Waivers

	Number of LEAs requesting waivers
Waiver to exclude the Recovery Act funds when calculating the 20 percent requirement for transportation and supplemental educational services	23
Waiver to exclude the Recovery Act funds when calculating the per pupil amount (PPA) of funds available for supplemental educational services	20
Waiver to exclude the Recovery Act funds when calculating the 10 percent set aside required for professional development when an LEA is identified for improvement	16
Waiver that allows a school to factor out some or all of its LEA’s Recovery Act funds when calculating the required 10 percent set aside for professional development when a school is identified for improvement	18
Waiver to authorize LEAs to offer supplemental educational services in addition to public school choice to eligible students in schools in the first year of school improvement	Note ^a
Waiver to authorize LEAs and schools identified for improvement to apply to become supplemental educational services providers	Note ^a
Waiver to authorize the SEA to waive the carryover limitation for LEAs more than once every three years	Note ^a

Source: SEA grants management system for Recovery Act funds for state fiscal year 2010.

^aSEA has not asked LEAs if they need the waiver.

¹²Under ESEA Title I, states are required to establish performance goals and hold their ESEA Title I schools accountable for students’ performance by determining whether or not schools have made adequate yearly progress (AYP). Schools that have not made AYP goals for 3 or more consecutive years must offer students an opportunity to transfer to a higher-performing school (public school choice) or supplemental educational services (SES). Districts are required to provide an amount not less than 20 percent of their ESEA Title I, Part A allocation to cover public school choice-related transportation costs and SES. Unless a waiver is granted, this requirement would apply to ESEA Title I Recovery Act funds also.

¹³GAO, *Recovery Act: States’ and Localities’ Current and Planned Uses of Funds While Facing Fiscal Stresses*, [GAO-09-830SP](#) (Washington, D.C.: July 8, 2009).

According to SEA officials, if the SEA’s application to waive Title I requirements for LEAs is granted by Education, the SEA will be able to decide which LEAs’ requests for waivers should be approved and thereby provide flexibility in the use of Title I funds. As of September 8, 2009, Education had not granted the SEA authority to grant LEAs waivers but Education expects to consider Arizona’s request soon.

Arizona LEAs Have Submitted Applications for IDEA Part B Funding and Some Have Been Approved, Allowing Funds to Flow to the LEAs

The Recovery Act provided supplemental funding for programs authorized by Parts B of IDEA, the major federal statute that supports the provisions of special education and related services for children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-aged children) and Part B preschool grants (section 619). Education made the first half of states’ Recovery Act IDEA funding available to state agencies on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

The SEA has allocated all of the \$184 million of the Recovery Act IDEA Part B funds to LEAs. Specifically, it allocated \$178 million to LEAs for school-age children and \$5.7 million to LEAs with preschool programs for preschool grants. To receive Recovery Act funds, each LEA must submit an application that outlines how it will use the funds. Subsequently, the SEA officials review the application to ensure that spending plans comply with applicable laws and regulations. When the SEA approves an application, this action also obligates the funds to the LEA. As seen in table 4, many LEAs have submitted applications and some have been approved.

Table 4: Number and Dollar Value of LEA Applications for Recovery Act IDEA by Status, September 8, 2009

	Grants for school-age children		Grants for preschool programs	
	Number of applications	Dollar value (in millions)	Number of applications	Dollar value (in millions)
Applications approved	121	\$14.9	45	\$1.0
Applications submitted but not approved	149	\$36.0	27	\$0.8
Applications to be submitted	284	\$127.5	114	\$3.9
Total LEAs eligible for Recovery Act IDEA grants	554	\$178.4	186	\$5.7

Source: SEA grants management system for Recovery Act funds for state fiscal years 2009 and 2010.

Specifically, as of September 8, 2009, the SEA had approved 22 percent of the 554 applications for about \$14.9 million of Part B grants to states and 24 percent of the 186 applications for about \$1 million of Part B preschool grants. LEAs with approved applications submit monthly cash management reports to SEA and the SEA provides funds to them with Recovery Act funds for their expected Recovery Act IDEA program expenditures, and as of September 8, 2009, the LEAs had received \$2.2 million of Recovery Act funds. SEA officials stated that the IDEA grants approved are in accordance with statutory and regulatory requirements and include projects such as professional development and assistive technology that may help the student participate in classroom activities (such as special computer software or a device to assist students in holding a pencil).

SEA Expects to Meet Recovery Act Reporting Requirements Primarily through Use of Existing Grants Management System for ESEA Title I and IDEA

The Arizona Governor's office is requesting that its state agencies use a centralized reporting methodology and report through the Governor's office. According to SEA officials, they plan to use this reporting methodology for Recovery Act funds for both ESEA Title I and IDEA funds. The SEA plans to obtain much of the reporting information for the LEAs from the existing grants management system that LEAs use for non-Recovery Act grants as LEAs use these same systems for non-Recovery Act funds as they do for Recovery Act fund. LEAs currently use this system to apply for grants and it already contains much of the information required for Recovery Act reporting, such as LEA name, LEA officials' names, award number, and amount disbursed. Any required additional information will be collected in a web application that is being developed by the Arizona Department of Education Information Technology unit. According to state education officials, they do not expect to have difficulties meeting Recovery Act reporting requirements.

Arizona Education Audit Unit Has Processes to Monitor the SEA's and LEAs' Internal Controls and the Corrective Actions They Take to Address Problems Identified through Single Audits

Arizona's SEA has an audit unit (the Arizona Education Audit Unit) that performs two functions that help to safeguard Recovery Act funds. The audit unit monitors how the SEA and LEAs are correcting problems or issues identified during the Single Audits and it also reviews the internal controls the LEAs have in place in their financial systems.¹⁴ The audit unit has developed a system to monitor whether LEAs who receive yearly federal funding of \$500,000 or more obtain Single Audits, and to monitor corrective actions taken by the SEA and LEAs for problems identified in their Single Audit reports. For fiscal year 2008, 164 or 29 percent of the 572 LEAs that were allocated Recovery Act funds had a single audit conducted. Audit officials noted that with the additional federal funds that LEAs will be receiving due to the Recovery Act, additional LEAs will likely exceed the \$500,000 threshold in federal funds for fiscal year 2010 and thus will be required to have Single Audits. The audit unit also conducts fiscal monitoring of a sample of LEAs' internal controls and in fiscal year 2009, the audit unit also reviewed the internal controls of 21 LEAs' financial accounting systems.

The Arizona Education Audit Unit is currently monitoring the SEA's and LEAs' responses to Single Audit findings that could affect the safeguarding of Recovery Act funds. According to the audit officials, they plan to continue their oversight during calendar year 2009 using fiscal year 2008 Single Audit reports and will also continue their fiscal monitoring reviews. The audit unit is monitoring six findings for the SEA that were particular to the ESEA Title I and IDEA programs in the fiscal year 2008 Single Audit Reports. Specifically, they included the following findings:

- The SEA did not verify that LEAs complied with ESEA Title I requirements by consulting with private schools within their boundaries to provide services to eligible private school children, their teachers, and their families or to report that there are no eligible private schools within the LEA boundaries;

¹⁴The Single Audit Act of 1984, as amended (31 U.S.C ch. 75), established the concept of the single audit to replace multiple grant audits with one audit of a recipient as a whole. As such, a Single Audit is an organization wide audit that focuses on the recipient's internal controls and its compliance with laws and regulations governing federal awards. It requires that each state, local government, or nonprofit organization that expends \$500,000 or more a year in federal awards must have a Single Audit conducted for that year subject to applicable requirements, which are generally set out in OMB Circular No. A-133, *Audits of States, Local Governments and Non-Profit Organizations* (June 27, 2003). If an entity expends federal awards under only one federal program, the entity may elect to have an audit of that program.

- Some LEA annual financial reports were incomplete or contained accounting errors and inconsistent information that prevented the SEA from determining whether LEAs met the IDEA program requirement—that state and local funding cannot be lower than it was in the previous 2 years;
- The SEA needed to provide additional documentation to support that it verified the number of students with disabilities to validate the accuracy of the Report of Children with Disabilities Receiving Special Education, Part B (an IDEA program);
- Some LEAs lacked adequate procedures to ensure compliance with Education’s requirements to submit monthly cash management reports;
- The Title I and IDEA grants management system did not have adequate controls because it did not require users to periodically change passwords, did not always maintain a history of user access, and permitted some internal users with access rights that were incompatible with their job responsibilities or that enabled them to change data without supervisory approval; and
- The SEA did not comply with the subrecipient monitoring requirements of ESEA Title I and IDEA, because it did not obtain Single Audit reports within 9 months of the subrecipient’s fiscal year-end, did not retain documents to support that the SEA tried to ensure audit requirements were met, and did not issue management decisions within 6 months after receipt of subrecipient Single Audit reports.

According to the audit officials, the SEA has been taking corrective action on these findings that will strengthen the safeguards for Recovery Act funds.

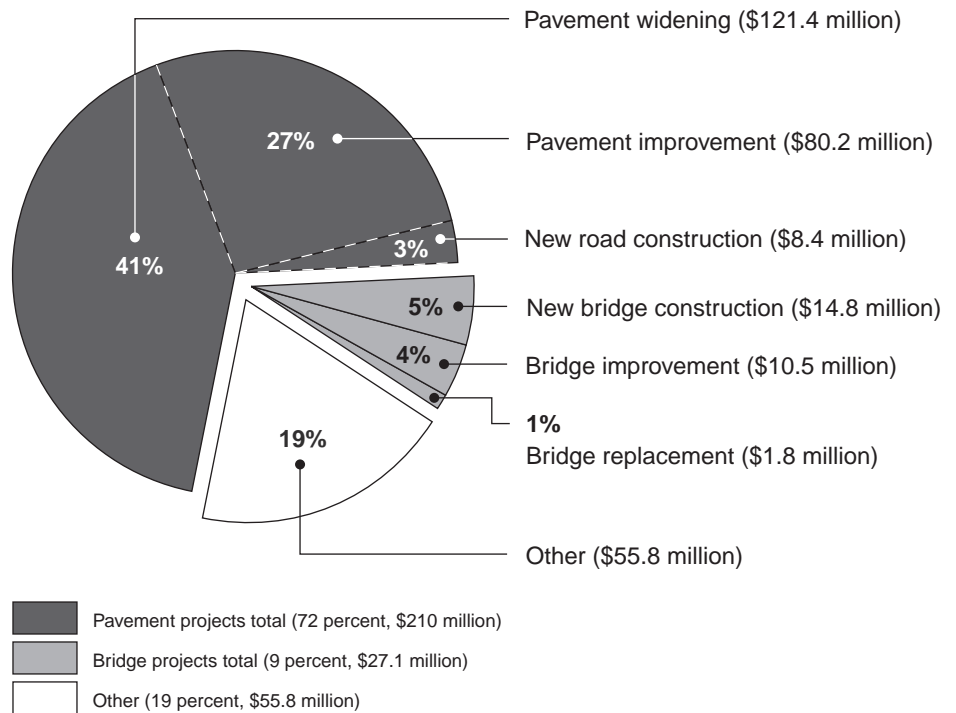
Arizona Continues to Move Forward with Statewide Highway Projects, but the Slow Pace of Local Projects and Impending Deadlines Are Cause for Concern

As we previously reported, \$522 million was apportioned to Arizona in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$293 million had been obligated. As of September 1, 2009, \$18 million had been reimbursed by FHWA.¹⁵

Almost 72 percent of Recovery Act highway obligations for Arizona have been for pavement projects. Specifically, \$210 million of the \$293 million obligated as of September 1, 2009, is being used for pavement projects, including \$202 million for pavement preservation and roadway widening. State officials told us they selected this type of project specifically because they knew the projects could be completed within 3 years. Figure 2 shows obligations by the types of road and bridge improvements being made.

¹⁵States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Figure 2: Highway Obligations for Arizona by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Arizona has Awarded Contracts on its Statewide Highway Projects and Started Construction on Many

As of September 1, 2009, FHWA has obligated 71 percent of the Recovery Act funds apportioned to Arizona for statewide highway projects.¹⁶ Of these Recovery Act funds, most, about \$350 million, were to be spent on statewide projects, or those highway projects selected by Arizona Department of Transportation (ADOT) from Arizona's 5-year transportation plan. The remainder of the highway funds is to be suballocated to localities across the state. These statewide projects were

¹⁶For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term "obligation of funds" to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

selected based on a number of factors, including the level of priority of the project, the ability of the state to award contracts and begin construction in a timely manner, and the location of these projects in economically distressed areas of the state. The Recovery Act mandates that 50 percent of apportioned Recovery Act funds be obligated within 120 days of apportionment (before June 30, 2009). The 50 percent rule applied only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated, primarily based on population, for metropolitan, regional, and local use. In addition, states are required to ensure that all apportioned funds—including suballocated funds—are obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. As we previously reported, Arizona has met the 50 percent obligation requirement. By September 1, 2009, approximately 71 percent of Recovery Act funds had been obligated for statewide highway projects.

Arizona provided for at least one construction contract for a Recovery Act highway project in each of its 15 counties (see table 5), with all counties getting at least \$100,000 in statewide Recovery Act Federal Highway funds and 13 of the 15 counties each receiving at least \$1.8 million.

Table 5: Number and Amount of Construction Contracts for Statewide Highway Projects in Arizona by County

County	Number of construction contracts	Dollar value of construction contracts
Apache	3	\$2,997,320
Cochise	5	7,967,748
Coconino	5	13,174,891
Gila	5	11,537,077
Graham	1	133,331
Greenlee	1	567,178
La Paz	2	7,969,226
Maricopa	5	39,903,012
Mojave	3	6,426,321
Navajo	4	8,882,830
Pima	5	7,336,759
Pinal	1	13,133,079
Santa Cruz	1	1,873,811
Yavapai	1	1,899,987
Yuma	2	9,360,932
Statewide ^a	3	1,957,769
Total	47	\$135,121,271

Source: GAO analysis of ADOT data.

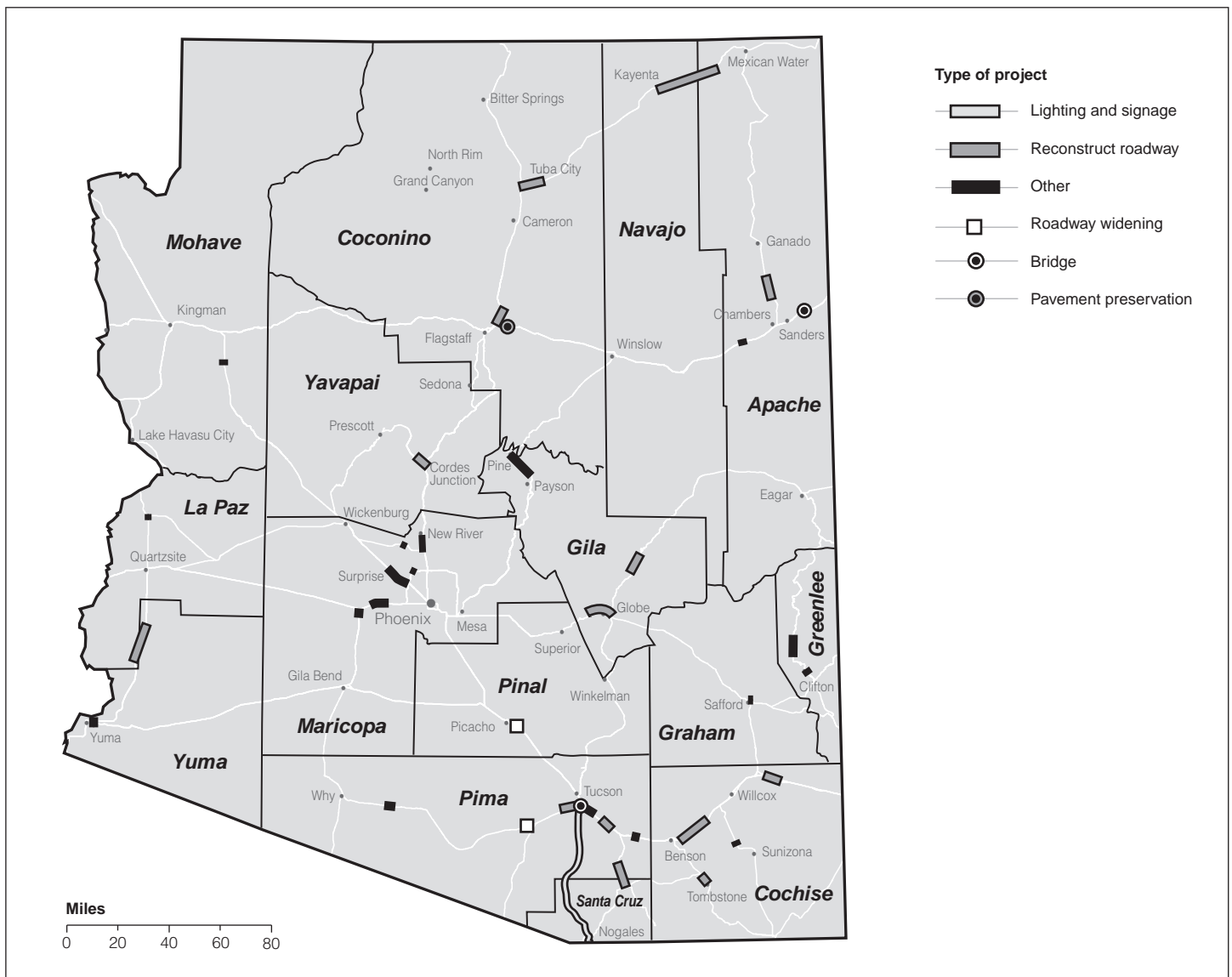
^aStatewide projects are multiple projects in various parts of Arizona with a similar scope.

Arizona’s original plan was to undertake 41 statewide highway projects under the Recovery Act, but due to significant underbidding by contractors, Arizona has, as of August 30, 2009, been able to add 2 additional statewide highway projects, both roadway widening projects, in Maricopa County, Arizona’s most populous. In addition, Arizona is hoping to add even more Recovery Act projects with the existing cost savings, which, as of August 30, 2009, were about \$60 million. ADOT officials believe that this underbidding is caused by the current low levels of economic activity in the construction industry due to the state’s economic downturn, as well as lower prices for commodities like asphalt and oil.

Arizona officials told us that, for the most part, Arizona’s statewide projects could be started quickly and completed within 3 years. All of the statewide highway projects undertaken by Arizona were already on the State Transportation Improvement Plan (STIP). ADOT officials told us

that most of the projects that the state undertook with Recovery Act funds were relatively simple and able to be completed within 3 years, such as pavement preservation, roadway widening, and lighting and signage (see figure 3).

Figure 3: Map Depicting Arizona’s Initial Statewide Recovery Act Highway Projects



Source: Arizona Department of Transportation (data and map).

Arizona Has Awarded Only Three Construction Contracts for Local Highway Projects Due to a Lack of Shovel-Ready Projects, Among Other Reasons, Which Could Pose Challenges in Meeting Recovery Act Time Lines

In contrast to the rapid awarding of contracts that the statewide Recovery Act highway projects have seen, three construction contracts for suballocated local projects have been awarded as of September 1, 2009. ADOT and FHWA both indicated that local projects have lagged behind statewide projects because of a lack of local shovel-ready projects. The lack of projects was due to some localities' not having an understanding of the allocations that they would receive as well as the unfamiliarity of some local agencies with federal highway requirements. Under the Recovery Act in Arizona, about \$157 million was suballocated to localities for federal highway construction. These funds were allocated to regional bodies known as Metropolitan Planning Organizations¹⁷ (MPO) members of which decide the highway projects they will undertake. Table 6 shows the distribution of funds across these regional bodies as well as the number of contracts awarded and total dollars obligated for these locality-led projects.

Table 6: Localities' Total Recovery Act Allocations, Number of Construction Contracts Awarded, and Total Funds Obligated for Construction as of September 1, 2009

Region	Total allocation	Number of construction contracts awarded	Total funds obligated for construction
Maricopa Region	\$104,578,340	0	0
Pima Region	34,876,167	1	\$276,000
Northern Arizona Counsel of Governments	4,112,608	0	0
Central Yavapai Metropolitan Planning Organization	1,283,485	0	0
Western Arizona Council of Governments	2,464,687	0	0
Central Arizona Association of Governments	3,258,973	0	0
South Eastern Arizona Governments Organization	2,795,080	0	0
Yuma Metropolitan Planning Organization	2,257,052	2	\$2,075,000
Flagstaff Metropolitan Planning Organization	961,128	0	0
Total	\$156,587,520	3	\$2,351,000

Source: GAO analysis of ADOT and FHWA data.

¹⁷Metropolitan planning organizations, federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation, are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities.

When the Recovery Act was enacted, localities submitted a number of what they considered to be shovel-ready projects to ADOT for its approval and subsequent FHWA obligation of funds. An ADOT official told us that the department did not approve any projects and sent them back to the localities because either the scope of the project was too large; the project would exceed the localities' Recovery Act allocation; or the project was not designed to meet federal requirements. To explain, prior to the Recovery Act, Arizona had a program called the Highway Users Revenue Fund (HURF) exchange program. Through this program, local agencies sent their Federal Aid highway funds to ADOT in exchange for state funds. This allowed ADOT to design and administer highway projects to federal standards, including federal environmental standards, with which they have considerable experience, and allowed localities to use their own experience with the state standards to design and build highway projects to state standards. However, the HURF exchange program was suspended due to lack of funds in September 2008, so the Recovery Act represented the first time in years that many localities would have to design highway projects to federal specifications. To address the problems above, ADOT and FHWA held a number of training sessions to educate localities on their responsibilities under the Recovery Act. According to state and local officials we interviewed, nevertheless, some localities were still confused about the federal requirements they had to meet, particularly the environmental clearance requirements.

Because of the suspension of the HURF exchange program, which meant that localities would have to design federal highway projects on their own, and recognizing that the Recovery Act would represent a large amount of work for the localities to redesign and prepare highway projects to meet federal standards, ADOT has required that many localities work with management consultants to help design and submit for obligation their highway projects undertaken through the act. According to agency officials, these consultants are costing localities from 5 percent to 15 percent of their allocations under the act. ADOT said that the management consultants provide localities the means and expertise to design highway projects to federal standards, and concluded that were it not for the consultants, these local agencies would not be able to meet the March 2010 obligation deadline.¹⁸

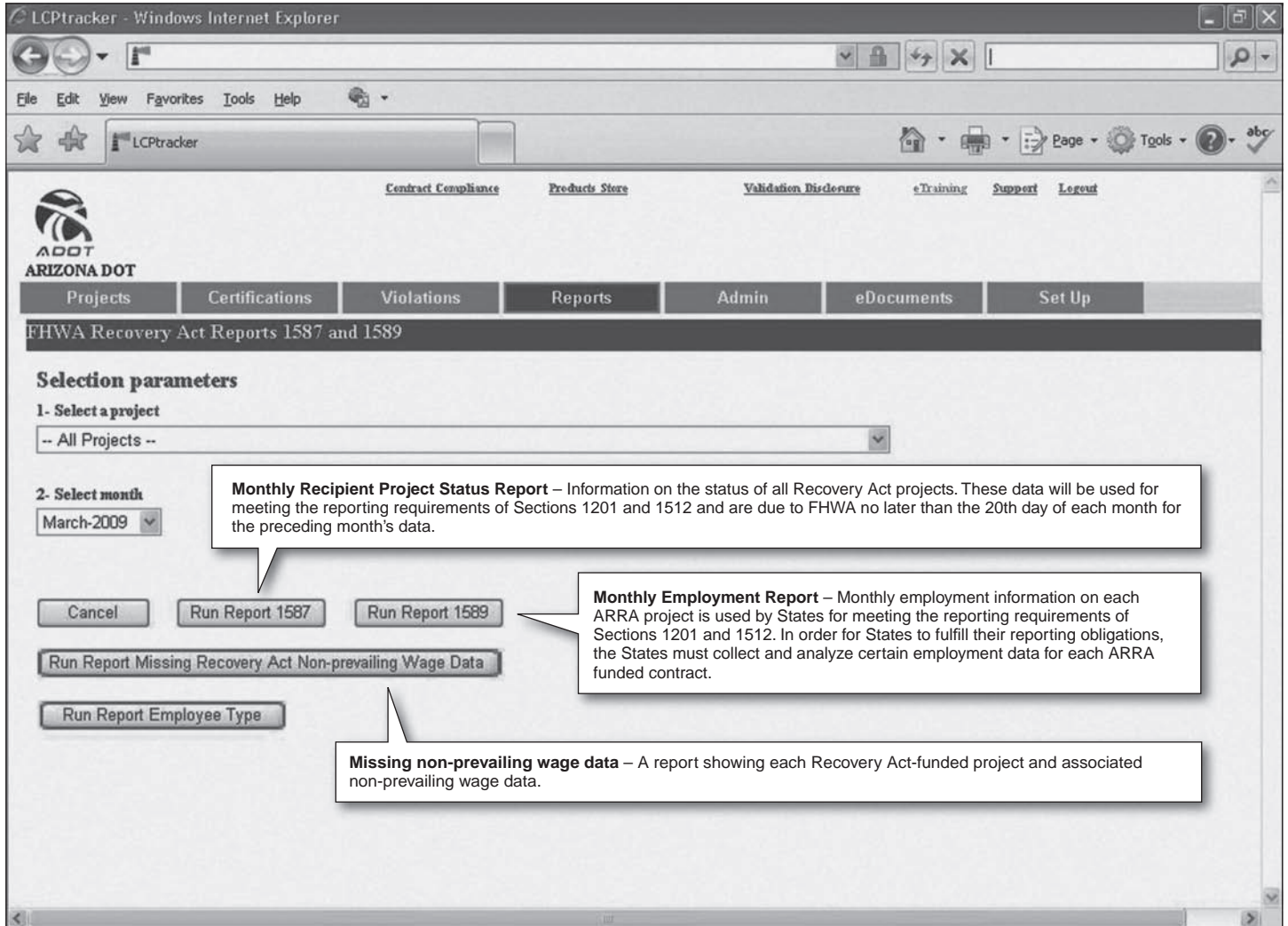
¹⁸The Recovery Act mandates that all apportioned funds, including suballocated funds, need to be obligated by, March 2010, 1 year from apportionment.

Despite having the benefit of the management consultants to help them design their Recovery Act highway projects, ADOT and two of the local officials we spoke with are still concerned that meeting the March 2010 obligation deadline could be a challenge. To address this concern, ADOT has instituted an internal deadline of December 2, 2009, by which they expect to receive submissions from all localities regarding the highway projects that they propose to undertake under the Recovery Act. Without this internal, statewide deadline, ADOT was concerned that there could be a glut of submissions to the agency and to FHWA requesting obligations just prior to the March 2010 deadline. According to an ADOT official, by moving the date forward to December, they can process all of the suballocated projects and send them on to FHWA for obligation and still meet the Recovery Act time frames. In addition, ADOT is considering actions that could be taken in the event localities are unable to submit shovel-ready projects by the March 2010 deadline. According to management consultants who are working with the localities, meeting the December time frame will be a major challenge, but they will submit as many of their highway proposals to ADOT as quickly as they can.

Arizona's Department of Transportation Does Not Anticipate Problems in Meeting Recovery Act Reporting Requirements and Intends to Participate in Centralized Statewide Reporting

To meet Recovery Act reporting requirements, the state has mandated in all of its contracts relating to Recovery Act highway work that all contractors shall report monthly to ADOT on the number of jobs created and preserved. The state has implemented the use of a database, LCPtracker, that allows contractors to simply enter financial and employment information into this database and submit that information electronically to ADOT. The agency is then able to transfer that information to the FHWA, as mandated by the Recovery Act. According to an agency official, ADOT is able to sort all contractor information, determine any penalties that need to be applied for incomplete or incorrect reporting, and run reports on the numbers of jobs created and preserved, as well as the wages paid for this Recovery Act work. Figure 4 shows an interface of the database with various reports that are able to be generated using contractor-supplied reporting information.

Figure 4: ADOT Database Used to Receive Recovery Act Information from Contractors and Report to FHWA and Descriptions of Database Report Mechanisms



Source: GAO analysis of Arizona Department of Transportation information.

To gain perspective on this issue, we visited three statewide highway projects in various areas in Arizona. Among other topics, we asked contractors working on these projects about their experiences in reporting wage and employment information to ADOT and whether they had experienced any problems in working with ADOT's reporting system, LCPtracker. For all three projects, the contractors hired laborers from the areas where the projects were located, and reported having no problems

in identifying and reporting the numbers of jobs created and preserved by their work on the Recovery Act projects. ADOT officials and contractors told us this is due, in large part, to training that ADOT conducted in the use of LCPtracker, which was used in a limited manner prior to Recovery Act projects, but made mandatory for all contractors working on Recovery Act projects.

Both the state and the contractors conduct numerous levels of review in order to verify the number of jobs reported as well as the wages paid to workers on Recovery Act highway projects. For example, one contractor we spoke with said she conducts periodic interviews with laborers on a highway project to determine that what the contractor reported to ADOT in monthly employment reports through LCPtracker was in fact the work that the laborer was doing on that particular day, as well as that those laborers were paid accurately according to Davis-Bacon Act prevailing wage requirements. In addition, ADOT officials told us they are conducting periodic site visits to determine that the number of laborers working on a particular day match the number that the contractor submits to ADOT in those monthly reports. In addition, according to ADOT officials, they visit the site of Recovery Act highway projects and examine the records kept by the contractors to verify that the number and type of jobs being reported to ADOT accurately reflect the number and type of jobs on the individual projects. When contractors do not report this information properly, a number of financial penalties are triggered that ADOT can impose on the contractors. As of September 4, 2009, no contractors have been found to misreport this required information, so no financial penalties have been levied on contractors.

FHWA's Arizona Division has also developed an inspection plan specific to Recovery Act highway projects. These inspections, conducted by FHWA staff, cover multiple levels of the project, including traffic control, changes to the contracts, material testing, and other construction activities. Inspections will be based on FHWA's assessment of the risk of each project, with new and reconstruction projects having the highest risk due to higher project costs, among other factors. FHWA considers pavement preservation projects with a cost of over \$5 million as medium risk, and miscellaneous projects with a cost under \$5 million as low risk. FHWA plans for approximately half of all Recovery Act highway projects in Arizona to have an initial inspection, which will be completed before 30 percent of the highway project is complete. FHWA plans intermediate inspections for a sample of the Recovery Act highway projects based on findings from initial inspections; the size, complexity, and scope of a project; and other factors. These inspections, when FHWA deems them

necessary, will occur when the project is 30 percent to 95 percent complete. Some projects will receive a final inspection to determine that the project was completed in a manner that conformed to the plans, specifications, and authorized changes. If FHWA finds that a project is not in compliance, it will then take corrective actions.

ADOT intends to send information on the number of jobs created and preserved as well as other financial and performance metrics required by OMB both to FHWA, as required by the Recovery Act, as well as to the Governor's office, to be part of Arizona's planned centralized reporting system. The data integrity manager at ADOT does not think that the Recovery Act poses any new challenges to ADOT in terms of either reporting to FHWA, which ADOT has done for years prior to the Recovery Act, or to the state for centralized reporting, which the agency has also done in the past. The issue of centralized reporting, however, is one that the Arizona State Comptroller's Office said might present a problem because ADOT uses different accounting codes than are used in the state's system, and reconciling those codes might become a challenge. But an ADOT official said that the issue of different accounting codes has existed for some time, and he does not foresee this becoming a major issue.

Contracts We Reviewed Indicate That ADOT Contracts for Recovery Act Work Were Awarded Competitively

We selected a total of four contracts, worth a total of \$40.7 million, to discuss with ADOT contracting officials to determine how the contracts were being awarded. ADOT awarded these contracts to conduct work in support of Recovery Act highway projects. We selected two contracts for work to be conducted in urban areas, and two contracts for work to be conducted in rural areas. According to an agency official, each of the contracts we reviewed was awarded competitively. For each of the contracts, the agency official stated that a project development process, an FHWA/ADOT operating partnership, ADOT standard specifications, and Recovery Act specifications were followed when the contracts were awarded. Further, the official said specific Recovery Act objectives were included in the solicitations that resulted in the contracts awarded pursuant to the act. Among other things, according to the ADOT standard specifications, prior to submitting a bid, ADOT will have to prequalify a bidder (unless waived by ADOT). The official indicated that all bidders for the contracts we reviewed were prequalified. Additionally, ADOT provided information to potential bidders on its Web site that explicitly stated that by submitting a bid for a Recovery Act funded project, the bidder agrees to be bound by conditions and reporting requirements in the contract, which identifies penalties for noncompliance. According to an ADOT official, the

work on the contracts we reviewed was awarded using unit fixed price contracts.

Determining Weatherization Wage Rates Has Delayed Contracts; Arizona Has Procedures in Place to Monitor and Report Program Results, but Is Still Uncertain about Counting Jobs Created

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation, sealing leaks, and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, and territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.¹⁹ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) has not established prevailing wage rates for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor's wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher prevailing wage rate for weatherization activities. Labor then surveyed five types of

¹⁹The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

“interested parties” about labor rates for weatherization work.²⁰ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Arizona Department of
Commerce Had
Weatherization Contracts
Ready to Go as Soon as
Davis-Bacon Wage
Requirements Were
Established

DOE has allocated approximately \$57 million to Arizona for the Recovery Act Weatherization Assistance Program over a 3-year period (2009-2012), with about \$10 million of the total allocation to support initial ramp up activities, such as training center expansion, curricula development, staff training, and equipment purchases. On June 5, 2009, DOE approved Arizona’s Recovery Act Weatherization Assistance Program plan and the Arizona Department of Commerce (ADOC) allocated about \$49 million of the approximate \$57 million to local service providers to conduct ramp up and weatherization activities. Approximately \$28.5 million, or about half of the total allocation, is currently eligible for reimbursement. ADOC is the prime recipient as defined by OMB, while the subrecipients are the local service providers and the contractors that conduct the weatherization work. ADOC obligates funding to local service providers to weatherize low-income households by making long-term energy efficiency improvements, such as installing insulation or modernizing heating and cooling systems.²¹ After a local service provider determines that a home is eligible²² to receive weatherization work, the local service provider may employ in-house construction crews, hire contractors, or use a combination of both approaches to make the improvements. As the state does not have a centralized procurement system for purchasing weatherization materials, local service providers are delegated the responsibility of procuring their weatherization materials. ADOC officials expect to expend the full allocation before the 3-year period and plan to weatherize 6,409 units statewide, which, according to ADOC officials, could result in as much as \$1.8 million in overall energy savings annually. This is an almost threefold increase beyond the total number of units weatherized in the previous 3 years using regular program and other

²⁰The five types of interested parties are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

²¹Building rehabilitation projects that are in a state of disrepair where failure is imminent and the condition cannot be resolved cost-effectively are beyond the scope of the Weatherization Assistance Program.

²²A household is eligible for Recovery Act weatherization services if they are at or below 200 percent of the federal poverty level. Priority service is given to the elderly, people with disabilities, families with children, or high residential energy users, and households with a high energy burden.

sources of funding.²³ Table 7 shows Arizona’s local service providers, their obligated funding amounts, the number of units they expect to weatherize from 2009 through 2012, and the cities and counties they serve.

Table 7: Arizona Local Service Provider Funding Obligations, Projected Number of Weatherized Units (2009-2012), and the Cities and Counties Served

Arizona local service provider	Funding obligation	Projected number of units	County/city served
Maricopa County Human Services Department, Community Service Division	\$11,911,987	1,604	Maricopa County coverage except cities of Phoenix and Mesa
Northern Arizona Council of Governments (NACOG)	7,500,359	997	Apache, Navajo, Coconino, and Yavapai Counties
City of Phoenix Neighborhood Services Department	7,222,865	960	City of Phoenix
Western Arizona Council of Governments (WACOG)	5,911,442	778	Yuma, La Paz, and Mohave Counties
Tucson Urban League, Inc.	4,749,363	618	Cities of Tucson and South Tucson
Southeastern Arizona Community Action Program (SEACAP)	4,654,446	603	Graham, Greenlee, Cochise and Santa Cruz Counties
Community Action Human Resource Agency (CAHRA)	2,269,618	275	Pinal County
Gila County Community Action Program	1,744,457	204	Gila County
Pima County, Community Development and Neighborhood Conservation Department	1,705,544	199	Pima County coverage except cities of Tucson and South Tucson
Mesa Community Action Network (Mesa CAN)	1,500,512	171	City of Mesa
Total	\$49,170,593	6,409	

Source: GAO analysis of ADOC data.

As of September 11, 2009, Arizona had expended \$771,485 of Recovery Act weatherization funds, or about 1.4 percent of the total allocation. According to ADOC, while most local service providers were ready to begin weatherization work, they had to wait until they were provided final Davis-Bacon local wage requirements before they could proceed because most providers did not have an existing in-house Davis-Bacon compliance officer providing them guidance on wage rates, and they preferred to avoid having to reconcile if wages in the awarded contracts differed from the required rates. Local service providers submitted their city’s or county’s

²³Local service providers partner with and receive other sources of funding from local, state, and federal utility and energy programs to maximize the return on investment for energy conservation-related activities, such as the Weatherization Assistance Program.

weatherization wage surveys directly to Labor and received final wage determinations on August 30, 2009. State and local service providers we met with have incorporated the Davis-Bacon Act requirements in their contracts stipulating that all laborers and mechanics employed by contractors and subcontractors for Recovery Act-funded weatherization work be paid the prevailing wage for their skill set in their locality. For example, the average hourly wage rate for heating and cooling installation workers in Arizona was about \$16.00, however, using the Davis-Bacon prevailing wage determination, the hourly wage for those same workers will be \$24.38 in Maricopa County and \$15.63 in Pima County. The final wage rates differ amongst the weatherization specialties and vary throughout the state of Arizona as determined by Labor. According to ADOC officials, the effect of the increased wages will not change the number of homes expected to be weatherized.

The City of Phoenix decided not to wait on the Davis-Bacon wage determination and began weatherizing eligible homes because Phoenix officials conducted their own wage determination analysis, consulted with their long-established Davis-Bacon compliance officer on relevant DOE and Recovery Act guidance, and were prepared to reconcile any wage differences. ADOC officials stated that they did not have concerns about the City of Phoenix moving forward prior to a final prevailing wage determination as they believe Phoenix officials were capable of meeting requirements and reconciling any wage differences. According to Phoenix officials, in mid-August, a three-bedroom single-family home was the first Recovery Act-funded weatherization project completed in Phoenix. The home had shade screens installed, an evaporative cooler removed, and a gas stove replaced that was found to be emitting potentially dangerous levels of carbon monoxide. This weatherization work resulted in a safer and more energy efficient home, which is expected to decrease the family's energy bill by 30 to 40 percent. Phoenix officials added that the project employed 6 full-time and 12 part-time workers over a 2-week period.

Recovery Act Funding and Program Requirements Result in Increased State and Local Support and Training to Effectively Manage Weatherization Activities

States and localities have had to increase the number of support activities needed to manage the increased funding and program requirements under the Recovery Act. According to ADOC officials, their organization ramped up from 5 to a total of 12 full-time staff to support Recovery Act requirements. Three of the seven program administration staff were hired to ensure Davis-Bacon compliance, weatherization database management, and general administration. Four of the five energy monitors were hired to assist with the additional weatherization monitoring and inspections. ADOC has also provided funding to hire two additional weatherization training center consultants and one contractor to conduct public outreach activities. Also, the number of energy auditors qualified to support weatherization monitoring and inspections is expected to increase from 137 to about 250 before the end of the 3-year Recovery Act period. In an effort to support more weatherization activities and effectively administer the program, Northern Arizona Council of Governments officials have proposed to establish two satellite field offices in rural communities to increase their capacity to conduct and monitor weatherization activities and provide local outreach while minimizing travel time and the associated costs.

Furthermore, ADOC has partnered with a local training center that is recognized as one of twelve National Weatherization Training Centers in the nation to develop additional courses and expand existing facilities necessary to train the number of weatherization contractors and auditors required to meet the Recovery Act weatherization program goals for Arizona.²⁴ ADOC has obligated \$300,000 of the approximate total of \$10 million, or 3 percent, in Recovery Act training and technical assistance funding to the training center. By late September 2009, the center plans to spend (1) \$40,000 of this amount to expand the training classroom space to accommodate the increased contractors requiring basic and advanced weatherization training, (2) \$10,000 to develop training curricula, and (3) \$250,000 to expand the training center's capabilities to include a larger laboratory for conducting hands-on diagnostic and heat performance testing and demonstrations.

²⁴The Southwest Building Science Training Center, in Phoenix, is one of twelve National Weatherization Training Centers, providing beginner and advanced classroom-style and hands-on weatherization training to contractors in California, Nevada, and Arizona.

Specifically, the increase in the number of contractors needed requires that they be trained and certified to conduct weatherization work.²⁵ Training center officials told us that a large number of contractors have expressed interest in becoming weatherization contractors. According to training officials, they have screened potential weatherization contractor viability by explaining the training and materials costs and type of activities involved in becoming a weatherization contractor as well as the training process, and provided hands-on experience to ensure they are highly motivated to remain in and succeed as a weatherization contractor. The weatherization training entails receiving hands-on training and testing in energy principles, heat performance, health and safety, diagnostics, and applied repair. Furthermore, if contractors are interested in becoming a certified energy auditor, they must complete one required course in building performance auditing. According to the training center officials, before the Recovery Act, they were training about four to six contractors per month, but now are training 20 to 40 weatherization professionals per month, a tenfold increase since June 2009. Since early January 2009, 52 people have completed weatherization training and more than 70 energy auditors have been certified at both the state and local levels. ADOC has also obligated \$150,000 in Recovery Act training and technical assistance funding to establish a free statewide weatherization contractor mentorship program designed to ensure the field readiness of every new weatherization contractor in Arizona. Specifically, experienced weatherization contractors approved and managed by the training center will mentor new weatherization contractors on the program and technical requirements, work techniques, and other aspects of successfully completing weatherization jobs.

**State and Local Agencies
Have Procedures for
Monitoring Work Achieved
and Uses of Recovery Act
Weatherization Funds**

Arizona has two key state and local procedures in place to ensure monitoring, tracking, and measurement of weatherization program success. These procedures involve multi-tiered monitoring and inspections and the statewide participation in an ADOC-developed weatherization Web-based reporting database. First, three levels of monitoring and inspections occur during the weatherization process: (1) by the contractor who made the improvements, (2) by the local service provider who employed the contractor or in-house crew, and (3) by the state who

²⁵In Arizona, Building Performance Institute (BPI) certification is recommended, but not required to be a weatherization technician, monitor, or inspector. BPI certified professionals diagnose, evaluate, and optimize the critical performance factors of a building that can impact health, safety, comfort, energy efficiency, and durability.

oversees the program and subrecipients. Contractors, local service providers, and ADOC officials conduct 100 percent mandatory file reviews on proposed weatherization projects to monitor whether contractors are making cost-effective improvements and that no opportunities are missed to further weatherize the eligible homes. Contractors and service providers also conduct 100 percent of the mandatory physical inspections for all completed weatherization jobs to ensure that the weatherization work meets safety and program requirements as well as results in energy savings. Also, according to ADOC, it regularly conducts physical inspections on about 20 percent of the weatherized homes, thereby exceeding the DOE requirement of conducting physical inspections on 5 percent of homes.

Second, the state and local service providers utilize a state-developed, Web-based reporting database to centralize audit data, facilitate the inspection process, and reduce the risk of fraud by weatherization contractors. Data collected during weatherization audits are entered into the Web-based reporting database and are only accessible by the contractor entering the data, its respective local service provider, and ADOC until they are submitted for state review at which point, data manipulation cannot be made. According to state officials, these internal control features, linking field-based work with a Web-based database and limiting accessibility to audit data, ensure proper monitoring and data integrity, and are essential in tracking the quantity and quality of weatherization work throughout the state.

According to ADOC officials, they conduct risk assessments of their local service providers and if any are determined to be at risk as a result of low weatherization production activities compared to funding received or noncompliance with health, safety, and program requirements, or if inspection files are incomplete, these weatherization contractors will receive additional oversight until they are in compliance and have reduced or eliminated their program risks. According to ADOC officials, one local service provider is currently undergoing increased monitoring to correct management and in-house crew deficiencies that resulted in inaccurate data collection and reporting and poor quality weatherization workmanship. The increased monitoring will continue for at least 2 months after the local service provider demonstrates better program administration and contract work compliance. The Arizona Office of the Auditor General has not audited the Weatherization Assistance Program as a major program in the Single Audit for the last 5 years and, therefore, cannot determine whether there are any internal control weaknesses in the state program. However, according to ADOC officials, the normal

monitoring of their state weatherization program and independent program reviews of their local weatherization service providers have not identified internal control weaknesses for 9 of their 10 local service providers. Although state and training center officials consider the program's principal risk to be the fast-growing number of weatherization contractors requiring increased oversight, they believe these risks are mitigated by the following:

1. Rigorous contractor vetting process conducted by the national training center. This process identifies viable and long-term weatherization professionals.
2. Requirement to have contractor weatherization training and auditor certification to conduct and monitor state-funded weatherization activities.
3. Limiting of new contractors to one weatherization job at a time until they prove reliable, when they can then eventually be given up to five jobs.
4. State and local inspection framework and procedures conducted at multiple levels and performed at various phases of weatherization work.
5. Requirement to use the state's weatherization Web-based reporting system capturing mandatory monitoring and reporting information.
6. Proven abilities of state and local program management who have successfully accomplished weatherization activities, some for more than 25 years.

City of Phoenix officials described two additional mechanisms they use to minimize weatherization contractor-related risks and to ensure their program success. First, they subsidize half of the required training costs for individuals who have demonstrated that they can be long-term, viable weatherization contractors. Second, the Phoenix program officials require that all new weatherization contractors participate in a city-managed weatherization mentoring program designed to assess their ability to conduct the weatherization field work and meet reporting requirements.

In addition to taking steps to monitor the use of funds, state officials are using performance measures to determine the effectiveness of Recovery Act weatherization funds that will meet and extend beyond the DOE required performance measurements. For example, ADOC officials have partnered with local utility companies to access 5 years of utility data to compare the pre and post energy consumption of weatherized homes to analyze whether improvements are achieving energy effectiveness over time. The tracking of post-weatherization energy savings will provide on-

going feedback to weatherization staff, highlighting measures or processes that provide high returns. According to ADOC, local operational changes can be based on this information, thereby improving cost-effectiveness.

ADOC Expects to Meet Federal Reporting Requirements and to Use the State's Centralized Reporting Process

ADOC is responsible for reporting on performance measures required under the Recovery Act to DOE, including the program expenditures, the number of homes weatherized, the number of jobs created and preserved, and the energy savings achieved. Currently, local service providers report to ADOC on regular Weatherization Assistance Program activity quarterly, but are now expected to report on Recovery Act-related activities monthly. In order to meet such requirements, ADOC plans to report performance measurement data collected in the ADOC Web-based reporting database described above to both DOE and to the Governor's centralized statewide reporting system quarterly. While ADOC officials expect all subrecipients to adjust as necessary to comply with Recovery Act Section 1512 reporting requirements,²⁶ ADOC does not anticipate any issues with local service providers' ability to comply in a timely manner, because of their established Web-based reporting structure and monitoring procedures. ADOC plans to report actual figures on program expenditures, weatherization units completed, and the number of jobs created and preserved for the first report due in October 2009.

Despite Guidance, Local Officials Remain Uncertain about How to Accurately Count Jobs Created and Need Further Clarification from ADOC

According to state and local officials, some local service providers remain uncertain about how to accurately count jobs created and need further clarification from ADOC. ADOC is developing an alternative methodology to assist local service providers in properly counting and tracking the number of jobs created as required by the Recovery Act reporting requirements. Currently, weatherization reports track the number of housing units completed, not hours worked. ADOC officials anticipate that local service providers would have difficulty gathering this information because contractors have tracked and reported housing units completed, use of funds, and the results of work completed, rather than the number of hours worked or number of jobs created. Furthermore, local service

²⁶Office of Management and Budget (OMB) Memorandum M-09-21 *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Reinvestment Act of 2009* (June 22, 2009) provides guidance for carrying out the federal reporting requirements included in Section 1512 of the Recovery Act. However, this guidance does not impact other program-specific requirements in the Recovery Act and, as a result, agencies may issue additional and similar reporting requirements.

providers expressed concern that smaller contractors may not have the tracking mechanisms and administrative controls in place to manage the different reporting requirements and administrative tasks required of them to be in compliance.

In an effort to have consistent and cost-effective reporting from subrecipients, ADOC officials are developing an alternative way to determine the number of weatherization jobs created in order to comply with Recovery Act requirements without increasing reporting burdens on the contractors conducting the work. Their alternative methodology for determining the number of jobs created will use a statewide average number of hours it takes to complete different weatherization job tasks (such as duct insulation, window replacements, and weather stripping of doors), then apply those averages to the contracted work completed to generate the total number of Recovery Act-related hours worked which can be translated into the number of full-time equivalent jobs created. ADOC officials are currently sending out surveys to local service providers to obtain average number of hours worked for different weatherization tasks. ADOC officials plan to discuss this alternative for measuring the number of jobs created with DOE officials before the end of September. ADOC officials believe that this alternative will be an easier and more cost-effective way to count the number of weatherization hours worked and number of weatherization jobs created in their state, however, it is too early to assess whether this alternative methodology can successfully assist state and local officials in meeting Recovery Act reporting requirements.

State Comments on This Summary

We provided the Governor of Arizona with a draft of this appendix on September 8, 2009. The Director of the Office of Economic Recovery responded for the Governor on September 16, 2009. Also, on September 10, 2009, we received technical comments from the State of Arizona's Office of the Auditor General. The state agreed with our draft and provided some clarifying information which we incorporated.

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In addition to the contacts named above, Steven Calvo, Assistant Director; Lisa Brownson, auditor-in-charge; Rebecca Bolnick; Aisha Cabrer; Steven Rabinowitz; Jeff Schmerling; and Ann Walker made major contributions to this report.

Appendix II: California

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in California. The full report covering all of GAO's work in 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

GAO's work in California focused on specific programs funded under the Recovery Act, as well as general issues involving the effect of Recovery Act funds on the state's budget and the state's readiness to report on the use and effect of these funds by program. The programs we reviewed—Highway Infrastructure Investment funds, Transit Capital Assistance Program, Weatherization Assistance Program, and the Workforce Investment Act (WIA) Youth Program—were selected primarily because they recently have begun disbursing funds to states or include existing programs receiving significant amounts of Recovery Act funds. For example, the Transit Capital Assistance funds had a September 1, 2009, deadline for obligating a portion of the funds. Additionally, the WIA Youth program had a summer employment component which was under way during our review. In addition to these programs, we also updated funding information on three Recovery Act education programs with significant funds being disbursed—the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF) and Recovery Act funds under Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and the Individuals with Disabilities Education Act (IDEA), Part B. Consistent with the purposes of the Recovery Act, program funds are being directed to help California state and local governments stabilize their budgets and to stimulate infrastructure development and expand existing programs—thereby providing needed services and potential jobs. With the programs, GAO focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed. Our review in California covered the following areas:

State Budget Stabilization

- On July 24, the state enacted \$24 billion in additional budget measures, including \$16 billion in cuts to programs, to balance its fiscal year 2009-10 budget.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

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- While its immediate fiscal crisis is resolved, the long-term fiscal outlook is still of concern.

State Reporting under Section 1512

- The state intends to centrally report for all California agencies and their subrecipients of Recovery Act funds.
- The state developed and is now testing a reporting tool to collect data from state agencies and then upload that information to the federal government.
- While the state Recovery Act Task Force is confident that they will meet Recovery Act deadlines, the quality of the data, especially from subrecipients, is uncertain.

Highway Infrastructure Investment

- The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned \$2.570 billion in Recovery Act funds to California.
- As of September 1, 2009, the federal government has obligated \$1.978 billion to California, and \$22 million had been reimbursed by the federal government.
- As of September 1, California had awarded contracts for 185 projects worth \$1.245 billion and advertised an additional 180 projects for bid. The majority of these projects involve pavement widening and improvement projects, but the state is also using highway infrastructure funds for numerous safety and transportation enhancement projects.

Transit Capital Assistance Program

- DOT's Federal Transit Administration (FTA) apportioned \$1.002 billion in Recovery Act funds to California and urbanized areas in the state.
- As of September 1, 2009, FTA has obligated \$911 million to California and urbanized areas in the state.
- As part of our current review, we visited four local transit agencies—the Los Angeles County Metropolitan Transit Authority; the Orange County Transportation Authority; the San Joaquin Regional Rail Commission; and the San Joaquin Regional Transit District.

Selected Education Programs

- As of August 28, 2009, California has distributed about \$3.7 billion in Recovery Act funding to local education agencies (LEA), special

education learning plan areas² (SELPA), and institutes of higher education through three education programs. This includes SFSF education stabilization funds (\$2.5 billion to K-12 and about \$268 million to each of the state's university systems), ESEA Title I funds (\$450 million), and IDEA Part B funds (\$269 million).

- The state's cash management practices for education funds, particularly ESEA Title I Recovery Act funding, continue to be a concern and will require close monitoring.

Weatherization Assistance Program

- California has received 50 percent—about \$93 million—of its Recovery Act weatherization allocation, and it has obligated about \$9.4 million of these funds for various planning, procurement, and training purposes. As of August 31, 2009, the state had paid invoices totaling approximately \$1.4 million.
- California plans to weatherize 50,330 homes with Recovery Act funds. However, state officials decided not to spend these funds to weatherize homes until prevailing wage rate determinations under the Davis-Bacon Act were resolved by the Department of Labor, which occurred on September 3, 2009. State officials now hope to issue, by the end of September 2009, contract amendments allowing service providers to begin weatherizing homes with these funds.

Workforce Investment Act Youth Program

- The U.S. Department of Labor (Labor) allotted about \$187 million to California in WIA Youth Recovery Act funds.
- The state has allocated about \$159 million to the 49 local workforce investment areas in the state after reserving 15 percent for statewide activities. As of August 20, 2009, local agencies had drawn down \$31 million. California reported to Labor on August 15 that 14,078 youth participants were involved in the summer employment activities of the WIA Youth Program under the Recovery Act.
- The two local workforce investment areas we visited in California, the City and County of San Francisco and the City of Los Angeles, differed in scope, size, and approach in providing their Recovery Act summer youth employment programs under WIA.

²SELPA's are made up of LEAs and county offices of education within particular geographic areas. Small LEAs join together so they can receive IDEA funding to provide a full range of services to students with special needs.

California’s Fiscal Year 2010 Budget Resolves the Immediate Fiscal Crisis, but Long-Term Fiscal Prospects Remain of Concern

As discussed in our last report, California was not able to revise its budget prior to the new fiscal year that began on July 1. As a result, the state was unable to avoid severe cash deficits, which forced the Controller’s Office to start issuing registered warrants, called IOUs, beginning on July 2 to meet the state’s payment obligations.³ After extensive negotiations between the Governor and Legislature, on July 24, the Legislature passed amendments authorizing \$16.1 billion in cuts to the 2009-10 fiscal year budget, bringing the total budget cuts enacted by the state since February to \$31 billion. These cuts, combined with tax increases of \$12.5 billion, over \$8 billion in Recovery Act funds, and other budgetary actions shown in table 1, were made to balance California’s budget this year.

Table 1: Overview of Actions to Close California’s Budget Gap During 2009

Dollars in millions

	February budget agreement	July amendments	Total	Percent of total
Budget cuts	\$14,893	\$16,125	\$31,018	51.7
Fund shifts, deferring expenses, borrowing, and other actions	402	8,034	8,436	14.1
Tax increases	12,513	-	12,513	20.9
Recovery Act funds	8,016	-	8,016	13.3
Total	\$35,824	\$24,159	\$59,983	100

Source: California Department of Finance.

While the \$16.1 billion in budget cuts enacted by the Legislature in July were widespread, some cuts are dependent upon future federal actions. For example, \$1 billion of the cuts to Medi-Cal (the state’s Medicaid program), shown in table 2, are based on the assumption that the state can obtain reimbursements of certain payments from federal programs⁴ and

³According to the California Controller’s Web site, a total of \$1.95 billion in registered warrants have been issued since July 2. A registered warrant is a “promise to pay,” with interest, that is issued by the state when there is not enough cash to meet all of its payment obligations. Based on the recommendation of the Pooled Money Investment Board (PMIB), the State started redeeming IOUs on September 4, 2009. The interest rate is 3.75 percent per year.

⁴Examples provided by officials from the California Department of Finance include Social Security Disability Insurance payments that they believe should have been paid by Medicare, duplicate Part B Medicare premium payments caused by systemic errors, and adjustments to payments in connection with Medicare prescription drug coverage.

receipt of additional federal funds under existing initiatives. The remaining cuts are expected to be achieved through program savings during the year. Another budget solution relies on delaying state payroll payments by 1 day to push the expense into the 2010-11 fiscal year. In addition, some cuts could be overturned by lawsuits challenging their legitimacy.

Table 2: Overview of California 2009-10 Budget Cuts Enacted in July

Dollars in millions		
General fund program	Dollars	Percent of total
K-12 and community colleges	\$6,519.1	40.4
Higher education	1,999.8	12.4
Shift in funds from local redevelopment agencies to education	1,700.0	10.5
Medi-Cal	1,381.8	8.6
Employee compensation	846.1	6.8
Corrections and rehabilitation	785.5	4.9
CalWorks	509.6	3.2
Supplemental Security Income/State Supplementary Payment Program	108.2	0.6
Developmental services	284.0	1.8
In-home supportive services	263.5	1.6
Healthy families	178.6	1.1
Mental health	163.9	1.0
Courts	168.6	1.0
Child welfare services and foster care	120.6	0.7
Other	1,095.3	6.8
Total	\$16,124.6	100

Source: California Department of Finance.

Despite the state’s budget challenges, the state does not anticipate having to request any maintenance-of-effort waivers in any programs having such requirements,⁵ according to state Recovery Act Task Force (Task Force) officials. However, some agencies, such as the California Department of Education (CDE), may request certain waivers for specific Recovery Act programs. For example, officials in several school districts we contacted are requesting that CDE submit a request for a blanket waiver allowing

⁵Some Recovery Act programs require that states agree to maintenance-of-effort requirements in the level of state spending for programs to which the requirement applies, unless the maintenance-of-effort requirements are waived.

school districts to carry over more than 15 percent of the ESEA Title I Recovery Act funds received this year into the next fiscal year.

State officials believe that the newly revised budget will provide a solution to the state's cash shortage for the remainder of this fiscal year. On August 13, the California Controller announced that the Department of Finance's revised cash projections from the new budget, coupled with the state Treasurer's assurances that California can secure revenue anticipation loans, would provide sufficient cash for the state to stop issuing IOUs on September 4.

California's budget situation is likely to remain challenging for some time to come. Preliminary projections by California's Department of Finance indicate an additional \$7 billion budget shortfall during the next fiscal year and potentially larger shortfalls in future years. This outlook is shared by the state's Legislative Analyst's Office, whose officials told us that they expect the state to experience cash flow deficits over the next 3 to 5 years, which may require significant borrowings and delayed tax refunds and other payments.

The severity of California's budget situation is compounded by a limited rainy-day fund.⁶ At the time of our last report, the state expected to end the 2008-09 fiscal year with \$1.5 billion in budget reserve funds and the 2009-10 fiscal year with \$4.5 billion. However, according to California's Department of Finance, the state actually ended the last fiscal year with a deficit of \$4.5 billion. The Legislature's amendments to the 2009-10 budget eliminated the deficit but left the state with little cushion going forward. The Governor used his line item veto authority to cut an additional \$489 million to give the state a small cushion to respond to unforeseen events. This cushion, however, could be eliminated if the Governor's line item vetoes or other budget cuts are overturned in the courts as a result of ongoing or anticipated future lawsuits.

The lack of rainy-day funds makes planning for the end of the Recovery Act funds even more challenging. Further exacerbating the challenge is that, according to State officials, temporary State tax increases enacted as part of the February 2009 budget agreement, unless amended, will end in

⁶According to Department of Finance officials, California has not had funds in the separate rainy-day reserve account for several years. California's budget reserve consists of a line item in the General Fund budget officially called the Special Fund for Economic Uncertainties.

2011, around the same time that Recovery Act funds have been depleted. Nevertheless, Department of Finance officials cited several initiatives that could be considered as a way to assist the state with the decline of Recovery Act funds. These initiatives include

- pursuing reforms in a variety of programs and processes to generate additional budget savings;⁷
- transitioning seniors and persons with disabilities served by Medi-Cal from a “fee-for-service” model to a “managed care” model to help achieve greater savings;
- pursuing various options to stimulate the state’s economy, including expanding private-public partnership on redevelopment projects, changing some rules to lower corporate taxes, and expediting infrastructure project initiation; and
- looking for ways to change the state’s tax and revenue structure to produce a less volatile revenue stream.⁸

Oversight Activities Continue Despite State Officials’ Concerns over Cost Reimbursements

Oversight of and reporting for Recovery Act funds requires considerable investment by numerous state entities. For example, the State Auditor’s Office estimated its cost for audit and oversight activities of Recovery Act funds at over \$6.5 million through fiscal year 2010-11. As we have previously reported, the state has implemented both internal and external audit and control activities to help oversee Recovery Act funds. In addition to the State Auditor’s efforts, the Department of Finance is conducting readiness reviews, and the state’s Recovery Act Inspector General, whose office has been charged with helping to prevent and detect fraud, waste, and abuse involving Recovery Act funds, is attempting to monitor all Recovery Act funds flowing into the state either through state agencies or directly as local grants. The Controller, Treasurer, Office of the State Chief Information Officer (CIO), and individual state agencies’ internal control functions are all also involved in oversight activities. In addition, the state is incurring considerable expense in developing its Section 1512 reporting tool for quarterly reports to OMB, as discussed in the next section.

⁷Specific examples cited are the Temporary Assistance for Needy Families (TANF) program, In-home Health Supportive Services program, Department of Corrections and Rehabilitation, and state contracting processes.

⁸The state has a bipartisan Tax Commission studying options that could report out its findings soon. Then, the Governor could convene a special session of the Legislature to take up Tax Commission recommendations.

State officials expressed frustration in their attempt to obtain reimbursement for their costs of oversight over Recovery Act funds, made more critical by the state's difficult budget environment. Under OMB's Recovery Act guidance, states are allowed to recover central administration costs, such as those discussed above, subject to a limit of 0.5 percent of the Recovery Act funds received by the state. OMB guidance⁹ issued on May 11 detailed a process which involves modifying the Statewide Cost Allocation Plans (SWCAP) approved by the Department of Health and Human Services' (HHS) Division of Cost Allocation (DCA), to recoup Recovery Act related administrative costs, including expediting SWCAP's typical reimbursement procedures. However, Task Force officials told us that the new SWCAP process will not allow them to claim many of their oversight costs or obtain funding in advance. Specifically, based on the Task Force's interpretation of OMB guidance, they raised the following concerns about using a modified SWCAP process for Recovery Act reimbursement:

- Only a limited number of activities will qualify for the supplemental Recovery Act administrative funding. For example, according to Task Force officials, if the state did not perform any specific administrative activities related to the increased Medicaid Federal Medical Assistance Percentage (FMAP) Recovery Act funds, then it could not claim the 0.5 percent administrative fee for the Medicaid Recovery Act funds flowing into the state, even if some Recovery Act activities, such as those performed by the state's Recovery Act Inspector General, help deter fraud, waste, and abuse in Medicaid, as well as in other programs. As a result, preliminary calculations by the Department of Finance estimate that the state will recover, at best, 25 percent of their administrative costs associated with the Recovery Act.

⁹OMB Memorandum M-09-18 titled *Payments to State Grantees for Administrative Costs of Recovery Act Activities* states that "central administrative costs incurred by State recipients in the management and administration of Recovery Act programs are allowable costs under the current guidance of OMB Circular A-87.... Generally, these costs are recovered as indirect costs to the programs. The methodology used to reimburse State recipients for central administrative costs is captured in the indirect cost rates provided for in OMB Circular A-87.... Under the provisions of OMB Circular A-87, States can recoup Recovery Act administrative costs through the State-wide Cost Allocation Plan (SWCAP), which is submitted to the Department of Health and Human Services (HHS) annually for review and approval. The costs can either be included as 'centralized services' costs (commonly known as 'Section I costs') or as 'billed services' costs (commonly known as 'Section II costs'). These costs can be included in the SWCAP as an addendum plan pertaining only to Recovery Act programs and activities, thus providing transparency to the total amount of Recovery Act administrative costs and its allocation to the programs."

- Under SWCAP, states are reimbursed after administrative costs have been incurred, which in the case of California, could exacerbate its already strained cash flow situation. Task Force members said that although the state's operations are not currently impacted by the inability to obtain administrative funding, in a few months, operations could be impacted by cash flow issues.
- SWCAP is based on years of operating history, which provides a basis for estimating costs and obtaining reimbursement. That history, however, may not be applicable to Recovery Act administration.

Task Force members said that these concerns are shared by budget officials in other states, and accordingly, the Task Force is working through the National Association of State Budget Officers and the National Association of State Auditors, Controllers, and Treasurers to obtain approval from OMB and HHS to use a further modified SWCAP process. California has proposed modifications that would allow states to draw administrative funds immediately using either the Governor's discretionary portion of SFSF funds or, if such funds are not available, through an advance payment from the federal government.¹⁰ The Task Force members told us that authority to use an alternative process has not yet been granted, although significant time has been spent working with OMB and DCA officials on this issue, and even if granted, it would not allow the state to claim the full amount of its oversight costs.

¹⁰California decided to commit its entire \$1.1 billion allocation of SFSF government services funds (the discretionary portion of SFSF funds) to paying for California's Department of Corrections and Rehabilitation (CDCR) payroll costs and not for oversight costs. As discussed in our last report, CDCR spent its first drawdown of \$727 million in the 2008-09 fiscal year on payroll. According to California Department of Finance officials, CDCR is slated to receive another \$358 million in September which, similarly, will be used for payroll.

California Is Developing a Tool to Centrally Submit Section 1512 Information, but Ability to Capture Subrecipient Data Is Unknown

As the Recovery Act's first quarterly recipient reporting date approaches on October 10, the state is working to develop a centralized statewide reporting mechanism in time to meet this deadline.¹¹ The state plans to centrally report for all state agencies receiving Recovery Act funds, including the total amount of funds received and amounts spent on projects and activities, the status of specific projects and activities, estimates of jobs created or retained, and details on sub-awards and other payments.¹² The first quarterly report will summarize Recovery Act activity from the date of enactment through September 30, 2009, and each successive quarterly report will present cumulative information through that quarter.

As discussed in our last report, California was attempting to procure a reporting system from an outside vendor because the state does not have a centralized data management and accounting system that is capable of tracking Recovery Act activities across state agencies. However, the state's attempts to procure an off-the-shelf system have not been successful because none of the 18 vendors bidding on the project had a system that would meet the state's requirements without extensive modifications. Consequently, the state's CIO, as a member of the Task Force, is leading an in-house effort to develop a custom software system that can be used to upload the state's data to the central nationwide data collection system at the FederalReporting.gov Web site until a final solution is found.

¹¹Section 1512 of the Recovery Act requires recipients to report on the use of Recovery Act funding and provide detailed information on projects and activities funded by the Recovery Act. Pub. L. No. 111-5, Sec. 1512, 123 Stat. 115,287 (Feb. 17, 2009). Recipients are required to report no later than the 10th day after the end of each calendar quarter, beginning the quarter ending on September 30, 2009. Under OMB guidance, prime recipients, such as state agencies, have the 11th through the 21st day to review and correct data. The federal government will report out to the public 30 days after the quarter ends. Further implementation guidance on Section 1512 reporting is contained in OMB Memorandum M-09-21, which was released on June 22, 2009.

¹²Recipient reports will include payments to subrecipients and vendors. A vendor is defined as a dealer, distributor, merchant, or other seller providing goods or services required for the conduct of a federal program. Additional data elements were identified for vendor payments when reporting expenditures of more than \$25,000. These include the vendor's Dun and Bradstreet Universal Numbering System (DUNS) number, payment amount, and purchase description. A requirement was also added for subrecipients to report the DUNS number or name and ZIP code of the vendor's headquarters for payments to vendors in excess of \$25,000.

The state's interim centralized reporting tool will be fed data from each state agency and then uploaded to the national FederalReporting.gov Web site. According to CIO officials, the state agencies and grantees are responsible for the quality of their data submissions to the centralized reporting tool. However, some state agency officials told us they are facing challenges in developing their own reporting systems, especially with regard to the quality and completeness of information received from subrecipients. These concerns are discussed in more detail in the program-specific sections of this report.

CIO and other Task Force officials are conducting several dry runs in August and September to identify and resolve issues prior to the final reporting in October. For example, in mid-August the CIO conducted a dry run with three state agencies that, according to CIO officials, went very well overall and resulted in the development team identifying some minor issues. According to CIO officials, this dry run was particularly useful because the development team was able to test all three methods that state agencies have available to submit data to the centralized reporting tool, including through Excel spreadsheets, an online Web form, or directly as an XML spreadsheet.¹³ Similarly, CIO would like to conduct a dry run with the FederalReporting.gov site prior to October to test whether it can accept the state's data.

CIO and Task Force officials intend to perform some high-level quality checks of the information that will be submitted to the centralized reporting tool by state agencies. For example, CIO plans to review agency submissions to identify missing data and also cross-check the activity reported with Recovery Act receipt data reported by the state Controller's Office to identify potential gaps. Further, depending on the results of future dry runs, CIO may expand the use of data integrity checks on agency data submissions before the final submission.

¹³XML (Extensible Markup Language) is a set of rules for encoding documents electronically.

California Continues to Award Highway Contracts Using Existing Contracting Procedures and Internal Controls to Ensure Appropriate Use of Funds

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highways program is generally 80 percent, under the Recovery Act, it is 100 percent.

As we reported in April 2009, \$2.570 billion was apportioned to California in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$1.978 billion had been obligated¹⁴ and \$22 million had been reimbursed by Federal Highway Administration (FHWA).¹⁵

Funds Obligated for Highway Projects in California Continue to Grow

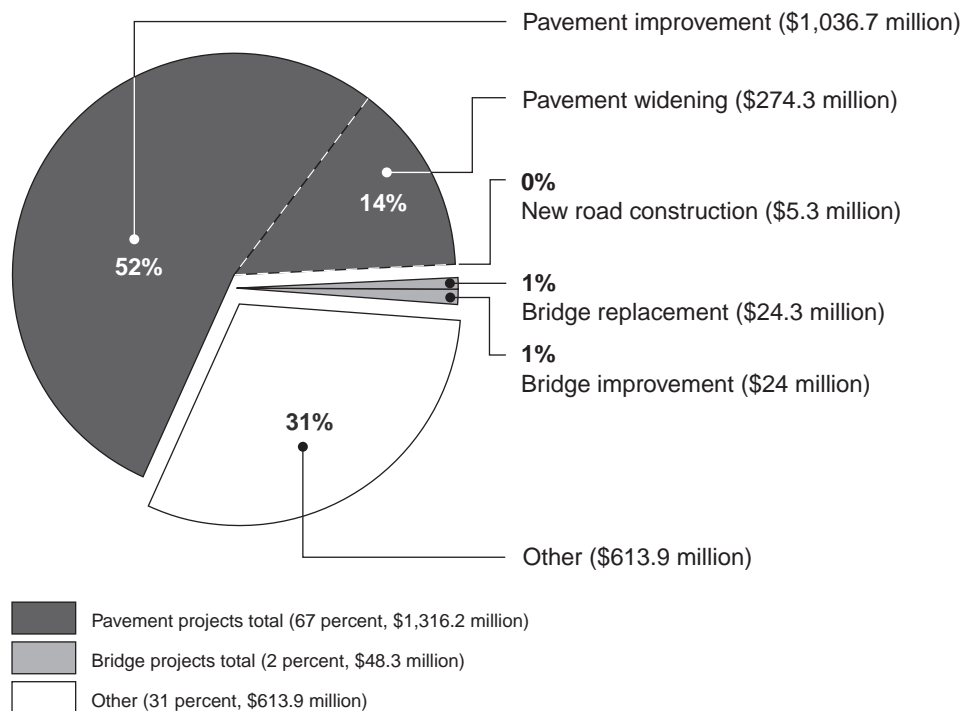
The majority of Recovery Act highway obligations for California have been for pavement widening and improvement projects. Specifically, 67 percent (\$1.316 billion) of the \$1.978 billion obligated to California as of September 1, 2009, is being used for pavement widening and improvement projects, while 31 percent (\$614 million) is being used for safety and transportation enhancement projects and 2 percent (\$48 million) is being used for bridge replacement and improvement projects. As we reported in July 2009, state

¹⁴For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. This amount does not include obligations associated with the \$27 million of apportioned funds that were transferred from FHWA to the Federal Transit Administration (FTA) for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

¹⁵States request reimbursement from FHWA as they make payments to contractors working on approved projects.

officials told us they prioritized projects that could be started quickly in selecting projects to receive Recovery Act funds. Figure 1 shows obligations in California by the types of road and bridge improvements being made.

Figure 1: Highway Obligations for California by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

As of September 1, 2009, California's Department of Transportation (Caltrans), had awarded 185 contracts for state and local highway projects, 96 of which had begun construction and 13 of which had completed construction. The total value of the contracts awarded is \$1.245 billion.¹⁶ An additional 180 projects for state and local highway projects

¹⁶The total amount of Recovery Act funds obligated for these projects is \$1.104 billion. The total value of the contracts awarded exceeds the obligation total due to the contribution of local agency, state, and other federal funds to the overall financing of these projects.

were advertised or in the bid review process. Caltrans expects to place an additional 429 planned projects out to bid over the next 2 fiscal years.

California Has Contracting Procedures in Place Intended to Ensure Appropriate Use of Funds

According to state officials, the state has well-defined contract requirements for all highway projects, and Caltrans awards all highway contracts competitively to the lowest responsive and responsible bidder. Caltrans reviews all low bids to ascertain that the potential contractor's estimated costs are balanced across the length of the contract and match historical prices for similar work. Caltrans officials stated that, in order to be awarded a contract, potential contractors must possess the appropriate licenses and bonds; pass safety and record checks; and demonstrate their experience completing similar work. Contractors are required to report during the solicitation process whether they have been found "not responsible" under evaluations in any previous solicitation. Caltrans officials stated that contracts are normally awarded as fixed unit price, wherein the price for certain items may be adjustable. For example, if the price of oil increases or decreases more than a prespecified percentage, Caltrans can make adjustments to an existing contract. State officials told us that Caltrans oversees construction contracts administered by local agencies on the state highway system to ensure compliance with applicable state and federal regulations and Caltrans standards and practices. Officials stated that Caltrans also provides procedural and policy guidance on contract administration to local agencies completing projects that are not located on the state highway system. In addition, Caltrans officials stated that they added requirements specific to the Recovery Act, such as reporting requirements, to the Recovery Act contracts. Caltrans officials stated that for contracts drafted prior to enactment of the Recovery Act, but funded in part by Recovery Act appropriations, reporting requirements were appended to the contracts.

We selected two contracts to review and discussed them with the relevant contracting officials in greater depth.¹⁷ At the state level, Caltrans awarded a contract to resurface, restore, and rehabilitate a segment of Interstate 80 in Solano County, California. This contract was awarded on April 21, 2009, at a total value of \$13.4 million, with a start date of May 19, 2009. At the local level, the City of Seaside awarded a contract to rehabilitate a section of Del Monte Boulevard. This contract was awarded on July 16, 2009, at a total value of \$168,000. (See table 3.)

¹⁷We reported on the projects associated with these two contracts in our July 2009 report.

Table 3: Summary of Contract Information for Two Highway Projects Visited

Interstate 80 Project—Road Resurfacing, Restoration and Rehabilitation in Solano County, Calif.

- Estimated contract value: \$13.4 million
- Fixed unit price contract awarded competitively; 13 bidders
- Estimated project duration: May to November 2009

Del Monte Boulevard Project—Pavement Rehabilitation in Seaside, Calif.

- Estimated contract value: \$168,000
- Fixed unit price contract awarded competitively; 5 bidders
- Estimated project duration: September to October 2009

Source: GAO analysis.

The Caltrans official in charge of contract oversight for the Interstate 80 project stated that Caltrans follows the standard procedures set forth in the Caltrans Construction Manual, which Caltrans uses to monitor all of its state highway contracts.¹⁸ For example, to ensure the work performed matches contract specifications and meets quality standards established in the contract, Caltrans reviews materials testing reports submitted monthly by the contractor and independently conducts inspections and materials testing. The Caltrans resident engineer for each project also verifies that work performed by the contractor matches contract specifications. According to the project manager for the Del Monte Boulevard pavement rehabilitation project, the City of Seaside relies on Caltrans district office engineers to provide guidance regarding project oversight. The project manager monitors 100 percent of the invoices that contractors submit to ensure invoice requests for reimbursement match work performed and that work performed matches contract specifications. City officials stated that the city inspects and manages ongoing work and relies on consultants for materials testing and engineering support. Caltrans officials stated that these oversight procedures are standard for local road projects.

¹⁸The Caltrans Construction Manual establishes policies and processes for the construction phase of Caltrans projects. The manual includes information on contract administration, sampling and testing, environmental requirements, and employment practices. The manual also includes information on contract administration for projects administered by local agencies for roads on the state highway system. Caltrans officials stated that the construction manual includes FHWA contract oversight provisions and has FHWA approval.

Caltrans Is Preparing for Reporting Required by Recovery Act Section 1512, but Has Concerns about Subcontractor Data Quality

Caltrans has been collecting employment data and information on project implementation and expenditures and is preparing to provide compiled data for Section 1512 reporting to the CIO and the rest of the Task Force. According to Caltrans officials, Caltrans is modifying its data collection system to comply with OMB guidance on Section 1512 reporting. As we reported in July 2009, Caltrans requires contractors to collect and report information, including number of workers and payroll amounts, on a monthly basis. In addition to reporting this information for their own employees, contractors are also required to gather and report subcontractor data to Caltrans. Caltrans officials stated that they may have difficulty obtaining consistent data at the subcontractor level because Caltrans does not have direct visibility over data collection at the subcontractor level. Officials stated that Caltrans may assess the reliability and accuracy of contractor data in the future.

Transit Agencies in California Are Beginning to Use Transit Capital Assistance Recovery Act Funding, but Some Have Concerns about Section 1512 Reporting Requirements

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.¹⁹ The majority of the public transit funds, \$6.9 billion (82 percent), were apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.²⁰ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to the states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.²¹ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.²²

Funds appropriated through the Transit Capital Assistance Program must be used in accordance with Recovery Act requirements, including the following:

¹⁹The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

²⁰Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

²¹The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

²²The federal share under the existing formula grant program is generally 80 percent.

- Fifty percent of Recovery Act funds apportioned to urbanized areas or states are to be obligated within 180 days of apportionment (before September 1, 2009) and the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.²³
- Project sponsors must submit periodic reports, as required under the maintenance-of-effort for transportation projects section (1201(c) of the Recovery Act) on the amount of federal funds appropriated, allocated, obligated, and outlayed; the number of projects put out to bid, awarded, or work has begun or completed; project status; and the number of jobs created or sustained. In addition, grantees must report detailed information on any subcontractors or subgrants awarded by the grantee.

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.²⁴ FTA reviews the project sponsor’s grant applications to ensure that projects meet the eligibility requirements and then obligates the Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure disadvantaged businesses are not discriminated against in the awarding of contracts.

²³Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

²⁴Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and metropolitan planning organizations designated for the area. Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region’s Transportation Improvement Program and the approved State Transportation Improvement Program (STIP).

In March 2009, \$1.002 billion in Transit Capital Assistance Recovery Act funds were apportioned to California and urbanized areas in the state for transit projects. As of September 1, 2009, \$911 million had been obligated. California's six largest urbanized areas were apportioned approximately \$764.7 million in Transit Capital Assistance funding, or 78 percent of California's total apportionment. The largest urbanized area in California (Los Angeles-Long Beach-Santa Ana) was apportioned about 50 percent of these funds, or \$388.5 million. In addition to apportionments to urbanized areas, approximately \$34 million was apportioned to nonurbanized areas in California and will be administered by Caltrans.

FTA Found That Recovery Act Obligation Deadline Was Met

All of the urbanized areas in California and Caltrans, on behalf of the state's nonurbanized areas, submitted grant applications in time for FTA to obligate at least 50 percent of the amount apportioned to each by the September 1 deadline.²⁵ As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for California and urbanized areas located in the state. For ten urbanized areas—Bakersfield, Indio-Cathedral City-Palm Springs, Lancaster-Palmdale, Mission Viejo, San Jose, San Diego, Santa Rosa, Stockton, Temecula-Murrieta, and Victorville-Hesperia-Apple Valley—FTA obligated 100 percent of their respective apportionments. FTA was also able to obligate 100 percent of funds apportioned under the nonurbanized area formula grant program to Caltrans.

Selected Transit Agencies in California Are Using Transit Capital Assistance Recovery Act Funds for Preventive Maintenance, Capital Costs, and Access Enhancements

Caltrans and four transit agencies we visited—Los Angeles County Metropolitan Transportation Authority (Metro), Orange County Transportation Authority (OCTA), San Joaquin Regional Rail Commission, and San Joaquin Regional Transit District (San Joaquin RTD)—are using their Transit Capital Assistance Recovery Act funds for a variety of capital projects. For example, Metro distributed its Transit Capital Assistance Recovery Act funds, approximately \$226 million, among eight projects, including an overhaul of its aging bus fleet, the purchase of 140 compressed natural gas buses, improvements to electrical support systems for its rail line, and enhancements to a rail station entrance. (See table 4.) While Metro chose to fund multiple projects, the San Joaquin Regional Rail

²⁵For the Transit Capital Assistance Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a grant agreement.

Commission dedicated its funds, approximately \$3 million, to a single project to construct new track and upgrade the railbed for San Joaquin’s regional commuter trains. FTA Region IX, which includes California, provided guidance to local transit agencies on selecting projects, which emphasized selection of projects that could be started quickly. Officials at the four transit agencies we visited stated that they used this guidance in their project selection process.

Table 4: Overview of Los Angeles County Metropolitan Transportation Authority Transit Capital Assistance Projects

Project name	Project description	Cost
Metro Blue Line traction power station	Replacement of up to 20 aging traction power substations. New substations are expected to consume approximately 5 percent less energy than existing stations.	\$62,785,048
Bus replacement	Procurement of 90 45-foot compressed natural gas composite buses.	60,000,000
Bus Midlife Program (preventive maintenance)	Approximately 376 buses with an average age of 8 years in service have accumulated at least 40 percent of their useful life and will be overhauled, including repower of engine packages, suspension replacement/repair work, and operator control panel refurbishment.	47,000,000
Electrify CNG compression	Electrification of all system compressors to comply with regional air quality regulations.	28,000,000
Bus replacement	Procurement of 50 (30-to 32-foot) compressed natural gas buses.	24,000,000
Replacement of fiber optics	Purchase of fiber optic transmission equipment to replace the existing communications system equipment for the Metro Rail system.	2,500,000
Metro transit enhancement project	Improvements along the El Monte and Harbor Busway Stations.	1,030,644
Red Line station egress project	Design and construction of stairway entrances to the 7th Street and Metro Center Station to meet fire and safety requirements.	800,000
Total		\$226,155,692

Source: Los Angeles County Metropolitan Transportation Authority.

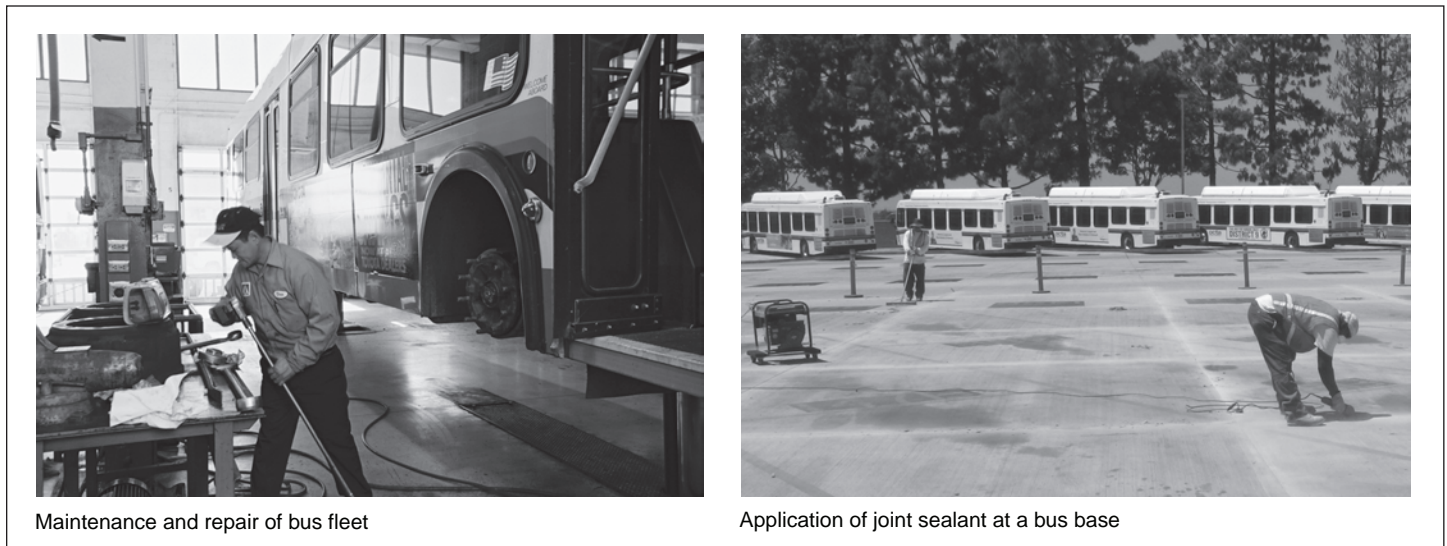
Note: Metro used its Recovery Act Transit Capital Assistance Program apportionment to fund eight capital projects. Of these projects, one, the Bus Midlife Program, is being completed by Metro employees, while the remaining seven projects will be contracted. Metro reported that seven of the eight projects are under way, on schedule, and on budget. As of August 2009, Metro was still preparing to issue the request for proposals for the Metro Transit Enhancement project.

Transit agencies we visited are also using Transit Capital Assistance funds for preventive maintenance, as the Recovery Act funds could be spent quickly and the work could be performed primarily by agency employees rather than contractors.²⁶ For example, OCTA is using approximately 60 percent of its Transit Capital Assistance Recovery Act funds, about \$45.5

²⁶Under FTA circular 9030.1c, preventive maintenance is an eligible grant activity and is classified under capital project activities. Preventive maintenance costs are defined as all maintenance costs.

million, for preventive maintenance, which includes vehicle fleet and bus facility maintenance, as well as the salaries and benefits of employees performing such tasks. (See fig. 2.) According to OCTA officials, funding projects to expand service was not desirable because it would create long-term operating costs that could not be sustained.

Figure 2: Examples of Projects Selected by the Orange County Transportation Authority



Maintenance and repair of bus fleet

Application of joint sealant at a bus base

Source: Orange County Transportation Authority.

Officials from all four agencies we met with reported that Recovery Act funds allowed them to fund projects that otherwise would have not been funded this fiscal year because state and local funding sources were suspended or fell short. For instance, officials at the San Joaquin RTD told us that Transit Capital Assistance Recovery Act funds are being used largely to fill the funding gap for capital expenses that were previously funded by State Transit Assistance funds and local tax revenue.²⁷ San Joaquin RTD and OCTA also plan to use Transit Capital Assistance Recovery Act funds to compensate funding shortfalls for operating expenses. While OCTA plans to use some of the allowed 10 percent of the Los Angeles-Long Beach-Santa Ana urbanized area apportionment for

²⁷Some state funding for transit purposes is supported through two funding sources: (1) the State Transit Assistance fund, which is derived from a statewide sales tax on gasoline and diesel fuel, and (2) the Local Transportation Fund, which is derived from one-quarter of a cent of the general sales tax collected statewide.

operating expenses and the San Joaquin RTD is considering using some of the 10 percent allowance for the Stockton urbanized area, Metro officials stated that time constraints imposed by the Recovery Act requirement to obligate at least 50 percent of the urbanized area's apportionment by September 1, 2009, made it difficult to include the 10 percent allowance in their grant applications to FTA. Metro developed its grant application before the announcement that operating expenses were eligible, and according to Metro officials, it could have taken up to 3 months to amend their state and regional transportation planning documents to include use of funding for operations, which could have resulted in missing the September 1 deadline. According to transit agency officials, their budgetary challenges may continue, in part, due to the elimination of the State Transit Assistance fund for fiscal years 2010 through 2013. In addition, transit agencies may receive less revenue from local funding sources such as sales taxes.

Some transit agencies also received funds for projects through the transfer of Recovery Act highway funding.²⁸ FHWA transferred \$27.2 million in highway funds to FTA for use on transit projects in California, nearly 10 percent of the total funds transferred from FHWA to FTA nationwide. Caltrans and regional transit agencies worked with MPOs to identify transit projects to complete with transferred funds. For example, in Stockton, the San Joaquin Regional Rail Commission worked with its MPO to identify an eligible project, and both entities coordinated with Caltrans to execute the transfer of approximately \$1.7 million. Under the nonurbanized area program, Caltrans funded two transit projects with approximately \$2 million in transferred highway funds.

Selected Regional Transit Agencies and Caltrans Are Using Existing Policies and Procedures to Monitor Transit Capital Assistance Funds

The transit agencies we visited and Caltrans are using existing processes and controls to monitor Recovery Act funds under the Transit Capital Assistance Program. For instance, Metro, OCTA, the San Joaquin Regional Rail Commission, the San Joaquin RTD, and Caltrans are all using existing processes to manage Recovery Act contracts, including following FTA contract management procedures. These procedures include

- inspections to verify that work performed on projects adheres to contract specifications;

²⁸Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

- supervisory reviews of purchase orders and invoices to ensure items are properly billed and authorized; and
- reconciliations of receipts and payments to accounting records to ensure the completeness and accuracy of the records for each project.

While control policies were similar across transit agencies we visited and at Caltrans, the level of internal assessment of the management of Recovery Act funds varied. (See table 5.) While all four transit agencies we visited and Caltrans were subject to various external audits—such as Single Audits, financial statement audits, and FTA’s triennial review²⁹—the two largest transit agencies we visited, Metro and OCTA, and Caltrans had internal audit departments and conducted risk assessments on an annual or biennial basis to develop their annual audit plans. Transit agency officials at the two agencies told us that the management of Recovery Act funds has been classified as “high risk” or “moderate to high risk” in their fiscal year 2009 risk assessments.

Table 5: Examples of Internal Control Policies at Selected California Transit Agencies

Transit agency	Internal controls					
	External audits	Internal audits	Risk assessments	Inspections	Supervisory reviews	Reconciliations
Caltrans	✓	✓	✓	✓	✓	✓
Los Angeles County Metropolitan Transportation Authority (Metro)	✓	✓	✓	✓	✓	✓
Orange County Transportation Authority (OCTA)	✓	✓	✓	✓	✓	✓
San Joaquin Regional Transit District	✓			✓	✓	✓
San Joaquin Regional Rail Commission	✓			✓	✓	✓

Source: GAO analysis of interviews with transit agency and Caltrans officials.

²⁹FTA’s triennial review evaluates urbanized area formula grantees’ performance at least once every 3 years in carrying out transit programs, including adherence to statutory and administrative requirements.

Selected Transit Agencies Face Challenges Interpreting and Implementing Latest Section 1512 Reporting Guidance, Including Reporting Information about Jobs Created

Caltrans and regional transit officials charged with implementing Section 1512 reporting guidance expressed confusion about aspects of reporting requirements and stated that they would like additional guidance from FTA on how to interpret OMB's guidance on Section 1512. For example, officials at transit agencies we visited were not sure whether to classify contractors performing work on Recovery Act-funded projects as vendors or subrecipients—a distinction that may impact the information included in recipient reports and the amount of information transit agencies are required to collect from contractors performing Recovery Act-funded work.³⁰ While some transit agencies had sought clarification or additional guidance on reporting from FTA or other transit agencies, all were still developing plans to implement Section 1512 reporting requirements. Caltrans, which is responsible for gathering Section 1512 reporting data from nonurbanized area grant recipients, provided guidance to entities that will report information to Caltrans. Caltrans officials stated that they have also sought clarification and received guidance on Section 1512 reporting requirements from the Task Force.

All four transit agencies we visited were still determining how to apply Section 1512 reporting guidance to calculate direct jobs created from Recovery Act-funded contracts. Methodologies for estimating direct job data to report to OMB differed across transit agencies. For instance, officials at OCTA plan to calculate direct jobs by dividing the average payroll of an OCTA employee into the total dollars spent on each Recovery Act-funded project. Additionally, OCTA officials stated that they only plan to include direct hours worked by contractors in their jobs estimates. By contrast, officials at the San Joaquin RTD plan to base job estimates primarily on specific hour and pay data pulled from internal payroll systems and certified payroll documents completed by contractors and subcontractors. The San Joaquin RTD plans to include all hours of contractors working on Recovery Act-funded projects in their direct job estimates.

In addition to reporting job and spending data to OMB, transit agencies are also required under Recovery Act section 1201(c) to submit periodic reports to FTA on the status of Recovery Act funds. The four transit

³⁰OMB guidance on Section 1512 of the Recovery Act states that prime grant recipients are required to report different data elements for vendors and subrecipients. According to transit agency officials, contractors do not have the required registrations needed for subrecipient reporting and it may be difficult for some contractors to obtain this information in time for the October 10, 2009, Recovery Act Section 1512 reporting deadline.

agencies we visited reported to FTA for the first time on August 16, 2009. Agency officials told us they did not experience problems collecting the data to report to FTA for the reporting deadline. Transit agencies for which FTA obligated Recovery Act funds by July 31, 2009, were required to report in August on the status of these funds, including the amount obligated and expended, the number of contracts and their implementation status, and number of hours associated with direct jobs created or maintained by all projects and activities funded by the grant.

Most Education Funds Awarded to California Have Been Drawn Down; Concerns Remain about Cash Management and Section 1512 Reporting

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHEs).³¹ After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

The Recovery Act provides \$10 billion to help local educational agencies (LEAs) educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using

³¹The initial award of SFSF funding required each state to submit an application to the U.S. Department of Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds).

existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.³² The U.S. Department of Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The U.S. Department of Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Part C funds programs that provide early intervention and related services for infants and toddlers with disabilities—or at risk of developing a disability—and their families. The U.S. Department of Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

As of August 28, 2009, California has distributed about \$3.7 billion in Recovery Act funding to LEAs, special education learning plan areas (SELPA)³³, and IHEs through three education programs. This includes SFSF education stabilization funds (about \$2.5 billion to K-12 schools and about \$268 million to each of the state's two university systems), Recovery Act ESEA Title I funds (\$450 million), and IDEA Part B funds (\$269 million).

³²LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

³³SELPAs are made up of LEAs and county offices of education within particular geographic areas. Small LEAs join together so they can receive IDEA funding to provide a full range of services to students with special needs.

Funds Have Been Distributed to K-12 Schools and Universities, but Not Yet to Community Colleges

The California Department of Education (CDE) released the first phase of Recovery Act education funds to LEAs and SELPAs beginning in late May 2009, with the second phase, depending on the program, expected to be distributed to LEAs and SELPAs later in 2009 through early 2010. According to CDE officials, they will not know how much of the funding has been obligated or spent until LEAs and SELPAs submit the data to CDE as part of the required Recovery Act Section 1512 report to be released on October 10, 2009. (See table 6.)

Table 6: Recovery Act SFSF, ESEA Title I, and IDEA Funding for Education, as of August 28, 2009

Dollars in millions

Program	Made available by Education	Drawn down by California	Distributed to LEAs or IHEs
ESEA Title I	\$562.5	\$450.3	\$450.3
IDEA, Part B	633.9	268.9	268.9
SFSF Education Stabilization	3,266.6	3,020.2	3,020.2
Total	\$4,463.0	\$3,739.4	\$3,739.4

Source: GAO analysis of CDE and Education data.

As we previously reported in July 2009, California’s two university systems received a total of \$537 million in SFSF funds in May 2009. The funding was spent primarily on personnel costs, in part to avert layoffs resulting from state budget cuts. Officials from both systems said they are not certain how much they will receive in SFSF funding for state fiscal year 2009-10. Officials from both systems said they again plan to use the Recovery Act funding for personnel costs, in part to avert layoffs in light of continuing state funding reductions.

California’s initial SFSF funding to IHEs did not include funding for the state’s community college system, as mentioned in our prior report. However, in response to increased budget cuts, the state submitted an amended SFSF application that revised the higher education allocation going forward to include community colleges. According to a community college system official, they originally expected the amount to be about \$130 million but, because of state budget revisions, now expect it to be considerably less. The official said the SFSF funding they receive will be spent to restore state budget cuts to student services, such as counseling and orientation, and to instructional services such as tutoring.

**ESEA Title I Recovery Act
Cash Management
Continues to Be a Concern**

As we previously reported, concerns exist regarding CDE and LEA ESEA Title I cash management practices. Specifically, both the U.S. Department of Education (Education) Office of the Inspector General and the California State Auditor have raised issues about early drawdowns and the calculation and remittance of interest on the cash balances.³⁴ These concerns extend to CDE's drawdown of ESEA Title I Recovery Act funding and the release of \$450 million of the funds to LEAs on May 28, 2009. According to CDE officials, the drawdown of ESEA Title I Recovery Act funds was in advance of its normally scheduled drawdown of school year 2008-09 regular Title I funds. As a result, CDE anticipated that the LEAs would be ready to use these funds quickly under approved Title I plans for the current school year. However, in August, when we contacted the 10 LEAs that received the largest amounts of ESEA Title I Recovery Act funding, we found that all reported maintaining large Title I Recovery Act cash balances. Each of these LEAs had received between \$4.5 million and \$140.5 million in ESEA Title I funds in early June, with a total of more than \$200 million received by all 10. As of August 7, only three reported spending a small fraction of the funds received. Seven LEAs reported not spending any of the funds received. Further, officials in two of the LEAs we contacted pointed out that part of the ESEA Title I Recovery Act funding will pay salaries—which typically extend over several months or longer—and officials in all 10 LEAs said they planned to spend the funds over the course of this and next fiscal year, thus continuing to maintain considerable unspent Recovery Act cash balances. Any such cash balances will require the calculation and remittance of interest to the federal government.

In responding to our concerns about the drawdown and distribution of ESEA Title I Recovery Act funds to LEAs and the appropriate calculation of interest on the cash balances, CDE officials told us that they had

³⁴Both the California State Auditor and the Education Inspector General have recently cited deficiencies in CDE and LEA ESEA Title I cash management. The Single Audit issued by the State Auditor in May 2009 found that CDE had disbursed over \$1.6 billion to LEAs during the fiscal year ending June 30, 2008, with no assurances that the LEAs minimized the time between the receipt and disbursement of federal funds, as required by federal regulations. The report also noted that CDE did not ensure that interest earned on federal program advances is returned on at least a quarterly basis. (See State of California Internal Control and State Federal Compliance Audit Report for the Fiscal Year Ended June 30, 2008, May 2009, Report 2008-002.) Additionally, the Education Inspector General reported in March 2009 that CDE needed to strengthen controls to ensure that LEAs correctly calculate and promptly remit interest earned on federal cash advances. (See ED-IG/A09H0020, March 2009.)

conducted an informal survey of 180 LEAs in July 2009 to determine whether LEAs were maintaining ESEA Title I cash balances. According to CDE officials, nearly all of the 64 LEAs responding reported having spent more regular ESEA Title I funds than they received—thus having unreimbursed expenses rather than cash balances. Further, CDE told us that they determined that the unreimbursed expenses would largely offset the ESEA Title I Recovery Act fund cash balances for the majority of these LEAs and they believe that the calculation of interest on the Recovery Act balances would incorporate this offset. We discussed this issue with Education officials, but they have yet to make a final determination of whether such unreimbursed expenses can be offset against ESEA Title I Recovery Act balances for the purpose of calculating interest due to the federal government.

CDE has taken several actions in an effort to address its overall cash management issues and help ensure that LEAs properly calculate interest on cash balances. In a December 2008 letter, CDE notified LEAs of federal cash management requirements and advised them to coordinate with their county Office of Education and call CDE with any questions, which, according to CDE officials, numerous LEAs did. Additionally, as we previously reported, CDE implemented a pilot program to help them monitor LEA compliance with federal cash management requirements which uses a Web-based quarterly reporting process to track LEA cash balances. The pilot program is scheduled to commence in October 2009. However, it does not include monitoring of ESEA Title I funds, which will be phased in after the cash management system and processes are better understood and operating as intended.

Nine of the LEAs we contacted told us they have processes in place to calculate and remit interest on unused ESEA Title I funds. However, we found that the processes for calculating interest and remitting payment varied from location to location at the 10 LEAs we contacted. For example, some LEAs calculate interest using a daily cash balance, while some calculate it using a monthly cash balance. Additionally, one LEA we contacted sends a single interest check to CDE covering all programs, but includes back up documentation for each program, while another sends separate checks for each program.

CDE officials told us they are attempting to respond to LEA cash management concerns by

- selectively monitoring LEA compliance with cash management requirements by reviewing LEAs' reported federal cash balances,

- calculating interest, and posting interest remittances in CDE's accounting records, and
- conducting periodic open teleconference forums to answer LEA questions about Recovery Act funding, including cash management requirements.

Although CDE has taken several steps to notify and inform LEAs of their cash management responsibilities, LEA officials reported receiving varying degrees of guidance.³⁵ Officials from five LEAs reported receiving guidance ranging from a single notice from CDE to multiple letters, emails and bulletins from CDE, Education and their local County Office of Education. Officials in three LEAs reported they had been part of the Education Inspector General's audit discussed earlier, and had received guidance during that process. Officials from one LEA we contacted said they had not received any guidance. In light of the inconsistent guidance reported by LEAs, CDE should consider formalizing its cash management guidance to ensure that all LEAs are fully informed. This guidance should incorporate, once available, Education's final determination of the earlier described offset issue.

CDE Is Preparing for Reporting Required by Recovery Act Section 1512 but Is Concerned about Reporting Deadlines

CDE officials said they are currently working on a Recovery Act reporting system in response to state and OMB guidance on Recovery Act Section 1512 requirements. According to CDE officials, two CDE working groups have been formed to develop the reporting system. The groups meet every 2 weeks and coordinate with and submit data to the Task Force. Officials said the reporting system will be ready for internal testing in early September 2009, and the LEAs will begin submitting data to CIO in mid-September. However, CDE officials said they are still working on the specifications of internal control measures to ensure accurate and complete information, and are still developing their policies and procedures for documenting data quality reviews.

Officials also expressed general concern about getting the LEAs to report Recovery Act information, as well as CDE's ability—given the limited time available—to validate the information received to ensure its reliability. They said they are aware that data can be verified until October 21, 2009, after it is entered into the FederalReporting.gov Web site. However, the

³⁵The Task Force has also taken steps to provide guidance on cash management and two Recovery Act bulletins were issued to state agencies in August related to cash management rules and training opportunities.

state deadline for submitting data is September 28, 2009, and there will be limited opportunity to review the data after that. Additionally, they said that while they were aware that data can be updated and corrected in subsequent reporting cycles, they would prefer to enter the correct data the first time around and believe they are mandated to do so. Finally, CDE officials said that although they have received helpful advice from CIO, they remain concerned about the reporting deadlines.

The Majority of California's Weatherization Funds Have Not Been Obligated or Spent

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved the weatherization plans of all but two of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.³⁶ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided

³⁶The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work.³⁷ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

California has received 50 percent—about \$93 million—of its Recovery Act weatherization allocation. As of August 31, 2009, the California Department of Community Services and Development (CSD),³⁸ the state agency responsible for administering the program in California, had obligated about \$9.4 million of these funds for purposes such as state and local planning, training and technical assistance, and procurement,³⁹ and it had spent about \$1.4 million.⁴⁰ California plans to spend its entire Recovery Act weatherization allocation—about \$186 million—6 months prior to its federal deadline of March 2012 for spending these funds. California plans to weatherize 50,330 homes with its allocation.

CSD is currently using Recovery Act funds to train weatherization workers, including making enhancements to the state training program. According to CSD officials, California’s local service providers are also developing marketing and outreach strategies and negotiating with potential contractors and suppliers, including educating them about opportunities to participate in the weatherization program. These officials told us that some service providers are also hiring and training

³⁷The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

³⁸CSD delivers weatherization services through a network of local service providers, including community action agencies, nonprofit organizations, and local governments.

³⁹California does not have centralized procurement of weatherization materials with established prices and suppliers; instead, procurement is delegated to local service providers.

⁴⁰CSD officials clarified that, in reporting the amount of weatherization funds spent in California, they can only report the amount drawn through the Controller’s Office as of a particular date, which is generally not the amount actually spent by service providers and contractors as of that date. They explained that this is because the weatherization program typically reimburses claims for expenses already incurred by service providers and contractors. Therefore, funds are only drawn from the Controller’s Office whenever a service provider submits an invoice to the state for reimbursement, and this occurs monthly. Meanwhile, service providers and contractors continue to spend funds on weatherization-related activities.

administrative staff and weatherization workers.⁴¹ CSD also plans to add staff, including fiscal and program auditors and information technology consultants, to help administer the increased funds.

California's Use of Weatherization Funds Has Been Limited by Davis-Bacon Act Prevailing Wage Requirements and Other Factors

CSD officials decided not to spend Recovery Act funds to weatherize homes until Labor had established a prevailing wage rate, as determined under the Davis-Bacon Act for weatherization work. On September 3, 2009, Labor provided CSD with prevailing wage rates for weatherization work in California. CSD officials explained that they waited to spend these funds because the prevailing wage determinations could pose staffing challenges for the state's service providers and their contractors, who typically use the same workers for a variety of weatherization programs, which, other than the Recovery Act program, are not subject to prevailing wage requirements. According to CSD, depending on the wage rate determinations, these organizations might be forced to alter their service delivery strategies, such as by paying the same workers different rates from project to project or by dedicating their highest-paid workers to Recovery Act projects. CSD officials also stated concerns that weatherizing homes prior to the wage rate determinations could increase the liability risks of service providers and CSD for non-compliance with the Davis-Bacon Act. In addition, they noted that weatherizing homes prior to the wage rate determinations could create an administrative burden associated with making retroactive payments to workers receiving less than the wage rates. As a result, service providers have not yet certified any contractors to perform weatherization activities, including contractors they have used in the past. CSD officials told us that, now that Labor has established prevailing wage rates for weatherization work, they hope to issue, by the end of September 2009, contract amendments to their service providers that would allow them to begin weatherizing homes with Recovery Act funds. They said that they continue to receive many questions about the Davis-Bacon Act from their service providers and that concerns are still emerging in response to evolving directives and guidance from Labor and DOE.

On July 29, 2009, CSD sent a letter to DOE detailing many of its general concerns about the Recovery Act weatherization program, as well as

⁴¹Some service providers in California outsource 100 percent of their weatherization activities, but most are hybrids, conducting traditional weatherization services in-house and outsourcing specialty services.

issues regarding compliance with the Davis-Bacon Act. The concerns are in the areas of payroll certification, workforce development, monitoring frequency, energy-efficiency measures, reporting requirements, dwelling assessments, leasing and purchasing vehicles, and program and fiscal benchmarks. Regarding these concerns, CSD officials told us that, as of September 8, 2009, DOE had only fully addressed the concern about payroll certification. Some of these concerns are discussed in further detail below.

- **Payroll certification.** The letter requested that DOE confirm whether CSD would be required to directly perform weekly payroll certification of all service providers and contractors to ensure compliance with the Davis-Bacon Act, as opposed to CSD's plan to require service providers to obtain independent, third-party payroll certification. CSD requested that DOE provide any requirement in writing so that it could justify additional staff to conduct certification activities.
- **Workforce development.** The letter requested that DOE confirm whether CSD could request an exemption from the Davis-Bacon Act requirements for weatherization workers hired through its federal, state, and local workforce development partnerships aimed at creating training and employment opportunities for youth and dislocated workers. It stated that the Davis-Bacon Act threatens to weaken or eliminate workforce development as a significant component of California's weatherization program. CSD officials told us that this is because paying high, prevailing wages to the inexperienced, entry-level workers typically hired through these programs could have a negative financial impact on service providers and their contractors and also threaten their more experienced, full-service workers, who could be paid the same rates.
- **Monitoring frequency.** The letter requested that DOE confirm whether CSD would be required to perform on-site monitoring of service providers on a quarterly basis, as suggested by DOE officials during a recent site visit to CSD. The letter stated that quarterly reporting would require CSD to increase its staffing significantly and requested that DOE provide any such requirement in writing so that it could justify additional staff to conduct reporting activities. CSD officials told us that they are concerned that they may not have enough staff to conduct quarterly reviews, since they currently conduct such reviews annually. On the other hand, they noted that they already collect data for such reviews and already have a standardized method for analyzing these data.

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- **Program and fiscal benchmarks.** The letter requested that DOE provide the program and fiscal benchmarks and timeline required for California to receive the final 50 percent of its allocation so that CSD can include the benchmarks in the contracts with service providers that it plans to issue in September 2009.

The estimates for jobs created and homes weatherized that are currently in the state weatherization plan could change based on revisions to the local weatherization plans prepared by service providers. Any revisions were due to CSD by August 31, 2009. However, in mid-August, CSD advised its service providers that future revisions, including the estimates for jobs created and homes weatherized, would be allowed in response to the prevailing wage rate determination and other requirements impacting planning. CSD officials stated that, if revisions are submitted, they would either be due to the impact of the Davis-Bacon Act or the overall costs of required performance measures.

California Has a Variety of Accountability Approaches to Monitor the Use of Weatherization Funds

CSD has processes aimed at ensuring that weatherization funds are used for their intended purposes and in accordance with the Recovery Act. For example, prior to receiving Recovery Act funding, CSD formed a team—chaired by the Chief Deputy Director and including key managers and staff—to design and implement work plans to help ensure compliance with OMB, DOE, and related state requirements and Recovery Act goals. CSD also has an internal auditing group that conducts an ongoing internal risk assessment specific to Recovery Act funds. In response to a Recovery Act readiness review conducted by the California Department of Finance, CSD audit and program staff have conducted internal and external risk assessments, resulting in a corrective action plan that the team evaluates weekly. These risk assessments include a review of all service providers to identify those that may warrant more intensive monitoring or other special conditions; as of September 8, 2009, CSD had identified four service providers whose Recovery Act funding could be subject to special conditions and/or distributed to another agency. CSD has provided service providers with contract requirements, provisions, and related guidance specific to the Recovery Act. In addition, CSD has required fraud training for its entire staff and is providing training and technical assistance for service providers, including mandatory training regarding Recovery Act accountability and transparency requirements, OMB principles, contract procurement standards, internal controls, direct and indirect cost principals, and audit requirements.

CSD's oversight of its existing weatherization program includes a combination of monthly, quarterly, and annual desk reviews; routine on-site program monitoring; and an annual review of independent auditors' reports. CSD currently conducts annual on-site monitoring of service providers and requires them to ensure that all contractors' postinstallation work meets standards; CSD plans to increase the frequency of the postinstallation inspections to a quarterly basis. CSD also plans to review service providers for program compliance, track expenditures, document support time spent on projects, and conduct field inspections of 5 to 20 percent of weatherized homes once the Recovery Act funds are provided to service providers. The state's most recent Single Audit report did not include the weatherization program because it was too small to warrant coverage. However, CSD officials told us that they review Single Audit reports for service providers and that they follow up with them regarding findings.

CSD Officials Expect to Be Able to Meet Section 1512 Reporting Requirements, but Have Concerns about DOE Performance Reporting Requirements

CSD officials told us that they anticipate no problems tracking the number of jobs created or retained on either a monthly or quarterly basis because their service providers have many years of experience administering the program and CSD has already provided guidance to weatherization contractors on how to measure employee full-time equivalents. For all reporting purposes, CSD requires the service providers to provide information directly to CSD, which then reviews it for accuracy and completeness. For example, CSD conducts monthly data quality reviews on expenditures. CSD then reports information on behalf of the program to state officials, OMB, and DOE. Regarding the Section 1512 reporting requirements, CSD is California's prime recipient, and the service providers are the subrecipients. CSD plans to report all Section 1512 information to the state's Task Force, which will then report all state data to OMB. CSD officials believe they will meet the Section 1512 reporting requirements in a timely manner.

As of September 8, 2009, California had not begun measuring the impact of its weatherization program because no homes in California had been weatherized with Recovery Act funds. However, CSD officials told us that if DOE requires additional performance measures, then costs could increase if the measures require changes to procurement practices, extra equipment and training for weatherization crews, quality assurance changes, or increased monitoring of contractors. CSD officials are waiting for final federal guidance on additional performance measures, especially regarding energy savings. For example, these officials anticipate that DOE will propose a new methodology for measuring energy savings and, as a

result, they have not issued any state guidance to assist service providers in understanding reporting requirements for this performance measure. They recommended that, in order to obtain credible information on energy savings, DOE should negotiate agreements to obtain energy usage data directly from utilities. They also recommended that DOE provide guidance that allows for standardized reporting and, therefore, the comparison of information across all states.

California Used Recovery Act Funds to Expand Summer Youth Services, but Faced Some Challenges

The Recovery Act provides an additional \$1.2 billion in funds for the Workforce Investment Act (WIA) Youth Program, including summer employment. Administered by the Department of Labor (Labor), the WIA Youth program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,⁴² the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.⁴³ Local areas may design summer employment opportunities to include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job; (2) learn

⁴²H.R. Rep. No. 111-16, at 448 (2009).

⁴³Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

work readiness skills on the job; and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.⁴⁴ Labor’s guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor’s guidance. Each state’s plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor’s guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

Labor allotted about \$187 million to California in WIA Youth Recovery Act funds. The WIA Youth program is administered by the state Employment Development Department (EDD) in California. After reserving 15 percent of the \$187 million for statewide activities, the state allocated the remainder, about \$159 million, to the 49 local workforce investment areas in the state. EDD officials said that they have not set targets for either enrollment in summer youth employment activities or the amount of money to be spent by a certain date, although the Governor issued a letter encouraging the local agencies to expend the majority of funds on summer activities. California officials reported to Labor on August 15 that the 49 local areas had used Recovery Act funds to enroll 33,789 youth in the WIA Youth program, of which 14,078 were placed in summer employment

⁴⁴Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

activities. However, local area officials we visited in Los Angeles and San Francisco said that they will not have complete results on their summer youth employment activities until October. Recovery Act funds must be expended by June 30, 2011, and, based on past experience, EDD thinks it is very likely that the state will spend all of these funds by that date. Each of California's 49 local areas are free to determine how much of their Recovery Act WIA Youth funding will be spent on summer activities.

Recovery Act Summer Youth Work Activities in Two Local Areas in California Differed in Scope, Size, and Approach

Two local areas we visited, the City and County of San Francisco and the City of Los Angeles, had different levels of experience in providing summer youth employment programs prior to the Recovery Act and used different approaches to provide the programs, as described in table 7. For example, Los Angeles implemented its summer youth employment activities in two phases, while San Francisco used one period for summer employment activities.

Table 7: Description of WIA Youth Programs Reviewed by GAO

City	Los Angeles	San Francisco
Administering agencies	Los Angeles Community Development Department (LACDD)	San Francisco Office of Economic and Workforce Development
Recovery Act WIA Youth Program funding allocation	\$20.3 million	\$2.3 million
Locally planned allocation for WIA Youth summer employment activities	\$11.1 million	\$1.1 million
Locally targeted number of WIA summer youth participants	5,550	455
Prior Experience with a stand- alone summer youth employment program	Yes	No, but previous experience with youth employment programs
Program duration	Two phases from May 1, 2009, to September 30, 2009	June 29 to August 29, 2009
Service providers	A “mixed model” using city agencies and 15 community- based organizations	Nine community-based organizations
Eligibility determination	Determined by the service providers and reviewed by the Los Angeles Community Development Department (LACDD)	Determined by the service providers and reviewed by the San Francisco Human Services Agency
Monitored by the state	Yes	Yes
Youth hours and payment	Up to 140 hours at \$8 an hour (Youth ages 20 to 25 could work more hours)	In-school youth up to 130 hours and out-of-school youth up to 170 a hours at \$9.79 an hour
Type of employment	Mostly public and nonprofit sector with private-for-profit providing less than 2 percent of the jobs; included healthcare, construction, and green jobs	Mostly public and nonprofit sector with private-for-profit providing about 10 percent of the jobs; included clerical, teacher’s aid, and maintenance jobs
Summer youth participants in green jobs	422 youth participants hired through one service provider with emphasis on green-collar jobs	Seven youth participants in green technology/construction jobs, with a total of 47 green jobs officials identified in various industries; officials encountered difficulties defining and developing green jobs

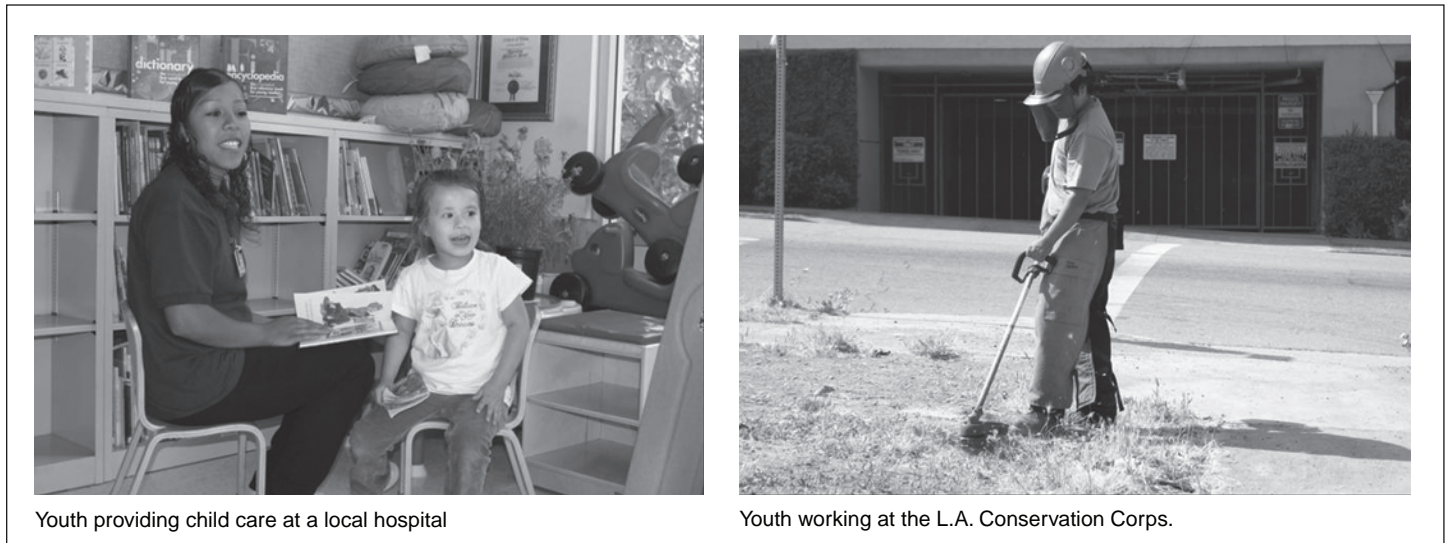
Source: GAO analysis based on information provided by the California Employment Development Department, Los Angeles Community Development Department, and San Francisco Office of Economic and Workforce Development.

At the local agencies in San Francisco and Los Angeles, we visited two selected service providers in each city and spoke with 24 youth participants at six work sites in San Francisco and Los Angeles. We also spoke with six youth participants who had completed the program in Los Angeles. In San Francisco, we visited Larkin Street Youth Services, a nonprofit agency that is an established WIA service provider, and the Vietnamese Youth Development Council, a nonprofit agency that is a service provider new to the WIA program. We spoke to youth participants assigned to work sites through Larkin Street Youth Services, the Bayview Opera House/Urban YMCA, the African American Art & Culture Complex,

and a retail store. In Los Angeles, we visited two experienced service providers: the Boyle Heights Technology Center, a city-managed service provider, which completed its Recovery Act funded summer youth employment program on June 30, and the Los Angeles Conservation Corps, a nonprofit agency specializing in green jobs. We spoke to youth participants who had finished their employment at the Boyle Heights Technology Center, White Memorial Hospital, and East Los Angeles College and to youth participants assigned to work sites through Clean and Green and Million Trees LA. In San Francisco and Los Angeles, we also spoke with work site supervisors or employers, depending on availability.

As previously noted, the WIA Youth program is designed to provide low-income, in-school and out-of-school youth, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Local areas may design summer employment opportunities funded by the Recovery Act to include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. We asked youth participants about the types of work experiences they had during their summer employment, which included a variety of positions such as teachers' aids, clerical positions, and green jobs, and received positive feedback.

Figure 3: Examples of Youth Participants at Summer Youth Employment Activities in Los Angeles



Youth providing child care at a local hospital

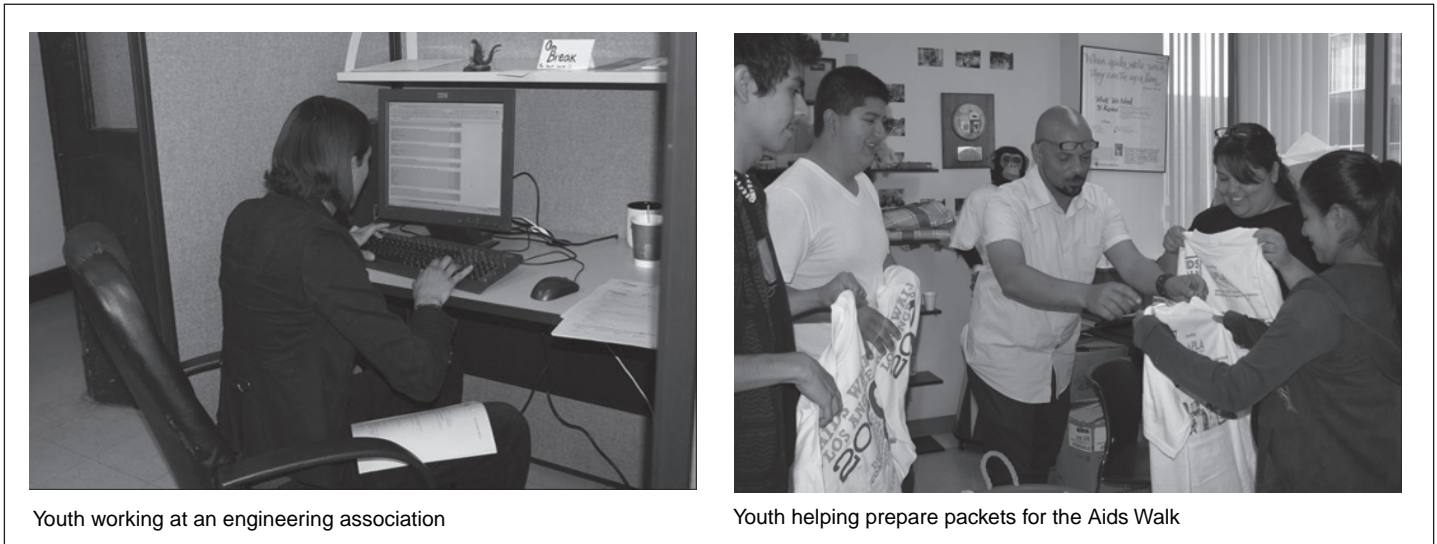
Youth working at the L.A. Conservation Corps.

Source: Photographs provided by the Boyle Heights Technology Youth Center, Youth Opportunity Movement, Los Angeles Community Development Department.

In addition to the work experience component, both San Francisco and Los Angeles programs also provided training in work readiness, financial literacy, and workplace safety. The two programs, however, differed in the other types of allowable WIA Youth activities they provided. San Francisco officials estimated that, given the short duration of the program, only about 15 percent of the youth received structured academic training as part of their program. Los Angeles officials said that none of the youth received academic training through the summer youth employment programs funded by the Recovery Act. Instead, Los Angeles directed youth with academic training needs to two locally funded “Work and Learn” summer youth employment programs, which included structured academic training and had a target enrollment of 2,000 youth participants. Los Angeles officials said the infusion of Recovery Act funds allowed the city of Los Angeles to expand these programs, which operate at local expense. With respect to optional occupational training, San Francisco officials said that approximately 20 percent of their youth received training in areas of construction project management, youth work, philanthropy, and grant management and small business operations. Los Angeles officials said that, although none of their youth received formal

WIA-defined occupational skills training,⁴⁵ youth were introduced to the fields of health care, green jobs, and construction and trades.

Figure 4: Examples of Youth Participants at Summer Youth Employment Activities in Los Angeles



Source: Photographs provided by the Boyle Heights Technology Youth Center, Youth Opportunity Movement, Los Angeles Community Development Department.

Mixed Results in Developing Green Jobs

The selected summer youth employment programs we reviewed had mixed results in developing, as Labor encouraged, work experiences that introduced youth to opportunities in “green” educational and career pathways. San Francisco officials said they had difficulties in defining and developing green jobs, although they had hoped to define them as recycling, landscaping, solar panel installation, weatherization, and green construction. San Francisco officials said they identified seven youth participants as working in green technology and construction jobs. Officials also identified 47 green jobs that included not only organic farming and landscaping, but also clerical, customer service, and sales

⁴⁵According to Labor’s Training and Employment Guidance Letter 17-05 (Feb. 17, 2006) Attachment B, occupational skills training should be (1) outcome-oriented and focused on a long-term goal as specified in the Individual Service Strategy, (2) be long-term in nature and commence upon program exit rather than being short-term training that is part of services received while enrolled in Employment and Training Act-funded youth programs, and (3) result in attainment of a certificate awarded in recognition of an individual’s attainment of measurable technical or occupation skills necessary to gain employment or advance within an occupation.

positions at green industries, as well as janitorial and landscaping positions at government agencies. Los Angeles, however, contracted with one service provider, the Los Angeles Conservation Corps, with an emphasis on providing green jobs. This service provider had 422 youth participants during Phase II of the summer youth employment program, most of whom engaged in green jobs, which, as defined by the service provider, included planting trees, cleaning streets and alleys, and other green activities. Sponsors of the Los Angeles Conservation Corps include federal agencies, such as the Environmental Protection Agency and the U.S. Forest Service, and private entities, such as Shell Oil and the Sierra Club. One of the employers under the Los Angeles Conservation Corps was the Million Trees LA project, a city of Los Angeles project that works with the U.S. Forest Service on its Urban Forest Project.

Challenges in Meeting Enrollment

While the state did not provide enrollment or spending targets for summer youth employment activities, San Francisco and Los Angeles officials developed their own enrollment targets for their summer youth employment programs. Los Angeles officials also said they planned to spend all their WIA Recovery Act Youth funds by June 30, 2010. At the time of our site visits in August 2009, neither San Francisco nor Los Angeles had met their own summer enrollment targets.

San Francisco officials told us that they had enrolled about 392 youth (86 percent of the target), and although the program was ongoing at the time of our visit, they expect to fall short of their goal of enrolling 455 youth. San Francisco officials stated that they were able to identify enough youth participants, but not enough work sites. They cited the short time frames to develop their programs as a challenge, which officials identified at the outset. San Francisco contracted with two organizations for work site development, both of which conducted on-site orientation and monitored visits with each work site prior to youth being placed there. The visits were designed to provide program orientation, assess work sites for safety regulations, and explain and verify work site requirements.

At the time of our visit, Los Angeles had met about 90 percent of their targeted enrollments in the first two phases of its summer youth employment activities,⁴⁶ and officials believed they would meet their

⁴⁶Los Angeles also provided summer employment for 2,000 youth participants through two locally funded programs, Learn and Earn and LA Scholars, which offered work experience with academic components.

overall goal to have all funds obligated or expended by June 30, 2010. For Phase I (May to June 30, 2009), Los Angeles had a target enrollment of 1,250 youth participants; approximately 1,100 youth completed the employment activities (88 percent of their goal), although Los Angeles officials said they are still collecting and collating the data from this phase. For Phase II (July 1 to September 30), Los Angeles officials had a target enrollment of 4,300 youth participants. Enrollment as of August 7, 2009, was 3,910, or 91 percent of the goal. Despite not being at their enrollment goal in August, Los Angeles officials anticipate reaching their overall enrollment goal by September 30. Beyond the Labor-defined summer period of May 1 to September 30,⁴⁷ Phase III, called the Reconnections Academy, is planned to run from October 1 through December 31 and has a goal of providing 1,000 positions to 21 to 24 year olds. In addition, a Phase IV is planned for the year-round program. Los Angeles said that their plan is to spend all of their Recovery Act WIA Youth funds by June 30, 2010, and the current plan is to spend 80 percent of the funds by September 30, 2009, at the end of Phase II. Subsequent to our visit, Los Angeles officials reported that, as of August 31, 2009, 5,300 youth were enrolled in summer youth employment activities, or about 95 percent of their goal.

Los Angeles officials said they did not face any major issues in developing summer youth work sites. The city has previously provided locally funded summer youth employment activities under an umbrella program known as Hire LA's Youth, which complemented the year-round WIA program. The request for proposal for this city-funded 2009 summer youth employment program was released in October 2008 and closed in December 2008. Thus, according to Los Angeles Community Development Department (LACDD) officials, when the Recovery Act provided WIA funds for youth summer employment in 2009, Los Angeles was already fully engaged in developing work sites and service providers for summer youth employment programs.

Successes with Out-of-School Youth and Youth Ages 22 to 24

San Francisco and Los Angeles officials believe that they had successfully targeted out-of-school youth and reached out to youth ages 22 to 24. Of the youth currently enrolled in the San Francisco program, 178 out of the 392 youth (about 45 percent) were out-of-school youth. Additionally, 67 out of

⁴⁷Labor's Training and Employment Guidance Letter 14-08 (Mar. 18, 2009): 23.

the 392 youth (about 17 percent) were between the ages of 22 and 24.⁴⁸ According to a San Francisco official, younger participants are directed to the Mayor's youth employment program, which serves high school youth. One of the service providers we interviewed, Larkin Street Youth Services, focused on the homeless youth population of San Francisco. Larkin Street Youth Services officials said that their population is largely an out-of-school youth population. Only 4 of the 50 youth participating with this service provider were under the age of 18.

Los Angeles officials told us that they are still collecting demographics on their participants to determine whether they met their goal of out-of-school youth constituting at least 30 percent of the program participants.⁴⁹ Officials at the city-based service provider we visited said that they focused entirely on out-of-school youth for the WIA summer youth employment activities. Los Angeles officials told us that they are also still gathering data on the number of summer youth program participants ages 21 to 24. Phase III of the youth employment activities, however, will focus on this age group, with a goal of targeting 1,000 participants.

State and Selected Local Agencies Have Procedures for Monitoring Recovery Act WIA Youth Summer Funds and Contracts

The state and local workforce investment agencies that we visited have monitoring procedures over the use of Recovery Act WIA Youth funds in place. While the state and local agencies have similar monitoring procedures (see table 8), the performance of these monitoring efforts differ in important ways. For example, EDD plans to conduct visits to work sites established by each of the 49 local areas in the state. EDD officials told us that, during these site visits, they review a nonstatistical sample of participant case files and interview participants and work site supervisors to confirm proper documentation for participant work permits, verify participant eligibility, and ensure that participants are provided meaningful employment opportunities. EDD also reviews program administration and operations and examines contract procurements, expenditure reports, expense payments, and small purchases. EDD officials stated that they typically select for review work sites that have a high level of risk. They base risk on factors such as geographic location, the type of work being conducted, and the age of the participants. EDD issues a written report of its findings to the local

⁴⁸As noted above, the Recovery Act extended eligibility through age 24 for youth receiving services funded by the act.

⁴⁹The 30 percent goal was included in the service provider contracts.

agencies, which then must respond with corrective action plans addressing any compliance or deficiency issues raised in the report.

Table 8: Examples of Oversight Activities at California State and Select Local Workforce Agencies

	State agency	Local agencies	
	Employment Development Department (EDD)	Los Angeles Community Development Department (LACDD)	San Francisco Office of Economic and Workforce Development
External audits (e.g., Single Audits) conducted	✓	✓	✓
Risk assessments on work sites performed	✓		
Recovery Act-specific training provided	✓	✓	✓
Youth participant eligibility verified	✓	✓	✓
Work site checked for safety	✓	✓	✓
Participant payroll verified	✓	✓	✓
Meaningful work and adequacy of supervision assessed	✓	✓	✓

Source: GAO analysis of information provided by the California Employment Development Department, Los Angeles Community Development Department, and San Francisco Office of Economic and Workforce Development.

Note: All monitoring activities are conducted on a sample basis.

The local agencies we visited have adopted many of the state’s monitoring tools for their own monitoring purposes, including many of the interview questionnaires for participants and supervisors, and supplement these tools with their own procedures. San Francisco officials told us that their compliance specialists visit service providers to inspect work sites for safety and suitability. They also review a sample of case files, interview participants, and provide guidance on reporting requirements. San Francisco contracted its payroll and work site certification functions to the Japanese Community Youth Center, a nonprofit agency. San Francisco officials also hold weekly meetings with all service providers to review participant timesheets and address any concerns raised by the providers.

Los Angeles officials told us that they visit a sample of their work sites to ensure that they comply with workplace safety requirements. These officials stated that, in addition, their service providers’ many years of experience with the city’s summer program and its work sites provides another level of control. Los Angeles has already conducted one programmatic monitoring visit of its service providers, including case file reviews, monitoring work sites, and interviewing participants and work site supervisors. LACDD also plans to review 10 percent of all the case

files for its summer program to check that participants meet eligibility requirements, and it plans to visit 10 percent of its work sites. Service providers have 30 days to respond to and implement corrective actions for any findings. The city negotiates a time frame with contractors for correcting any unresolved findings, based on the amount of work required to resolve them.

We reviewed monitoring approaches at each of the four service providers that we visited. Since the Boyle Heights Technology Center in Los Angeles is a city-run service provider, it is responsible for implementing LACDD's internal control procedures, as described above. Alternatively, the Los Angeles Conservation Corps has two internal auditors and an audit committee that leads its internal monitoring efforts, including eligibility and payroll documentation of participants. In San Francisco, officials with Larkin Street Youth Services told us that they conduct a risk assessment of their internal controls for accounts payable, payroll, information technology, and revenue procedures. Officials at the Vietnamese Youth Development Center in San Francisco explained that, although the WIA Youth program is their first federally funded program, they have extensive experience offering summer youth employment programs, in general, and therefore, they already have safeguards in place to ensure that youth are provided meaningful employment opportunities. For example, in connection with their earlier programs, the Vietnamese Youth Development Center required all program supervisors to attend an orientation that included guidance on safety issues and job responsibilities.

We reviewed two of the contracts awarded by the city of Los Angeles to service providers for its summer program and discussed the contracts with local officials. According to local officials, one contract is with the Los Angeles Unified School District for a maximum of \$225,000, and the other is with the Los Angeles Conservation Corps for an amount not to exceed an estimated price of \$845,000—both involve providing workplace training for youth participants. (See table 9 for information on LACDD's preaward and contracting procedures for these two contracts.) According to LACDD, Los Angeles added a requirement to an existing contract with the Los Angeles Unified School District. This modification enabled the district to quickly begin the first phase of its summer youth program on May 1, 2009. Labor granted a waiver to California on the competitive requirement. This waiver allowed LACDD to select an existing youth service provider and modify its current contract amount by up to 150 percent of the original contract price. Other contracts were also modified in this manner during the first phase. The official also said that the services to be performed

under the program were awarded pursuant to a cost-reimbursement contract with a line item price of \$2,000 per participant, with an estimated price of \$225,000 to serve approximately 113 youth participants. LACDD decided to use a cost reimbursement contract, rather than a fixed-price contract, to account for possible changes in the number of participants enrolled in the program. According to LACDD officials, this program met its target of 113 enrollees. The other contract we reviewed and discussed with local officials was with the Los Angeles Conservation Corps, which was competitively awarded during the second phase of the Los Angeles summer youth program. Los Angeles workforce officials selected a total of 15 service providers out of the 22 that had submitted offers. The Los Angeles Conservation Corps contract was also a cost reimbursement contract with a not-to-exceed estimated price of \$845,000, serving a total of 422 youth participants.

Table 9: Preaward and Contracting Procedures Used by the Los Angeles Community Development Department (LACDD) in Contracts Reviewed by Local Officials and GAO

LACDD stated it took the following steps before awarding the contracts:

- ✓ Verified that the bidder or offeror was in good standing by reviewing the debarred bidders list of federal and state agencies, checking with the special investigation section of the California Bureau of Contract Administration, and ensuring that the bidder did not have outstanding claims with the city's financial management division.
- ✓ Confirmed that the bidder or offeror submitted a completed bid or proposal, including all necessary attachments and a signature from an authorized representative.
- ✓ Scored the bid or proposal using evaluation factors that considered demonstrated ability, such as prior experience providing youth programs and positive performance in recent years, as well as service design and approach.

Once the contract was awarded, LACDD monitored contract performance by:

- ✓ Internal monitoring of files and fiscal transactions.
- ✓ Conducting bimonthly compliance monitoring, made recommendations, tracked open findings from prior year fiscal review, and followed up on status of single audit reports.
- ✓ Tracked compliance with contract terms and conditions and provided technical assistance to assist contractors to improve their operations and performance.
- ✓ Verified that appropriate funding allocations are used, adequate and auditable financial records are maintained, costs are allowable, and contract provisions and regulations are complied with.
- ✓ Validated a closeout report to general ledger and sampled expenditures reported.
- ✓ Compared amounts of expenditures claimed on the expenditure reports to the general ledger, and selected a sample of expenditures from the general ledger and examined their supporting documentation.
- ✓ Evaluated internal controls based on fiscal review checklist completed by contractors.

Source: GAO analysis of information provided by Los Angeles Community Development Department.

California Does Not Anticipate Problems with Recovery Act Reporting Requirements for the WIA Summer Youth Program, but Work Readiness Measures Differ

California officials said that they do not anticipate any problems reporting Recovery Act WIA Youth program results as required by Section 1512 of the act. As defined by OMB guidance on Section 1512 reporting requirements, California is the prime recipient of WIA Youth Recovery Act funds, and the 49 local areas are the subrecipients. California has not delegated reporting responsibilities under Section 1512 to the subrecipients. EDD officials stated they will rely on guidance provided by Labor and the state to comply with Section 1512 reporting requirements,

and do not anticipate any challenges in collecting data from subrecipients or in reporting this data to the Task Force.⁵⁰

The Recovery Act provided that, of the WIA Youth program measures, only the work readiness measure,⁵¹ is required to assess the outcomes of the summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine their methodology to measure work readiness gains. San Francisco and Los Angeles will use different methodologies for measuring work readiness, including assessing different factors in different ways.

San Francisco will assess all of its participants using its Work Readiness Assessment, which includes participant self-identified goals, self evaluation, a basic math and reading skills assessment, and a pre- and post- Secretary's Commission on Achieving Necessary Skills⁵² (SCANS) evaluation. A participant's final assessment will be completed by the work

⁵⁰EDD uses their Job Training Automation (JTA) system to track subrecipient data by reviewing accrued reports, cash disbursements, and contracts. EDD's Workforce Services Branch and Fiscal Programs Division, as well as the local workforce investment boards, other state agencies, and community based organizations enter data into and retrieve data from the JTA system. Over 200 program partners rely on information from the JTA system to meet local, state, and Federal Management Information System requirements. The JTA system tracks program client participation in the relevant programs, reports program expenditures and obligations, and administers the WIA required Eligible Training Provider List.

⁵¹A work readiness skills goal, according to Labor's Training and Employment Guidance Letter 17-05 (Feb. 17, 2006) Attachment B, is a "measurable increase in work readiness skills including world-of-work awareness, labor market knowledge, occupational information, values clarification and personal understanding, career planning and decision making, and job search techniques (resumes, interviews, applications, and follow-up letters). Work readiness skills also encompass survival/daily living skills such as using the phone, telling time, shopping, renting an apartment, opening a bank account, and using public transportation. They also include positive work habits, attitudes, and behaviors such as punctuality, regular attendance, presenting a neat appearance, getting along and working well with others, exhibiting good conduct, following instructions and completing tasks, accepting constructive criticism from supervisors and co-workers, showing initiative and reliability, and assuming the responsibilities involved in maintaining a job. This category also entails developing motivation and adaptability, obtaining effective coping and problem-solving skills, and acquiring an improved self image."

⁵²In 1990, the Secretary of Labor appointed a commission to determine the skills our young people need to succeed in the world of work. The commission's fundamental purpose was to encourage a high-performance economy characterized by high-skill, high-wage employment. Although the commission completed its work in 1992, according to Labor, its findings and recommendations continue to be a valuable source of information for individuals and organizations involved in education and workforce development.

site supervisor and will include a five-point rating system on 15 factors, such as attendance, punctuality, team member participation, understanding workplace expectations, problem solving, responsibility, listening, and speaking. Work site supervisors assess youth participants on the frequency the measure is demonstrated, such as never, hardly ever, sometimes, usually, or always. The assessment also includes five additional skills the work site supervisors identify as specific to the participant's job. For these five skills, the youth participants are rated on level of performance such as unsatisfactory, marginal, average, above average, and outstanding.

In Los Angeles, all participants will be assessed on work readiness skills and at least 50 percent will be assessed for basic skills using the Comprehensive Adult Student Assessment Systems (CASAS).⁵³ Los Angeles will use two sets of tools based on SCANS skills to measure work readiness. Preassessment will be completed using the Individual Service Strategy, which requires the youth participant to answer questions about career aspirations, educational goals, and hopes for the summer work experience, among other questions. There is also a pre- and postassessment based on the work site supervisor's evaluation of progress completed on the work site evaluation form. This pre- and postassessment is a four-point rating system—with ratings for needs development, competent, proficient, or advanced—which evaluates the level at which the participants perform at least four of six factors, such as interacting with co-workers, accepting direction and criticism, attendance and appearance, speaking, listening, and self- management. Los Angeles also provides a Job Keeping Skills Checklist designed for older youth who have been in the workforce previously, as well as administers an exit survey of youth participants.

State Comments on This Summary

We provided the Governor of California with a draft of this appendix on September 8, 2009.

California state officials generally agreed with our draft and provided some clarifying information, which we incorporated, as appropriate.

⁵³According to Labor's Training and Employment Guidance Letter 17-05 (Feb. 17, 2006), CASAS scores can be used to estimate basic adult educational levels.

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Appendix III: Colorado

Overview

The following summarizes GAO's work on its third bimonthly review of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Colorado. The full report on all of our work, which covers 16 states and the District of Columbia, is available at www.gao.gov/recovery/.

Colorado is targeting Recovery Act funds to help restore the state's budget and to meet key program needs during the current budget crisis. Our work in Colorado focused on specific Recovery Act programs, including a detailed review of three programs—State Fiscal Stabilization Fund (SFSF), Transit Capital Assistance, and Weatherization Assistance. We reviewed these programs in detail for different reasons. The state has allocated major portions of SFSF funds to institutions of higher education (IHE), and we therefore reviewed this program. We included transit funds because of a Recovery Act deadline for obligating a portion of funds by September 1, 2009, in addition to the fact that the state received a significant amount of transit funds. Finally, we included the weatherization program in our review because of the large influx of funds the state received and the increased risks associated with managing those funds. In addition to the detailed review of these three programs, we updated funding information for three other programs—Highway Infrastructure Investment; Individuals with Disabilities Education Act (IDEA), Part B; and Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965. For all programs, we identified the use of Recovery Act funds; examined safeguards over these funds, including those related to procurement of goods and services; and considered how the effects of Recovery Act spending would be reported by the state of Colorado.

Budget stabilization: As we reported in July 2009, Colorado estimated it will receive a total of \$3.5 billion in Recovery Act funds.² While Recovery Act funds helped Colorado balance its budget for fiscal year 2009 and will provide additional support for the state's budgets in fiscal years 2010 and 2011, the state still faces significant revenue shortfalls in those 2 years. As a result, the state has made \$318 million in budget cuts in the fiscal year 2010 budget and anticipates making more drastic cuts in fiscal year 2011.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

²GAO, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses (Colorado)*, GAO-09-830SP (Washington, D.C.: July 8, 2009).

In summary, for the Recovery Act programs we reviewed, we found the following:

- **U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF).** Education has allocated \$760 million in SFSF funding to Colorado and Colorado plans to spend the majority of the funds on higher education. As of September 2, 2009, state IHEs had been reimbursed \$155 million from SFSF funds. The two state institutions we reviewed used the funds to restore teaching positions and programs and to limit tuition increases. Recent budget cuts at the state level have caused the state to plan to reallocate \$81 million in SFSF funds from K-12 to higher education in fiscal year 2010. The budget cuts decreased the state's spending on higher education below levels required to meet Recovery Act requirements. As a result, on September 9, 2009, the state submitted a request to Education to waive the requirement to maintain state education spending at certain levels in fiscal year 2010.
- **Transit Capital Assistance.** The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) apportioned \$103 million in Recovery Act Transit Capital Assistance funds to Colorado and urbanized areas in the state. Of that total, \$90.2 million was apportioned to urbanized areas and the remaining \$12.5 million was apportioned to the state for spending in nonurbanized or rural areas. As of September 1, 2009, FTA had obligated \$96.3 million for the state and urbanized areas in Colorado. Officials from Colorado transit agencies told us they directed Recovery Act funds toward high-priority projects that were facing a funding shortfall, including capital maintenance, safety improvements, and light rail projects.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$79.5 million in Recovery Act weatherization funding to Colorado, as we reported in July 2009. As of September 15, 2009, DOE had provided almost \$39.8 million to the state and Colorado had obligated \$17.3 million of these funds, of which about \$4.1 million had been spent. Colorado's weatherization plan was approved by DOE on August 13, 2009. Officials from some weatherization agencies in Colorado were concerned that Davis-Bacon Act wage requirements have increased the wages that they will pay for weatherization work, potentially limiting the amount of weatherization activities that can be completed in Colorado.
- **Highway Infrastructure Investment funds.** DOT's Federal Highway Administration (FHWA) initially apportioned almost \$404 million in

Recovery Act funds to Colorado. Of these funds, \$18.6 million was transferred to FTA for transit projects, leaving \$385 million for highway projects in the state. As of September 1, 2009, FHWA had obligated almost \$290 million for Colorado projects and about \$16.5 million had been reimbursed by the federal government.

- **Individuals with Disabilities Education Act (IDEA) Part B.** As of August 31, 2009, Education had allocated \$154 million to Colorado for IDEA Part B. As of the same date, Colorado had reimbursed almost \$4.1 million in Part B funds to local education agencies (LEA).
- **Title I, Part A, Elementary and Secondary Education Act (ESEA) of 1965.** As of August 31, 2009, Education had awarded Colorado \$111 million for ESEA Title I, Part A and Colorado had reimbursed almost \$280,000 in ESEA Title I, Part A funds to LEAs.
- **General administrative costs.** The Office of Management and Budget (OMB) released guidance on May 11, 2009, allowing states to recover costs related to central administrative activities to manage Recovery Act programs and funds.³ Such activities include oversight of the state's reporting and auditing of Recovery Act programs. Colorado submitted a cost allocation plan to the Department of Health and Human Services Division of Cost Allocation (DCA), the agency charged with approving such plans, on August 13, 2009. State officials expect DCA to review the plan within 60 days; as of September 14, 2009, the plan had not been approved. The State Controller is concerned that timing and methodology difficulties will delay its approval, thereby delaying the state's ability to recover these costs and hindering the state's ability to oversee Recovery Act programs and funds.

Contracting: Colorado has taken several steps to facilitate the timely and efficient management of Recovery Act contracts. First, legislation was enacted permitting a waiver of its procurement code requirements under certain circumstances, although the state has not yet used the waiver.⁴ Second, the State Purchasing Office developed and provided procurement guidance regarding the use of Recovery Act funds. Third, Colorado identified the need to hire 16 staff in the Department of Personnel and

³OMB memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities* (Washington, D.C., May 11, 2009).

⁴2009 Colo. Legis. Serv. Ch. 285 (S.B. 09-297) (West).

Administration and several state agencies in the areas of purchasing, accounting, contracts, and risk management; the state plans to use general administrative funds to pay for some of these staff and program administrative funds for others. Finally, Colorado implemented a new Contract Management System on July 1, 2009, to facilitate centralized data collection and reporting on all state contracts. Various Colorado agencies have begun awarding Recovery Act contracts, including the Colorado Department of Transportation (CDOT) and the Governor's Energy Office.

Reporting: Colorado is planning to use a centralized process to report Recovery Act data to OMB rather than having state agencies report individually. However, a number of unresolved issues may affect Colorado's ability to report to OMB in a complete and timely manner. For example, Colorado's centralized reporting process is new and testing is ongoing, which may lead to problems when the state tries to upload data to OMB's online portal, www.federalreporting.gov, by the October 10, 2009, deadline. The Office of the State Controller has issued guidance on Recovery Act reporting, and the state is conducting meetings with state agencies to train them in the new policies and systems for reporting.

While Recovery Act Funds Have Helped Colorado's Budgets, Revenue Shortfalls Will Continue and Need to Be Addressed

As Colorado faces continued declining revenues compared to forecasts, Recovery Act funding helped the state balance its fiscal year 2009 budget, which ended June 30, 2009, and has also been a major factor in closing the gap for the current year's (fiscal year 2010) \$19 billion budget. However, on August 25, 2009, the Governor made cuts to balance the fiscal year 2010 budget, and state officials anticipate that continuing revenue shortfalls and increasing program caseloads will likely require even deeper cuts for fiscal year 2011. During the same year, the state will have to manage the fact that Recovery Act funds will be reduced or eliminated and these funding sources will no longer be available to support the state's budget.

Although Recovery Act funds are helping stabilize the state's budgets, they are not expected to make up entirely for the state's lost revenue over the next 2 fiscal years and the state has begun to make budget cuts.⁵ As we reported in July, in May 2009, Colorado adopted a balanced budget for fiscal year 2010 based on the state's March 2009 economic forecast. To

⁵The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free up state funds to address their projected budget shortfalls.

help balance the budget, state officials included more than \$500 million in Recovery Act funds, including SFSF funding for education (over \$150 million) and funds made available as a result of the increased Federal Medical Assistance Percentage (FMAP, over \$340 million).⁶ The state's June 2009 economic forecast, however, indicated that revenues would decline further than expected and would be insufficient to cover the fiscal year 2010 budget. As a result, in August 2009, the Governor presented a budget-balancing plan totaling \$318 million in cuts and adjustments, which included \$258 million in general fund reductions, \$40.6 million in cash fund transfers, and \$19 million in other adjustments. As a result of these changes, state officials expect 300 full-time equivalent jobs to be eliminated.⁷

For fiscal year 2011, state officials are very concerned that state revenues will continue to decline and demand for services will continue to increase at the same time that the elimination or reduction of Recovery Act funding occurs. State projections show that lower revenues will contribute to a budget shortfall in fiscal year 2011 of several hundred million dollars. Revenues will not return to fiscal year 2008 levels until fiscal year 2012.⁸ During that time, state officials expect caseload increases in Medicaid and Corrections, as well as increases in higher education and K-12 enrollments. At the same time these fiscal challenges exist, major Recovery Act funds will be ending. In particular, the additional Recovery Act funding for Medicaid FMAP is scheduled to end December 31, 2010, and Colorado has allocated its SFSF funds over 3 years, ending in fiscal year 2011. As a result, Colorado officials expect that they will need to find additional revenue sources and/or make further budget cuts. State officials anticipate that even if economic recovery is underway, budgetary shortfalls will be "brutal" and "painful" through fiscal year 2011 and the fiscal situation will not improve until fiscal year 2012.

⁶FMAP is discussed in detail in [GAO-09-1016](#).

⁷Programs that were not part of this budget-balancing plan were (1) K-12 education, which the Governor identified as protected by the Colorado Constitution, and (2) CDOT and the Colorado Department of Labor and Employment, which receive no general fund monies. Budget cuts were in addition to actions taken prior to the start of fiscal year 2010 to reduce the budget, such as instituting four furlough days for nonessential state employees, transferring funds from cash funds to the general fund, using \$45 million of the SFSF funds to balance the budget, and reducing the statutory reserve from 4 percent to 2 percent.

⁸Revenue forecasts are from the Legislative Council's June 22, 2009, forecast.

As a result of the state's current budget challenges, the Colorado General Assembly created an interim commission to study long term fiscal stability.⁹ The joint resolution creating the commission directs it to study the fiscal stability of the state, including solutions for education and transportation funding, affordable access to health care, state-owned assets, and the creation of a rainy day fund. The resolution also calls for the commission to develop a strategic plan for state fiscal stability and to present any written findings and recommended legislation by November 6, 2009. According to Legislative Council staff, the commission plans to discuss state constitutional provisions that constrain legislative options by limiting tax increases or mandating increased funding levels for programs such as K-12 education.

SFSF Funds Continue to Support Higher Education but Budget Cuts Have Caused the State to Seek a Waiver from State Spending Requirements

The Recovery Act created SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public IHEs. The initial award of SFSF funding required each state to submit an application to the U.S. Department of Education (Education) that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to

⁹Colorado Senate Joint Resolution 09-044, adopted in May 2009.

allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

Colorado Plans to Spend a Majority of Stabilization Funds on Higher Education and Is Seeking a Waiver from the Maintenance-of-Effort Requirement

As we reported in July 2009, Colorado has been allocated more than \$760 million in SFSF funds, \$622 million of which will be education stabilization funds and \$138 million of which will be government services funds. Initially, the state planned to allocate the majority of its SFSF education stabilization funds to higher education (\$452 million over a 3-year period) and the remaining \$170 million over a 2-year period to the state's K-12 system. Given the state's emphasis on using SFSF to fund higher education, we focused our work for our third bimonthly review on IHEs. We met with officials from the University of Colorado System, the largest 4-year college system in Colorado, and the Colorado Community College System, a system of 13 2-year community colleges, to discuss their use of SFSF funds. As both college systems allocate funds to their individual campuses, we also met with officials from the University of Colorado at Boulder, one of the universities under the University of Colorado System, and from Red Rocks Community College, one of the community colleges under the Colorado Community College System.

Because of a recent \$81 million budget cut in the state's general fund contribution to higher education for fiscal year 2010, Colorado plans to allocate more SFSF funds to higher education than it had originally planned. Colorado had allocated about \$302 million of the education stabilization funds in fiscal year 2010, with \$150.7 million going to higher education and \$152 million going to K-12 education programs. However, on August 25, 2009, the Governor, in the fiscal year 2010 budget-balancing plan submitted to the Colorado General Assembly, cut \$81 million from the state's \$660 million general fund contribution to higher education, causing the state's share of funding to fall below the SFSF maintenance-of-effort level (2006 funding level) required under the Recovery Act.¹⁰ As a result, the state has requested a waiver from Education of the SFSF state maintenance-of-effort funding requirement for fiscal year 2010. The state plans to offset the budget cuts by targeting additional SFSF funds to higher education and decreasing the SFSF funds for K-12 by \$80.8

¹⁰In cutting the budget, the Governor's budget office cited statutory authority that authorizes the Governor to suspend or discontinue, in whole or in part, the functions or services of any department, board, bureau, or agency of the state government during any fiscal period when there are not sufficient revenues available for expenditures.

million.¹¹ Assuming that the waiver is granted, Colorado expects to allocate a total of \$320.5 million in fiscal year 2010, with \$231.5 million going to higher education and \$89 million to K-12. This will leave \$150.7 million in SFSF funds for higher education in fiscal year 2011.

SFSF funds have had a significant effect on higher education programs and staffing in Colorado. As of September 2, 2009, IHEs had spent (been reimbursed) \$155 million in fiscal years 2009 and 2010.¹² Colorado officials told us that the use of SFSF funds in fiscal years 2009 and 2010 has prevented layoffs, protected academic programs, and avoided increased class size. For example, University of Colorado System officials said that its share of SFSF funding, \$50 million in fiscal year 2009, prevented layoffs and reductions in some programs. According to officials, budget cuts would have been “horrible” without SFSF funding. Similarly, Red Rocks Community College officials said that in fiscal year 2009, without its share of the \$25.3 million of SFSF funds allocated to the Colorado Community College System, the college would have had difficulty meeting certification requirements for some of its programs due to increasing enrollment and associated costs. Officials said that enrollment at the college increased almost 18 percent over the last two-year period as a result of poor employment opportunities and the need for retraining in the current economy. At the same time, many of the college’s classes are relatively expensive career and technical education courses that have costly instructional materials and require small class size to meet the accreditation requirements of certain career-focused professions. Further, in fiscal year 2010, officials said they would have had to make significant cuts in positions beginning in the fall of 2009 if they had not received SFSF funds.

The use of SFSF funds also enabled Colorado to significantly limit potential tuition increases in fiscal year 2010. Tuition increases could have been greater in fiscal year 2010, but Colorado’s Governor, citing the Recovery Act section that discusses mitigating tuition increases for public IHEs, vetoed a portion of the state’s fiscal year 2010 appropriations bill that would have allowed tuition increases greater than 9 percent. Colorado also required IHEs to sign letters of assurance that included limitations on

¹¹According to a state official, this reduction will not cause the state funding to drop below the state maintenance-of-effort level required for K-12.

¹²The state has allocated funds to LEAs for 2010, but according to Colorado officials, they have not yet spent SFSF funds.

tuition increases. For example, the University of Colorado System limited tuition increases at its institutions to an 8.5 percent average. Officials said, drawing a comparison to tuition increases of 25 percent that resulted from similarly severe budget cuts to higher education in the mid-2000s, that the increase could have been significantly larger without SFSF funds and the Governor's guidance. Officials at Red Rocks Community College said SFSF funds have had a similar impact on tuition at their school. They said the college's tuition increase of 9 percent, or \$7 per credit hour, could have been 15 percent without SFSF funds.

Officials from both college systems expressed concern about future funding levels for fiscal year 2012, the year after the state's final planned distribution of SFSF funds to IHEs. University of Colorado System officials said they were planning for the cliff effect that will happen when Recovery Act funds end by trying to develop revenue-enhancing programs in the interim. Colorado Community College System officials also expressed concerns about the exhaustion of SFSF funds, but said they are hoping to get additional revenues from new gaming tax revenues earmarked for community colleges that they say may be commensurate with SFSF funding.

University of Colorado System and Red Rocks Community College Plan to Use Existing and Additional Controls for Recovery Act Funds

Officials representing the University of Colorado System and Red Rocks Community College said that they have added specific internal controls to manage Recovery Act funds, augmenting the institutions' established control environments and procedures. Officials with the University of Colorado System told us that the institution has extensive control procedures, as well as fiscal and purchasing policies approved by the President of the University of Colorado at Boulder. Red Rocks Community College officials said their established controls include monthly budgetary and transactional reviews at all levels, direct control and oversight of all fiscal activities by the Vice President of Administrative Services and the Controller, and anonymous tip and online reporting. Both the University of Colorado System and Red Rocks Community College officials said they have staff with extensive financial experience to manage Recovery Act funds, as well as personnel with certified public accountant licenses and auditing backgrounds. According to these officials, no material weaknesses in internal controls have been reported by internal or external auditors. Additional controls over Recovery Act funds installed at University of Colorado System institutions include new accounting codes to track Recovery Act funds, a designated point person to coordinate all Recovery Act-funded activities, and new written guidance on Recovery Act funds. Red Rocks Community College officials said that the college added

an additional review of all expenses to be charged to Recovery Act grant funds. In addition, the financial status of Recovery Act funds will be monitored through unique organization and account codes in the college system.

State Transit Authorities Are Using Recovery Act Funds for High-Priority Projects

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.¹³ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.¹⁴ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.¹⁵ Under the

¹³The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment Program and the Capital Investment Grant Program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment Program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant Program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

¹⁴Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

¹⁵The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.¹⁶

The State and Urbanized Areas Have Met Recovery Act Obligation Dates for Transit Capital Assistance Funds and Transit Agencies Are Directing Funds to High-Priority Projects

In March 2009, FTA apportioned \$103 million in Transit Capital Assistance Recovery Act funds to the state and urbanized areas in Colorado for transit projects. Of that amount, \$90.2 million was apportioned to urbanized areas and the remaining \$12.5 million was apportioned to the state to use in nonurbanized or rural areas.¹⁷ The Recovery Act requires that 50 percent of funds apportioned to urbanized areas or states must be obligated within 180 days (before September 1, 2009) and that the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames. As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for the state and urbanized areas located in the state. Specifically, \$96.3 million of the total funds, or almost 94 percent, had been obligated.¹⁸ Seventy percent of Recovery Act Transit Capital Assistance Program obligations in Colorado have been made in the greater Denver metropolitan area for capital improvements or projects to extend light rail service.

We reviewed one urban and one rural transit agency in Colorado that are receiving a large portion of Transit Capital Assistance funds. The urban transit agency we reviewed is the Regional Transportation District (RTD), which covers the Denver metropolitan area and is the state's largest transit agency. RTD received \$72.1 million in Transit Capital Assistance Recovery

¹⁶The federal share under the existing formula grant program is generally 80 percent.

¹⁷CDOT's Transit Unit manages the state's nonurbanized Transit Capital Assistance formula programs in rural areas with populations less than 50,000.

¹⁸For the Transit Capital Assistance Program, DOT has interpreted the term "obligation of funds" to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a grant agreement.

Act funds.¹⁹ The rural transit agency we reviewed is Summit County, which received \$10.3 million in Transit Capital Assistance Recovery Act funds through CDOT.

Officials from RTD and CDOT told us they directed Recovery Act funds toward high-priority projects that were facing a funding shortfall. Among other things, these projects involve capital maintenance, safety improvements, infrastructure to support operating improvements, and light rail projects. For example, RTD is using \$17.1 million in Recovery Act funds to replace aging farebox equipment on its buses, \$10.2 million to conduct preventive maintenance on its bus and rail fleet, and \$7.6 million to create queue jumps (infrastructure that helps buses bypass traffic at certain intersections) along U.S. Highway 36. RTD officials stated that the projects they are planning to fund with Recovery Act dollars are needed projects that, because of financial constraints, would likely have been deferred. Moreover, RTD officials told us that they had implemented a service reduction totaling over \$4.5 million before receiving Recovery Act funds, so these funds have enabled them to preserve jobs and avoid even larger service reductions. CDOT is using \$10.3 million in Recovery Act funds to construct a bus maintenance facility in rural Summit County, a mountainous area west of Denver, and is also planning a \$2.2 million project that will provide new buses and related equipment to rural transit authorities throughout the state.²⁰ CDOT and Summit County officials stated that the planned bus maintenance facility is very important to the ongoing maintenance of the transit fleet in Summit County and will help the county improve and expand maintenance services. These officials told us that without Recovery Act funding, the new facility may never have been built—Summit County would have done the minimum repairs needed for safety to keep using it but would probably have had to contract out some of its maintenance.

¹⁹RTD also received \$18.6 million in Recovery Act funds transferred from FHWA to FTA through DOT's flexible funding provisions. Flexible funds are legislatively-specified funds that may be used either for highway or transit purposes. The Denver Regional Council of Governments (DRCOG, the Denver area's large Metropolitan Planning Organization) requested this transfer. FTA has obligated 100 percent of these funds; the \$18.6 million will be used to provide partial funding for Denver Union Station, a \$500 million multi-modal transit hub. In particular, the funds will be used to pay for a part of the design and construction of bus bays at Denver Union Station.

²⁰FTA has not obligated funds for the \$2.2 million project to buy buses and other vehicles. CDOT officials stated that they expect to submit the project to FTA by December 30, 2009; FTA officials stated that they expect to obligate funds for this project by March 5, 2010.

In selecting projects to fund with Recovery Act dollars, RTD and CDOT screened projects according to whether they were critical projects that could be undertaken quickly and would offset funding shortfalls. RTD also followed an existing formula they use for allocating funds among various transit projects, directing 60 percent of available funds to capital improvements, including preventive maintenance and projects to improve safety, and 40 percent to projects extending light rail service. CDOT selected eligible projects based, among other things, on the extent to which they would (1) increase transportation options and transit ridership, (2) increase mobility on congested portions of the state highway system, and (3) leverage funding from other sources. For example, CDOT selected the \$10.3 million bus maintenance construction project because this project was identified as one of the state's highest rural transit priorities in 2008 and as a high priority in the state's long-range transit plan. The project also leverages local funds as Summit County has agreed to pay 31 percent of the total project cost since the facility will be used to service nontransit vehicles in addition to transit buses. As of August 31, 2009, two RTD Capital Assistance project contracts and one CDOT grant had been awarded; no projects had been completed.

Both RTD and CDOT reported that they expect to realize bid savings on some of the Recovery Act project contracts and grants and that they will redirect any savings to other Transit Capital Assistance projects. For example, on July 31, 2009, CDOT awarded a contract to Summit County to competitively bid the bus maintenance facility project, according to CDOT officials. The county has awarded the contract to a company that bid \$8.4 million, about \$1.9 million less than the estimated cost of \$10.3 million, potentially freeing up funds for other projects.

RTD is not considering using Recovery Act funds to cover operating expenses, although CDOT is considering using some funds to cover operating shortfalls in rural parts of the state. On June 24, 2009, Congress enacted the Supplemental Appropriations Act, which provided that up to 10 percent of apportioned Recovery Act Transit Capital Assistance funds could be used for operating expenses.²¹ Despite the provision allowing Recovery Act funds for operating expenses, RTD officials told us that they do not plan to use any of the Recovery Act funds for operating expenses because they want every available dollar to go to specific planned projects. CDOT stated that they are studying whether any of their transit

²¹Pub. L. No. 111-32, § 1202, 123 Stat. 1859, 1908 (June 24, 2009).

contractors in rural parts of the state need funding to cover operating shortfalls because such shortfalls may lead to layoffs or service reductions. CDOT recently proposed to its Transportation Commission that a process be established to offer operating funds to its grantees in rural areas according to need. The commission approved CDOT's proposal and, as of September 1, 2009, CDOT continued to gather data to assess grantee needs.

RTD and CDOT Plan to Use Existing Internal Controls to Manage Recovery Act Funds

RTD and CDOT plan to use their existing internal controls and processes to manage and expend Recovery Act funds. For example, RTD is using its standard accounting system with established procedures and controls to manage Recovery Act funds, as it has done with federal grants received in the past. According to officials, RTD's Board of Directors reviews and approves all projects, which provides an additional level of control over projects selected for Recovery Act funds. To meet Single Audit Act requirements,²² RTD is reviewed annually by external auditors. We reviewed RTD's audit reports for the last 3 calendar years and found no material weaknesses or significant deficiencies identified for financial statements or for federal awards. In 2008, FTA reviewed RTD's compliance with statutory and administrative requirements, as is required every 3 years, a process known as a triennial review.²³ The 2008 review identified deficiencies in four areas, which RTD has taken action to correct. CDOT is also using existing processes to manage Recovery Act funds and projects. CDOT was recently reviewed by an external consultant to assess compliance with federal requirements for several federally funded programs, including Transit Capital Assistance. The July 2009 report identified deficiencies in nine areas, including program management, grant administration, financial management, and Buy American requirements.

²²The Single Audit Act of 1984, as amended (31 U.S.C. §§ 7501-7507), requires that each state, local government, or nonprofit organization that expends \$500,000 or more a year in federal awards must have a Single Audit conducted for that year subject to applicable requirements, which are generally set out in OMB Circular No. A-133, *Audits of States, Local Governments and Non-profit Organizations* (June 27, 2003). If an entity expends federal awards under only one federal program, the entity may elect to have an audit of that program.

²³The requirements for reviews of Urbanized Area Formula Grant activities are contained in 49 U.S.C 5307(i) and consist of reviewing grantees' compliance with federal requirements in 23 areas. This process is described in a recent GAO report, GAO, *Public Transportation: FTA's Triennial Review Program Has Improved, but Assessments of Grantees' Performance Could Be Enhanced*, [GAO-09-603](#) (Washington, D.C.: June 30, 2009).

CDOT and FTA officials told us that CDOT is working to correct the deficiencies.

Colorado Is Going Forward with Weatherization Activities but Davis-Bacon Act Requirements May Limit Amount of Weatherization Work

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which DOE administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.²⁴ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work.²⁵ The

²⁴The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

²⁵The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Colorado’s Plan for Recovery Act Weatherization Funds Has Been Approved by DOE and Colorado Is Going Forward with Weatherization Activities

DOE approved Colorado’s weatherization plan for Recovery Act funds on August 13, 2009,²⁶ and as of September 15, 2009, DOE had provided almost \$39.8 million in weatherization funds to Colorado, 50 percent of the total \$79.5 million in Recovery Act weatherization funding that Colorado will receive over a 3-year period. In Colorado, the Governor’s Energy Office is responsible for administering the weatherization program and the office contracts with local administering agencies to implement weatherization activities in various regions across the state.²⁷ These agencies, in turn, either conduct weatherization work in-house or contract for weatherization activities with local contractors. From June through September 2009, Colorado awarded 10 contracts to local administering agencies to conduct weatherization activities throughout the state. In addition, the Governor’s Energy Office plans to award one statewide contract to a local administering agency to conduct weatherization activities at multi-family units. As of September 15, 2009, the Governor’s Energy Office had obligated \$17.3 million or 22 percent of its total weatherization funds, of which about \$4.1 million had been spent. We visited two local administering agencies: Arapahoe County, a local government agency that conducts weatherization activities in Arapahoe and Adams Counties in the Denver metropolitan area; and Housing Resources of Western Colorado, a nonprofit agency that conducts weatherization activities in the western part of the state. We selected these two agencies to visit because they received varying amounts of Recovery Act funds, one covers an urban area and one covers a rural area, and they have varying performance records.

²⁶In our last Recovery Act report, [GAO-09-830SP](#), we reported that officials from the Governor’s Energy Office were concerned about a potential delay in DOE’s approval of their weatherization plan. According to these officials, DOE had told Colorado that they were planning to approve Colorado’s plan on July 1, 2009, the same day that some of the Governor’s Energy Office’s contracts with local administering agencies were scheduled to begin. While DOE was delayed in approving Colorado’s plan, officials from the Governor’s Energy Office told us that the delay did not affect weatherization activities in Colorado and that they were able to move forward with contracts based on the award amount even though the plan was not yet approved.

²⁷State officials told us that the contracts between the Governor’s Energy Office and the local administering agencies are considered grant contracts and are therefore not subject to the procurement code nor do they need to be competed. The local administering agencies follow their own procurement processes to award contracts to local contractors.

In Colorado, the Governor's Energy Office and the local administering agencies together are using Recovery Act weatherization funds for a variety of activities, including training weatherization workers, conducting energy audits of homes eligible for weatherization funds, purchasing equipment and materials, and weatherizing qualified homes. For example, officials from Arapahoe County told us that they are using Recovery Act funds for basic weatherization activities, such as installing insulation, as shown in figure 1. The picture on the left shows a technician blowing insulation into the walls of a home in Aurora, Colorado, while the picture on the right shows the holes that the insulation is blown into; once insulation is installed, the holes are filled and sealed. Arapahoe County conducts most weatherization activities in-house but officials said they plan to award contracts to about six contractors in the next few years to help with the expanded weatherization program.²⁸ Similarly, officials from Housing Resources of Western Colorado are using Recovery Act funds to install energy-efficient appliances and insulation, among other weatherization activities. They conduct all weatherization activities in-house and do not plan to award any contracts for weatherization work.²⁹

²⁸Arapahoe County does not plan to hire any contractors to conduct Recovery Act weatherization work; rather, they plan to have contractors conduct weatherization work using other sources of weatherization funding.

²⁹Housing Resources of Western Colorado currently uses a contractor to conduct some administrative activities. In the past, Housing Resources of Western Colorado contracted with another agency to conduct weatherization work in Southwestern Colorado. However, the Governor's Energy Office is contracting with a new local administering agency to conduct weatherization activities in that area of the state.

Figure 1: Arapahoe County Weatherization Worker Installing Insulation at a Home in Aurora, Colorado



Source: GAO.

Of the 10 local administering agencies that the Governor's Energy Office is contracting with, 8 are legacy agencies that the office has contracted with in the past and 2 are new agencies.³⁰ One of the legacy local administering agencies, which provides weatherization services in Denver and Jefferson Counties, was only awarded a 6-month interim contract because officials from the Governor's Energy Office had concerns about the agency's performance. The Governor's Energy Office discovered, through a partial audit in 2009, that the agency had reported units as completed despite ongoing work, demonstrated cost allocation problems, and overextended its budget and thus had to furlough staff for the month of June 2009. Officials in the Governor's Energy Office plan to competitively award the contract this fall with a new contract to begin in January 2010, shortly before the 6-month contract ends. The legacy agency will be able to compete for the new contract but will not be given preferred status, which would have provided the agency with additional points when the Governor's Energy Office scores the grant applications.³¹ In the meantime, officials from the Governor's Energy Office have increased their monitoring of the agency and are conducting a full financial audit. According to officials, they can terminate the interim contract if any significant issues are discovered.

³⁰As we reported previously in July 2009, when the Governor's Energy Office first learned that they would be receiving an influx of weatherization funds from the Recovery Act and began developing its state plan for spending the funds, officials from the office talked to the local administering agencies to determine how much weatherization funding the agencies believed they could reasonably spend. In 2008, Colorado received almost \$5.5 million from DOE for the weatherization program, compared to almost \$80 million allocated under the Recovery Act, and officials from the Governor's Energy Office recognized that not all agencies may be equipped to handle the resulting influx of funds. In compiling the numbers from the agencies, officials at the Governor's Energy Office determined that there was a gap between available Recovery Act funds and the amount of work the agencies believed they could deliver, so the office initiated two new requests for applications and has awarded contracts to two new agencies to fill in the gaps to conduct weatherization work in certain regions of the state.

³¹In selecting a subgrantee, grantees are to give preference to any agency that has or is currently administering an effective program, as defined in regulation. 10 C.F.R. § 440.15(a)(3). When scoring local administering agencies' applications for weatherization contracts, the Governor's Energy Office plans to give a 15-point bonus to all agencies in good standing.

Davis-Bacon Act Wage Requirements May Limit Amount of Weatherization Activities in Colorado

Some weatherization officials in Colorado are concerned about Davis-Bacon Act wage requirements, noting that paying prevailing wages may increase the cost of weatherizing homes, thereby limiting the amount of weatherization activities that can be completed. Officials from the Governor's Energy Office told us that they did not wait for Labor to establish Colorado's weatherization wage rates before awarding contracts to local administering agencies. They said that the local agencies selected the "best-available" wage rate to pay weatherization workers in the interim as well as taking additional steps to comply with the Davis-Bacon Act, such as implementing weekly payroll. They said that any difference in wages would be paid retroactively once weatherization wage rates were issued; Labor issued the weatherization wage rates for Colorado on September 1, 2009.³² In some cases, the new weatherization wage rates are higher than the rates the local administering agencies were paying weatherization workers in the past.

Because of the increased weatherization wages, the Governor's Energy Office may adjust one of its weatherization performance measures so as not to limit the amount of weatherization activities the local administering agencies can complete in Colorado. The office uses two performance measures to track Recovery Act weatherization funds: (1) the amount of funds spent per home; and (2) a savings to investment ratio for each weatherization measure. DOE and the Governor's Energy Office require weatherization measures to be cost-effective or they cannot be installed. While DOE requires a cost-benefit ratio of 1:1 for all weatherization work (i.e., for every \$1 that is spent on weatherization measures, at least \$1 must be saved over the life of the measure) the Governor's Energy Office requires a cost-benefit ratio of 1:1.7 for insulation measures and a ratio of 1:1.2 for furnaces and energy-efficient appliances. However, because the increased weatherization wages required for Recovery Act funds make some weatherization measures less cost-effective, the Governor's Energy Office requested approval from DOE on September 9, 2009, to move to a 1:1 cost-benefit ratio in Colorado so as not to limit the amount of weatherization activities. Officials from the Governor's Energy Office told us that they have to get approval from DOE to make any changes to their savings to investment ratios even though their proposed ratio meets DOE's

³²The Governor's Energy Office directed all of the local administering agencies to complete the Labor weatherization survey. The two agencies we visited told us that they completed the survey.

minimum requirement because their plan is approved with the higher ratios.

Officials at the two local administering agencies we visited told us that they had concerns about Davis-Bacon Act wage rates and one agency, Arapahoe County, decided to conduct all Recovery Act weatherization work in-house rather than awarding contracts because of the requirements. Because Arapahoe County is a local government entity, its staff will not be affected by Davis-Bacon Act but any contractors would be subject to the requirements, which could have increased the cost of the weatherization contracts.³³ However, Arapahoe County is receiving non-Recovery Act weatherization funding that is not subject to Davis-Bacon Act wage requirements, so they plan to use contractors for a portion of that work instead of for Recovery Act work, as initially planned, to avoid the wage requirements. Officials from Housing Resources of Western Colorado were concerned that, because Colorado's weatherization wages are higher than what they were previously paying, weatherization work will not be as cost-effective, resulting in fewer weatherization measures being installed in each home.³⁴

Colorado Is Using Existing Controls to Manage the Use of Recovery Act Weatherization Funds and Plans to Increase Monitoring

The Governor's Energy Office is using its existing internal controls to manage Recovery Act weatherization funds but is planning to increase its site visits to local administering agencies to monitor the programs and funds. Officials in the Governor's Energy Office told us that they plan to conduct monthly visits to all agencies, in contrast to the semiannual or annual visits they made in the past, and that they plan to do more comprehensive monitoring of each agency twice per year. When the Governor's Energy Office visits local administering agencies, it sends staff from multiple disciplines, which allows for cross-functional monitoring of different aspects of the weatherization program. Officials plan to inspect at least 5 percent of all weatherized units, as has been done in the past, and will inspect additional units if any issues are discovered. Officials at the two local administering agencies we visited said that following

³³Davis-Bacon Act prevailing wage requirements do not apply to local government employees. 29 C.F.R. § 5.2 (h); see also Department of Labor Advisory Letter to Department of Energy, dated June 1, 2009.

³⁴According to officials, because there was no weatherization wage rate before the Davis-Bacon Act weatherization wage rates were released, Housing Resources of Western Colorado paid weatherization workers the Davis-Bacon Act labor wage rate in the interim.

completion of weatherization work on every unit, a final inspection is done by a person who was not involved with the initial energy audit of the unit. In addition, as we discussed in our previous report, the Governor's Energy Office is implementing a new Web-based tracking system that officials hope will help them track weatherization activities in real-time and assist in identifying problems at their inception. However, officials at one of the local agencies we visited had some concerns about using the new system, which were mainly related to new required data elements that they did not previously track.

Colorado Continues to Spend Highway and Education Funds

As we previously reported, Colorado is receiving a large amount of Highway Infrastructure Investment and education funds, which the state continues to spend. Colorado is receiving about \$385 million in Highway Infrastructure Investment Recovery Act funds, of which \$289,604,854 had been obligated as of September 1, 2009. In addition, the U.S. Department of Education (Education) provided, as of August 31, 2009, the state's \$154 million allocation for IDEA Part B, of which \$4,091,882 had been reimbursed to local education agencies (LEA). Colorado was awarded about \$111 million in funding for Title I, Part A, of the ESEA, of which \$278,962 had been reimbursed to LEAs as of August 31, 2009.

CDOT Projects Are Under Way with 41 Contracts Awarded and 36 of 92 Planned Projects Located in Economically Distressed Areas

The Recovery Act apportions funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through existing Federal-Aid Highway Program mechanisms and states must follow the requirements of the existing program including planning, environmental review, contracting, and other requirements. However, the federal fund share of highway infrastructure investment projects under the Recovery Act is as much as 100 percent, while the federal share under the existing Federal-Aid Highway Program is usually 80 percent.

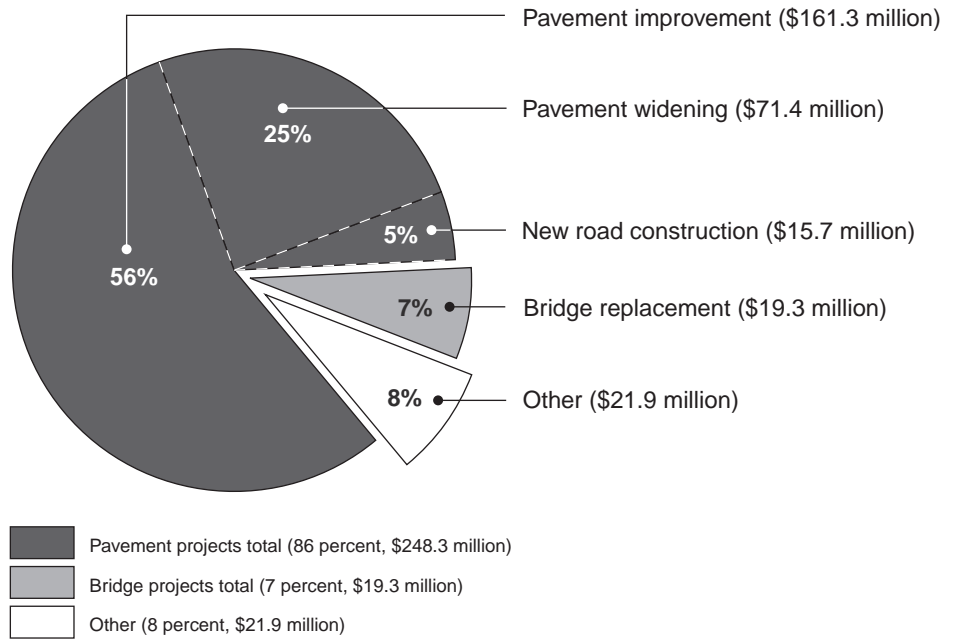
As we previously reported, DOT apportioned \$403,924,130 to Colorado in March 2009 for highway or other eligible projects.³⁵ As of September 1, 2009, \$289,604,854 had been obligated and \$16,455,759 had been reimbursed by FHWA.³⁶ Fifty-six percent of Recovery Act highway obligations for Colorado have been for pavement improvement projects. Specifically, over \$161 million of the funds obligated for Colorado projects as of September 1, 2009, is being used for projects such as reconstructing or rehabilitating deteriorated roads. State officials told us they selected a large percentage of resurfacing and other pavement improvement projects because they did not require extensive environmental clearances, were quick to design, could be quickly obligated and advertised for bid, could employ people quickly, and could be completed within 3 years. In addition, about \$71.4 million, about 25 percent of Colorado Recovery Act highway obligations, has been for pavement widening. As of August 31, 2009, CDOT reported that contracts for 41 of the 92 planned Recovery Act projects had been awarded, 37 of these were under construction, and construction was completed on 3 projects.³⁷

³⁵This does not include obligations associated with \$18.6 million of apportioned funds that were transferred from FHWA to FTA for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

³⁶DOT has interpreted the term “obligation of funds” to mean the federal government’s contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

³⁷CDOT initially planned 92 projects, but plans to present new projects to the Transportation Commission later in September; at that time it will remove 1 project from the list of certified projects and may add more.

Figure 2: Highway Obligations for Colorado by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

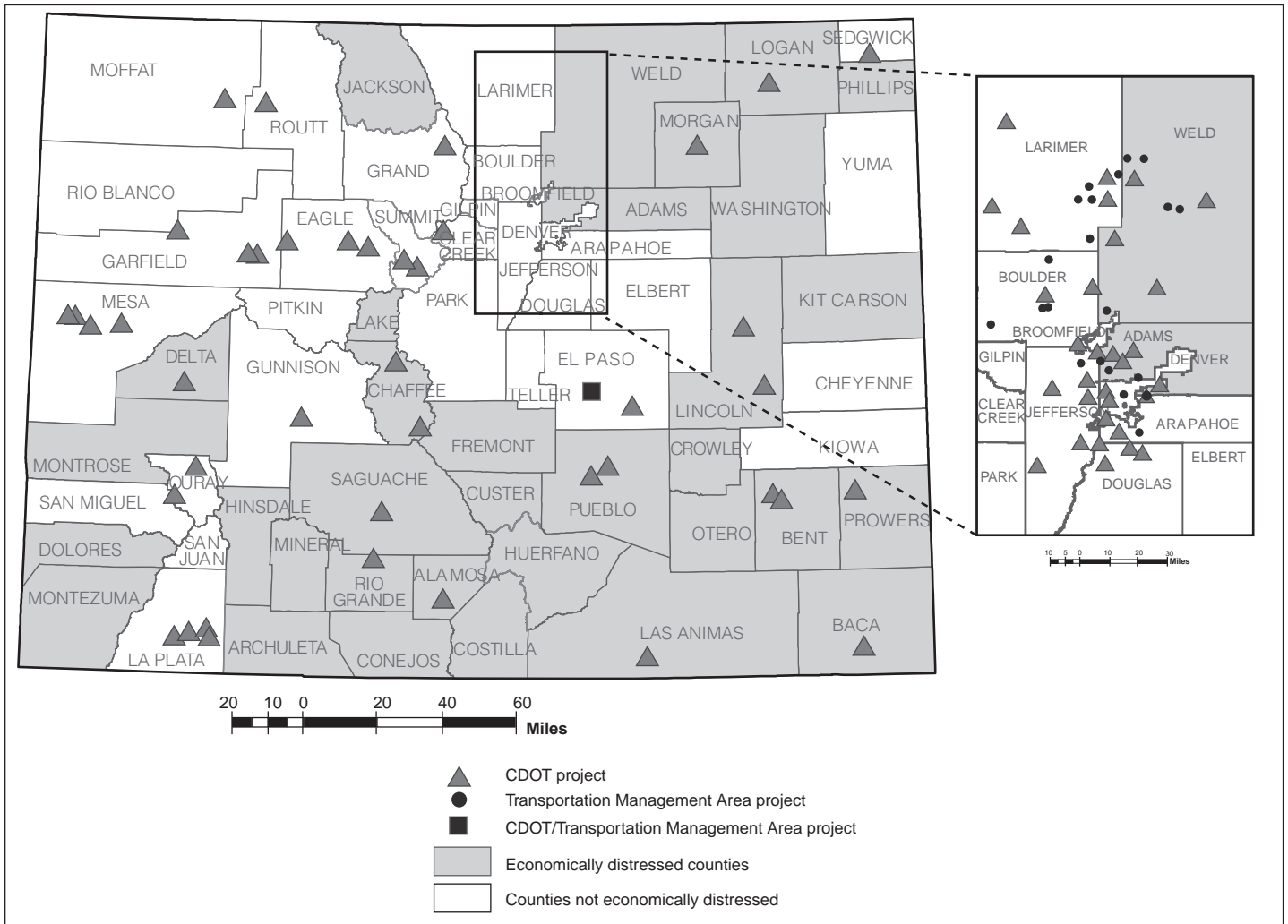
Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

The Recovery Act directs states to prioritize projects in economically distressed areas and CDOT is planning to complete a total of about 36 Recovery Act projects in such areas.³⁸ However, as we reported in July 2009, selecting projects in economically distressed areas was not initially one of CDOT's top priorities when CDOT and its local partners began

³⁸Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3161). According to this act, to qualify as an economically distressed area, the area must (1) have a per capita income of 80 percent or less of the national average; (2) have an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate; or (3) be an area the Secretary of Commerce determines has experienced or is about to experience a "special need" arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions. GAO recommended in our July 2009 report that the Secretary of Transportation develop clear guidance on identifying and giving priority to economically distressed areas.

planning in anticipation of the Recovery Act in December 2008, before the Recovery Act was passed. Figure 3 shows planned projects by county and by economically distressed county.

Figure 3: Planned Recovery Act Highway Projects in Colorado by County



Source: GAO analysis of CDOT data.

Note: Data points exceed total planned projects because two planned projects have more than one location.

As of August 31, 2009, Colorado had awarded contracts at a total value of \$39,360,281 less than the engineers' estimates, according to CDOT officials. CDOT officials reported that bids for 32 of the 41 awarded

Recovery Act projects had come in lower than the engineers' estimates. CDOT officials told us that the low bids are due to the economic recession—since many contractors are in need of work, they are submitting lower bids. FHWA has been deobligating funds as a result of contracts being awarded for less than originally estimated. CDOT plans to use these savings for additional projects, including projects in economically distressed areas of the state. In September 2009, CDOT will present a list of potential additional projects to the Transportation Commission, including potential projects in economically distressed areas.

Colorado Continues to Spend Recovery Act Funding for IDEA Part B

The Recovery Act provided supplemental funding for programs authorized by Part B of IDEA, the major federal statute that supports the provisions of early intervention and special education and related services for children and youth with disabilities. Part B funds programs that ensure preschool and school-age children with disabilities access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Education provided the first half of Colorado's \$154 million IDEA Recovery Act allocation for Part B grants on April 1, 2009, under Colorado's existing application.³⁹ Education released the second half of these funds to Colorado on August 31, 2009. As of August 31, 2009, Colorado had reimbursed \$4,091,882 in Part B funds for school-age children to LEAs.

Colorado Continues to Spend Elementary and Secondary Education Act Funds Allocated for ESEA Title I, Part A and Received Waivers from Some Spending Requirements

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through ESEA Title I, Part A. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of the funds by September 30, 2010.⁴⁰ Education is advising LEAs to use the funds in ways that will build

³⁹During our second bimonthly review of Recovery Act spending in Colorado, we reviewed IDEA Part C, which we did not review during this cycle.

⁴⁰LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver, and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. In addition, there are requirements related to the amount of ESEA Title I, Part A funds that LEAs must spend on various services, such as public school choice-related transportation and supplemental educational services.⁴¹ Education made the first half of Colorado's \$111 million ESEA Title I, Part A Recovery Act allocation available on April 1, 2009, under the state's ESEA consolidated application and the second half on August 31, 2009. Each LEA submits individual applications to the Colorado Department of Education to access its Title I, Part A funds. As of August 31, 2009, Colorado had reimbursed \$278,962 in ESEA Title I, Part A funds to LEAs.

Colorado has received four waivers from Education from some of the spending requirements associated with ESEA Title I, Part A Recovery Act funds. In July 2009, the Colorado Department of Education requested waivers from some of these spending requirements to provide LEAs with more flexibility in spending Recovery Act funds.

On August 11, 2009, the Colorado Department of Education received approval from Education for the following waivers for which LEAs can apply to the state:

- Waiver of the requirement for LEAs to spend an amount equal to 20 percent of their fiscal year 2009 ESEA Title I, Part A, Subpart 2 funds for public school choice-related transportation and supplemental educational services;⁴²
- Waiver of the requirement for LEAs identified for improvement⁴³ to spend 10 percent of their fiscal year 2009 ESEA Title I, Part A, Subpart 2 funds on professional development;⁴⁴

⁴¹Schools that have missed academic achievement targets for 3 consecutive years must offer students public school choice or supplemental educational services, which are additional academic services, such as tutoring or remediation, designed to increase the academic achievement of students.

⁴²20 U.S.C. § 6316(b)(10).

⁴³An LEA is identified for improvement if it has missed academic achievement targets for 2 consecutive years.

⁴⁴20 U.S.C. § 6316(c)(7)(A)(iii).

- Waiver of professional development spending requirements for schools that are identified for improvement. Like LEAs, schools in improvement are also required to spend 10 percent of their fiscal year 2009 ESEA Title I, Part A funds on professional development;⁴⁵ and
- Waiver of inclusion of some or all of ESEA Title I, Part A Recovery Act funds in calculating the per-pupil amount for supplemental educational services.⁴⁶ An agency's allocation would be doubled with ESEA Title I, Part A Recovery Act funds, which would therefore increase the amount the state would have to spend for supplemental educational services on each student. This waiver allows Recovery Act funds to be excluded from the per-pupil calculations for 1 year.

While Education approved these waivers for Colorado, each LEA must individually apply for the waivers to the Colorado Department of Education, which plans to review each LEA's request to ensure that the LEA provides all the information required by Education. There are several different assurances that LEAs must agree to, such as assuring that they will comply with statutory and regulatory obligations for the funds; use the funds freed up by the waiver to address needs identified based on data, such as statewide or formative assessment results; and comply with all of their other ESEA Title I, Part A funds or amend their existing applications to reflect the strategies they intend to use to address those needs. As of August 31, 2009, the Colorado Department of Education had received 39 applications for waivers, as follows:

- Twelve requests to waive the requirement that LEAs spend an amount equal to 20 percent for school choice-transportation and supplemental educational services;
- Nine requests to waive the requirement that LEAs identified for improvement spend 10 percent for professional development;
- Eight requests to waive the requirement that schools identified for improvement spend 10 percent for professional development; and
- Ten requests to waive the requirement that LEAs include some or all of the ESEA Title I, Part A Recovery Act funds in calculating the per-pupil amount for supplemental educational services.

⁴⁵20 U.S.C. § 6316(b)(3)(A)(iii).

⁴⁶Under ESEA, the amount that an LEA provides for supplemental educational services for each child is the lesser of the amount of: the agency's Title I, Part A, Subpart 2 allocation divided by the number of children below the poverty level in the LEA or the actual costs of the supplemental educational services received by the child. 20 U.S.C. § 6316(e)(6).

According to Education guidance, the Colorado Department of Education may not deny a request from an LEA to implement the waiver if the LEA's request includes all of the required information and meets all conditions on the Colorado Department of Education's waiver.

Colorado Is Concerned about Funding Availability to Meet the Accountability and Transparency Functions of the Recovery Act

State officials have identified the need to pay for central administrative activities, such as reporting on and auditing Recovery Act programs, to help ensure that Recovery Act funds are spent in an accountable and transparent way. States do not generally recover central administrative costs upfront, but instead are reimbursed for such expenses after they are incurred. OMB's May 11, 2009, guidance allows each state to recover central administrative costs associated with Recovery Act activities. As a follow up to this guidance, the federal Division of Cost Allocation (DCA) within the Department of Health and Human Services issued a set of frequently asked questions on how states should prepare an addendum to their cost allocation plans to recover these central administrative costs. Colorado's Controller has developed such an addendum, but has, in conjunction with several other controllers and the National Association of State Auditors, Comptrollers, and Treasurers (NASACT), identified what they consider several difficulties in implementing the OMB and DCA guidance. On August 7, 2009, NASACT sent a letter to OMB requesting that OMB waive certain depreciation and cost allocation methods for Recovery Act funds. According to Colorado officials, however, OMB has recently stated that each state will have to submit its individual waiver request.

Colorado officials are concerned that the state does not have the necessary resources to oversee the state's use of Recovery Act funds in addition to its normal government activities. In particular, officials believe budget and staffing cuts facing the government will affect the state's ability to fill vacant positions needed to conduct functions related to the oversight of Recovery Act funds. Colorado officials have identified two primary functions related to Recovery Act funds that are conducted by central state offices that do not receive direct Recovery Act funding to pay for those functions. These two functions include oversight of the state's Recovery Act activities, including developing a centralized reporting process to meet Recovery Act reporting requirements, and auditing Recovery Act spending. According to state officials, several state offices are involved in overseeing the state's management and use of Recovery Act funds and for ensuring the overall accountability and transparency of the state's processes through reporting on its Recovery Act activities. These offices include the Governor's Recovery Office; Office of Information Technology; the Office of State Planning and Budgeting; the

Department of Personnel and Administration (DPA), which houses the Office of the State Controller and the State Purchasing Office; the Office of the Treasurer; and others. State officials have estimated that they will need an additional \$1.8 million in fiscal year 2010 to pay for this oversight. In addition, the State Auditor is responsible for conducting independent financial and performance audits of state funds, including Recovery Act funds, spent by the state's agencies, colleges, and universities, and is also responsible for performing the state's Single Audit, which reviews programs that spend federal funds in excess of a certain amount. As we reported in July 2009, the State Auditor believes the audit workload related to the Recovery Act for fiscal year 2009 is manageable. However, the State Auditor is concerned that her office will require advance funding in fiscal year 2010 to award contracts for the additional audit work related to the Recovery Act. The bulk of Recovery Act funds will be spent in fiscal years 2010 and 2011, and the State Auditor has estimated that it will cost an additional \$446,000 in fiscal year 2010 to cover the increased audit costs related to the Recovery Act.

OMB released guidance on May 11, 2009, allowing states to use existing processes under OMB Circular A-87 to recover costs related to central administrative services and limiting the amount recovered to 0.5 percent of the total Recovery Act funds received by the state.⁴⁷ OMB Circular A-87 requires states to submit a statewide cost allocation plan that identifies and assigns central administrative costs to activities or programs that receive the benefits of the central activities, using a consistent cost allocation basis.⁴⁸ On July 2, 2009, DCA issued a set of frequently asked questions to provide guidance to states on how to prepare an addendum to state cost allocation plans under the OMB memo. The addendum to the cost allocation plan must be approved by DCA.

Colorado submitted an addendum to its cost allocation plan to DCA on August 13, 2009, but the State Controller is concerned that certain difficulties will delay the approval of the plan and therefore delay the state's recovery of the funds needed to pay for activities conducted by

⁴⁷OMB Circular A-87 establishes a choice of two methodologies states may use to reimburse state recipients for central administrative costs and provide a uniform approach for determining costs and promote effective program delivery and efficiency.

⁴⁸A statewide cost allocation plan identifies, accumulates, and allocates costs incurred by agencies or develops billing rates based on the allowable costs of services provided by a governmental unit to its departments and agencies. The costs of these services may be allocated or billed to benefiting agencies.

central state offices, including oversight of the state's reporting to meet Recovery Act requirements and auditing of Recovery Act programs. The Controller has identified three areas in which Colorado may have difficulties getting its cost allocation plan approved in a timely manner, as follows:

- **Cost allocation method.** Colorado officials believe that the activities conducted by central state offices related to Recovery Act requirements benefit all Recovery Act programs. Therefore, the state's cost allocation plan allocates central oversight and related administrative costs based on the ratio of state agency Recovery Act funds received to the total Recovery Act funds received by the state, rather than varying the allocation depending on how much a program benefits from the central service. According to the Controller, this allocation method meets the requirements of OMB Circular A-87 to allocate costs to benefiting activities, but he is unsure whether DCA agrees and believes it may delay the approval of Colorado's plan.
- **Time to approve the state's plan.** According to Colorado's Controller, DCA has informed states that it will try to review individual cost allocation plans on a case-by-case basis within 60 days of their submission rather than approve a model cost allocation plan upfront that would allow states to start recovering central administrative costs now. The Controller is concerned that this case-by-case review could cause delays in approving Colorado's cost allocation plan. According to the Controller, states cannot start recovering funds until their statewide cost allocation plans and subsequent state agency plans are approved. Once Recovery Act funds are spent, states cannot recoup central administrative costs; therefore, any delay hinders the state's ability to recoup costs.
- **Cash flow.** The Controller said that the state needs a pool of funding from which to pay for central administrative costs prior to recouping costs. However, the state does not have such a pool of cash available⁴⁹ and it is the Controller's understanding that the existing processes outlined in OMB's May 11, 2009, guidance will not allow the state to recover central administrative costs before the costs are incurred. The Controller has proposed "borrowing" funds from the government

⁴⁹According to the Controller, the state legislature must approve any uses of the state's statutory reserve and the legislature is not in session until January 2010; similarly, the state can borrow funds from its pool of investment funds, but cannot do so without guarantee of repayment.

services portion of the SFSF funds to pay for these central administrative costs, but the state has not heard from Education whether this is an allowable use of those funds. The borrowed funds would be repaid when the oversight costs are recovered from the Recovery Act grants. According to state officials, the state has set aside these SFSF funds in case they are needed for borrowing to cover central administrative costs.

On August 7, 2009, NASACT sent a letter to OMB requesting a waiver for two A-87 requirements regarding (1) certain depreciation methods and (2) requirements for cost allocation in accordance with relative benefits received. According to NASACT, the waiver is necessary to implement the cost recovery guidance in a timely manner. However, according to Colorado officials, OMB has recently stated that each state should submit a letter requesting a waiver. The state has not yet submitted this letter; the State Controller said that he is awaiting an OMB response on the concepts included in the NASACT letter before he sends the request.

Colorado Has Developed Guidance for Recovery Act Procurement and Will Use a New Contract Management System to Track Recovery Act Contracts

The Colorado state government has begun awarding numerous contracts funded with Recovery Act dollars in various program areas such as Highway Infrastructure Investment and the Weatherization Assistance Program. To facilitate the timely and efficient management of Recovery Act contracts, various Colorado government officials have taken several steps since passage of the Recovery Act. First, state officials informed us that legislation was enacted permitting a waiver of procurement code requirements to the extent the waiver is necessary to expedite the use of Recovery Act funds in a transparent and accountable way or to the extent strict adherence to the code would substantially impede Colorado's ability to spend the money in a manner or within the time required by the Recovery Act.⁵⁰ Second, the Director of the State Purchasing Office provided procurement guidance to state agencies regarding the use of funds received under the Recovery Act. The State Purchasing Office has delegated different levels of authority for contracting to state agencies, such as the Colorado Department of Labor and Employment, Governor's Energy Office, and IHEs, depending on their management capacity to handle contracting responsibilities. Third, the Executive Director of DPA analyzed state agency personnel needs to facilitate Recovery Act implementation in the areas of purchasing, accounting, contracts, and risk mitigation. Finally, the State Controller is using a new Contract

⁵⁰2009 Colo. Legis. Serv. Ch. 285 (SB09-297) (West).

Management System designed to facilitate centralized data collection and reporting on all state contracts to separately track and report on contracts funded with Recovery Act dollars.

To begin assessing Colorado's management of Recovery Act funds carried out by contractors, we selected five contracts for initial review. They consist of two Highway Infrastructure contracts awarded by CDOT, two Weatherization Assistance Program contracts awarded by the Governor's Energy Office, and one contract awarded by the Governor. We reviewed contract documentation, interviewed selected contract awarding and oversight officials, and visited one transportation site and two weatherization sites where project work was ongoing. We examined guidance developed by the Director of the State Purchasing Office that was provided to state agencies regarding their use of funds received under the Recovery Act. We also interviewed state officials involved in developing (1) 2009 legislation allowing waivers of established procurement requirements, (2) the state's new Contract Management System, and (3) the state's analysis of projected staffing shortfalls.

Colorado Recovery Act Procurement Waiver Has Not Yet Been Used

State officials informed us that on May 20, 2009, the state enacted legislation establishing a process for waiving state procurement requirements if funding for a procurement action includes money received under the Recovery Act. According to state officials, the procurement waiver had not yet been used as of September 14, 2009, nor had any agencies requested use of the waiver. According to a state legal official familiar with development of the legislation, there was no specific aspect of the procurement code that the legislature believed needed revision, but the legislature wanted to provide a "safety valve" in case the state encountered any procurement impediments to spending Recovery Act funds. They did not want Colorado to lose Recovery funds because procurement or contracting provisions prevented their expenditure within Recovery Act required time frames.

In order to ensure that any procurement waiver did not compromise transparency or accountability, state officials said that they built controls into the waiver. Waiver requests must be in response to a clear need; made in writing by the agency's executive director; made public on the state's Web site; and reviewed and approved by the Executive Director of DPA and the Colorado Attorney General. Furthermore, officials told us that such requests cannot be used to waive an entire process; rather, the written request for a waiver must describe the new process that will be followed and the way in which strict compliance with the procurement

code is unworkable. According to state officials, the basis for requesting a procurement waiver could be very broad (e.g., to shorten procurement time frames by a couple of days) but the methods by which to apply for a waiver and have it approved are tight.

Colorado Developed
Additional Procurement
Guidance for State
Agencies

In June 2009, the Director of DPA's State Purchasing Office developed and provided to state agencies procurement guidance regarding the use of Recovery Act funds. Updated in August 2009, this guidance reiterates the goals of the Recovery Act, lists planning principles that agencies should follow to award Recovery Act contracts and grants, specifies requirements for evaluating and awarding contracts and grants, and identifies supplemental contract clauses specific to the Recovery Act that are now required in Recovery Act contracts. The Colorado guidance restates a number of the goals of the Recovery Act including the preservation and creation of jobs and promotion of economic recovery, and the investment in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits. It also states that agencies that award Recovery Act contracts and grants obtain maximum competition; minimize vendors' cost, schedule, and performance risks; and ensure that an adequate number of sufficiently-trained staff are available to plan, evaluate, award, and monitor contracts and grants. The guidance specifically discourages agencies from using noncompetitive (e.g., sole source) procurements, unless fully justified.⁵¹ In addition, the guidance states that, to the maximum extent practicable, Recovery Act contracts should be awarded as fixed price contracts. It also addresses detailed state reporting requirements established in Section 1512 of the Recovery Act as well as the Buy American and prevailing wage requirements.

On August 21, 2009, the State Controller's office issued Recovery Act Supplemental Provisions for Contractors who receive Recovery Act funds. The office also provided guidance to agencies and IHEs on how these supplemental provisions should be used with existing contracts, grants, and purchase orders and with new Recovery Act contracts, grants, and purchase orders, and how agencies and IHEs should address new guidance on reporting issued by OMB.

⁵¹According to Colorado's Recovery Act procurement guidance, in those circumstances where an agency determines that it must use a noncompetitive contract, the agency must fully justify this action and provide evidence in the contract file that appropriate action has been taken to protect the taxpayer. Procurement officials stated that use of a noncompetitive contract must also be approved by officials in Colorado's Recovery Office.

Procurement Requirements Have Created Staffing Shortages at State Agencies, According to State Officials

Procurement requirements associated with Recovery Act contracts and grants have created staffing shortages at some Colorado agencies, according to officials. On April 28, 2009, DPA reported on the results of a survey it conducted of the personnel needs necessary to facilitate implementation of the Recovery Act in the areas of purchasing, accounting, contracts, and risk mitigation. The survey involved DPA as well as the Governor's Energy Office, Department of Local Affairs, and Colorado Department of Education. These three agencies were surveyed because DPA expects a significant increase above the normal level of contracts that the agencies—with DPA assistance—will award, given the increase in Recovery Act funds and the agencies' limited delegations of procurement authority.

The results of the survey indicated that, altogether, DPA and the other three agencies need a total of 16 staff at an estimated total annual cost of almost \$1.1 million to handle the increase in purchasing and contract administration and oversight expected with the influx of Recovery Act funding. Specifically, the survey found that DPA needs a total of six staff, including three in purchasing and three in contracts; the Governor's Energy Office needs a total of eight staff, including three in purchasing, three in accounting, and two attorneys to negotiate and assist in monitoring contracts; the Department of Local Affairs needs an internal auditor to assist with risk mitigation; and the Colorado Department of Education needs one purchasing agent. In addition, the Colorado Department of Education indicated that it submitted a separate request for one accountant and one accounting technician. According to a budget official, the results of this survey have not been approved through the state's budget process and therefore are estimated needs.

On August 27, 2009, DPA officials informed us that the specific analysis cited above had not been updated but that personnel needs associated with Recovery Act work were now being addressed through the Controller's statewide cost allocation plan. The Director of the State Purchasing Office said that some agencies such as the Governor's Energy Office and Department of Local Affairs have some administrative funding available that is being used to pay for this staffing. For example, he said that the Governor's Energy Office is using administrative funds to hire employees on a "temporary" basis. In contrast, the Controller pointed out that the state's central agencies such as DPA currently do not have any funding for such purposes and are awaiting approval of the state's cost allocation plan. In addition, the Office of the State Controller does not have any Recovery Act administrative funding available and therefore

cannot fill two current vacancies that are directly related to Recovery Act oversight.

Agencies Plan to Use Colorado's New Centralized Contract Management System to Track Recovery Act Contracts

On July 1, 2009, Colorado implemented a new statewide Contract Management System, which is being used to track all state contracts, including those for Recovery Act activities and funds. Contracting officials in DPA said that from 1994 until June 30, 2009, Colorado used a decentralized data collection system embedded within the state's Colorado Financial Reporting System (COFRS) to monitor and report on contracts. They described this system as being decentralized with each state agency tracking contract data separately. For example, Colorado's IHEs each conducted contract monitoring and reporting independently while other agencies used Microsoft Access or Excel spreadsheets to track their contracts. Contracting officials said that in 2007, the Colorado legislature called for a new contracts database and that when the state received Recovery Act funds in 2009, state officials decided to use the state's new system to gather data on those contracts.

Contracting officials said that all agencies and IHEs are required to report all contract and grant information into the Contract Management System regardless of dollar value or purpose. They stated that the new system generally involves eight steps: (1) determination of a need for a contract, (2) application of the procurement process, (3) contract creation, (4) contract negotiation, (5) contract review and approval, (6) contract monitoring, (7) contract payments, and (8) contract closeout. Officials in the Colorado State Purchasing Office also stated that they are primarily responsible, in most cases, for the first five steps of the procurement process leading to the award of contracts subject to the state procurement code. Once a contract is awarded, primary responsibility for contract administration, or the final three steps of the process, rests with the agency program staff. Contracting officials told us that they are now providing training on the Contract Management System to about 200 employees at agencies and IHEs who are involved in contract administration.

Colorado's Recovery Act Contracts Reflect Diverse Situations

Colorado has already awarded a number of Recovery Act contracts for a variety of programs and these contracts reflect diverse needs and contracting situations. In each case, we reviewed the contract and discussed it with officials, as follows:

- **Johnson Village North Project.** On May 6, 2009, CDOT awarded the Johnson Village North project contract to conduct work in support of the Highway Infrastructure Investment program. The contract has a total value of \$5.2 million with a project start date of July 13, 2009, and a projected completion date of October 23, 2009. The contract was awarded to repave 12.6 miles of mountainous highway and includes work related to curbs, gutters, signs, and traffic control. According to the CDOT awarding official, the contract was awarded competitively following CDOT's contracting procedures; five bidders submitted sealed proposals and CDOT selected the low bid, which was 23 percent lower than the agency's estimate for the work. The official told us that the work was awarded using a fixed unit price contract. The contract includes a provision for the contractor to provide information to the state to meet its Recovery Act reporting requirements, according to an agency official. The official said that contract oversight personnel were assigned before the contract was awarded and that oversight would be performed in accordance with CDOT project administration standards. A project engineer as well as inspectors and materials testers will oversee the project and measure compliance with the contract specifications before providing contractor payments.
- **C-470 Project.** On May 27, 2009, CDOT awarded the C-470 project contract to conduct work in support of the Highway Infrastructure Investment program. The contract has a total value of \$25.8 million with a project start date of July 9, 2009, and a projected completion date of August 15, 2010. The contract was awarded to remove existing asphalt pavement patches, remove and replace concrete slab, seal concrete pavement cracks, and conduct asphalt overlay and guardrail construction on highway C-470 in the Denver metropolitan area. According to the CDOT awarding official, the contract was awarded competitively following CDOT's contracting procedures; seven bidders submitted sealed proposals and CDOT selected the lowest bid, which was 15 percent lower than the agency's estimate for the work. The official told us that the work was awarded using a fixed unit price contract. Like the Johnson Village North project, the official stated that the contract includes a provision for the contractor to provide information to the state to meet its Recovery Act reporting requirements. The official said that contract oversight personnel were assigned before the contract was awarded and that oversight would be performed in accordance with CDOT project administration standards. A project engineer as well as inspectors and materials testers will oversee the project and measure compliance with the contract specifications before providing contractor payments.

- **Arapahoe County Weatherization Division.** On April 17, 2009, the Governor's Energy Office awarded a contract for support of the Weatherization Assistance Program to the Arapahoe County Weatherization Division. This contract has a total value of \$2.9 million with a project start date of July 1, 2009, and a projected completion date of June 30, 2010. The contract was awarded as a fixed price contract. It provides for weatherizing 641 housing units at a cost of \$4,562.52 per unit. According to officials from the Governor's Energy Office, the contract was not competitively awarded because it is considered a grant agreement and such agreements with local administering agencies, such as Arapahoe County, are not subject to the state's procurement code and thus not required to be awarded competitively. The contracts were competitively awarded to Arapahoe County and other local administering agencies in 1997 but have not been competed since this time, according to officials. However, beginning in fiscal year 2011, officials from the Governor's Energy Office told us that they are planning on competing future contracts for weatherization services. They also stated that the Arapahoe County contract did not contain a provision for the contractor to provide information to the state to meet its Recovery Act reporting requirements, according to an official from the Governor's Energy Office, but will be modified to incorporate such requirements. Arapahoe County officials told us that inspectors conduct oversight of weatherization work through a final inspection process that follows completion of work at each housing unit. In addition, the Governor's Energy Office annually inspects a minimum of 5 percent of all housing units.
- **Housing Resources of Western Colorado.** On April 28, 2009, the Governor's Energy Office awarded a contract for support of the Weatherization Assistance Program to Housing Resources of Western Colorado. This contract has a total value of almost \$1.3 million with a project start date of July 1, 2009, and a projected completion date of June 30, 2010. The contract was awarded as a fixed price contract. It provides for weatherizing 325 housing units at a cost of \$3,913.60 per unit. The contract calls for the installation of weatherization measures, such as insulating homes, correcting air leaks, repairing windows and doors, and purchasing energy-efficient appliances. Like Arapahoe County, the contract was not competitively awarded but will be competed starting in fiscal year 2011, according to state officials. The contract did not contain a provision for the contractor to provide information to the state to meet its Recovery Act reporting requirements, but will be modified to incorporate such requirements, according to an official from the Governor's Energy Office. Also

similar to Arapahoe County, inspectors from Housing Resources of Western Colorado conduct oversight of weatherization work following completion of work at each housing unit and the Governor's Energy Office annually inspects a minimum of 5 percent of all housing units.

- **Governor's legal services contract.** On April 2, 2009, the Governor of Colorado entered into a contract with an international law firm to represent the Governor's Office in analyzing the Recovery Act. More specifically, a state official said that the law firm agreed to help the Governor and his representatives complete the certifications required in the Recovery Act in order for Colorado to receive and distribute its full share of Recovery Act funds in the most transparent and efficient manner possible. In addition, according to this official, the firm waived its standard practice of requiring a retainer and agreed to provide the services of three attorneys at an hourly rate discounted from its standard rate for attorneys. According to state officials, this contract was not competitively awarded because the state's procurement requirements contain an exception for elected officials to use sole-source contracts.

Colorado Plans to Report Centrally but Unresolved Issues May Affect Its Ability to Report Recovery Act Data to OMB in a Complete and Timely Manner

Colorado Recovery officials are planning to use centralized reporting to meet Recovery Act reporting requirements. Section 1512 of the Recovery Act requires that, no later than 10 days after the end of each calendar quarter, every entity that received Recovery Act funds from a federal agency report on those funds. This reporting requirement applies to any entity, including states that received Recovery Act funds directly from the federal government and includes funds received through a grant, loan, or contract.⁵² This report must include

- the total amount of Recovery Act funds received from that federal agency;
- the amount of Recovery Act funds expended or obligated to projects or activities;
- a detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including the name and description of each project or activity; an evaluation of the completion status of each project or activity, and an estimate of the number of jobs created and retained by each project or activity; and certain other information for infrastructure investments made by state and local governments; and

⁵²This reporting requirement does not apply to individuals.

- certain detailed information on any subcontracts or subgrants awarded by the recipient, including information required to comply with the Federal Funding Accountability and Transparency Act of 2006.⁵³

The first deadline for these reports is October 10, 2009.

To ensure that the Section 1512 reporting requirements are carried out, OMB issued guidance on June 22, 2009, describing how recipients and subrecipients of Recovery Act funds are to report on their use of those funds.⁵⁴ Generally, prime recipients—nonfederal entities that receive Recovery Act funds from federal agencies—are to submit information to www.federalreporting.gov, an online portal that will collect Recovery Act information. Subrecipients—any nonfederal entity that is responsible for program requirements and spends federal funds awarded by a prime recipient—may or may not be delegated reporting responsibility by a prime recipient. The June guidance also identified the data elements to be reported, including project description and status, expenditure amount, and job narrative and number. These data elements were updated by OMB in August 2009 and include almost 100 items.

While Colorado Recovery officials determined that a centralized process provides more control and ability to prevent duplicate reporting than the alternate decentralized process described in OMB guidance, unresolved issues with the processes and procedures being developed and their integration with OMB's online portal may affect the completeness and timeliness of the state's report. Unresolved issues include being able to upload consolidated data to OMB and completing the development and testing of the elements that will be used in the centralized process to collect data from grant recipients, including the compilation of jobs data. We discussed these issues with officials in the Recovery Office and the Controller's office and with officials in several state agencies who will be responsible for implementing the reporting procedures being developed.

⁵³Pub. L. No. 109-282, 120 Stat. 1186 (Sept. 26, 2006).

⁵⁴OMB memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (Washington, D.C., June 22, 2009).

Colorado Is Developing a Centralized Process for Reporting Recovery Act Data to OMB

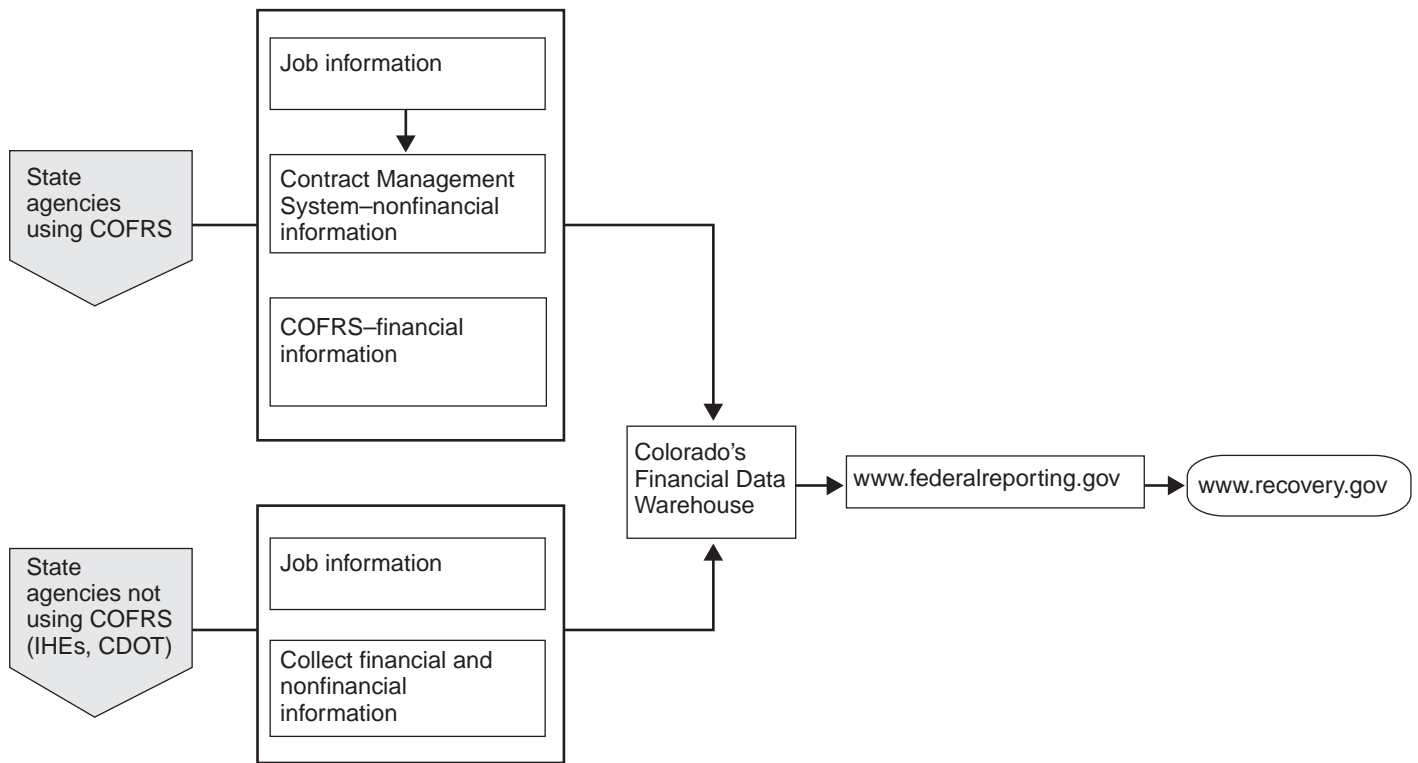
Colorado is planning on centrally reporting Recovery Act data to OMB rather than having state recipients and subrecipients report to www.federalreporting.gov individually. Colorado officials believe that a centralized process is necessary to oversee data collection, improve data quality, ensure completeness, and prevent duplication of data. In addition, a centralized process allows the state to capture data and report on its own Recovery Web site. Because of the numerous state agencies involved, potentially large numbers of Recovery Act projects, and many data elements that must be reported to OMB, state officials believe that creating a process to collect and report most of the data through a central location would increase the overall reliability of the data. To emphasize the importance of the process, the Governor's Recovery Office assigned a staff member to focus on Recovery Act reporting requirements and coordinate the activities of the different offices providing reporting information to ensure reporting occurs as required by OMB.

To report centrally, Colorado's Controller and the Governor's Office of Information Technology are developing new processes and procedures that will collect Recovery Act data to report to OMB. The State Controller issued a series of three alerts in May, July, and August 2009 explaining the state's policies and accounting and reporting requirements, defining prime recipients and subrecipients from the state perspective, and directing state agencies to use the centralized process.⁵⁵ The alerts set up a coding structure in the state's accounting system to track Recovery Act funds awarded to, and expended by, state agencies and external subrecipients that receive Recovery Act funds from the state agencies. The most recent alert describes how the state's new Contract Management System will be used to input Recovery Act nonfinancial information, such as jobs created or retained and subrecipient's congressional district. According to state officials, they had to develop new capabilities in the Contract Management System to capture and report Recovery Act data. As shown in figure 4, the state will gather agencies' financial data from the state's accounting

⁵⁵Office of the State Controller, Alert #184, *Coding Requirements Established for Recovery Act Monies, Compensated Absences Liability, and Electronic Funds Transfers for Employee Reimbursements*, May 13, 2009; Alert #185, *Recovery Act Funds-Schedule of Expenditures of Federal Awards Reporting Requirements, New Recovery Act Grant Tracking Requirements, Recovery Act Oversight Costs: Recent Guidance from Health and Human Services Division of Cost Allocation, Revised Fiscal Rule 5-1: Travel Effective July 1, 2009, Electronic Funds Transfer Travel Reimbursement COFRS Programming Changed on July 6, 2009, Lease-Purchase Threshold Increased with Passage of HB09-1218, Office of State Controller Staffing Changes*, July 10, 2009; and Alert #186, *Recovery Act Policies and Additional Recovery Act Grant Tracking Requirements*, August 4, 2009.

system, COFRS, and nonfinancial data from the state’s Contract Management System, and consolidate the data in the state’s Financial Data Warehouse (FDW).⁵⁶ Data for agencies that do not use COFRS as their primary system, such as CDOT and IHEs, will be collected separately in the warehouse. Data on jobs will be gathered by prime recipients from all state agencies for vendors and subrecipients using manually prepared summary documents.

Figure 4: Colorado’s Planned Process for Reporting Recovery Act Data to OMB



Source: GAO analysis of state information.

Note: State agencies can act as either a recipient or an internal recipient of Recovery Act funds. Job information is gathered and submitted by the primary recipients.

Once the state’s Recovery Act data are gathered centrally, the state plans to upload the data to www.federalreporting.gov. State agencies are responsible for reviewing and verifying their information once it is

⁵⁶FDW is a Web-based reporting tool that allows the state’s users to pull data on a daily basis.

compiled and reported by the state. OMB's June 22, 2009, guidance provided a timeline for agencies to review their data and make any necessary corrections. For the first cycle, recipient reports are due by October 10, 2009, state corrections can be made from October 11 through October 21, and corrections from federal agency reviews can be made from October 22 through October 29. Final reports will be posted on the www.recovery.gov Web site on October 30, 2009. To prepare state agencies for reporting, officials with the Governor's Recovery Office and the Controller's office have been meeting with state agencies to provide briefings and answer questions specific to each agency on what their roles and responsibilities will be relative to reporting data and reviewing the data on the Web site.

Colorado's centralized reporting process does not apply to local entities that receive Recovery Act funds directly from federal agencies, which is explained in the Controller's alerts. According to state officials, the state has no authority over local entities, such as RTD and other transit agencies, that receive Recovery Act funds directly from federal agencies rather than through a state agency. The state cannot dictate the reporting of such entities, but it is expected that the local entities will report directly to OMB.

Colorado Faces Challenges in Developing Its Reporting Process and Unresolved Issues May Affect Colorado's Ability to Report during the Recovery Act's First Quarterly Reporting Cycle

Colorado officials face two primary challenges in developing the state's process to consolidate and report the necessary Recovery Act information to OMB, which may limit the state's ability to ensure the completeness and timeliness of the reported information. First, state officials are working to resolve certain security control issues related to the uploading of Colorado's data to www.federalreporting.gov, and second, Colorado's plan for submitting data to OMB is in the process of being developed and tested.

Colorado officials are working on security control issues that must be resolved before the state will be able to upload agency data to OMB's Web site. According to OMB's June 22, 2009, guidance, part of the security measures require recipients to register on the OMB Web site to be able to submit and review the information. To do this, the recipients must be registered in the federal government's Central Contractor Registration (CCR) database and must also have a Dun and Bradstreet (DUNS)

number.⁵⁷ A users' guide posted on www.recovery.gov identifies various steps that the state will have to take before it will be able to upload the state agencies' Recovery Act information.⁵⁸ Based on the user guide, the Controller has informed the state agencies of the actions they must take immediately for the state to be able to meet OMB's reporting deadline. These actions include updating their DUNS and CCR information on the respective Web sites. Of particular importance is updating the CCR information for each agency's point of contact. According to the user guide, the agency points of contact will have to provide authorization on www.federalreporting.gov before the state can report all grant award information associated with the DUNS numbers for the respective agencies. Without the authorization from the points of contact, the state will not be able to upload the data. To further that process, the Controller has instructed all state agencies to identify all awards of Recovery Act funds so that an inventory of applicable DUNS numbers can be compiled. The inventory is critical for the identification of all authorizations that must be obtained from the points of contact.

According to state officials, they have learned that other states planning to do centralized reporting have also identified significant limitations with the security design of the www.federalreporting.gov Web site. According to Colorado officials, the Recovery Accountability and Transparency Board has proposed an enhancement to the system that would address many of the states' centralized reporting concerns. The main feature of the enhancements is that the state could more easily upload its data by making one data submission without the currently required multiple points of contact authorization. State officials did not have information on any milestones for the enhancements that are being developed. State officials said that they plan to use the new process for uploading data, but will proceed with the actions they are currently taking to report centrally as a backup strategy for reporting should the board's proposed uploading process not be available.

⁵⁷ A DUNS number is a unique number that identifies businesses, including government agencies.

⁵⁸ Recovery Accountability and Transparency Board, *ARRA In-bound Recipient Reporting FederalReporting.gov Recipient Point of Contact/DUNS Administrator User Guide-Registration and Next Steps Version 1.0* (undated).

In addition to security challenges, Colorado's process for centralized reporting involves new codes, reports, and programs to gather the information necessary to meet OMB's requirements and not all elements of the process have been fully developed or tested. Testing of the process is ongoing, as is development of various data formats and data accumulation media. For example, the formats for inputting the nonfinancial information into the Contract Management System and for compiling and uploading the information from the FDW to the OMB Web site have not been finalized. In addition, revisions will need to be made to the process state agencies had planned to use to review their data because of changes to the OMB Web site announced by the Recovery Accountability and Transparency Board on September 14, 2009. Colorado officials initially told us that for the first quarterly reporting cycle, the state agencies could review their data on www.recovery.gov. The data were expected to be available on October 11, 2009. However, according to the September 14 announcement, all data will now be displayed on October 30, 2009, which, according to state officials, will not allow state agencies to review their data as planned. Because of the change, the Controller's office is now working to develop the capability for agencies to review their Recovery Act financial data in FDW and nonfinancial data in the Contract Management System before it is submitted to www.federalreporting.gov. The Controller stated that he is uncertain whether his office has the resources to accomplish that task. Finally, because testing of Colorado's system is ongoing, it is uncertain whether the state will be able to report its data as scheduled. The Controller has set October 7, 2009, as the date the state's information will be uploaded to OMB. Until testing is completed, the Controller's office will not know how much time will be required to consolidate the data after the end of the month and whether there will be sufficient time before October 7, 2009, to consolidate all of the data.

Colorado's Comments on this Summary

We provided officials in the Colorado Governor's Recovery Office, as well as other pertinent state officials, with a draft of this appendix for comment. State officials agreed with this summary of Colorado's Recovery efforts to date. The officials provided technical comments, which were incorporated into the appendix, as appropriate.

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Appendix IV: District of Columbia

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of the American Recovery and Reinvestment Act (Recovery Act)¹ spending in the District of Columbia (District). The full report on all of our work in 16 states and the District is available at www.gao.gov/recovery/.

In the District, we reviewed three Recovery Act programs funded by the U.S. Department of Education (Education), and the Transit Capital Assistance program funded by the U.S. Department of Transportation's Federal Transit Administration (FTA). These programs were selected primarily because they include existing programs receiving significant amounts of Recovery Act funds. In addition, Education has designated the District's Office of the State Superintendent for Education (OSSE) as a high-risk grantee, for weaknesses related to financial management and grants management for several of the programs receiving Recovery Act funds. Further, the Transit Capital Assistance funds had a September 1, 2009, deadline for obligating a portion of the funds, and also provided an opportunity to review nonstate entities that receive Recovery Act funds. We also reviewed contracting procedures and examined four contracts awarded with Recovery Act funds—two for highway infrastructure projects, and two for public housing projects—to examine how District agencies were implementing the Recovery Act. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help the District stabilize its budget and to stimulate infrastructure development and expand existing programs—thereby providing needed services and potentially jobs. We focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how the District plans to meet the Recovery Act reporting requirements. The funds include the following:

- **U.S. Department of Education (Education) State Fiscal Stabilization Fund:** As of August 28, 2009, Education had awarded the District about \$65.3 million of the District's total Education State Fiscal Stabilization Fund (SFSF) allocation of about \$89.3 million. As of September 1, 2009, the District had not allocated any of these funds to local education agencies (LEA). An OSSE official told us that the District plans to submit a revised SFSF application to Education that proposes increasing the percentage of SFSF funds to school districts

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

to restore the District's fiscal year 2010 funding for elementary and secondary education to the fiscal year 2008 funding level.

- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA):** Education allocated about \$37.6 million in Recovery Act funds to the District to be used to help improve teaching, learning, and academic achievement for students from families that live in poverty. As of September 1, 2009, the District had made preliminary allocations of \$33.8 million to LEAs, which have not drawn down these funds. The remaining \$3.8 million was set aside for school recognition financial awards, school improvement, and administration.
- **Individuals with Disabilities Education Act (IDEA), Parts B and C:** Education allocated about \$18.8 million to the District to be used to support early intervention, special education, and related services for infants, toddlers, children, and youth with disabilities. As of September 1, 2009, the District has made preliminary allocations of the \$16.7 million in IDEA Part B funds to LEAs, which had not yet drawn down these funds. The remaining \$2.1 million are IDEA Part C funds that had not been allocated as of September 1, 2009.
- **Transit Capital Assistance Program:** FTA apportioned \$214.6 million of Recovery Act Transit Capital Assistance funding to the National Capital Region, which consists of Washington, D.C., and surrounding counties in Maryland and Virginia. As of September 1, 2009, FTA had obligated almost 100 percent of the apportioned funds for transit projects in the DC/Maryland/Virginia Urbanized Area. The Washington Metropolitan Area Transit Authority (WMATA), the National Capital Region's largest recipient of Recovery Act Transit Capital Assistance funding, was apportioned \$201.8 million in grants that it plans to use to fund capital projects, such as equipment purchases, station upgrades, and purchases of buses and vans.
- **Highway Infrastructure Investment Funds:** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$124 million to the District in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$115.7 million had been obligated. The District Department of Transportation (DDOT) is using its apportioned funds for 15 "shovel ready" projects to repave streets and interstates, rehabilitate bridges, improve and replace sidewalks and roadways, and expand the city's bike-share program. We selected one contract and one task order for two ongoing projects to discuss in greater depth with the relevant agency contracting officials. The task order was for a streetlight

upgrade on Dalecarlia Parkway, Northwest Washington D.C., and the contract was for sidewalk repair at various locations in the District.

- **Public Housing Capital Fund:** The U.S. Department of Housing and Urban Development (HUD) has allocated \$27 million to the District of Columbia Housing Authority (DCHA). DCHA plans to use the Recovery Act funds on 18 projects that include the rehabilitation of nearly 2,000 housing units and the installation of new energy-efficient projects at public housing facilities. As of September 3, 2009, 9 of the projects were underway. We selected two contracts to discuss in greater depth with the relevant agency contracting officials. The first contract we reviewed was for balcony repairs at the Greenleaf Gardens public housing community, and the second contract we reviewed was for kitchen and bathroom upgrades at the Benning Terrace public housing community.

Recovery Act Funds Have Helped the District Close Its Budget Gap

The infusion of Recovery Act funds has helped mitigate the negative effects of the recession on the District's budget. On June 22, 2009, the District revised its revenue projections downward for fiscal year 2009 and subsequent years.² As a result, the District faced a \$190 million projected revenue shortfall for fiscal year 2009, and a \$150 million projected shortfall for fiscal year 2010. Since fiscal year 2009 was nearly three-quarters completed at the time of the June 2009 revenue revision, District officials decided that it was too late to attempt to increase revenues by increasing taxes or fees. District officials decided to make up the \$190 million gap with funds from its general fund balance.³ For fiscal year 2010, the District eliminated its \$150 million budget gap through a combination of savings from reduced spending by District agencies, using \$36 million in Recovery Act SFSF funds, as well as funds from the District's general fund, and new revenue proposals, as discussed below.

To balance its fiscal year 2010 budget, the District will eliminate 250 full-time equivalent positions through a combination of layoffs and attrition. In addition, the chancellor of the District of Columbia Public Schools (DCPS) recently announced that an unspecified number of teachers would be laid off as a result of a funding shortfall in the District's fiscal year 2010

²The District's fiscal year begins on October 1 and ends on September 30.

³The District's general fund is the fund that is supported by local revenue, including taxes and nontax revenue. The funds used by the District to close the budget gap were not dedicated for specific policy goals or for emergency cash reserves.

education budget. District officials noted that without the Recovery Act funds, job cuts would have been much larger. For example, according to District officials, hundreds of additional teaching positions would have been eliminated without the Recovery Act funds.

In addition to the expenditure reductions and additional Recovery Act funding, the District enacted the Budget Support Emergency Act of 2009, which included a sales tax increase, along with increased taxes on gasoline and cigarettes, to help close its 2010 budget gap. The Act also postponed the increase in income tax deduction levels, which should result in increased revenue to the District. District officials told us that they decided not to use the District's Rainy Day fund to close its budget gaps because by law if the Rainy Day funds are used they must be paid back in full over the following 2 years—with one half of the funds being repaid in the first year and the remainder of the funds repaid in the second year. According to the District's Chief of Budget Execution, District officials decided to use a combination of spending reductions, general fund balance, and some revenue proposals to help close the budget gaps for fiscal years 2009 and 2010, instead of tapping the Rainy Day fund. The District has had to prepare for the effects of the drop-off in Recovery Act funds beginning in fiscal year 2011, because, officials explained, the District is required by law to maintain a 5-year balanced budget. As a result, District officials have fully accounted for the future decrease in Recovery Act funds in budgets for fiscal years 2011 to 2013.

District officials have been working with the U.S. Department of Health and Human Services (HHS) to develop a cost-allocation plan for reimbursement of Recovery Act central administrative costs, based on OMB's guidance. Once the plan is completed, the District will apply for reimbursement of allowable Recovery Act administrative costs.

Allocation of Recovery Act Education Funds and Distribution of Guidance to LEAs Are in Early Stages

Education has allocated Recovery Act funds to the District for three programs—SFSF, ESEA Title I, and IDEA, as discussed in the following sections.

The District Plans to Use Additional SFSF Funds to Help Address Shortfalls in Funding for Elementary and Secondary Education

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHE). The initial award of SFSF funding required each state to submit an application to Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or the state will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

On June 16, 2009, Education approved the District's application for SFSF funds and as of August 28, 2009, Education had awarded the District \$49 million in education stabilization funds out of a total SFSF allocation of \$73.1 million.⁴ Due to unanticipated shortfalls in the District's projected revenue for fiscal year 2010, OSSE plans to modify its SFSF application to allocate a larger percentage of SFSF funds to restore the District's fiscal year 2010 funding for elementary and secondary education to the fiscal year 2008 funding level. The approved SFSF application included \$17.9 million to restore the level of the District's support for elementary and

⁴As of August 28, 2009, Education had also awarded the District \$16.3 million in SFSF funds for the government services fund.

secondary education in fiscal year 2009 to fiscal year 2008 levels, and indicated that no SFSF funds would be needed to restore District funding for fiscal year 2010.⁵ In addition, the District had initially allocated 20 percent of the government services fund for elementary and secondary education; however, an OSSE official told us that OSSE anticipates that the District will allocate an additional 40 percent of the government services fund for this purpose (for a total of 60 percent of the funds).⁶ OSSE has not yet provided guidance to LEAs on the use of SFSF funding.

OSSE Has Made Preliminary Allocations of ESEA Title I Recovery Act Funds to LEAs

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of the funds by September 30, 2010.⁷ Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

As of September 4, 2009, the District had received \$37.6 million in ESEA Title I Recovery Act funds, and OSSE had allocated \$33.8 million across 51 of its 58 LEAs, with the largest LEA, the District of Columbia Public

⁵The District also plans to use about \$1.4 million of SFSF funds to restore funding in fiscal years 2009 and 2010 to its sole IHE, the University of the District of Columbia. After restoring education spending through 2011, any remaining education funds will be distributed across LEAs in accordance with the District's ESEA Title I funding formula.

⁶The additional 40 percent being allocated to education was previously designated as "undetermined." The District has not changed its proposed use of the remaining 40 percent of the government services fund, which is to assist low- and moderate-income residents with down payments and closing costs on their first homes.

⁷LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A, funds by September 30, 2010, unless granted a waiver, and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

Schools (DCPS), receiving \$23.4 million.⁸ The District plans to use the remaining funds as follows—\$1.9 million for school recognition financial awards, \$1.5 million for school improvement activities, and \$400,000 for state administration. Before any ESEA Title I Recovery Act funds are distributed, OSSE requires LEAs to submit an application that describes how the funds will be used and provide assurances that the uses will comply with the Recovery Act. According to OSSE officials, all LEAs that are eligible to receive ESEA Title I Recovery Act funds have submitted their assurances regarding the management, use, and reporting of ESEA Title I Recovery Act funds. On September 11, 2009, OSSE distributed the applications for the LEAs to describe their specific plans for expenditures of ESEA Title I Recovery Act funds. OSSE officials told us that while the LEAs could obligate ESEA Title I Recovery Act funds and expend their own funds without an approved plan, LEAs could not submit receipts for reimbursement until OSSE approved the LEAs' individual plans for expenditures. An OSSE official noted that some LEAs have ESEA Title I carry over funds from prior years that should be expended by the LEAs before the funds expire on September 30, 2009, and prior to expending any new ESEA Title I funds, including Recovery Act funds.

OSSE Plans to Offer Additional Training on ESEA Title I Recovery Act Funds and Has Yet to Determine Monitoring Protocols

OSSE provided Web-based training sessions in June and July 2009 on allowable uses of ESEA Title I Recovery Act funds, the purpose and guiding principles of the Recovery Act education funds, and a brief introduction to tracking and reporting the funds. According to OSSE officials, representatives from 28 LEAs participated in the training, including representatives from the 3 LEAs we visited. Officials from 2 of the LEAs we visited reported that the Web-based training was informative and useful. OSSE also held a four-day grants-management training course that included information on Recovery Act fund management, as well as management of other federal funds. At the training course, OSSE distributed information packets that included each LEA's allocation of ESEA Title I Recovery Act funds, as well as guidance on the appropriate uses of these funds, and information on tracking and reporting expenditures. Further, an OSSE official told us that OSSE plans to conduct mandatory Web-based technical assistance on tracking and reporting ESEA Title I Recovery Act funds in September 2009, and as needed by the

⁸Five of the seven LEAs that did not receive ESEA Title I allocations do not serve children ages 5 to 17, but serve either preschool-age children or adults. One LEA was eligible for ESEA, Title I Recovery Act funds but opted out. The other LEA was not eligible, based on the District's ESEA, Title I eligibility criteria.

LEAs. The official told us that OSSE had received guidance from Education on tracking jobs created and saved with Recovery Act funds, however OSSE is still comparing the Education guidance with the District's internal reporting requirements.

Officials from the LEAs we visited shared their preliminary plans for using ESEA Title I Recovery Act funds. Officials from all three LEAs we visited told us that some ESEA Title I Recovery Act funds would be used for activities to supplement the school day, such as after-school programs. One of the three LEAs we visited has obligated ESEA Title I Recovery Act funds. Officials from that LEA told us that the LEA obligated the funds to hire a consultant to help them target academic interventions aimed at improving student skills, such as reading and math skills. According to the LEA officials, the consultant will use data to determine the effectiveness of interventions on specific student populations, as well as evaluate the cost-effectiveness of such actions.

OSSE officials told us that they would finalize their ESEA Title I monitoring protocols and schedule in September 2009. As of September 11, 2009, OSSE officials had not determined the methodology for monitoring the LEAs' use of ESEA Title I Recovery Act funds. However, OSSE officials told us that their monitoring would be partially based on risk assessments accomplished through their ongoing collection and review of financial data, such as the rate money has been expended, and reimbursement requests that OSSE determined were for unallowable or disallowed expenses.⁹ In addition, OSSE plans to use the quarterly reports submitted by the LEAs, as well as information from other sources—such as audits and past monitoring visits—to complete their risk assessments. While OSSE has not determined the relevant risk of the individual charter school LEAs, an OSSE official told us such an assessment was a priority for OSSE.

Education has designated OSSE as a high-risk grantee due to weaknesses in financial management and grants management, including ESEA Title I. On July 31, 2009, OSSE submitted a corrective action plan report to Education addressing these concerns. The report describes five working groups and their plans, including time frames, to address findings

⁹According to OSSE officials, some LEA reimbursement requests are disallowed because the LEA has overspent in a budgetary category.

concerning financial support services, business support services, grant allocations, grant monitoring, and grant reporting.

OSSE Made Preliminary Allocations of IDEA Recovery Act Funds to LEAs

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Part C funds programs that provide early intervention and related services for infants and toddlers with disabilities, or at risk of developing a disability, and their families. Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

OSSE has determined the preliminary IDEA Part B Recovery Act allocations to the LEAs. However, these preliminary amounts have not been adjusted in consideration of an August 17, 2009, proposal by Education to increase the amount state education agencies are allowed to set aside for administration. The allocated amounts are also expected to change after enrollment audits are complete. OSSE allocated about \$13.3 million of its federal fiscal year 2009 IDEA Part B Recovery Act funds to the District's largest LEA, DCPS, which serves about 64 percent of the District's public school students, and serves as the IDEA LEA for 17 of the District's charter school LEAs. As of September 11, 2009, OSSE had not finalized the application the LEAs must complete describing their specific plans for expenditures of IDEA Recovery Act funds. An OSSE official told us that while the LEAs could obligate IDEA Recovery Act funds and expend their own funds, they could not receive reimbursements until OSSE approved the LEAs' individual plans for expenditures.

OSSE officials told us that they held Web-based sessions in June and July 2009, related to IDEA funds in general with limited information on Recovery Act funds, and on IDEA Recovery Act funds, respectively. While 34 LEAs attended the more general Web-based training, only 5 LEAs participated in the Web-based guidance session focused on IDEA Recovery Act funds. This second session included information on the guiding principles of Recovery Act funds for education, time frames for accessing and using the funds, and allowable uses of the funds, with

examples. Officials from one LEA we visited told us that they had not received any information on IDEA Recovery Act funds and had not participated in any Web-based sessions for these funds, officials from a second LEA told us that the staff person who may have attended had since left the LEA, and an official with the third LEA we visited told us that someone from the LEA had participated.

Education has designated OSSE as a high-risk grantee, for weaknesses related to financial management and grants management, including IDEA. OSSE officials noted that Education may hold \$500,000 of OSSE's fiscal year 2009 IDEA, Part B state-level funds, generally used for administration of IDEA funds. This action was due to noncompliance found in the fiscal year 2007 single audit. On July 31, 2009, OSSE submitted a corrective action plan report to Education outlining how it plans to address the various findings. The report describes five working groups and their plans, including time frames, to address findings concerning financial support services, business support services, grant allocations, grant monitoring, and grant reporting. The corrective action plan report notes that 33 findings have been resolved and 169 findings remain unresolved. Many of the findings are long-standing weaknesses. Nine unresolved issues or areas of concern are related to OSSE's administration of IDEA Recovery Act funds, including OSSE's process for determining IDEA allocations across LEAs. OSSE's initial grant application for its LEAs includes a section with additional Recovery Act assurances to inform and ensure that the LEAs will be held accountable for spending these funds appropriately.

OSSE Plans to Safeguard Recovery Act Funds Are in Early Phases

OSSE plans on holding LEAs accountable for Recovery Act funds by reviewing all LEA applications for Recovery Act grants for SFSF, ESEA Title I, and IDEA funds, and by monitoring the use of the funds. An OSSE official told us that relevant LEA information will be posted to the agency Web site including LEA allocations and draw down rates. LEAs must submit grant applications to OSSE in order to request and receive Recovery Act funds. As part of the applications, an LEA is required to provide a signed statement that the LEA agrees to take adequate and appropriate steps to ensure that it has the capacity to comply with the Recovery Act requirements, as well as administer each Recovery Act program in accordance with all applicable statutes and regulations. The grant applications require the LEA to provide OSSE a description of how the LEA will spend its requested grant funds in accordance with the requirements and objectives of the Recovery Act. According to OSSE officials, they plan to review each application and determine if the LEA's

expenditure plan complies with the allowed uses of funds under the Recovery Act.

OSSE uses its reimbursement tracking system as its principal monitoring tool to ensure expenditures made using federal grant funds, including SFSF, ESEA Title I and IDEA funds, are allowable. According to an OSSE official, the reimbursement tracking system was developed in February 2009, and LEAs began implementing the system in April 2009. The system is centralized, so OSSE can track all reimbursement requests submitted by LEAs, and payments made to LEAs. The system allows OSSE to track and report on expenditures for individual grants, as well as for all OSSE grants.

An LEA spends its own funds in accordance with its grant application, after which the LEA submits a reimbursement request to OSSE that describes what the funds were spent on and how much was spent. OSSE officials review the reimbursement request and compare it to the LEA's grant application. If the costs are consistent with the LEA's expenditure plan, OSSE reimburses the LEA. If the costs are questionable or they are unallowable based on the application and Education guidelines, OSSE contacts the LEA to resolve the discrepancy, and arranges for technical assistance, if needed. Payment to the LEA is only made after the discrepancy is resolved. If the discrepancy is not resolved, the LEA will not receive its requested funds.

The reimbursement system is linked to OSSE's subgrantee budget tracking system, which uses many linked spreadsheets to produce summary reports of the District LEAs' budget information. It tracks the amount an LEA has expended and compares it to the LEA's application, budget, and set-asides.¹⁰ By comparing the three factors, OSSE officials monitor the cash flow of the LEA and provide technical assistance if warranted. OSSE officials stated that the two systems enable the agency to gather data on LEA drawdown rates and track LEA reimbursement requests. OSSE can analyze the data to identify problem areas that LEAs have in grant funding management. Because the reimbursement system has only recently been implemented, not enough data have been collected to analyze LEA performance.

¹⁰Set-asides are grant amounts that are held by the LEA to be used for specific projects, as allowed or required by the federal program.

OSSE Is Preparing to Meet Recovery Act Recipient Reporting Requirements

OSSE is a prime recipient of Recovery Act funds as defined by OMB's guidance.¹¹ The Office of the City Administrator (OCA) provided guidance to all District agency directors that required them to assign grant managers to each Recovery Act grant. Grant managers are responsible for ensuring that all required information for the grant, including data from subrecipients and vendors, is submitted to OCA in accordance with the Recovery Act Section 1512 recipient reporting requirements. OSSE officials stated that they had assigned grant managers to SFSE, ESEA Title I and IDEA grants.

According to an OSSE official, LEAs were provided written guidance about OMB reporting requirements, as well as the LEAs' responsibilities for meeting those requirements, during the recent four-day training course. An OSSE official also told us that OSSE will collect the required information from LEAs, and then enter the information into the District's centralized Web-based system. OSSE officials also told us they were considering other ways in which to measure the impact of the Recovery Act funds directly on students, as well as indirectly on parents and the community.

The District's Inspector General Plans to Provide Additional Oversight of OSSE's IDEA Recovery Act Management Practices

The District's Office of Inspector General (OIG) fiscal year 2010 audit and inspection plan, issued August 31, 2009, includes a focus on Recovery Act spending by District agencies. If resources permit, the OIG plans to audit the Recovery Act funds appropriated for IDEA. The objectives would be to determine whether (1) OSSE properly managed and distributed Recovery Act funds to LEAs and (2) DCPS used Recovery Act funds for their intended purposes. The OIG is reviewing DCPS' use of IDEA funds because of the past problems identified in DCPS' handling of IDEA funds, and to protect the District from incurring disallowed costs, and subsequently reimbursing the federal government for those disallowed costs. The OIG also plans to review whether OSSE ensures an appropriate level of accountability and transparency for OSSE-received Recovery Act funds.

¹¹OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009).

DC/Maryland/Virginia Urbanized Area Has Met a Key Recovery Act Obligation Deadline for Transit Projects

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.¹² The majority of the public transit funds, \$6.9 billion (82 percent), were apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.¹³ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. The Recovery Act funds were also apportioned to the states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.¹⁴ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.¹⁵

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies)

¹²The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

¹³Urbanized areas are defined as areas encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are defined as areas encompassing a population of fewer than 50,000 people.

¹⁴The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

¹⁵The federal share under the existing formula grant program is generally 80 percent.

will submit to FTA for Recovery Act funding.¹⁶ FTA reviews the project sponsors' grant applications to ensure that projects meet the eligibility requirements and then obligates Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon requirements, and comply with goals to ensure disadvantaged businesses are not discriminated against in the awarding of contracts.

Funds appropriated through the Transit Capital Assistance Program must be used in accordance with Recovery Act requirements. Specifically, 50 percent of Recovery Act funds apportioned to urbanized areas or states are to be obligated within 180 days of apportionment (before September 1, 2009) and the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.¹⁷

FTA apportioned \$214.6 million in Transit Capital Assistance program funds to the National Capital Region in March 2009. The National Capital Region includes transit agencies serving the District and surrounding counties in Maryland and Virginia. The transit agencies within the region include the Washington Metropolitan Area Transit Authority (WMATA), the Maryland Transit Administration (MTA), the Potomac and Rappahannock Transportation Commission (PRTC), the Virginia Railway Express (VRE), and Fredericksburg Regional Transit (FRED). According to FTA, as of September 1, 2009, FTA had obligated \$213.0 million of the

¹⁶Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and metropolitan planning organizations designated for the area. MPOs are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's Transportation Improvement Program (TIP) and the approved State Transportation Improvement Program (STIP).

¹⁷Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

Transit Capital Assistance funds (99.3 percent) apportioned to the National Capital Region, thus meeting the Recovery Act requirement that 50 percent of the funds be obligated by September 1, 2009.

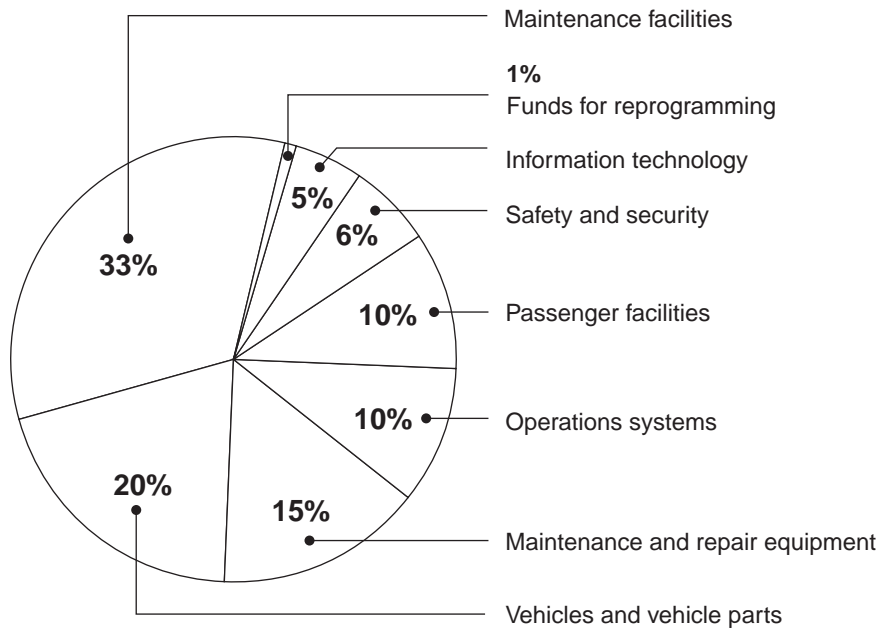
WMATA Has Started Awarding Contracts for Recovery Act Transit Projects

Within the National Capital Region, we focused on WMATA's use of Recovery Act funds because it was apportioned the largest amount of Recovery Act transit funding. WMATA operates the second largest rail transit system, sixth largest bus network, and eighth largest paratransit network in the United States. As of August 18, 2009, WMATA was awarded \$201.8 million in Recovery Act funds, \$182.5 million for the purchase of 47 buses, 74 vans, and station upgrades, and \$17.7 million for rail improvement and equipment purchases.

WMATA Used a New Strategic Prioritization Process to Select Recovery Act Projects

WMATA developed a new strategic prioritization process for selecting projects that met Recovery Act requirements and supported WMATA's short-term needs and long-term goals. Through this process, WMATA identified about \$530 million in shovel-ready projects. Agency officials stated that the strategic prioritization process began with WMATA analyzing over \$11 billion worth of capital projects needed to maintain, expand, and improve WMATA's three transit services—Metrorail, Metrobus, and MetroAccess paratransit service. To identify projects for Recovery Act funding, WMATA identified projects that were ready to start, eligible for federal funding, and could not be implemented without additional funds. These projects were then refined and prioritized based on how well they linked to WMATA's five strategic goals and 12 strategic objectives. The projects selected included the replacement of WMATA's oldest buses, construction of a new bus body and paint shop, replacement of the Southeastern bus garage, replacement of crumbling platforms at select Metrorail stations, purchase of new communications equipment for the operations control center, and upgrades to the three oldest Metrorail stations. The following figure shows the distribution of capital projects for FTA Recovery Act formula grants by category.

Figure 1: WMATA's Planned Use of Recovery Act Funds



Source: GAO analysis based on WMATA data as of August 18, 2009.

Note: According to a WMATA official, some of the funds in the Operations Systems, Maintenance and Repair Equipment, Passenger Facilities, Maintenance Facilities, and Vehicles and Vehicle Parts program categories will be used for safety projects.

WMATA officials stated that they are in the early stages of implementing the 30 projects supported with Recovery Act funds, and have awarded about 70 contracts for Recovery Act funds. According to WMATA officials, WMATA has begun awarding contracts for the replacement of the oldest buses with new hybrid/electric buses, expansion and replacement of the MetroAccess paratransit fleet, and purchase and reconditioning of emergency tunnel evacuation carts. Since contracts on these projects were only recently awarded, it is too early to tell whether the projects are on schedule.

WMATA Is Applying for about \$122 Million in Additional Recovery Act Funding

WMATA officials stated that they used its new strategic prioritization process to guide the agency's application for about \$122 million in additional Recovery Act funding in the form of discretionary grants. WMATA has already been selected to receive \$9.6 million in funds over 3 years through the Transit Security Grant Program.¹⁸ According to WMATA officials, the Transit Security Grant funds will be used to hire 20 full-time officers to form five antiterrorism teams, fund the purchase of vehicles and specialty equipment and provide training. Additionally, WMATA officials stated that they are applying for discretionary grants for the following two programs:

- **The Transportation Investments Generating Economic Recovery program (TIGER):**¹⁹ WMATA officials stated that they have contributed to the development of the TIGER grant proposal submitted by the Washington Council of Governments, which was approved by the Transportation Planning Board (TPB) on July 15, 2009.²⁰ This proposal consists of a variety of services and infrastructure improvements such as a new transit-way, a bike-sharing system, and enhanced bus service. WMATA officials noted that while some of the projects within this proposal would aid WMATA-operated services, WMATA would not directly implement or manage them. WMATA officials added that they are preparing a separate TIGER grant proposal to request about \$90 million in funds for construction of bus facilities that would support enhanced bus service in the TIGER grant.

¹⁸The Recovery Act provided \$150 million for the Transit Security Grant Program.

¹⁹The Recovery Act appropriated \$1.5 billion of discretionary grant funds to be awarded by the Department of Transportation for capital investments in surface transportation infrastructure projects. The Department of Transportation refers to these grants as "Grants for Transportation Investment Generating Economic Recovery" or "TIGER Discretionary Grants." According to the National Capital Region's Transportation Planning Board officials, National Capital Region TIGER projects, which are developed in conjunction with local jurisdictions, consist of: (1) K Street Transitway from 9th to 23rd Street, N.W.; (2) enhanced bus service (example—dedicated bus lanes); (3) a bike-sharing system; (4) improvements to two Metrorail stations (example—high-speed elevators) and the creation of one new transit center at the Takoma/Langley Transit Center; (5) existing and planned managed High Occupancy Vehicle / High Occupancy Toll lanes; and (6) additional bus priority treatments across two Potomac River crossings and along three arterials.

²⁰The TPB is the National Capital Region's metropolitan planning organization. The TPB oversees project selections, including Recovery Act project selections, through a formal approval process called the TIP, a 6-year financial program that describes the schedule for obligating federal funds to state and local projects.

- **Transit Investments in Greenhouse Gas and Energy Reduction program:**²¹ WMATA officials stated that they also submitted an application for \$22.4 million that would be used to fund the installation of more energy-efficient lighting in 50 underground Metrorail stations and 112 adjacent tunnels, as well as lighting upgrades in center tracks, platform edges, along escalators, and in retaining walls. Award announcements for this program are planned for September 2009.

WMATA has Developed Procedures to Track Recovery Act Funds and Intends to Use Its Existing System to Meet Recovery Act Reporting Requirements

According to WMATA officials, they have developed a process to track funding by project using their existing accounting system. Recovery Act funds received by WMATA are assigned a unique fund number. WMATA uses this fund number to identify Recovery Act funding sources to keep sources segregated. All transactions are tagged with a specific project identification (ID) code. WMATA officials said they have also developed a Recovery Act-specific project ID and all payments using Recovery Act funds are tracked using that ID. A unique project ID is assigned to each Recovery Act-funded project at inception and is used for individual transactions as they are processed through WMATA's accounting system.

WMATA officials stated that they have established a hierarchy of roles and responsibilities to coordinate management to comply with Recovery Act objectives. The designation of roles brings together key offices to manage financial controls covering contract and project spending, monitoring, and reporting. WMATA designated the agency's Chief Administrative Officer (CAO) as the overall Recovery Act program manager. Existing project management and financial reporting processes remain intact, but are coordinated through the CAO.

According to WMATA officials, the agency should not have a problem in meeting the recipient reporting requirements under section 1512 of the Recovery Act, because WMATA has already provided similar information to the House Committee on Transportation and Infrastructure. At the Committee's request, WMATA has submitted reports in April, May, June and July 2009. WMATA officials told us that they have already established the reporting procedures that will enable the agency to collect and report the recipient data required by the Recovery Act. WMATA officials also told

²¹Public transportation agencies are eligible to receive Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) Program grants. TIGGER grants are for projects that either reduce energy consumption or greenhouse gas emissions through a capital investment.

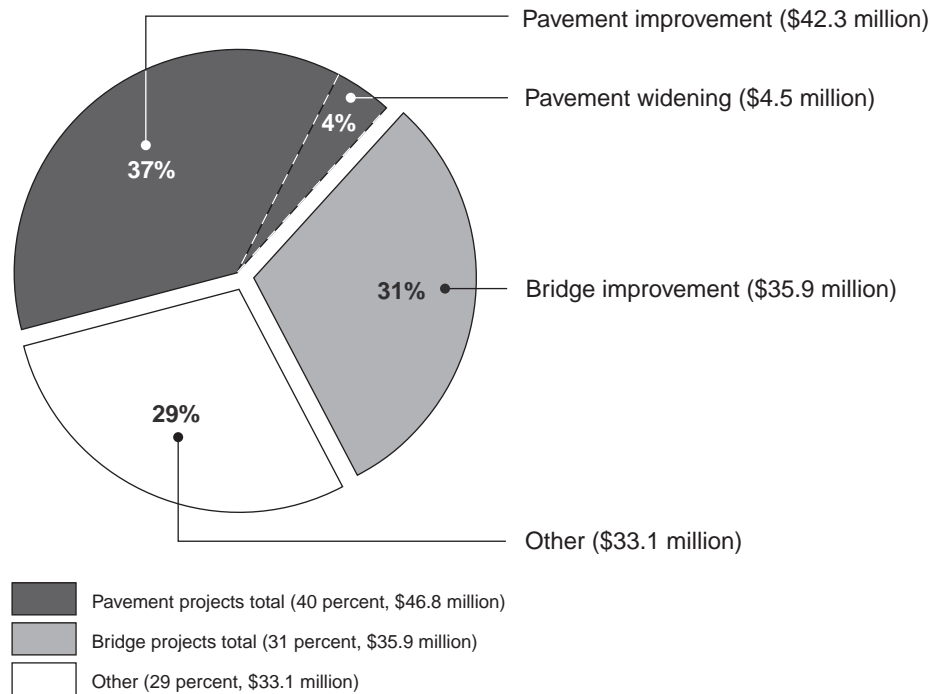
us they were considering developing performance measures that could be used to assess the impact of the Recovery Act funds.

The District Is Using Existing Contracting and Oversight Procedures for Recovery Act Highway Funds

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated primarily based on population, for regional and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow the existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act it is 100 percent.

The District was apportioned \$124 million in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$115.7 million had been obligated. The U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government approves a project and a grant agreement is executed. The District Department of Transportation (DDOT) is using its apportioned funds for 15 “shovel ready” projects to repave streets and interstates, rehabilitate bridges, improve and replace sidewalks and roadways, and expand the city’s bike-share program. Figure 2 shows obligations by the types of road and bridge improvements being made in the District. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects. The first project to be completed was the repaving of Interstate 395 in the District. As of September 1, 2009, \$556,440 had been reimbursed by FHWA.

Figure 2: Highway Obligations for the District of Columbia by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

According to DDOT's Chief Contracting Officer, no changes have been made to the contract or financial management processes specifically for Recovery Act contracts because DDOT officials deemed its existing processes as suitable to track the use of the funds. According to the same official, DDOT uses a competitive bid process for awarding highway contracts. Each bidder's qualifications are reviewed before a contract is awarded. The review process analyzes information on the bidder's past contracts, financial information, personnel, equipment, and past performance history, including checking references and conducting site visits to the contractor's ongoing projects.

Prior to awarding contracts for projects funded with Recovery Act funds, DDOT held a prebidding conference with potential bidders that described the bidding process and additional reporting requirements mandated by the Recovery Act. DDOT officials have also participated in a roundtable discussion given by the District's Office of Contracting and Procurement

to discuss Recovery Act projects. DDOT’s Chief Contracting Officer stated that DDOT has seen an increase in bids for Recovery Act projects, including bids from new contractors, and that thus far it has accepted the lowest bids for each project.

As discussed in our July 2009 report, DDOT has procedures in place to track the expenditure of Recovery Act funds.²² According to DDOT officials, they are using their existing system to track Recovery Act funds. In addition, DDOT officials assigned unique labels to Recovery Act funds that tie to Recovery Act—related projects, allowing DDOT to separately track and identify funds. DDOT’s financial management system is also integrated with FHWA’s financial management system, providing an additional layer of oversight.

We selected one contract and one task order for two ongoing projects to discuss in greater depth with the relevant agency contracting officials. See table 1 below for a summary of contract information for the two projects.

Table 1: Key Information for Two District Highway Projects Reviewed

	Projected cost	Project start	Expected completion
Streetlight upgrade on Dalecarlia Parkway, Northwest Washington, D.C.	\$2,182,469	April 2009	January 2010
Sidewalk repair at various locations in the District	\$3,500,000	June 2009	December 2009

Source: DDOT.

We reviewed a task order for a streetlight upgrade on Dalecarlia Parkway, Northwest Washington D.C. A task order was issued on April 13, 2009, for an amount not to exceed \$2,182,469. The project started on April 13, 2009, and is projected to be completed by January 20, 2010. The task order requires the contractor to furnish all necessary labor, equipment, materials, and other incidentals for upgrading street lights on Dalecarlia Parkway and to furnish and install fixtures and cables. According to DDOT’s Chief Contracting Officer, to expedite the project an order for the work was placed against an existing indefinite delivery / indefinite quantity (IDIQ) contract, which was awarded competitively. The Chief Contracting

²²GAO, *Recovery Act: States’ and Localities’ Current and Planned Uses of Funds While Facing Fiscal Stresses (Appendixes)*, [GAO-09-830SP](#) (Washington, D.C.: July 8, 2009).

Officer also stated that DDOT saved money by not having to advertise a new contract and prepare new contract documents.

The second contract we reviewed was for sidewalk repair at various locations in the District. A task order for this work was issued on June 11, 2009, for an amount not to exceed \$3,500,000 with a project start date of June 11, 2009, and a projected completion date of December 17, 2009. The task order requires the contractor to construct new sidewalks and replace existing sidewalks in locations to be determined in the order. According to a DDOT official an existing IDIQ competitively-awarded contract was modified to expedite the project. The official also noted that because DDOT had to identify shovel-ready projects to be funded with Recovery Act money, both projects already had a design in place which could be easily added to an existing DDOT IDIQ contract.

According to DDOT officials, both the task order and contract require the contractor to provide DDOT with information to support the agency's Recovery Act reporting requirements regarding job creation. As required by the District's Chief Procurement Officer, DDOT has added specific clauses in its Recovery Act contracts that describe the specific Recovery Act reporting requirements, provide the reporting template and give specific instructions on how to complete the report, and advise the contractors that GAO and the relevant Inspector General have the ability to examine the contractors' records and interview the contractors' employees. According to DDOT officials, the clauses require the contractor to report the number of direct on-the-project jobs for its workforce and the workforce of its subcontractors during the reporting month.

In addition, according to a DDOT official, the agency has standard procedures for oversight on all contracts. These procedures include having DDOT personnel or qualified consultants retained by DDOT, or both, perform regular inspections on each project. After the project manager receives the schedule for the project and approves it, an inspection plan is generated. The inspection plan includes site visits and reviews of materials and personnel being used on the project. DDOT personnel or qualified consultants are on-site on a daily basis checking on the status of the project. They are responsible for generating a daily report that describes the number of tasks completed that day, and the number of people and types of equipment used on the project. DDOT personnel or qualified consultants are also required to verify the reports with the contractor so there will not be any conflicting views on any issues that may arise. In addition, according to the same official, the DDOT

contracting staff holds regular meetings with the contractor, where issues and action items are discussed.

The District Is Using Existing Contracting and Oversight Procedures for Recovery Act Public Housing Capital Funds

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management.²³ The Recovery Act requires the U.S. Department of Housing and Urban Development (HUD) to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date on which they are made available to public housing agencies, expend at least 60 percent of funds within 2 years, and expend 100 percent of the funds within 3 years. Public housing agencies are expected to give priority to projects where contracts can be awarded based on bids within 120 days from the date on which the funds are made available, as well as projects that rehabilitate vacant units, or those already underway or included in their current required 5-year capital fund plans.

HUD is also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published May 7, 2009, and revised June 3, 2009, HUD outlined four categories of funding for which public housing agencies could apply:

- creation of energy-efficient communities (\$600 million);
- gap financing for projects that are stalled due to financing issues (\$200 million);
- public housing transformation (\$100 million); and
- improvements addressing the needs of the elderly or persons with disabilities (\$95 million).

For the creation of energy-efficient communities, applications (which were due July 21, 2009) were to be rated and ranked according to criteria outlined in the Notice of Funding Availability. The last three categories will be threshold-based, meaning applications that meet all the threshold

²³Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the District's budget.

requirements will be funded in order of receipt. If funds are available after all applications meeting the thresholds have been funded, HUD may begin removing thresholds after August 1, 2009, in order to fund additional applications in the order of receipt until all funds have been awarded. Applications in these three categories were accepted until August 18, 2009.

HUD has allocated \$27 million to DCHA. As of September 5, 2009, DCHA had obligated about \$5 million or about 19 percent of the \$27 million it received in capital grant funds, and drawn down about \$1.5 million from DCHA's Electronic Line of Credit Control System account with HUD. DCHA plans to use the Recovery Act funds on 18 projects that include the rehabilitation of nearly 2,000 housing units and the installation of new energy-efficient projects at public housing facilities. As of September 3, 2009, 9 of the projects were underway.

DCHA is using its existing contract-management procedures to monitor the use of Recovery Act funds.²⁴ According to a DCHA contracting official, no changes have been made to contract or financial management processes specifically for Recovery Act contracts because DCHA believes its existing processes are suitable to monitor the use of the funds. According to the same official, DCHA uses job-order contracting to establish a competitive bid process for awarding housing contracts.²⁵ DCHA officials stated that job-order contracting procedures minimize unnecessary engineering, design, and other procurement processes by awarding long-term contracts to contractors for a wide array of project improvements and renovations. According to DCHA officials, DCHA currently has 11 job-order contracts and assesses each of the contractor's qualifications, current workload, and past performance in order to decide which contractor will be awarded a job order for each specific Recovery Act project.

As discussed in our July 2009 report, DCHA has procedures in place to track the expenditure of Recovery Act funds. According to DCHA officials, its existing accounting system is used to track Recovery Act funds. DCHA

²⁴According to the District's Chief Procurement Officer, DCHA is exempt from both the District of Columbia Procurement Practices Act of 1985, and the District Office of Contracting and Procurement authority.

²⁵A Job Order Contract is a specially designed indefinite quantity contract that is awarded on a periodic basis to one or more contractors.

officials stated that Recovery Act funds have an “S” at the end of their accounting code and can be identified by project number and task order.

We selected two contracts to discuss in greater depth with the relevant agency contracting officials. See table 2 below for a summary of contract information for the two contracts.

Table 2: Key Information for Two Public Housing Capital Projects Reviewed

	Projected cost	Project start	Expected completion
Balcony repairs at Greenleaf Gardens	\$1,259,424	March 2009	November 2009
Kitchen and bathroom upgrade at Benning Terrace	\$839,798	August 2009	May 2010

Source: DCHA.

The first contract we reviewed was for balcony repairs at the Greenleaf Gardens public housing community. The job order was placed on March 27, 2009, for an amount not to exceed \$1,259,424. The project started on March 27, 2009, and is projected to be completed by November 28, 2009. The job order requires the contractor to repair concrete balconies and rails, remove and reinstall metal balcony rails, and paint all rails, walls, ceilings, and floors. According to a DCHA official, the use of job-order contracting helps expedite the award of the project by awarding the work as a job order on an existing contract.

The second contract we reviewed was for kitchen and bathroom upgrades at the Benning Terrace public housing community. The job order was placed on August 4, 2009, for an amount not to exceed \$839,798. The project started on August 4, 2009, and has a projected completion date of May 1, 2010. The job order requires the contractor to furnish all necessary labor, tools, transportation, supervision, material, and equipment required to renovate 84 kitchens and bathrooms at the Benning Terrace property.

According to DCHA officials, the agency has already been collecting the information necessary to meet its Recovery Act reporting requirement regarding job creation. Specifically, DCHA is already required to comply with the Section 3 HUD mandate that requires recipients of HUD funds, to the greatest extent possible, to provide job training, employment, and contract opportunities for low- or very-low-income residents in connection with projects and activities in their neighborhoods. DCHA has been

collecting the number of jobs created and retained by contractors or subcontractors on all projects.

In addition, according to a DCHA official, the agency has standard procedures for oversight on all contracts. These procedures include having DCHA contracting personnel perform regular inspections on each project. Contractors must also file a weekly progress report. DCHA's project inspectors and the contractors have to agree on the level of project completion each week and sign a certification document, in order to ensure there will not be any conflicts about what work has been completed and appropriate payments are made. In addition, according to DCHA officials, before projects are started in a particular housing community, the residents are consulted and continue to remain involved throughout the life of the project. DCHA also sometimes hires community residents as project monitors.

The District Has Made Preparations for Meeting Recovery Act Reporting Requirements

The Office of the City Administrator (OCA) has taken several actions to address the recipient reporting requirements in section 1512 of the Recovery Act.²⁶ OCA has designed a centralized Web-based system to collect all required data and submit them into federalreporting.gov, the Web site the federal government established for recipients to report Recovery Act data. OCA considered two approaches for meeting the Recovery Act reporting requirements—developing the software application internally or purchasing a Recovery Act reporting package offered by several firms. OCA researched six commercial vendors that provide software to support recipient reporting data collection. After consulting with senior District officials and the Office of the Chief Technology Officer (OCTO), OCA officials decided that developing a recipient reporting system internally would better ensure accountability and the need for rapid implementation. Also, OCTO staff had experience in developing similar systems for the District government. The system is based on an approach the District has used for several other applications, and is available only to District officials responsible for Recovery Act funds, at reporting.dc.gov beginning September 1, 2009.

All District agencies are considered prime recipients for reporting purposes. On July 23, 2009, OCA issued guidance to all District agency directors discussing the requirements of Section 1512 and the

²⁶Pub. L. No. 111-5, div A, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

responsibilities agencies have regarding the requirements.²⁷ The guidance defines multiple tiers of accountability and the responsibilities assigned to each tier. Each tier consists of positions that are held accountable for recipient reporting data management and collection or for quality assurance. Specifically, the guidance instructs agency directors to assign an individual staff member as the grant manager for each Recovery Act grant award received by the agency. The grant manager is responsible for day-to-day management of the grant including submitting required reporting data accurately and within the deadlines. In addition, the grant manager is responsible for submitting required information for subrecipients and vendors for that grant. Grant managers can choose to submit data for subrecipients or delegate the responsibility to subrecipients to submit data directly. The guidance instructed all agency directors to either declare that the agency has not received and does not expect to receive any Recovery Act funds or provide a list of all Recovery Act grants expected by the agency, and the identities of all responsible parties.

OCA and OCTO developed a Web-based system to serve as a central repository for the Recovery Act data the District plans to submit directly to federalreporting.gov. According to District officials, setting up its own Web site (reporting.dc.gov) allows OCA to review the aggregate data before it is submitted to federalreporting.gov. Grant managers will use the OCA Web site starting September 1, 2009, to enter all required data as the prime recipient. OCA conducted three Recovery Act training sessions for grant managers during August 2009 on the reporting.dc.gov tool and overall expectations for Recovery Act grant reporting. In addition, OCTO has held several sessions with grant managers specifically on how to use the reporting.dc.gov tool. The training included a review of the reporting requirements, key tasks, and instructions on how to use the new system.

The District plans on testing the system beginning September 1, 2009. Grant managers will create an account at OCA's Web site and submit required Recovery Act recipient reporting data through August 31, 2009. The test will give OCTO a chance to test the system and resolve issues before the actual reporting date. Grant managers are required to input the data every month, so reviewers perform quality reviews and detect errors

²⁷Office of the City Administrator memo: *ARRA 09-2, Defining Accountabilities for Implementing the American Recovery and Reinvestment Act Reporting Requirements* (July 23, 2009).

and omissions as soon as possible, instead of waiting until the end of a quarter to review the data. OCTO officials stated that they developed quality and data controls into the system.

Key Efforts to Safeguard the District's Use of Recovery Act Funds Have Been Delayed or Cutback

Two key components of the District's oversight efforts to safeguard Recovery Act funds have encountered delays or cutbacks that could impede the District's efforts to correct previously identified internal control weaknesses in programs that are receiving Recovery Act funds.

The District uses the single audit²⁸ to aid in determining whether the District's internal controls provide reasonable assurances that there is reliable reporting for federal funds, that accountability is maintained over assets, and that operations are effective and efficient. The District's fiscal year 2008 Single Audit was required to be submitted to the federal government by June 30, 2009; however, as of September 11, 2009, it had not been completed by the District's auditors. According to District officials, the fiscal year 2008 Single Audit was delayed because some District agencies had difficulties in providing requested documentation to the external auditor to complete the single audit. The District was granted an extension for completing the fiscal year 2007 single audit by the Department of Health and Human Services. However, an Office of Integrity and Oversight (OIO) official stated that the department did not grant the District an extension for completing the fiscal year 2008 Single Audit. The official stated that the District was expecting the extension to be approved as had happened in previous years. The official stated that the 2008 Single Audit may be completed in late-September 2009.

In our July 2009 report, we stated that the District relies on Single Audit findings as a key source of oversight of its agencies. Untimely single audit reporting deadlines and delays in the completion of single audit reports make it difficult for the District to resolve material weaknesses before

²⁸The Single Audit Act, as amended (31 U.S.C. §§ 7501-7507), requires states, local governments, and nonprofit organizations expending more than \$500,000 in federal awards in a year to obtain an audit for that year in accordance with the requirements set forth in the act. A Single Audit consists of (1) an audit and opinions on the fair presentation of the financial statements and the Schedule of Expenditures of Federal Awards; (2) gaining an understanding of and testing internal control over financial reporting and the entity's compliance with laws, regulations, and contract or grant provisions that have a direct and material effect on certain federal programs (i.e., the program requirements); and (3) an audit and an opinion on compliance with applicable program requirements for certain federal programs.

more federal funds, including Recovery Act funds are received. Therefore, because the District has not received its single audit findings, these federal funds are subject to the same material weaknesses from the previous year and are at risk of mismanagement, fraud, waste, and abuse. Both the District's past single audits and District OIG reports have identified numerous internal control weaknesses in four District programs that are receiving Recovery Act funds.

The District has also cut back plans to conduct a comprehensive review of internal controls in all District agencies. In our July 2009 report, we noted that although the District government and agencies have various internal controls, the controls are not integrated or included in a citywide internal control program. Past reports from the OIG have identified numerous weaknesses in the District's internal controls. In September 2008, the Office of the Chief Financial Officer (OCFO) contracted with an independent accounting firm to identify areas in the office with internal control problems and deficiencies. The District planned to have the firm expand its review to District agencies after it completed its OCFO assessment. On August 17, 2009, an OCFO official informed us that review will be limited to just the OCFO and the firm will not expand its review to District agencies. The contract expires at the end of September 2009. According to District officials, funding concerns prompted the District Council to reduce the length of the contract, which officials stated is unlikely to be extended. The official added that the OCFO's new Chief Risk Officer will be addressing internal control risks by developing an internal control program for the OCFO.

Both District OIG reports and Single Audit reports have identified internal control weaknesses. The most recent Single Audit report, for fiscal year 2007, identified 89 material weaknesses in internal controls over both financial reporting and compliance with requirements applicable to major federal programs. There were material weaknesses in financial reporting found in the District's Medicaid program and DCPS. The single audit report identified material weaknesses in compliance with requirements applicable to major federal programs including Medicaid's Federal Medical Assistance Percentage (FMAP), ESEA Title I Education grants, and Workforce Investment Act programs, all of which are receiving Recovery Act funds. The findings were significant enough to result in a qualified opinion for that section report. Fiscal year 2008 single audit findings were not available to examine at the time of our review.

The District OIG Plans on Providing Additional Recovery Act Oversight If Resources Permit

The District's OIG's fiscal year 2010 audit and inspection plan was issued on August 31, 2009. The plan focuses on providing additional oversight on Recovery Act spending at District agencies. The plan includes audits of the following areas:

- qualifications and background checks for contracting officials;
- Recovery Act funds appropriated for IDEA;
- FMAP increase under the Recovery Act; and
- DDOT construction contracts awarded under the Recovery Act.

Additionally, the OIG is recommending that the Comprehensive Annual Financial Report auditors expand their scope to cover spending of Recovery Act funds by District agencies. The OIG stated that the plans can only be initiated provided there are adequate resources to support the work.

District Comments on This Summary

We provided the Office of the Mayor of the District, the District agencies for the programs we examined, and WMATA with a draft of this summary on September 8, 2009. On September 10 and 11, 2009, the Office of the Mayor, the District agencies, and WMATA provided technical comments, which we have incorporated where appropriate.

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Staff Acknowledgments

In addition to the contact named above, John Hansen, Assistant Director; Mark Tremba, analyst-in-charge; Laurel Beedon; Sunny Chang; Marisol Cruz; Nagla'a El-Hodiri; Linda Miller; Justin Monroe; Melissa Schermerhorn; and Kathy Smith made major contributions to this report.

Appendix V: Florida

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act) spending in Florida.¹ The full report covering all of our work in 16 states and the District of Columbia is available at www.gao.gov/recovery.

GAO's work focused on three federal programs funded under the Recovery Act: the Workforce Investment Act (WIA) Youth Program, the Weatherization Assistance Program, and the Highway Infrastructure Investment Program. These programs were selected primarily because they have begun disbursing Recovery Act funds or are existing programs that are receiving significant amounts of these funds. Specifically, we selected WIA because a summer youth program was implemented in Florida this summer with Recovery Act funds. We selected the weatherization program based on discussions with the Florida Chief Inspector General, who considers the program high risk; and we selected the Highway Infrastructure Investment Program because it is one of the largest programs receiving Recovery Act funds flowing to the state and localities. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Florida and local governments stabilize their budgets and stimulate infrastructure development and expand existing programs intended to provide needed services and jobs.

We conducted site visits at two regional workforce boards for WIA in Broward and Hillsborough Counties because these boards are among the largest recipients of Recovery Act WIA dollars in the state and had the highest numbers of anticipated participants. In these counties we visited two contractors administering summer youth programs. We selected two contracts managed by Florida Department of Transportation (FDOT) district offices located in Lake City in Columbia County and Chipley in Washington County because they were among the largest dollar contracts that had been awarded as of July 20, 2009.

The following provides highlights from our review:

WIA Youth Program

- The state of Florida received almost \$43 million for WIA youth activities under the Recovery Act and set a goal of serving 16,000 youth

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

in 2009 through its WIA summer employment activities for youth program. As of August 15, 2009, the Agency for Workforce Innovation estimates that it has expended \$22.3 million or 52 percent of its total and in its July 31, 2009 report to the Department of Labor (Labor) said it had served 11,902 youth.

- The agency expects to meet its enrollment goal by the end of the summer program. However, Broward and Hillsborough counties' summer youth programs overcame several implementation challenges. Both counties were challenged by recruiting participants under tight time frames, and other factors, such as screening applicants for eligibility.
- Broward County and Hillsborough County workforce boards have taken steps to monitor activities performed with Recovery Act WIA Youth funds, such as work experience and work-based learning activities. However, Hillsborough County's on-site monitoring activities for older participants is limited in comparison to Broward County. Employers and youth we talked with praised the summer youth programs in Broward and Hillsborough counties, but data on the extent to which youth achieved gains in work readiness are not yet available.

Weatherization Assistance Program

- The Department of Energy (DOE) has allocated about \$176 million over 3 years to Florida for the Recovery Act Weatherization Assistance Program to weatherize over 19,000 homes. On June 18, 2009, DOE had provided to the state about \$88 million, or about half the total fund allocation. As of August 31, 2009, the Florida Department of Community Affairs (DCA) had obligated about \$4.2 million and expended about \$1.1 million of the initial \$88 million allocated by DOE.
- Florida has begun using Recovery Act weatherization funds to increase the capacity of local providers to weatherize homes. Florida is intending to implement training and internal controls to help ensure quality and oversight of Recovery Act spending on weatherization. However, as of August 31, 2009, Florida has not yet started weatherizing homes.
- Recovery Act funds for weatherization have created jobs in Florida. State officials still have questions about reporting requirements and concerns about the required documentation for the Davis-Bacon Act. Recovery Act funding has created 109 jobs.

Highway Infrastructure
Investment

- The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned \$1.35 billion in Recovery Act funds to Florida. As of September 1, 2009, the federal government has obligated \$1 billion, and \$196,000 has been reimbursed by FHWA to the state for payments to contractors.
- While some progress has been made in awarding contracts for statewide highway projects (25 contracts out of 45 FHWA-approved projects, totaling \$726 million as of August 28, 2009), few contracts have been awarded by localities (5 contracts out of the 395 FHWA-approved contracts, totaling \$1 million). According to state officials, unlike the state's funds, which were required to be obligated before June 30, 2009, funds that were suballocated to local agencies were not subject to the 120-day rule. As a result, the local agencies were given more time to obligate funds, advertise bids, and award contracts.
- State officials consider current processes and procedures adequate for highway contract solicitation and management, and the Florida Department of Transportation districts use consultants to assist with project monitoring. To report data on jobs created, the Florida Department of Transportation has developed an automated system, which was put into operation on May 29, 2009. For the months of June and July, the Florida Department of Transportation reported to FHWA that a total of 155 jobs were created as a direct result of Recovery Act-funded highway projects.

Updated Information on
Safeguards and
Transparency

- Florida continues to take steps to provide safeguards and transparency. State Inspectors General have provided fraud training, prepared agencies to implement reporting requirements, and assessed internal controls, among other activities. Florida's Office of Economic Recovery continues to develop a database to collect Recovery Act data from state agencies that it will then upload to the federal database. While the fiscal year 2009 Single Audit is currently under way, the state auditor is awaiting additional federal guidance from the Office of Management and Budget (OMB) on Single Audits on Recovery Act programs.

While Its Economy Remains Sluggish, Florida Plans Ahead for Funds Expiration, but with Concerns Regarding Costs of Recovery Act-Related Oversight

Florida's fiscal condition is expected to improve slowly beginning in spring 2010, according to Florida's August 2009 projections. However, declines in general revenues persist while expenditure pressures continue due to increased demands for some services, such as Medicaid, education, and prison construction. For example, collection of sales tax—the largest component of the state's general revenue budget—are projected to fall as a result of reductions in consumer and business purchases for state fiscal year 2009-2010. Nevertheless, state estimates and national economic data suggest that economic conditions may improve beginning later this calendar year or early next year.² For example, the Florida legislature's Office of Economic and Demographic Research reports that despite a weakening employment picture, falling housing prices could attract buyers and lead to an improvement in the economy.³ Moreover, Florida's fiscal year 2010-2011 revenue collections forecast remains positive, marking an end to 4 consecutive years of declining revenue. However, predicting the future course of the economy is uncertain, especially given the current degree of economic disruption.

State agencies are beginning preparation of their state fiscal year 2010-2011 budget requests in light of fiscal stress while planning for when Recovery Act funds will no longer be available. (Florida's fiscal year runs from July 1 through June 30.) For the upcoming fiscal year 2010-2011 budget, Florida budget officials said they project using \$2.5 billion in Recovery Act funds. For this current fiscal year, a year-end shortfall is currently not expected, according to an August 2009 Florida General Revenue Estimating Conference.⁴ In our July 2009 report, we noted that Florida closed a \$4.8 billion budget gap in the current fiscal year 2009-2010

²Although some economists have pointed to signs of economic improvement, associations representing states have also reported that, in general, states' fiscal conditions historically lag behind any national economic recovery.

³The Florida Legislature, Office of Economic and Demographic Research, *Florida: An Economic Overview* (Tallahassee, Fla., Aug. 4, 2009).

⁴Florida uses the General Revenue Estimating Conference for forecasting revenues. Comprised of one member from each of the staffs of the Office of the Governor, the Senate, the House of Representatives, and the Division of Economic and Demographic Research, a major purpose for the conference is to provide a common ground with respect to the funds available for budgeting. The General Revenue Fund is Florida's primary operating fund that is subject to annual allocation through the legislative process, funding programs such as education and human services.

General Revenue Fund in part, by using about \$1.6 billion of the \$5.3 billion in Recovery Act funds.⁵

As part of its annual budget process, state agencies will receive instructions for developing long-range program plans that include strategies for when projected federal outlays to states and localities under the Recovery Act are expected to substantially decrease after 2011, according to state budget officials. As we reported in July, Florida has also planned for this “cliff effect” by increasing revenue producing initiatives—such as a cigarette surcharge, motor vehicle fees, and court fees—that are expected to produce more than \$2 billion in new general revenues on a recurring basis beginning in 2009-2010—while at the same time reducing state expenditures. Ultimately, Florida state officials see the current fiscal constraints as cyclical (short term) rather than structural (long term), so they believe as the economy improves, the state will be prepared for when Recovery Act funds will no longer be available.

State officials said that Florida may not utilize the federal process for identifying administrative costs related to Recovery Act activities because the state has already appropriated and prescribed the use of Recovery Act funds for fiscal year 2009-2010 for programs and services. According to OMB guidance, central administrative costs incurred by state recipients in the management and administration of Recovery Act programs are allowable costs that can be recovered out of program funds as indirect costs to the program.⁶ Florida executive branch officials said this challenge is due in part to audit and reporting requirements of the Recovery Act, even though the state did not budget some or any of the Recovery Act funds for administrative activities. For example, to comply with Recovery Act reporting requirements, the Florida Office of Economic

⁵Florida enacted a \$66.5 billion budget for 2009-2010 before the start of its July 1 fiscal year and in doing so, used Recovery Act funds, withdrew some of its available reserves, cut spending, and raised additional sources of revenue. As we reported in July, Florida budgeted a total of \$5.3 billion of Recovery Act funds or about 8 percent of its budget. Recovery Act funds used to stabilize the state’s operating budget included funds made available as a result of increased Federal Medical Assistance Percentage and State Fiscal Stabilization Fund monies.

⁶OMB guidelines state that the budgeted or estimated administrative cost amount for administrative or indirect costs should not be in excess of 0.5 percent of total Recovery Act funds received by the State. Based on OMB guidance, a state is to modify its Statewide Cost Allocation Plan (SWCAP) to allow for charge backs for costs associated with centralized services. See OMB, *Memorandum M-09-18: Payments to State Grantees for Administrative Costs of Recovery Act Activities* (May 11, 2009).

Recovery is developing a reporting system to compile information from agencies and upload it to the federal system. State officials said they have reservations about requesting funds for oversight from already appropriated sums to programs. As a result, a senior official said the state is considering absorbing Recovery Act administrative costs within existing state resources rather than seeking reimbursement through the federal process and shifting funds from programs and services.

Broward and Hillsborough Counties' Summer Youth Programs Overcame Several Implementation Challenges but Do Not Yet Know If Participants Met Work Readiness Measures

The Recovery Act provides an additional \$1.2 billion in funds for the Workforce Investment Act (WIA) Youth program, including summer employment. Administered by the U.S. Department of Labor (Labor), the WIA Youth program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old,⁷ who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,⁸ the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.⁹ Local areas may design summer employment opportunities to include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key

⁷An out-of-school youth is an individual who (a) is an eligible youth who is a school dropout; or (b) is an eligible youth who has either graduated from high school or holds a General Educational Development (GED) credential, but is basic skills deficient, is unemployed, or underemployed.

⁸H.R. Rep. No. 111-16, at 448 (2009).

⁹Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

goal of a summer employment program, according to Labor's guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job, (2) learn work readiness skills on the job, and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in "green" educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.¹⁰ Labor's guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor's guidance. Each state's plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor's guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

**Florida Expects to Meet Its
WIA Youth Enrollment
Goal**

The state of Florida received almost \$43 million for WIA youth activities under the Recovery Act and set a goal of serving 16,000 youth in 2009 through its WIA summer employment activities for youth program. A 45-member board appointed by the Governor oversees and monitors the administration of the state's workforce policy, programs, and services. These programs are carried out by the 24 business-led Regional Workforce Boards and Florida's Agency for Workforce Innovation, which operates the state's workforce system. As of August 15, the Agency for Workforce

¹⁰Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

Innovation estimates that it has expended \$22.3 million or 52 percent of its total and in its July 31, 2009 report to Labor, said it had served 11,902 youth. The agency attributed the lower number of reported youth placed to late reporting by some local programs and expects to meet its enrollment goal by the end of the summer program. Table 1 shows selected characteristics of youth in the program.

Table 1: Selected Characteristics of Youth in Florida’s Summer Youth Program as of July 31, 2009

Category	Number of youth
Youth age 22 to 24	1,245
Youth age 19 to 21	3,190
Youth age 14 to 18	7,467
Total	11,902
Out-of-school youth	5,371

Source: Florida Agency for Workforce Innovation.

According to a state Agency for Workforce Innovation official, the state workforce agency will collect and ensure the validity of Recovery Act data collected on the summer programs. The official told us that Florida did not delegate subrecipient quarterly reporting requirements to local workforce boards, and they would collect the required information using its existing reporting system. Once the quarterly reporting process begins in September, agency staff will review the submitted data remotely and will go onsite to the workforce boards and review case samples for data validation. The official also told us that the agency already has staff out in the field working with workforce boards to ensure the validity of the first quarterly reports.

Broward and Hillsborough Counties Used Recovery Act Funds to Expand Summer Youth Services

We selected two regional workforce boards—Workforce One, Employment Solutions (Broward County) and the Tampa Bay WorkForce Alliance (Hillsborough County). We evaluated their implementation of the Recovery Act-funded summer youth program in Florida because these boards are among the largest recipients of Recovery Act WIA Youth funds in the state and had the highest numbers of anticipated participants. In addition, each program represented a different geographic region of the state. Table 2 shows the amount of funds Hillsborough County and Broward County received and how much they have expended to date as of August 31, 2009.

Table 2: Allocations Workforce Boards Received and Funds Expended as of August 31, 2009

Workforce board	Funds received	Funds expended
Broward County	\$2,362,791	\$2,321,460
Hillsborough County	\$2,534,737	\$792,076

Source: Workforce boards.

Both Broward and Hillsborough counties took advantage of the Recovery Act’s extended age eligibility by operating work experience programs for older youth—Broward for ages 19 to 24 and Hillsborough for ages 20 to 24. Each county provided work-readiness training for participants covering soft employment skills, such as appropriate dress and showing up for work on time. Both used pre- and post-tests to measure learning gains by training participants. At the completion of their work-readiness training, participants were placed in a wide variety of jobs with public, private, and nonprofit employers.¹¹ Neither county identified “green” jobs for youth placement because officials said there is currently no federal or state definition of what constitutes a “green” job,¹² and neither county offered academic or occupational skills training as part of their summer youth programs. Broward officials told us they did not offer academic or occupational skills because they felt that in these economic times a job/work experience would be most valuable for the older youth. In addition to its work experience program for older youth, Hillsborough County is using its Recovery Act funds on a separate work-based learning program for younger participants.¹³ For this program, Hillsborough County enrolled 803 youth ages 17 to 19 in a 4-week Employment and Leadership Exploration program.¹⁴ The instruction covered business ethics and

¹¹In Broward County the types of jobs filled include library page, clerical, camp counselor and recreation aide, cafeteria and teacher assistant, and custodial. In Hillsborough County the types of jobs filled include Boys & Girls Club youth development specialist, customer sales and service, cashier, clerical, and hotel worker.

¹²Hillsborough County also offered an optional 12-hour green training initiative to create awareness among participants in its work-based learning experience titled “Your Role in the Green Economy.” A national certification is issued to participants who pass the test at the conclusion of the program.

¹³Broward County is using its general revenues to fund its younger summer youth program.

¹⁴According to Hillsborough officials, program administration was competitively contracted out to nine public or nonprofit groups. Officials told us that contractors are paid based on documented deliverables such as the pre- and post-tests, trainee skill assessments, and program completion.

business simulation models during the first 2 weeks, with pre- and post-tests administered to measure learning gains. In the third and fourth weeks, participants formed teams and applied the skills learned to create a simulated online magazine of their choice. Participants also completed a skills assessment and participated in one onsite visit to an employer. (See table 3 for more information on participants and placements.)

Table 3: Selected Data on Broward County’s and Hillsborough County’s Summer Youth Programs

	Broward County	Hillsborough County
Total participants	724	1049
Employment and Leadership Exploration program	N/A	803
Work Experience program	724	246
Type of participants		
Out-of-school youth	722	565
Youth 22-24 years old	152	97
Percentage of work experience jobs available by sector^a		
Public	52	14
Private	17	66
Nonprofit	31	21

Source: Workforce boards.

^aNumbers may not total to 100 percent due to rounding.

Broward and Hillsborough Counties Were Both Challenged by Recruiting Participants under Tight Time Frames and Other Factors

Broward County set a goal of 900 participants for its work experience program and faced recruiting challenges, exacerbated by time constraints. Youth were initially unresponsive to Broward’s offer to pay \$7.21 per hour to participants. A Broward official told us that the pay was not competitive with local businesses. However, after the Workforce Board raised the hourly wage to \$9.00, more than 3,000 applications were submitted by the deadline, forcing the county to reduce the goal for the number of participants from 900 to 724 because of the higher wage. The response was so overwhelming during the final 2 weeks of the application period (which ran from March 3 to May 29) that officials said they worked weekends to meet their time frames.

Determining participant eligibility and, at least initially, paying participants were also problems cited by Broward officials. Officials said youth often had difficulty producing eligibility information, for example, income information and proof of Selective Service registration, and had to return several times to produce the necessary paperwork. Broward officials said

if they operate a summer youth program again, they would use One-Stop staff to oversee the eligibility process. In addition to determining eligibility, some employers required youth background checks and some checks revealed multiple offenses, including theft and fraud, making the youth hard to place.

Broward County also initially had issues paying participants. The county wanted to use direct deposit for payment and encouraged participants to open accounts at a local credit union or bank. However, many youth wanted to receive their pay via a popular pre-paid debit card, and there were initial problems getting paychecks credited to those cards. In other instances, banks kept portions of paychecks that were direct deposited into overdrawn accounts to recover the overdrawn amounts.

Finally, for Broward County, there were some issues with employers when participants reported on the first scheduled day of work. Some employers pulled out of the program,¹⁵ others asked for more employees than they needed and then sent some back to the workforce board, and others used the first work day to interview participants rather than put them to work. As a result, Broward officials had to find new work assignments for some participants.

Hillsborough County greatly exceeded its recruiting goals for its work experience program, but officials said they struggled with the 60-day time frame they had from the time Labor issued its program guidance to the time they launched their programs. Hillsborough set a goal of 60 to 80 participants for its work experience program and 1,000 participants for its work-based learning program. Initially, Hillsborough officials anticipated a rush of applications but no rush materialized. To boost enrollment, officials began advertising on radio, television news programs, movie theaters, and many other places. As a result, they enrolled 803 participants in the work-based learning program and enrolled 246 in the work experience program, greatly exceeding their 80-participant goal. The limited time to get the program up and running was cited by officials as one of their biggest challenges.

¹⁵Officials told us that some employers pulled out of the program because they did not like the way the youth presented themselves the first day, they did not think the youth had the skills to perform the required work, or the employer's business had taken a turn for the worse since they first requested the youth and they no longer needed the help.

Hillsborough County did not report any issues in gathering eligibility information and in some cases used wage information from the Unemployment Insurance system to verify income. The county found that some of the program participants failed employer and other eligibility requirements: Some employers required background checks, and all work experience participants were screened for drugs. Of the 246 participants placed in work experience jobs by Hillsborough, 15 were terminated because they failed the drug test. In contrast to Broward, Hillsborough County didn't experience any problems using pre-paid debit cards or paychecks, primarily for older participants. Hillsborough County officials took steps to avoid problems with employers pulling out of the program by pre-screening youth for level of education and work experience, and then allowing employers to interview participants at two job fairs in advance of start dates and make the decisions on who they wanted to hire.

Work-Site Monitoring of Older Youth Was More Extensive in Broward County than in Hillsborough County

In Broward County, workforce officials said WIA program advisors visit each of the 280 work sites regularly. Officials said 26 WIA program advisors visit each site at least twice a week to speak with supervisors, obtain time sheets, and provide feedback to participants. The WIA program advisors document their site visit in notes placed in each participant's case file. Workforce officials said they also tasked work-site supervisors with conducting job performance evaluations for each participant after one week of work using a standardized evaluation form to rate the participant. Supervisors can also provide comments on the individual's strengths and weaknesses.¹⁶ The performance evaluation results are shared with the participant. Officials told us that a second performance evaluation will be administered 6 weeks into the program, and both evaluations, like the pre- and post-tests, would be used to assess any gains in work-readiness skills during the summer youth program-provided employment.

A Hillsborough official also told us they developed a work-site monitoring plan and instituted it in mid August after receiving feedback from Labor in late July.¹⁷ The Hillsborough County official said that business consultants are to visit each of the 52 work sites once during the two and one-half

¹⁶The performance evaluation form is signed by the supervisor, the summer youth program participant, and the WIA summer youth program advisor.

¹⁷Hillsborough's summer youth program for 20-24 year olds started July 14 and will end September 30.

month period. According to Hillsborough's monitoring plan, consultants are to assess whether the site meets health and safety standards, determine if participants' job descriptions match work assigned, and elicit from the work-site supervisors their experience with time- or record-keeping processes and if any type of performance evaluation will be completed for the employee. In addition, the monitoring plan calls for the WIA Youth program staff to interview one participant at each work site. Interview topics to be covered include whether the supervisor provides feedback, if someone is in charge when the supervisor is not around, and whether the participant signs in and out every day. A Hillsborough official told us that youth have an opportunity to address work-site issues when they come to the workforce board to collect their pay checks every 2 weeks. Both youth and employers are expected to contact the WIA program staff when issues arise. A monitoring plan summary shows that work-site visits were conducted between August 1 and August 31, 2009.

For its work-based learning program for 17-19 year olds, the Hillsborough County workforce board is monitoring the performance of contractors who administer the program. According to officials, monitoring began with Hillsborough County workforce officials from procurement, programmatic, and WIA Youth program departments conducting a review of 13 competing proposals. Officials told us a thorough on-site inspection was conducted prior to awarding 9 contracts.¹⁸ We reviewed 2 of the 9 work-based learning site contracts, discussed the contracts with workforce board officials, and interviewed officials at the two corresponding sites. According to workforce board officials, the contracts we reviewed were cost-reimbursement contracts with a fixed-price agreement for a maximum amount of deliverables. Each contract contained a detailed description of services to be provided by the contractor and a list of deliverables for which supporting documentation was required for payment. According to Hillsborough County workforce officials, ongoing monitoring of contractors consists of two WIA career managers, under the direction of a WIA supervisor, who visit the work-based learning sites twice a week to observe, examine, and collect documentation, such as time sheets. WIA managers are responsible for collecting these documents to verify contractor performance for compensation purposes and to assess the work readiness of the youth participants.

¹⁸There were a total of 10 work-based learning sites, but only a total of 9 contracts were awarded, since one learning site was a Hillsborough workforce facility.

The Counties Took Different Approaches in Measuring Gains in Work Readiness of Youth

Broward County and Hillsborough County use different approaches to measure youths' gains in work readiness. Within the restrictions set by federal agency guidance, local boards may determine the methodology used to measure work readiness gains as required for Recovery Act funds. Although both counties use pre- and post-tests, each county's test differed in length and content. Broward used a 30-question multiple choice and true/false test; Hillsborough used a 10-question multiple choice test.¹⁹ Hillsborough's test focused on what to do in an interview; Broward's test focused on work-related skills and behaviors. As mentioned previously, Broward also uses performance evaluations at the work site to assess participants' work readiness. Although both counties have administered their pre- and post-tests and Broward has conducted its performance evaluations, neither have completed their assessments of work-readiness gains. Officials said they will not have results until the youth complete their programs, the latest being in September 2009.

Although data on gains in work readiness is not yet available, work-based learning supervisors and employers we interviewed said summer youth programs have been a success. In Broward County, we spoke with employers and youth at two different work sites and found they were very pleased with the program. At one work site, the employer told us he is planning to offer positions to 7 of the 17 summer youth program participants when their summer program ends. At the second work site, one participant shared a slide presentation of a project plan and campaign she developed to help the company "go green." The participant had presented her plan to the CEO, and her employment had been extended 2 weeks so she could assist with the implementation of her project. In addition, we also spoke with two contract work-based learning site supervisors in Hillsborough County, who said the work-based learning experience, introduced youth to business principals and ethics, encouraged teamwork, and broadened their horizons. Furthermore, the 20- to 24-year old youth we spoke to said they felt the job fair process used to match employers and participants was very well organized, that they were able to learn valuable new skills in their work experience jobs, and would participate again if the program is offered next summer.

¹⁹In Hillsborough County younger youth were given a Junior Achievement pre- and post-test.

Florida Is Funding Local Service Providers and Program Infrastructure, but Has Not Yet Started Weatherizing Homes

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved the weatherization plans of all but two of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states almost \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.²⁰ Because the Davis-Bacon Act had not previously applied to weatherization, Labor had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any difference if Labor established a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work.²¹ Labor completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009. As of September 4, 2009, Labor had posted wage rates for 44 states, including Florida.

²⁰The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

²¹The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

DOE has allocated about \$176 million over 3 years to Florida for the Recovery Act Weatherization Assistance Program. On June 18, 2009, DOE approved Florida's state plan for the program for 2009-2012 and had provided a total of about \$88 million, or half the state's allocation. The state's Department of Community Affairs (DCA) is responsible for administering the program. As stated in the state plan, DCA's goals include weatherizing at least 19,090 dwellings, which according to a DCA official could result in as much as \$5.7 million in overall energy savings annually. Of the \$176 million the state will receive, the planned allocation includes about \$137 million for weatherization of homes and about \$30 million for training and technical assistance.

DCA awards contracts to local service providers, which include nonprofit organizations or local governments, to assist low-income households by making long-term energy efficiency improvements to their residences, including measures such as installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. Once a local service provider determines that a household is eligible for the program, it sends an inspector to the home to determine if it is suitable for improvements and to perform an energy audit to identify appropriate improvements.²² Once the inspector has completed the home inspection and energy audit, they prepare a work order that lists the improvements to be made to the home. The local service providers may employ either in-house construction crews or use contractors or a combination of both to make the home improvements. When completed, the improvements are checked by an inspector.

Florida Has Begun Using Recovery Act Weatherization Funds to Increase the Capacity of Local Providers to Weatherize Homes

As of August 31, 2009, DCA had obligated about \$4.2 million and expended about \$1.1 million of the initial \$88 million provided by DOE for the Weatherization Assistance Program on expenses such as payroll for DCA staff, contracts with local service providers to expand their capacity to weatherize homes, training and travel for new DCA and local provider staff, and supplies.

DCA has obligated about \$3.6 million of the \$4.2 million to award initial contracts to 26 of its 29 current local service providers, and used about \$1

²²Homes that are in disrepair, such as those needing a new roof, are considered unsuitable for improvements because the poor condition of the home would result in damage to the improvements or render them ineffective.

million of the \$1.1 million expended for these same contracts. These local service providers can use the funds for nonproduction weatherization operating costs, such as planning, hiring staff, sending inspectors to training, purchasing equipment, obtaining liability insurance, and verifying income eligibility for clients on their waiting lists for weatherization. The funds may also be used to conduct the home inspections and energy audits. DCA officials explained that once a local service provider meets performance measures detailed in the DCA contract, DCA will award the providers a final contract to weatherize homes. DCA officials said they expect to award these final contracts by early September 2009.²³

Of the \$4.2 million obligated, \$498,750 is provided for training home inspectors. To meet increased production goals—weatherizing an additional 19,090 homes over the next 3 years—the number of inspectors employed by local service providers could significantly increase from 39 to more than 100, according to DCA officials. To address the need for training, DCA awarded a contract to the University of Central Florida Solar Energy Center to develop and provide weatherization inspector training.

Florida Is Implementing Training and Internal Controls to Help Ensure Quality and Oversight of Recovery Act Spending

DCA officials said they plan to increase oversight and monitoring of Recovery Act weatherization funds by increasing DCA staff and by performing more audits of local service providers. They plan to award contracts for field inspectors, fiscal monitors, and monitoring and technical assistance for compliance with Davis-Bacon Act requirements. Local service providers that administer the weatherization program have inspectors who perform home inspections to determine needed weatherization services and afterward, to determine if work is completed. DCA awarded a contract to the University of Central Florida Solar Energy Center to provide 1 week of training and field testing for up to 150 inspectors and new hires that will include an introduction to weatherization, health and safety issues, building diagnostics and guidance on weatherizing homes. A DCA official told us that as of August 24, 2009, two training sessions had been held at the Solar Energy Center with 34 attendees, including at least one home inspector from each of the 28 local service providers awarded contracts by DCA. According to DCA officials,

²³ According to DCA officials, as of August 17, 2009, DCA had delivered the contracts to the local service providers. At least three of the local service providers had met the benchmarks in their capacity contracts. As of September 4, 2009, DCA had obligated funds for one of the three local service providers, which can begin weatherizing homes.

two additional sessions have been scheduled to begin late August and early September.

To add an extra layer of home inspection over and above what is done by local service providers and to conduct compliance monitoring of these providers, a DCA official said the agency will hire contractors. DCA's goal is to have contractor-provided field inspectors in place in all 67 Florida counties. These contractors will ensure that at least 50 percent of the weatherized homes funded by the Recovery Act are inspected by DCA. DOE guidelines require DCA to inspect at least 5 percent of all weatherized homes. For this statewide inspection program, DCA issued a request for proposals on July 13, 2009. Proposals were due to DCA by August 7, 2009, and the anticipated award date is September 11, 2009. In addition to conducting field inspections, these contractors are to review 100 percent of local service providers' files to ensure they contain the correct documentary support for each home weatherization project, including such paperwork as invoices, building permits, and resident income verification. Monitoring of contractors will be done by in-house DCA staff, which DCA plans to hire. In addition to the contractor-led inspections, DCA staff will inspect other homes to achieve its goal of having 60 percent of the homes weatherized with Recovery Act funds inspected, according to a DCA official.

Lastly, DCA plans to issue requests for proposals for contractors who will provide local service providers with

- fiscal monitoring and technical assistance on implementing program procedures, establishing and maintaining files, developing internal controls and accounting protocols, correcting problems reported by the Inspector General and independent auditors;
- oversight, training, and technical assistance on the Davis-Bacon Act wage and reporting requirements; and
- procurement training because procurement for services and goods is done locally, not statewide.

Prior to the Recovery Act, most local service providers in Florida did not receive enough federal weatherization funding to be subject to the Single Audit Act / A-133 requirements: each provider would have had to expend at least \$500,000 in federal funding. With the allocation of additional weatherization funding through the Recovery Act, all local service providers in Florida will meet the funding threshold and be subject to single audit. The DCA Inspector General told us her office has allocated 600 hours to auditing Recovery Act weatherization projects during the

2009-2010 state fiscal year. According to the Inspector General, a risk assessment was used to develop the audit plan, which includes evaluating internal processes and implementation of Recovery Act guidelines for accountability and transparency. The Inspector General said these audits will cover the DCA program office, DCA statewide contractors, and local service providers. The Inspector General plans to enter into a contract with an individual who will work full time on Recovery Act Weatherization Assistance Program audits and reallocate another existing employee's work half time to the audits.

In June 2009, the Inspector General issued a weatherization program audit report that identified internal control weaknesses. Although the report did not focus on Recovery Act funds, the Inspector General told us the findings are still applicable. For example, one of the three local service providers reviewed could not provide complete and accurate supporting documentation for incurred expenses reimbursed by DCA, and submitted final status reports prior to completion of work. The Inspector General said DCA's plan to use a contractor to implement a statewide inspection plan for Recovery Act weatherization projects should correct this control weakness. DCA considers its principal risk for Recovery Act spending to be poor quality work. The risk is mitigated by the fact that 28 of the 29 local service providers have previous experience managing weatherization of homes—some for as many as 30 years.

Recovery Act Funds for Weatherization have Created Jobs in Florida, but State Officials Still Have Questions about Reporting Requirements and Compliance with the Davis-Bacon Act

DCA has started collecting performance measurement data on the number of jobs created and retained with Recovery Act funds for weatherization. DCA officials told us that as of August 27, 2009, 109 jobs have been created or retained in Florida as a result of the Recovery Act weatherization funds.

DCA will also measure energy savings, and plans to track kilowatts used before and after weatherization, primarily with information from utility companies. DCA officials said they are using kilowatts used versus dollars saved because the cost of a unit of energy can vary over time and location. DCA officials said measuring actual kilowatts saved will be more accurate than DOE's methodology for calculating energy savings, which looks at total cost savings from all the energy efficiency improvements that could be made to a home versus the actual changes made to the home.

DCA officials stated that they will be reporting the results of expenditures of Recovery Act Weatherization Assistance Program funds to both DOE and OMB as required. DCA is responsible for reporting on performance measures to DOE, including jobs created and retained, documentation to

support compliance with the Davis-Bacon Act, number of homes weatherized, and energy savings achieved. Currently, DCA reports quarterly to DOE on the non-Recovery Act-funded Weatherization Assistance Program. DCA officials stated that they are still waiting for final DOE guidance, but anticipated that Recovery Act reporting will be monthly. DCA will also report as required by OMB on jobs created and retained.²⁴ DCA officials said they will enter the information in the state's new automated Web-based Recovery Act reporting system. Currently, this new reporting system is being populated and tested.

To meet DOE and OMB reporting requirements, DCA plans to collect performance measurement data from local service providers using its Web-based eGrants system, an existing grant administration tool. DCA program staff will monitor the system to ensure local service providers report by the 15th of each month. In addition, DCA plans to validate data submitted before reporting it to the DOE and the state Web-based Recovery Act reporting system by using planned statewide contracts for financial monitoring and field inspections. These contractors will validate data submitted to DCA on information such as number of jobs created and retained, number of homes weatherized, and number of individuals served by the units weatherized (e.g., size of family), according to DCA officials.²⁵ The DCA Inspector General will also be responsible for validating job data submitted by DCA to the state's Recovery Act Web-based reporting system.

DCA officials expressed concerns about the application of the Davis-Bacon Act to Recovery Act weatherization projects, which was not applicable to non-Recovery Act weatherization projects.²⁶ They have questions about increased documentation that local service providers may need to collect to support the certified payroll and prevailing wages and benefits information required by Labor. According to DCA officials, many

²⁴According to state officials, in the state of Florida as defined by OMB, DCA is considered the prime recipient and the local service providers and statewide contractors are considered the subrecipients of Recovery Act weatherization funds.

²⁵According to DCA officials, they will obtain information directly from the utility companies on the energy savings for homes weatherized with Recovery Act funds.

²⁶The Recovery Act requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wages as determined under the Davis-Bacon Act. Recovery Act, div. A, title XVI, §1606. Under the Davis-Bacon Act, Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3142-3148.

Florida contractors, particularly smaller firms, have shared concerns about the documentation and administrative tasks they must perform to be in compliance. Officials told us that the DCA contracts awarded to local service providers will stipulate that all laborers and mechanics employed by contractors and subcontractors for Recovery Act-funded weatherization work be paid not less than the prevailing wage for their skill set based on the county where the project is located and as listed on Labor's Web site.²⁷ DCA officials said current prevailing wages for construction workers in Florida are significantly above minimum wage, and they believe the results of the new Labor weatherization wage and benefit survey for weatherization construction workers will mirror those rates. On September 2, 2009, Labor published the new wage and benefit survey results for weatherization workers in Florida. The wages averaged about \$14 to \$15 per hour, while the state's hourly minimum wage rate is \$7.25. DCA officials received but did not complete the Labor survey on wages because the survey was for local service providers to complete. DCA officials also said they do not have information on which organizations or businesses in the state of Florida were surveyed other than their local service providers. As of August 28, 2009, 13 of the 28 local service providers had provided DCA with a copy of the completed survey they returned to Labor.

DCA has not issued guidance to local service providers on final Recovery Act reporting requirements because officials said they are waiting for final guidance from DOE and OMB. The DCA officials said final contracts awarded to local service providers for actual weatherization of homes will include a provision stating that the contracts are subject to change in reporting requirements for Davis-Bacon as guidance is received from OMB and DOE. A local service provider we interviewed stated that DCA has made them aware that final reporting requirements, including those related to the Davis-Bacon Act, are subject to change until guidance is finalized by OMB and DOE.

²⁷www.dol.gov/esa/whd/recovery/dbsurvey/weather.htm.

While Some Progress Has Been Made in Awarding Statewide Highway Contracts, Few Local Contracts Have Been Awarded; Yet, State Officials Said Monitoring and Reporting Processes Are in Place

The Recovery Act provides funding to states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned \$1.35 billion in Recovery Act funds to Florida. As of September 1, 2009, the federal government has obligated²⁸ \$1 billion and \$196,000 has been reimbursed²⁹ by the FHWA. The state, in turn, allocated \$902 million—67 percent—to statewide projects; and \$404 million³⁰—30 percent—was suballocated to local agencies, which includes, but is not limited to, a county, an incorporated municipality, or a metropolitan planning organization (MPO) based on population,³¹ and the remaining \$40 million—3 percent—to local highway enhancement projects, such as sidewalk construction. According to the Florida

²⁸For the Highway Infrastructure Investment Program, the U.S. DOT has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

²⁹States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

³⁰Of the \$404 million allocated to local agencies, the federal government has obligated \$270 million and \$81,400 has been reimbursed by the FHWA.

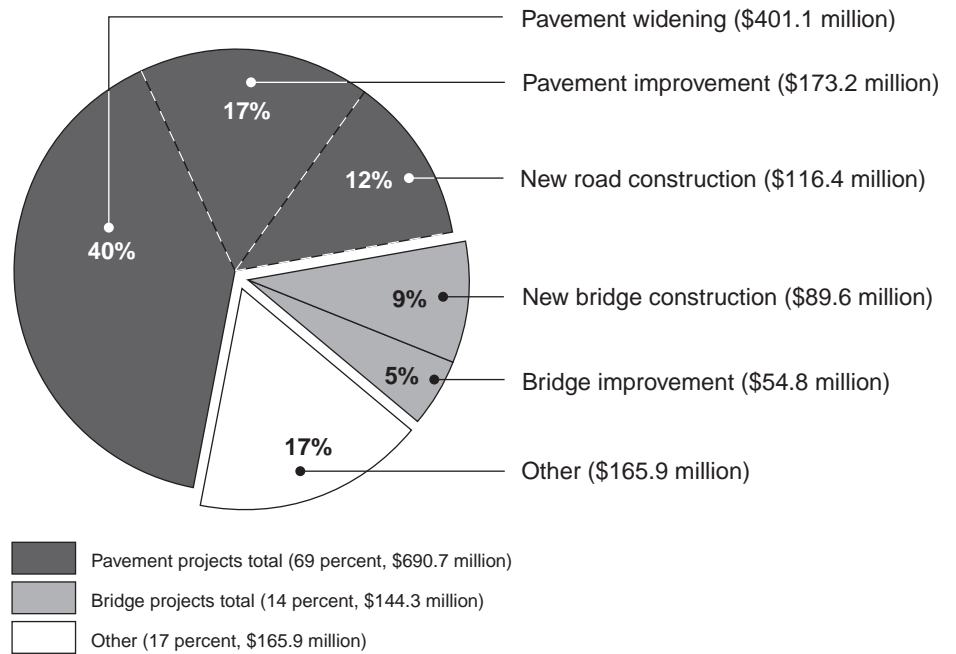
³¹MPOs, federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation, are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities.

Department of Transportation (FDOT), FHWA has approved 519 Recovery Act-funded projects proposed by Florida, and as of August 28, 2009, 25 of 45 statewide highway construction contracts with a total value of \$726 million had been awarded.³² In addition, as of September 1, 2009, 5 out of 395 local projects have been awarded contracts with a total value of \$1 million.

Almost 40 percent of Recovery Act highway obligations for Florida have been for pavement widening projects. Specifically, \$401 million of the \$1 billion obligated for Florida as of September 1, 2009, is being used for highway widening projects that will add capacity to existing highways and interstates. Figure 1 shows obligations by the types of road and bridge improvements being made.

³²The state dedicated over 67 percent or \$902 million of its \$1.35 billion in apportioned Recovery Act funds to these projects.

Figure 1: Highway Obligations for Florida by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Florida's Focus on Capacity May Explain Rate of Progress in Awarding Contracts

In an August 6, 2009, letter to the Governor of Florida, the Chairman of the U.S. House of Representative's Committee on Transportation and Infrastructure expressed concern about Florida's progress in spending the transportation funding provided by the Recovery Act for transportation projects. In their joint response to the Chairman, the FDOT Secretary and Special Advisor to the Governor noted that Florida selected projects with the greatest economic impact, such as increasing road capacity, as a way to explain the pace of obligations. (Even though Florida was among the last to begin seeking obligation of Recovery Act transportation funds, it was one of the first states to meet the act's requirement to obligate 50 percent of the apportioned funds before the June 30, 2009 deadline.) In addition, state officials said because most of the statewide projects are large in scale and involve federal-aid roadways, they face more federal requirements relating to environmental issues and acquisition of rights of way and thus require more time before bids can be requested and contracts can be awarded. For example, they noted that many other states

are using Recovery Act money to resurface roads—less complicated projects to initiate. In Florida, officials said design drawings and environmental impact studies may need updating before a detailed scope of work can be prepared for requests for proposals (RFP), thus delaying the bid advertisement process. In addition, new construction requires more preparation onsite. For example, in Nassau County, Florida, a projected \$26 million Recovery Act project will add two lanes to provide four 12-foot-wide travel lanes to State Road 200, a primary commuter and hurricane evacuation route. However, starting the project will require phased construction including temporary pavement and median construction for business and residential access. In Okaloosa County, Florida, state officials said utility companies must relocate utility and gas lines and crews must remove trees from rights of way before construction can begin on a projected \$25 million project to widen sections of State Roads 85 and 123. FDOT officials said that even though many of these major projects are ongoing, they required the funding provided by the Recovery Act to proceed with the next phase in design, RFPs, and on-site preparation.

While large-scale, statewide projects require more time, FDOT officials said the state had little need to invest Recovery Act funds in more quickly bid paving or bridge projects because Florida's roads were in good condition. According to the officials, 2 percent of highways eligible for federal-aid were reported in poor condition and less than 1 percent of bridges were categorized as in need of critical repairs. State officials said Recovery Act money is better invested in increasing road capacity and improving traffic flow. For example, the \$26 million Recovery Act funded construction project in Nassau County between Callahan and Fernandina Beach should provide about 6 miles of four travel lanes, 4-foot wide bicycle lanes, and a 5-foot-wide sidewalk on each side of the road in the urban section. The improvements will facilitate hurricane evacuation and provide an alternative route for tourists and truck traffic traveling between Interstates 10 and 95, officials said, as well as a connector between east and west Nassau County.

Officials said that at the local level, many of the contracts have not been awarded because localities were given more time to bid the projects. Under the act, states are required to ensure that all apportioned funds—including suballocated funds—are obligated within 1 year. Fifty percent of the funds apportioned to the state had to be obligated within 120 days of the apportionment (i.e., before June 30, 2009). However, unlike the states' funds, the funds that were suballocated to local agencies were not required to meet the 120-day rule. As a result, the local agencies were

given more time to obtain approval of grant agreements, advertise bids, and award contracts. FDOT officials said their local agency program administrators are working closely with local agencies to provide assistance in bid advertisement and contract award processes. However, state officials emphasized that the local agencies are responsible for advertising and awarding contracts for the projects.

State Officials Consider Current Processes and Procedures Adequate for Highway Contract Solicitation and Management

FDOT is a decentralized state agency, and many of its contract-monitoring functions are performed by its seven district offices and Florida's Turnpike Enterprise.³³ To obtain an understanding of Florida's highway contracting procedures and processes, we selected two statewide contracts that were awarded as of July 20, 2009, to review—a \$25 million contract managed by the Chipley FDOT District Office in Washington County and a \$26 million contract managed by the Lake City FDOT District Office in Columbia County. According to FDOT officials, controls and oversight of the two projects included ensuring that

- contractors who submitted bids met prequalification requirements, which included assessment of contractor's ability, prior work history, financial capability, and record checks for debarment and suspension,
- contracts were awarded on a fixed-price and competitive basis,
- contract requirements were linked to Recovery Act objectives, and
- trained personnel were in place when the contracts were awarded.

According to state officials, Florida requires all contractors to meet specific qualifications before bidding on state construction projects costing in excess of \$250,000. Officials explained that the prequalification process saves time during bid reviews by establishing contractor competency and adequate financial resources to perform the work while awaiting reimbursement from the FDOT. State officials said Florida advertised both projects for 60 days and received nine bids total; both contracts were awarded at 50 percent less than estimated project bid amounts. In addition, in both instances, the contracts were awarded to the lowest responsive bid. Lastly, both contracts contained specific provisions for contractor compliance with Recovery Act reporting requirements.

³³FDOT District Offices and the Florida Turnpike Enterprise are located in Bartow (Polk County), Lake City (Columbia County), Chipley (Washington County), Fort Lauderdale (Broward County), Deland (Volusia County), Miami (Miami-Dade), Tampa (Hillsborough County), and Ocoee (Orange County), Florida.

FDOT Districts Use Consultants to Assist with Project Monitoring

While district offices typically have responsibility for managing highway construction projects from start to completion, FDOT officials said private consultants are used to assist. Chipley and Lake City district offices have contracted with private consultants and other companies to assist in overseeing the Recovery Act-funded projects reviewed here. According to FDOT officials, consultants will perform about 80 percent of daily project management duties for the two district offices. Consultants will provide routine monitoring and inspection of the highway projects to ensure compliance with the state's quality standards and with specific performance requirements in the construction contract. Within the district offices, project managers will perform daily reviews of the work of the consultants to ensure that they are also in compliance with the terms of its contracts and conducting adequate inspections of the contractors' work. For example, according to state officials in the Lake City District Office, project managers should spend about 20 percent of their time providing oversight of the consultants, and the office has adequate resources to manage this workload.

FDOT Developed Automated System to Report Data on Jobs Created

In addition to other reporting requirements, the Recovery Act requires states to report on the number of direct jobs created or sustained, indirect jobs (to the extent possible), and total increase in employment since the act. The FDOT Office of Inspector General is responsible for ensuring compliance with the act's reporting requirements, and has developed an automated system—which was placed into operation on May 29, 2009—that captures and reports by contract the total number of employees, hours worked, and contractor's payroll amounts. For the months of June and July, the FDOT reported to FHWA that a total of 155 jobs were created as a direct result of Recovery Act-funded highway projects. FDOT officials stated FHWA will report data on the number of indirect jobs that were created. FDOT officials said they will also enter the information in the state's new automated Web-based Recovery Act reporting system.

Inspectors General Continue to Take Steps to Provide Oversight of Recovery Act Funds

Florida's Inspectors General reported taking a number of actions to provide oversight of Recovery Act funds. These included (1) providing fraud training; (2) reviewing reporting requirements, providing briefings, and monitoring agencies' progress toward implementation; (3) developing or modifying databases for reporting and planning to ensure data quality; (4) reviewing whether respective agencies had appropriate internal controls in place for the use of Recovery Act funds; (5) carrying out reviews of contracts and files of authorized projects; and (6) allocating staff and/or including oversight of Recovery Act funds in their work plans.

For example, as a partner in one effort, the Office of the Chief Inspector General helped train 459 government auditors, investigators, Inspectors General, and procurement employees on detecting fraud as of September 9, 2009. The Florida Department of Law Enforcement (FDLE) reviewed all Recovery Act reporting requirements and helped modify the agency's data system to capture required Recovery Act data. FDLE also assigned an auditor to provide independent oversight and monitoring of Recovery Act funding and added this oversight to its work plan. At the Agency for Workforce Innovation, the Inspector General initiated an internal audit of Recovery Act monitoring by the agency's program areas. And last, the Office of the Inspector General at the Florida Department of Transportation conducted a post-authorization file review of Recovery Act funded transportation projects in a number of the state's transportation districts.

Florida Has Efforts Under Way to Meet Recovery Act Reporting Requirements

The Florida Office of Economic Recovery has provided agencies with guidance on reporting requirements. It has done this through a series of conference calls and a memo released in early September, which outlines the basic requirements, plans, and time lines for agencies to meet the requirements of the Recovery Act. According to the head of the office, the recovery czar, Florida is waiting to finalize its guidance because officials want to make certain they fully understand the federal approach, which they believe has been shifting. State staff have broadly participated in the OMB Webinars.³⁴

Agencies receiving Recovery Act funds will compile the information required for Recovery Act reporting. Florida is developing a reporting system which will gather this information and upload it to the federal system. Each agency will have the option to delegate data entry to subrecipients or to enter Recovery Act information for them. Subrecipients will be required to use the state system for funds where the recipient is a state agency. Entities that are not state agencies but are recipients of Recovery Act funds directly from a federal agency will not report to the state system but directly to the federal system. According to the Recovery Czar, the state has begun gathering identifying information such as award numbers and loading it into the database that will comprise the initial data load of the state reporting system. The Recovery Czar said

³⁴Seven Webinars in total covered such topics as how to calculate and report job creation estimates and reporting from the perspective of the subrecipient.

his office has identified all 15 state agencies which are Recovery Act recipients subject to reporting requirements; loaded subrecipient information for 12 of the 15; and will be loading the others in the near future.

Officials have developed a draft data quality protocol and plan to have staff review the information in the state reporting system. At the agency level, the protocols require agencies to clearly communicate reporting requirements to subrecipients, including the data elements and the mechanics of the reporting process, and to have a process for verifying the information submitted, among other things. The draft protocols suggest that at the state level there will be reviews of summary level reports to look for outliers as well as evaluations of period-to-period changes. These would be coupled with procedures to identify and/or eliminate potential double counting due to delegation of reporting responsibility to subrecipients. According to the Recovery Czar, these protocols have not been finalized and will likely change when tested against the realities of data reporting.

To prepare for recipient reporting, the Recovery Czar said his office has performed an initial pilot by having three agencies provide the data to populate the state database. Dry runs and submission of test data to OMB are planned once they have the capability of receiving it. Staff have developed large and complex systems in the past, according to the Recovery Czar, and are developing and testing a system to generate the data extract required for inputs to the federal system.

Florida state officials have a number of concerns regarding Recovery Act reporting requirements. A major concern pertains to duplicate reporting. According to Florida Office of Economic Recovery meeting summaries, some federal agencies informed their state counterpart agencies that they should report information directly to the federal agency, in addition to, or instead of the federal site for data collection. Other concerns were the amount of work required to implement the reporting requirements; the fact that OMB guidance has left many questions unanswered—for example, which identifier to use for reporting on FHWA construction projects, and the logistics of uploading data to the federal site. Based on available guidance, Florida originally understood that it would be able to upload information on all awards across all agencies in a single transfer, but learned later that data would have to be uploaded separately for each

agency.³⁵ Finally, Florida officials said they are concerned that lack of clarity on how to calculate the number of jobs retained and created—for instance, the number of hours that constitute full-time work—could lead to inconsistencies among the states and recipient entities.

State Auditor Awaiting Additional OMB Guidance for Single Audit on Recovery Act Programs

The Florida Auditor General's office is awaiting additional OMB guidance on the Single Audit process. Officials said they need clarification of the required testing of internal controls at state agencies for fiscal years 2009 and 2010 under the Recovery Act. The Single Audit, a key accountability mechanism, assists in determining whether expenditures of federal funds are in compliance with applicable laws and regulations and the effectiveness of key internal controls related to the Recovery Act.³⁶ Although OMB provided guidance to states in August 2009,³⁷ officials in the Auditor General's office said it does not appear to reflect the final expectations for testing, time frames, and reporting on internal controls related to the Recovery Act. Similarly, Florida officials said the August guidance does not yet clearly address OMB audit requirements for Recovery Act reporting. Given that Recovery Act funds are to be distributed quickly, GAO reported that effective internal controls are critical to help ensure effective and efficient use of resources, compliance with laws and regulations, and accountability, including preparing reliable financial statements and other financial reports. The Auditor General's office is awaiting the issuance of the next addendum to OMB's Circular A-133 Compliance Supplement, which is due September 30, 2009. Meanwhile, the fiscal year 2009 single audit is under way and the Auditor General's office officials said they are concerned the September guidance will contain requirements they did not anticipate in planning their work, necessitating additional work on an accelerated time frame. Without more clearly defined and complete federal guidance, the officials said they have not yet established plans for fiscal year 2010 interim testing.

³⁵ According to Florida officials, they are continuing to work with OMB and others as these issues evolve.

³⁶ In Florida, the Auditor General is appointed by Florida's legislature and serves as the state's independent auditor for the Single Audit.

³⁷ OMB, "OMB Circular A-133 Compliance Supplement- Addendum #1" (June 2009). Although it is dated June 2009, OMB did not make the guidance available until August 2009.

State Comments on This Summary

We provided the Special Advisor to Governor Charlie Crist, Florida Office of Economic Recovery, with a draft of this appendix on September 8, 2009, and he responded on September 10, 2009. The Florida official generally concurred with the information in the appendix and provided technical suggestions that were incorporated, as appropriate.

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Appendix VI: Georgia

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act) spending in Georgia.¹ The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

We reviewed three programs in Georgia funded under the Recovery Act—the Transit Capital Assistance Program, the Weatherization Assistance Program, and the Workforce Investment Act (WIA) Youth Program. We selected these programs for different reasons. The Transit Capital Assistance Program had a September 1, 2009, deadline for obligating a portion of the funds and provided an opportunity to review nonstate entities that received Recovery Act funds. Georgia received a substantial increase in Weatherization Assistance Program funds, and work got under way in late August 2009. The focus of the WIA Youth Program in Georgia was a summer employment program that was well under way. For these programs, we focused on how funds were being used; how safeguards were being implemented, including those related to the procurement of goods and services; and how results were being assessed. In addition to these three programs, we also updated information on Highway Infrastructure Investment funds because significant Recovery Act funds had been obligated. We reviewed five contracts financed with Recovery Act Highway Infrastructure Investment funds and four contracts under the WIA Youth Program. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Georgia and local entities stabilize their budgets and to stimulate infrastructure development and expand existing programs—thereby providing needed services and potential jobs. The following provides highlights of our review of these funds:

Transit Capital Assistance Program

- The U.S. Department of Transportation's Federal Transit Administration (FTA) apportioned \$141 million in Recovery Act funds to Georgia and urbanized areas located in the state. As of September 1, 2009, FTA had obligated \$120 million.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

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- As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Georgia and urbanized areas located in the state.
 - The Metropolitan Atlanta Rapid Transit Authority (MARTA), the largest transit agency in Georgia, will use the majority of its \$55.4 million to fund a fire protection system upgrade and preventive maintenance.

Weatherization Assistance Program

- The U.S. Department of Energy (DOE) allocated about \$125 million in Recovery Act weatherization funding to Georgia for a 3-year period. As of September 1, 2009, DOE had provided \$62.4 million to Georgia, and the state had obligated \$22.9 million of these funds.
- Georgia has awarded contracts to all 22 service providers that it plans to use to weatherize homes, and weatherization activities got under way in late August 2009. With the Recovery Act funds, the state expects to weatherize at least 13,000 homes.

WIA Youth Program

- The U.S. Department of Labor (Labor) allotted about \$31.4 million in WIA youth Recovery Act funds to Georgia. According to Labor, \$16 million had been expended in the state as of August 31, 2009.
- As of September 15, 2009, the local workforce boards had received more than 30,000 applications, and 10,717 youth had been enrolled in summer youth programs statewide. Georgia exceeded its target of serving 10,253 youth.
- The three workforce boards we interviewed focused on offering youth summer work experience. Work sites included government agencies, a private company that packages supplies for health-care providers, and a nonprofit organization that recycles computers.

Highway Infrastructure Investment

- The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$932 million in Recovery Act funds to Georgia for highway infrastructure and other eligible projects. As of September 1, 2009, \$546 million had been obligated, and \$10 million had been reimbursed by FHWA.
- Almost 70 percent of Recovery Act highway obligations for Georgia have been for pavement projects. Specifically, \$376 million of the \$546 million obligated as of September 1, 2009, is being used for pavement

improvement, pavement widening, and new road construction projects.

- The Georgia Department of Transportation (GDOT) is completing its second, and final, phase of Recovery Act planning. As of September 1, 2009, the state had awarded 108 contracts with a total value of \$391 million.

Georgia Made Budget Cuts in Face of Continuing Fiscal Challenges and Plans More Cuts

Georgia's fiscal condition continues to decline, as evidenced by the following:

- The state's net revenue collections for June 2009 were 15.7 percent less than they were in June 2008, representing a decrease of approximately \$255 million in total taxes and other revenue. Because the state did not meet its revenue projections for fiscal year 2009 (which ended June 30, 2009), the Governor's Office of Planning and Budget started fiscal year 2010 by withholding 5 percent of agencies' state general fund allotments and requiring employees to take 3 furlough days during the first half of the fiscal year.²
- Unemployment in Georgia continues to increase, with the state reporting a 10.3 percent unemployment rate in July 2009 compared with 6.2 percent in July 2008. The unemployment insurance benefits paid out in June 2009 were \$167 million, about \$100 million more than benefits paid in June 2008. The increase in unemployment claims has started to deplete the state's unemployment trust fund. As of November 2008, the trust fund contained \$1 billion; by August 2009, the balance had decreased to \$431 million, a 59 percent reduction.

Georgia is preparing for the cessation of Recovery Act funding by continuing to reduce state spending levels. The Governor's Office of Planning and Budget has asked each state agency to provide budget reduction plans of 4 percent, 6 percent, and 8 percent for the amended fiscal year 2010 and fiscal year 2011 budgets. The office has instructed state agencies to consider the fiscal year 2010 funding reductions as

²According to state budget officials, the only exceptions to the 5 percent budget cut were the Medicaid, PeachCare (the state's health program for children), and Education programs—which were cut by 3 percent—and the Georgia Department of Behavioral Health & Developmental Disabilities (the department that provides mental health services), which was not cut at all. Medicaid Federal Medical Assistance Percentage grant awards under the Recovery Act are discussed in detail in [GAO-09-1016](#).

permanent reductions for future years and stated that any need for additional funding should be accomplished with a redistribution of existing funds within an agency's budget. For the fiscal year 2011 budget, the state has implemented a new process requiring agencies to rate each of their programs in the following areas using a scale of one to five: whether it is a core state service, whether it is of strategic importance, the numbers of Georgians served, the relationship between funding and level of service (that is, the impact of a 10 percent cut in state funding on services), its performance relative to recognized industry standards, and the proportion of funding from state sources. The Governor's Office of Planning and Budget will use the score for each state program to help prioritize decisions.

Given its fiscal challenges, Georgia is seeking to recover administrative costs associated with overseeing Recovery Act funds. States may recoup costs for central administrative services such as oversight and reporting, as provided in the May 11, 2009, U. S. Office of Management and Budget (OMB) guidance.³ The guidance discusses two ways that states might recoup central administrative costs through State-wide Cost Allocation Plans (SWCAP), which states submit to the U.S. Department of Health and Human Services (HHS) annually. States may estimate costs for centralized services or describe their methodology for billing services. The guidance states that any estimated cost amount should not exceed 0.5 percent of the total Recovery Act funds received by the state. On July 22, 2009, Georgia officials submitted a number of questions about this guidance; for example, they asked if the allowed 0.5 percent was an aggregate cap or a limitation on individual awards and if the 0.5 percent could be captured after funds were obligated, but not expensed. On August 3, 2009, HHS provided answers to some questions and referred Georgia to OMB for responses to the rest. Georgia officials are also working through the National Association of State Auditors, Comptrollers and Treasurers to get additional guidance on recouping administrative costs.

While awaiting further guidance, Georgia has begun developing an addendum to its SWCAP for Recovery Act oversight costs.⁴ The state plans

³See OMB Memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities* (May 11, 2009).

⁴Georgia is behind on its SWCAP plans. It is currently working from its 2004 plan. The State Auditor cited the state's failure to prepare and submit a SWCAP plan as a finding in its 2008 Single Audit report.

to submit the addendum to HHS for approval at the end of September 2009. The state plans to use both alternatives for cost reimbursement by billing for certain services and estimating the costs of centralized services. The Georgia Recovery Act Accountability Officer has informed state agencies that they are to set aside 0.5 percent of their Recovery Act funds for the state's administrative costs. The state took this step prior to the approval of its SWCAP addendum to provide agencies the opportunity to plan for the possibility of such expenses. With the 0.5 percent, the state hopes to cover costs associated with additional Recovery Act audits to be conducted by the State Auditor and Inspector General; the State Accounting Office's oversight of Recovery Act reporting; maintaining Georgia's Recovery Act Web site to promote transparency; and general oversight of Recovery Act funds by the office of the Recovery Czar.⁵

More Than Half of Georgia's Transit Capital Assistance Program Funds Have Been Obligated for a Variety of Projects

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing FTA grant programs, including the Transit Capital Assistance Program.⁶ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.⁷ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing

⁵For the fiscal year 2009 Single Audit report, the State Auditor estimates its workload will increase by about 3,500 audit hours because of new internal control and program requirements associated with the Recovery Act. For this Single Audit report, the State Auditor plans to audit Recovery Act funds expended at four state agencies, including the Georgia Departments of Labor and Transportation.

⁶The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

⁷Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program's existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.⁸ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.⁹

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.¹⁰ FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure disadvantaged businesses are not discriminated against in the awarding of contracts.

Fifty percent of Recovery Act funds apportioned to urbanized areas or states are to be obligated within 180 days of apportionment (before Sept.

⁸The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

⁹The federal share under the existing formula grant program is generally 80 percent.

¹⁰Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and MPOs designated for the area. MPOs are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's transportation improvement plan and the approved State Transportation Improvement Program (STIP).

1, 2009) and the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.¹¹ In March 2009, \$141 million in Recovery Act Transit Capital Assistance Program funds were apportioned to Georgia and urbanized areas located in the state for transit projects.¹² As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Georgia and urbanized areas located in the state. For the Transit Capital Assistance Program, the U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a grant agreement. As of September 1, 2009, FTA had obligated \$120 million.

Transit Providers in Georgia Are Funding Vehicle Replacements and Preventive Maintenance

Recipients of funds from the Transit Capital Assistance Program include both GDOT and transit providers. More specifically, GDOT is the recipient of \$37.9 million for the small urban areas under 200,000 and rural areas in Georgia. It oversees seven small urban transit agencies and 90 rural transit providers. In March 2009, GDOT issued a call for projects to the small urban and rural transit providers in the state. They were asked to submit a list of projects that were (1) eligible for Recovery Act funds, (2) ready for implementation (“shovel ready”) with all planning and environmental program requirements completed, and (3) included in their region’s transportation improvement plans. In June 2009, the state selected a number of projects, including construction of a transportation facility in Albany, Georgia. To ensure that all of the Recovery Act funds are obligated, GDOT announced another call for projects on September 15, 2009.

We visited two transit providers that are Recovery Act recipients, MARTA and Gwinnett County, to discuss how they planned to use and safeguard the funds. MARTA received a \$55.4 million Transit Capital Assistance grant, while Gwinnett County received about \$9.4 million. The urbanized area intends to use the maximum 10 percent of Transit Capital Assistance Program funding apportioned to the urbanized area for operating expenses

¹¹Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

¹²The jurisdiction of some urbanized areas within this state crosses into at least one other state. Therefore, some urbanized areas are included in multiple state totals.

and the remaining grant money to fund capital projects. Table 1 describes the various capital projects that MARTA and Gwinnett County selected. MARTA officials told us they focused on projects that were a high priority and that enabled them to address safety concerns identified in a recent facility audit. According to Gwinnett County officials, they focused on existing priorities for safety and operations and projects most likely to provide local economic benefits.

Table 1: Recovery Act Projects Selected by MARTA and Gwinnett County

Project	Project description	Estimated project cost
MARTA		
Fire protection system upgrade	Comprehensive upgrade or replacement of the fire protection system at MARTA transit facilities systemwide	\$27.3 million
Preventive maintenance	Ongoing maintenance of transit vehicles, facilities, and equipment to keep them in good operating order	20 million
Bus purchase	Acquisition of 18 clean fuel-powered buses	7.6 million
Security enhancements	Upgrade and renovation of lighting in rail passenger stations to increase security, safety, and energy efficiency	555,000
Gwinnett County		
Bus overhaul	Mid-lifecycle overhaul of 28 transit buses, including complete engine overhaul and body work	3.7 million
Installation of audio-video and surveillance equipment	Technology will help to more effectively manage the fleet, increase system security and safety, and provide customers with real-time transit service information	3.3 million
Pedestrian access and walkways	Will provide safe access and enhanced ADA access by improving bus stop access; includes installing or upgrading walkway connections, shelters, and signs	1.5 million
Bus shelters	Install bus shelters at high-activity bus stops	800,000
Paratransit buses	Replacing two obsolete paratransit buses currently operating beyond the typical useful service life	161,000

Sources: MARTA and Gwinnett County Transit.

GDOT Plans to Modify Current Oversight Processes for Recovery Act Grant Funding in Response to an FTA Review; the Transit Providers We Interviewed Will Use Existing Processes

Due to a recent review that had multiple findings, GDOT's administration of Recovery Act transit grants will be closely scrutinized by FTA.¹³ FTA's final report, dated June 29, 2009, noted nine material weaknesses and four significant deficiencies, including that GDOT did not adequately monitor its subgrantees and did not have adequate entity-level controls for grants management.¹⁴ FTA delayed the obligation of Recovery Act funds to GDOT until it submitted an acceptable corrective action plan, which it did on July 29, 2009. Among other corrective actions, GDOT hired a consultant to review and revise its transit oversight process and has been seeking a transportation consultant to help improve its oversight of the state's small urban, intercity, and rural transit programs and assist with management and execution of projects, programs, and grants related to the Recovery Act. FTA accepted GDOT's corrective action plan on August 7, 2009, subject to implementation progress. FTA will continue to monitor GDOT through monthly status meetings and on-site reviews every 2 months. In addition, FTA has developed an oversight strategy to monitor how GDOT is implementing the plan through an FTA triennial review scheduled for the week of September 7, 2009, and during its follow-up financial management oversight review scheduled for 2010.¹⁵

Both MARTA and Gwinnett County intend to administer their Recovery Act funds using existing internal control procedures. FTA most recently reviewed MARTA's internal control procedures for federally funded transit projects in March 2009 as part of a financial management oversight review. As a result of advisory comments from that review, MARTA has been updating its accounting policies and procedures manual. According to Gwinnett County officials, the county will use its current, standard internal control procedures for all transit projects. According to the officials, FTA vets these internal controls through the triennial review

¹³The financial management oversight review examined the effectiveness of GDOT's internal controls as they related to compliance with FTA requirements for financial management systems.

¹⁴A material weakness is a deficiency or deficiencies in internal control that raises a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected on a timely basis. Significant deficiencies are less severe than material weaknesses, yet important enough to merit attention by those charged with governance.

¹⁵FTA's triennial review program evaluates grantee adherence to federal requirements at least once every 3 years. See GAO, *Public Transportation: FTA's Triennial Review Program Has Improved, But Assessments of Grantees' Performance Could Be Enhanced*, [GAO-09-603](#) (Washington, D.C.: June 30, 2009).

process, which was most recently completed in May 2008. The final report for the 2008 review identified deficiencies in 9 of 23 areas, including financial and technical. Gwinnett County agreed to correct all deficiencies by September 2008. All corrective actions were officially closed in October 2008.

Project Sponsors Must Meet FTA Reporting Requirements

Project sponsors must submit periodic reports, as required under the maintenance-of-effort for transportation projects section (§1201(c) of the Recovery Act) on the amount of federal funds appropriated, allocated, obligated, and outlayed; the number of projects put out to bid, awarded, or on which work has begun or been completed; project status; and the number of jobs created or retained. In addition, grantees must report detailed information on any subcontractors or subgrants awarded by the grantee. Because FTA had obligated money for Gwinnett County projects before July 31, 2009, the transit provider was required to submit its report in August 2009, which it did. The report contained information on the total amount of funds awarded, the number of contract solicitations issued related to funds under the grant, and the estimated amount of funds associated with the contract solicitations. GDOT and MARTA are not required to submit their first 1201(c) reports until February 2010.

Georgia Is Taking Steps to Get Its Weatherization Assistance Program Under Way and Safeguard Funds

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which DOE administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation, sealing leaks, and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved the weatherization plans of all but two of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE had provided to the states almost \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which

requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.¹⁶ Because the Davis-Bacon Act had not previously applied to weatherization, Labor had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor's wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage for weatherization activities. Labor then surveyed five types of "interested parties" about labor rates for weatherization work.¹⁷ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Under the Recovery Act, the Georgia Environmental Facilities Authority (GEFA), the state agency that administers the Weatherization Assistance Program, will receive approximately \$125 million. With the funding, GEFA expects to weatherize at least an additional 13,000 units over the next 2 to 3 years. DOE approved Georgia's weatherization plan on June 26, 2009, for a project period of April 1, 2009, through March 31, 2012. As of September 1, 2009, the state had received \$62.4 million (50 percent of its weatherization allocation), obligated \$22.9 million, and spent about \$9,000.

GEFA Has Awarded Contracts for Recovery Act Weatherization Projects, and Work Began in August

GEFA has awarded contracts to service providers, and weatherization work is under way. GEFA is using the same 22 service providers—comprising a combination of community action agencies, nonprofit agencies, and local governments—that currently provide weatherization services under the state's non-Recovery Act weatherization program. GEFA gave each service provider 10 percent of the service provider's total allocation to help with implementation costs such as hiring staff, renting additional space, training employees, and procuring vehicles, field equipment, and services. As of September 10, 2009, all 22 service providers had been awarded contracts. According to GEFA officials, each service

¹⁶The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

¹⁷The five types of "interested parties" are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

provider received an advance of 25 percent of its total allocation upon contract award. Each of the providers will be responsible for hiring subcontractors to conduct weatherization work, which began in late August 2009.

As part of its implementation strategy, GEFA plans to contract with a vendor to provide training to its service providers. The training will include a combination of field training and training at the vendor's facilities in Atlanta. The vendor will provide classes, a circuit rider (a trainer that will spend 1 to 2 days in the field answering questions and providing on-site assistance), a Web site, and technical assistance. These classes began in early September 2009. The vendor is hoping to train all new crew members 30 to 120 days after they begin working for a service provider.

Despite Uncertainty about Davis-Bacon Act Requirements, Weatherization Work Will Proceed as Planned

Although weatherization work is under way, service providers expressed concerns about wage rate determinations and other Davis-Bacon Act requirements. Officials at weatherization agencies across the state received a survey from Labor in July 2009, which was used to determine the Davis-Bacon Act prevailing wage for weatherization workers. Labor set the wage rates in Georgia on August 29, 2009. Consistent with guidance from DOE and Labor, GEFA did not withhold funding to the service providers while the prevailing wage was being set.

However, at the preaward kick-off meeting that GEFA held on August 5 and 6, 2009 (which we attended), the service providers expressed confusion about the Davis-Bacon Act requirements and how they would apply to the weatherization program. Specifically, the service providers were concerned about the requirements for a weekly payroll and were confused as to which employees would fall under the act's guidelines. Some of the service providers discussed signing contracts for each individual house to limit the contract amount to below the Davis-Bacon Act threshold of \$2,000.

As part of its monitoring efforts, GEFA is requiring each service provider to submit reports on compliance with Davis-Bacon Act requirements (as discussed below in more detail). GEFA is hiring a fiscal monitor who will be responsible for gauging the subrecipients' and vendors' compliance with the Davis-Bacon Act, along with other provisions of the Recovery Act.

State Officials Established Risk-Assessment, Fiscal, and Performance Monitoring Processes for Service Providers Receiving Weatherization Funds

GEFA has taken a number of steps to monitor the use of Recovery Act weatherization funds. First, the agency completed a risk assessment of its service providers that involved assessing the level of performance at each provider and rating their performance as high, standard, or at risk. In addition, GEFA examined the providers' internal controls, audited financial statements, and previous history with federal awards. Second, GEFA has established financial reporting requirements. Each of the service providers must submit a monthly financial report that includes all reimbursable expenses for production completed during the previous month, such as administrative costs, labor, and materials. Each of the providers also must provide a regular invoice that tracks expenses to date and the contract balance. GEFA is planning to implement an online tool to collect these invoices by the first quarter of 2010. According to GEFA officials, the online system will make it easier for them to identify potential "red flags" and track the progress of the providers. As noted above, GEFA will hire a fiscal monitor to review the financial records of the subrecipients and vendors for accuracy.

Third, GEFA plans to contract with a vendor to monitor whether the service providers are in compliance with all applicable DOE regulations and other requirements, including the policies and procedures in the Georgia Weatherization Assistance Program's operations manual. For purposes of monitoring, the state is being divided into 12 territories. Each territory will house a weatherization educator and a weatherization inspector. The weatherization educator will review file documentation, report problems, and work with the service provider to prevent errors in future reporting by providing educational opportunities to the service provider's staff and contractors. The educator also will provide information to the homeowner about the need for weatherization, its benefits, and the procedures that will occur during the process. This homeowner education component is new for Georgia's Recovery Act weatherization program. Monthly, the weatherization inspector will randomly select at least 10 percent of the homes in each county to evaluate the service providers' work.

Fourth, GEFA has developed a process intended to replace ineffective weatherization providers. GEFA plans to replace any service provider that does not meet its contractual obligations—for example, by failing to maintain adequate fiscal controls and accounting procedures, filing late or inaccurate financial and programmatic reports, misusing program funds, failing to adhere to the schedule for goals and objectives, or not providing quality weatherization. GEFA's service provider contract included language describing the terms for terminating the contract. GEFA plans to

issue a request for information to identify potential replacement providers and has developed a policy for selecting replacements. The policy states that GEFA will consider the potential provider's (1) experience and performance in weatherization or housing renovation activities; (2) experience in assisting low-income persons in the area to be served; and (3) capacity to undertake a timely and effective weatherization program.

State Has Plans to Assess the Impact of Recovery Act Weatherization Funds

GEFA plans to use a number of performance measures to determine the impact of Recovery Act weatherization funds. In addition to measuring home energy savings after weatherization based on DOE's methodology, it plans to track the number of units weatherized, the number of people assisted, and the number of jobs created and retained. The service providers are responsible for reporting this data to GEFA in monthly reports. Specifically, the service providers will provide information including the types of housing units served, information on the clients, and the estimated energy savings. Additionally, the service providers have to provide regular reports separate from the monthly financial and production reports to GEFA that are intended to track the impact of the funds. The reports must include jobs created and retained by state and local contractors, hours trained, and equipment purchases exceeding \$5,000.

Georgia Used Recovery Act Funds to Expand Summer Youth Services, but Implementation Methods Varied across the State

The Recovery Act provides an additional \$1.2 billion in funds for the WIA Youth Program, including summer employment. Administered by Labor, the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,¹⁸ the conferees stated they were particularly interested

¹⁸H.R. Rep. No. 111-16, at 448 (2009).

in states using these funds to create summer employment opportunities for youth. While the WIA Youth Program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.¹⁹ Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job; (2) learn work readiness skills on the job; and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.²⁰ Labor’s guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor’s guidance. Each state’s plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth Program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor’s guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the

¹⁹U.S. Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

²⁰Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

Labor allotted about \$31.4 million to Georgia in WIA Youth Recovery Act funds. The Georgia Department of Labor (GDOL), which is the state's administering agency, allocated \$26.7 million of these funds to local workforce boards. According to Labor, \$16 million had been expended in the state as of August 31, 2009. GDOL encouraged local areas to spend their funding quickly, but wisely and in accordance with the rules and regulations governing the funds. The local workforce boards we interviewed—the Atlanta Regional Workforce Board, Coastal Workforce Services, and the Richmond/Burke Job Training Authority—had a goal of spending the majority of their funds by September 30, 2009.²¹

Local Workforce Areas Largely Met the Georgia Department of Labor's Participant Targets

As of September 15, 2009, the state had served 10,717 youth through its Recovery Act funded summer youth program, exceeding its target of 10,253 youth. The state set enrollment targets for each of the state's 20 workforce boards. The state developed these targets by dividing the allocation amount for each workforce board by \$2,600, which was the amount that the state estimated would be required to serve one youth. As shown in table 2, 11 of the workforce boards have exceeded their targets, while 9 are still below their targeted levels of enrollment. For example, the Macon/Bibb workforce board adopted a policy that limited participants' work hours to 20 hours per week, which allowed it to increase the number of youth served. State officials explained that boards below their targets may be slow in entering data into the state's tracking system. However, in some cases, other circumstances have delayed enrollment. For example, the Southwest Georgia workforce board began the second phase of the program focusing on older youth in August 2009.

²¹We visited the Atlanta Regional Workforce Board and Coastal Workforce Services and interviewed officials at the Richmond/Burke Job Training Authority. We also interviewed five service providers and one contractor who provided payroll and workers' compensation services. In addition, we visited four work sites. We selected these local areas based on the amount of WIA youth funds they received and geographic distribution.

Table 2: Projected and Enrolled Youth by Workforce Area, as of September 15, 2009

Local area	Projected number of youth to be served	Number of applications received	Number of youth enrolled	Percentage of target enrolled
Macon/Bibb ^a	244	1,176	554	227
Atlanta Regional	1,184	1,784	1,637	138
Coastal	535	4,739	722	135
Lower Chattahoochee	355	1,800	464	131
Northeast Georgia	610	3,020	785	129
East Central Georgia	324	600	409	126
Fulton	252	400	289	115
South Georgia	331	512	368	111
Heart of Georgia	607	2,477	636	105
Atlanta	1,055	3,000	1,098	104
Cobb Works	445	1,484	447	100
DeKalb	895	1,200	836	93
Southeast Georgia	168	509	153	91
Northwest	820	1,301	741	90
Richmond/Burke	394	1,320	352	89
Middle Georgia	298	967	232	78
Georgia Mountains ^b	264	536	181	69
Southwest Georgia ^c	704	1,700	404	57
West Central Georgia ^p	578	1,458	316	55
Middle Flint ^b	190	339	93	49
Total	10,253	30,322	10,717	105

Source: Georgia Department of Labor.

^aThe Macon/Bibb workforce board adopted a policy that limited the participants' work hours to 20 hours per week, which allowed the board to serve more youth.

^bThis workforce board is taking advantage of a waiver from Labor to serve older youth through March 2010.

^cThe Southwest Georgia workforce board began a second phase of the program focusing on older youth in August 2009.

Implementation Approaches Varied across Georgia's Local Workforce Areas

The local workforce boards implemented their WIA summer youth programs in a variety of ways across the state. As shown in table 3, the local entities we interviewed differed in the length of their programs, wages paid, and whether they operated the program in-house or contracted with service providers.

Table 3: Overview of Selected Local Workforce Boards

	Atlanta Regional	Coastal	Richmond/Burke
Number of counties served	7	9	2
Program implementation	Contracted with service providers (Nine previous providers and one new provider for payroll)	Contracted with service providers (Three previous providers)	Managed in-house by the workforce board
Program design	Focused on work experience	Focused on work experience	Focused on work experience with academic portion for younger youth
Length of program	4 to 8 weeks, depending on service provider	120 hours per youth	30 hours per week for 7 weeks
Length of work readiness training and incentives paid	6 to 20 hours Unpaid to \$175	3 to 5 days \$75 to \$150	1 week Unpaid
Identifying youth and determining eligibility	Determined by service providers	Board centrally identified youth and provided a prescreened list to service providers, who were responsible for determining final eligibility	Conducted in-house by workforce board staff
Identifying work sites	Service providers and workforce board identified and recruited	Service providers identified and recruited	Workforce board identified and recruited
Wage range	Minimum wage to \$14	Minimum wage to \$7.55	Minimum wage

Source: GAO.

Recruiting Work Sites

Of the three workforce boards we interviewed, two stated they did not have trouble recruiting work sites. These two areas relied on their service providers to identify various work sites for the youth. For example, one of the service providers for the Atlanta Regional Workforce Board contacted local Chambers of Commerce, business associations, and faith-based agencies and advertised in local newspapers. One service provider for Coastal Workforce Services was affiliated with the city of Savannah and worked to develop work sites within other city departments, such as storm water management services and economic development. While neither board had problems recruiting work sites, their service providers reported some difficulty placing youth 14 to 15 years old. The other area, Richmond/Burke Job Training Authority, had challenges recruiting private companies as work sites. The board overcame the challenge of placing younger youth by adding an academic portion to the younger youth’s summer program. The board developed a classroom learning experience for youth 14 to 15 years old that focused on skills such as searching and applying for colleges and jobs. Youth enrolled in the program spent 12 hours a week in the classroom and 18 hours a week with an employer.

The boards we interviewed took a number of different steps to ensure that their work sites were safe. The Atlanta Regional Workforce Board contracted with a vendor to provide workers' compensation insurance. Prior to providing the insurance, the vendor assessed the safety of each work site. The other two workforce boards (or their service providers) used a risk-based approach to determine which work sites to visit. All three local workforce boards assessed the safety of the work sites either through monitoring visits or work site agreements validating the safety of the site.

All three boards we interviewed designed their summer youth programs to focus on work experience, rather than academic training. The service providers we interviewed used different processes to match youth with work sites. Some service providers held job fairs or had youth interview at the various sites, while other service providers placed youth at work sites based on their interests and only involved the work sites in the process upon request. The Richmond/Burke Job Training Authority determined the youth's interest and then had the youth contact the work site to schedule an interview.

The three boards we interviewed offered a variety of work opportunities. More specifically, we found the following examples:

- About 100 youth participated in a summer learning program offered by a service provider. Youth at this site received training and work experience in the areas of drama, video production, and other visual arts. These youth worked with industry professionals in these areas and were expected to complete a project related to their area of study. For example, the youth in the drama program were responsible for developing and producing a play that was held at the end of the summer program. They also attended occupational workshops and participated in basic life and career skills training.
- A private company in the health-care sector employed youth in its warehouse, where the youth learned to gather the supplies that would be packaged for health-care providers.
- Some youth worked at various county or city government agencies. For example, one site was a county library, at which the youth categorized materials, among other tasks.
- A youth center utilized youth participants as summer camp counselors and administrative clerks.

GDOL provided the local areas with some guidance on how to identify green jobs, including summarizing guidance provided by Labor and listing examples of green jobs. Despite this guidance, local officials expressed confusion about the definition of a green job. Some local workforce board officials suggested that while a site might be considered a green work site, the work experience opportunity for the youth might not be a green job. For example, an organic food company was considered a green employer; however, at least one of the youth was performing clerical duties. GDOL officials noted that it was correct to classify this work experience as a green job based on guidance from Labor. In addition, officials at one service provider told us they thought it was more important to find meaningful work experiences for the youth than it was to focus on identifying and developing green jobs.

All three workforce boards we interviewed identified some green work sites but estimated they were a small portion of the total number of job opportunities. For instance, the Atlanta Regional Workforce Board worked with a local technical college to develop a 4-week water management camp for youth. This camp combined work experience and classroom activities in bioscience and environmental science to help youth develop marketable skills applicable to the water quality management industry. Coastal Workforce Services recruited a nonprofit organization that developed a computer refurbishing and recycling program for at-risk youth to learn how to refurbish computers that would have ended up in landfills (see fig. 1). The program combined work experience and classroom activities. The Richmond/Burke Job Training Authority placed some youth at the Burke County Forestry Commission, where they performed clerical and office duties.

Figure 1: Computer Recycling Program at a Nonprofit Organization



Source: GAO.

Recruiting and Determining Eligibility of Youth

Georgia did not have challenges recruiting youth. Local workforce boards across the state received more than 30,000 applications for about 10,000 slots. According to the local workforce boards we interviewed, they recruited youth through the school systems, the state's foster care agency, the juvenile justice system, one-stop career centers, and other sources. Each of the local workforce boards we interviewed developed a checklist to determine the youth's eligibility to participate in the program. Each one outlined the income eligibility requirements and barriers to employment, such as the need for additional assistance to complete an educational program or secure employment.

Youth Wages and Length of Program

Consistent with the Fair Labor Standards Act, GDOL required that youth be paid the federal minimum wage.²² However, the wage range varied across the three workforce boards we interviewed. Two workforce boards consistently paid youth at or slightly above the federal minimum wage. The other workforce board paid wages that varied from the minimum wage to \$14 an hour. Local workforce board officials explained that wages were set at \$12 or higher to match the wages of other employees at the work site with the same job description but not in the summer youth program.

²²The federal minimum wage changed from \$6.55 to \$7.25, effective July 24, 2009.

The local workforce boards we visited also served youth for varying lengths of time. Two of the local workforce boards we interviewed set a standard for the number of hours a youth could work during the summer youth program, while one did not. For example, in the Coastal region, youth could work up to 120 hours, spread over 6 weeks. Similarly, in the Richmond/Burke area, youth were required to work for 30 hours per week for 7 weeks to complete the program. However, the Atlanta Regional Workforce Board did not set a time frame. In some instances, youth worked about 8 weeks, while others worked 4 to 5 weeks.

**State and Local Areas
Have Implemented
Multiple Monitoring Tools**

The summer youth programs were monitored at the state and local level. GDOL plans to conduct a three-phase monitoring approach for the summer youth programs.²³ The first phase consisted of a preprogram assessment to determine each local workforce board's readiness to implement a summer youth program. This phase concluded on June 1, 2009. GDOL conducted informal discussions with local area workforce boards to ensure the boards were acting in accordance with the Recovery Act. The second phase included monitoring work sites and reviewing program and financial records. More specifically, GDOL staff visited a sample of work sites and randomly tested participant eligibility. These reviews are scheduled to be completed by September 30, 2009. To guide its monitoring efforts, GDOL created a monitoring tool that addressed areas such as programmatic design and oversight, transparency, file reviews, work site evaluation, and contract monitoring activities. In December 2009, GDOL plans to complete the third phase, which will focus on reporting and closing out the program.

GDOL identified a number of findings during its phase-two monitoring visits and will include corrective actions plans for the local workforce boards in the final reports, which are scheduled to be completed by October 31, 2009. More specifically, at the local workforce boards we interviewed, GDOL identified issues related to contracting, overobligation of funds, and time sheet signatures. Due to the timing of the reviews, the department was able to work with some local workforce boards to correct some findings prior to the completion of their summer youth programs. Table 4 describes some of the findings that GDOL had at each local workforce board we interviewed.

²³These monitoring efforts were in addition to the normal monitoring process, in which each local workforce board is reviewed annually.

Table 4: Georgia Department of Labor’s Findings at Local Workforce Boards We Interviewed

Workforce board	Status of finding	GDOL finding	Local workforce board’s response
Atlanta Regional Workforce Board	Preliminary	Amendments to service provider contracts did not include some of the required Recovery Act language (for example, language requiring the provider to ensure that work sites adhere to applicable federal and state wage, labor, and workers’ compensation laws).	According to Atlanta Regional Workforce Board officials, they did not receive from GDOL the contract language GDOL told them they needed to include.
	Preliminary	The board overobligated its funding and went over its enrollment target by approximately 470 youth. The issue arose because the board did not turn away any eligible youth. GDOL is working with the board to identify weaknesses in its financial and management information systems.	According to Atlanta Regional Workforce Board officials, non-Recovery Act WIA funding will be used to meet its overobligation, which means that a large portion of youth served with non-Recovery Act WIA funding will be recruited from the Recovery Act summer youth program.
Coastal Workforce Services	Preliminary	GDOL raised concerns about the meaningfulness of the board’s work readiness measure.	GDOL and board officials worked to develop a more meaningful measure.
Richmond/Burke Job Training Authority	Final	Agreements with educational service providers did not include some of the required Recovery Act language (for example, language on Recovery Act wage rate requirements).	Workforce board has 90 days to respond to the final monitoring report.
	Final	Some time sheets did not have supervisor signatures.	Workforce board has 90 days to respond to the final monitoring report.

Sources: Georgia Department of Labor and workforce board officials.

Note: GDOL sent a final monitoring report to the Richmond/Burke Job Training Authority on August 31, 2009. The results of GDOL’s monitoring visits to the Atlanta Regional Workforce Board and Coastal Workforce Services are still preliminary.

The three local workforce boards we interviewed stated they had monitoring efforts in place for the service providers and work sites. For example, the Atlanta Regional Workforce Board developed a monitoring plan for its summer youth service providers. These service providers were visited at least twice over the course of the summer and in one case five times between June 11, 2009, and July 31, 2009. These reviews consisted of desk and contract reviews, reviews of participant and work site files, and interviews with youth participants, service provider staff, and work site supervisors, among others. Coastal Workforce Services planned to review 100 percent of its work sites over the course of the program and review eligibility of all participants before paying final invoices to service providers. The Richmond/Burke Job Training Authority stated that 25 percent of the work sites would be monitored.

Work Readiness Measures Varied among Local Workforce Boards

Consistent with federal program guidance, GDOL allowed the three local areas we interviewed to determine their own work readiness performance measure. GDOL issued guidance to help local workforce boards develop the measure. According to the GDOL training provided to the workforce boards, youth have attained work readiness if they demonstrate a measurable increase in skills, including world-of-work awareness, labor market knowledge, occupational information, values clarification and personal understanding, career planning and decision making, and job search techniques.²⁴ The local workforce boards were given flexibility in defining goals and choosing an assessment tool. They record the date and the outcome of the work readiness measure in the information system the state uses to manage the WIA programs (they enter “yes” or “no” under the category “Attained Recovery Act Work Readiness Increase”). The state plans to track other outcome measures in this system, such as youth hired into unsubsidized employment.

The Atlanta Regional Workforce Board allowed its service providers to choose from one of three different measures of work readiness. The first measure would require the youth to pass a postparticipation test one level above the preparticipation test benchmark using a series of assessments that measure applied math, reading, and other skills. The second measurement would require the youth to earn Georgia WorkReady Certification, which is an assessment of skills in math, reading, and work habits. The third measure makes use of the work site supervisor’s performance evaluation as the pre-, mid-, and post-test measure, with youth passing this measurement if they were rated higher at the end of the summer than they were at the beginning. The two service providers we visited used the third measure, relying on evaluations by the supervisor. The form they used asked the supervisor to rate the youth on work performance, work behavior, and critical thinking skills, among other things. For a youth to be deemed work ready, the providers were looking for a 50 percent increase in evaluated skills.

In response to a monitoring finding, Coastal Workforce Services worked with GDOL to develop an evaluation that supervisors were asked to complete at the end of each pay period. The survey rated the youth in 10 areas, including overall performance, quality of work, and ability to solve

²⁴Local areas’ work readiness measures should include, among other things, a preassessment to identify work readiness skills at the start of the experience and a postassessment to determine attainment of goals.

problems. The board decided to use the first survey as the “pretest” measure and the last survey as the “posttest” measure. Youth were deemed to have attained work readiness if there was an increase in their rating by the end of the summer. The workforce board did not set a specific goal for improvement.

The Richmond/Burke Job Training Authority used two methods to determine if youth had attained work readiness. The first was to have youth take the same test at the beginning and end of the summer. The test covered 15 competencies such as preparing a resume, job interviewing, completing tasks effectively, and demonstrating a positive attitude. The youth would attain work readiness if they passed one competency that they previously failed. If the youth failed this measure or did not take the tests, the youth’s work readiness would be determined using supervisor evaluations. For example, the form required supervisors to rate youth as “poor,” “average,” or “exceeds” in areas such as completing tasks effectively and being punctual.

Recovery Act Funds in Georgia Continue to Be Obligated for Federal-Aid Highway Projects

The Recovery Act provides funding to states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

As we reported in July 2009, \$932 million was apportioned to Georgia in March 2009 for highway infrastructure and other eligible projects.²⁵ As of

²⁵GAO, *Recovery Act: States’ and Localities’ Current and Planned Uses of Funds While Facing Fiscal Stresses (Georgia)*, [GAO-09-830SP](#) (Washington, D.C.: July 8, 2009).

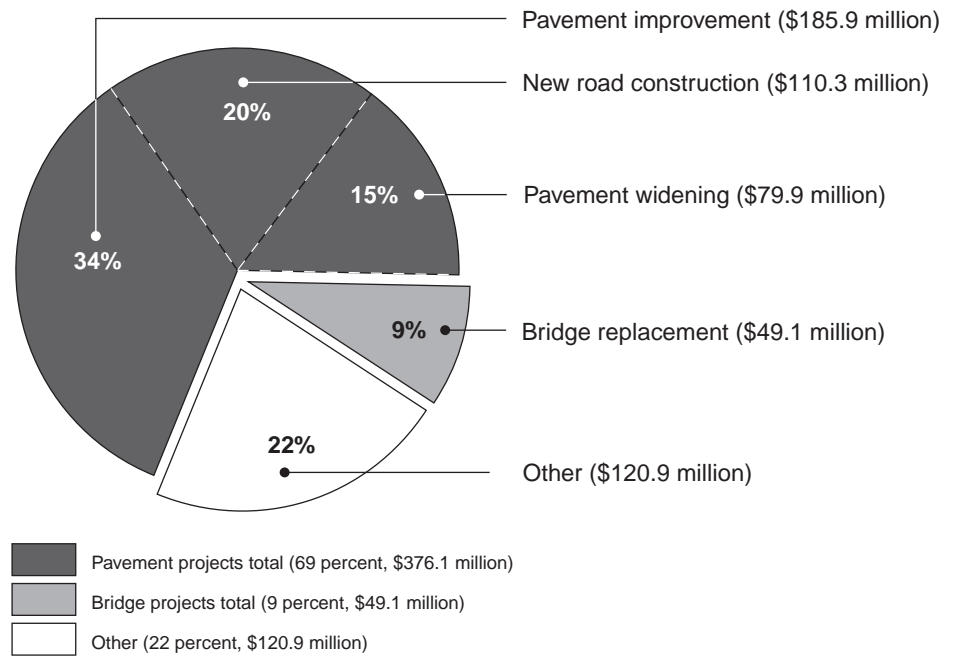
September 1, 2009, \$546 million had been obligated.²⁶ For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s contractual agreement to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. As of September 1, 2009, \$10 million had been reimbursed by FHWA.²⁷

Almost 70 percent of Recovery Act highway obligations for Georgia have been for pavement projects. Specifically, \$376 million of the \$546 million obligated as of September 1, 2009, is being used for pavement improvement, pavement widening, and new road construction projects. Another \$49 million was obligated for bridge projects. State officials told us they selected projects based on various factors, including eligibility requirements, whether the project was shovel ready, and geographic dispersion across the state. Figure 2 shows obligations by the types of road and bridge improvements being made.

²⁶This does not include obligations associated with \$25 million of apportioned funds that were transferred from FHWA to FTA for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

²⁷States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Figure 2: Highway Obligations for Georgia by Project Improvement Type, as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

GDOT is completing its second, and final, phase of Recovery Act planning. The final list of projects was approved by the State Transportation Board in August 2009. Projects selected include safety improvements, bridge repair, and interstate rehabilitation. GDOT officials noted they might add more projects if, as we discuss later, bids continue to come in as low as they have in recent months. As of September 1, 2009, the department had awarded 108 contracts with a total value of \$391 million.²⁸

We selected five highway contracts to discuss in greater depth with the relevant contracting officials—three state-administered projects in Charlton, Fulton, and Greene Counties and two locally administered

²⁸This amount represents only those contracts awarded by the Georgia Department of Transportation. Some localities within Georgia also may have awarded contracts with Recovery Act funds.

projects in Gwinnett County.²⁹ We focused on how the contracts were awarded and how they will be monitored. The three contracts GDOT awarded were for pavement improvement projects (grading, repaving, and road marking) on state road sections in three counties. The department awarded the contracts on May 29, 2009, with a projected completion date of April 30, 2010, for all three contracts. According to department officials, the contracts were awarded competitively to contractors on the state's prequalified list.³⁰ The officials stated that the successful bids were from 12 percent to 26 percent lower than the department's estimate for the work, in part because of the reduced cost of materials. As we discussed in our July 2009 report, GDOT has established internal controls intended to safeguard Recovery Act projects.³¹ Contract engineers are to perform monthly construction audits on all Recovery Act projects, and on-site inspectors will review project progress daily. In addition, GDOT's internal audit department plans to perform compliance testing on selected contracts.

Gwinnett County's two projects are intended to manage traffic more effectively through the use of surveillance equipment and remote traffic signal controls. The contracts were awarded on July 21, 2009, with a projected completion date of October 28, 2011. According to county officials, the county awarded the contracts competitively to the lowest, responsive bidders. Only contractors that are on GDOT's prequalified list could bid on the projects. County officials stated that bids came in from 30 percent to 35 percent lower than the county's original estimates. According to county officials, the projects will be overseen by an engineering firm hired to monitor and validate completed work compared with contract requirements. More specifically, the firm will provide construction engineering supervision services such as interpretation of specifications, testing and material certification, contract changes, construction documentation, and intermediate and final inspections.

²⁹We selected the state-administered highway projects based on geographic distribution and total award amounts (more than \$2 million). We selected the two Gwinnett County projects because they were described in our July 2009 report.

³⁰As stated on GDOT's subcontractor application, in order to be added to the state's prequalified contractor's list, the contractor must receive a favorable review of its application, which includes disclosure of general company information, work history, company management structure, past job performance evaluations, fixed assets, claims of damage or violations, and reference letters.

³¹[GAO-09-830SP](#).

GDOT has created an electronic application to meet FHWA reporting requirements on the use of Recovery Act funds. The data collected from subrecipients include the number of employees working on a project for the month, the number of hours worked on the project for the month, and the total payroll for the project that month. In addition to the data reported to FHWA on jobs created, GDOT tracks performance measures such as the percentage of construction projects completed within the expected completion period and percentage of state highways with pavements that meet or exceed minimum standards for the Governor's Office of Planning and Budget.

Although Reporting Will Be Decentralized, Georgia Has Been Preparing State Agencies for Recovery Act Reporting

Since our last Recovery Act report, Georgia has decided to decentralize Recovery Act reporting. Although individual state agencies will be responsible for reporting, the State Accounting Office is taking a number of steps to prepare agencies.

Georgia Has Instituted a Decentralized Reporting Approach

Since the issuance of OMB's June 22, 2009, guidance, Georgia has modified its approach to Recovery Act reporting.³² We reported in July 2009 that the State Accounting Office planned to use a Web-based system to capture information from state agencies and then centrally report the data to OMB.³³ However, on August 7, 2009, the State Accounting Office issued a memorandum instituting a decentralized approach to Recovery Act reporting. The reasons for the change in approach included the following:

- OMB's guidance clarified that "prime recipients" (that is, the state agencies) were responsible for recipient and subrecipient data, not the state.

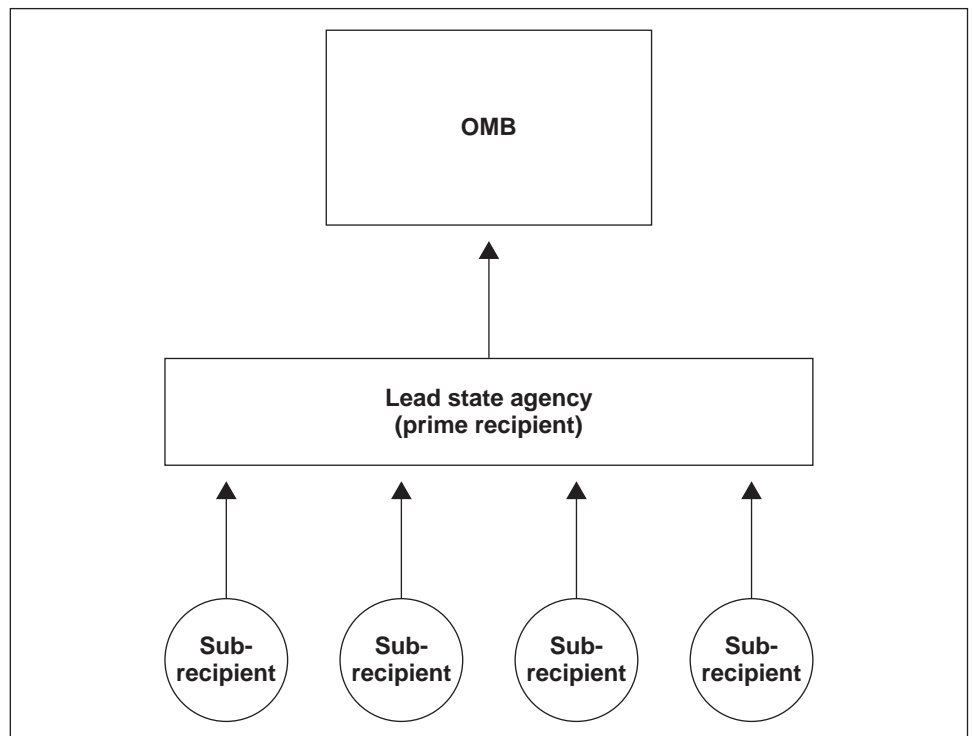
³²OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009).

³³[GAO-09-830SP](#).

- Decentralized reporting would avoid duplication of effort because several state agencies were required to report additional information to federal agencies.
- Funds needed to adequately develop a long-term centralized data warehouse had not materialized as anticipated.
- Many state agencies had requested permission to pursue a decentralized reporting approach.

Figure 3 illustrates the decentralized Recovery Act reporting approach in Georgia.

Figure 3: Decentralized Recovery Act Reporting Structure in Georgia



Source: GAO.

The August 7, 2009, memorandum from the State Accounting Office further established the roles and responsibilities of state agencies and their subrecipients. Each state agency, institution, or authority that received the initial award of Recovery Act funds is responsible for

reporting required information into OMB's Web reporting system. Agencies generally will not be allowed to delegate the reporting responsibility to subrecipients, so that the state will have better control over the accuracy, timeliness, and completeness of the reported information. Agency heads and chief financial officers will be held accountable for the accuracy, completeness, and timeliness of reporting. As a standard internal control to ensure a proper level of review, the State Accounting Office will require a certification of the data from each agency head and chief financial officer prior to submission to OMB. By signing the certification, the agency head and chief financial officer confirm that (1) the report does not contain any misleading information or untrue statement of material fact, (2) the report does not omit any required information, and (3) the agency has designed and evaluated the effectiveness of its internal controls over reporting to provide reasonable assurance about the reliability and preparation of the report.

Although individual state agencies will be responsible for Recovery Act reporting to OMB, the state still will collect some information centrally. The State Accounting Office plans to develop a state summary report that will capture consolidated Recovery Act information for Georgia's Recovery Act Web site, the Governor, the legislature, and other stakeholders. The exact format of the report still has not been determined.

Georgia Plans to Provide Technical Assistance to State Agencies and Monitor Recovery Act Reporting

The state's Recovery Act implementation team and State Accounting Office plan to work with state agencies to help them prepare for Recovery Act reporting and monitor their submissions.³⁴ For the first report due on October 10, 2009, the implementation team plans to hold weekly "countdown" meetings from August 26, 2009, to November 15, 2009, to help prepare state agencies for the reporting deadline. At these countdown meetings, agency officials will have an opportunity to ask questions, propose different scenarios for discussion, and discuss lessons learned after their initial submission. In addition, the State Accounting Office plans to provide training to state agencies. The training will be targeted to Recovery Act reporting coordinators, chief financial officers, and other agency staff involved in Recovery Act reporting. It will focus on the

³⁴As noted in our April 2009 report, Georgia's Recovery Act implementation team includes a senior management team, officials from various state agencies, and a group to support accountability and transparency. GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, [GAO-09-580](#) (Washington, D.C.: April 23, 2009).

reporting requirements and include a detailed example of how to complete OMB's data collection tool.

Officials from the State Accounting Office also plan to work individually with selected agency heads and chief financial officers to assess their agencies' reporting readiness. The State Accounting Office started conducting these readiness reviews in early September 2009. These reviews will be mandatory for seven agencies selected based on factors such as the amount of Recovery Act funds received. The State Accounting Office has developed a questionnaire to help agencies prepare for these reviews. The agency will have 60 minutes to present to a team of reviewers, including staff from the State Accounting Office, Governor's Office of Planning and Budget, and other agency heads. The presentations are to focus on the following:

- how the agency plans to collect the information for the reports,
- the controls in place to review and validate the prime recipient data and data from subrecipients,
- the certification and submission process, and
- postsubmission data quality reviews.

The State Accounting Office may ask other state agencies to present their process and procedures for Recovery Act reporting, as necessary.

The State Accounting Office plans to monitor state agencies' Recovery Act reporting using a risk-based approach; that is, it developed an audit risk tool to prioritize resources and identify high-risk agencies. The tool identifies high-risk agencies based on the following criteria: (1) award amount, (2) prior audit findings, (3) operational process or system complexity, (4) new program, (5) number of subrecipients or vendors, (6) lack of manpower or resources, and (7) analysis of the risk-management plans required by the Governor's Office of Planning and Budget.³⁵ Each of

³⁵As stated in our July 2009 report, the Governor's Office of Planning and Budget required state agencies receiving Recovery Act funds to complete risk management plans. The State Accounting Office plans to evaluate these plans to help it determine where to apply audit resources. Some of the risks identified by state agencies included risks associated with reporting requirements, subrecipient issues, information system issues, and insufficient staff. See [GAO-09-830SP](#).

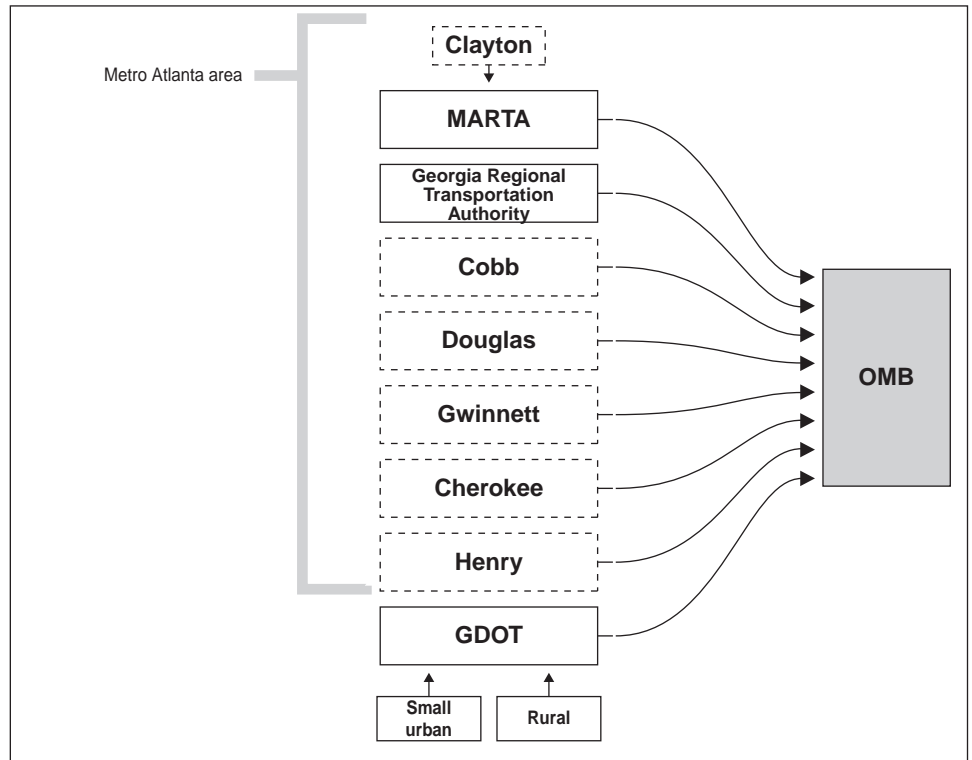
these criteria will be graded using a three-level scale (high, medium, and low risk). A composite score will be derived to determine the overall audit risk of the agency. The State Accounting Office plans to contract with an accounting firm to assist with Recovery Act monitoring. The plan is for the selected firm to perform reviews of agency internal controls and perform detailed testing based upon the risks and agencies identified in the ranking tool.


State Agencies or Other Direct Recipients Are Taking Steps to Prepare for Recovery Act Reporting

State agencies are taking a number of different steps to prepare for Recovery Act reporting. For the Federal-Aid highway program, GDOT has developed an electronic tool to capture data from subrecipients. Information on jobs created and retained is collected from subrecipients on a monthly basis and includes the number of employees working on the project each month, number of hours worked on the project, and the total payroll for the month. GDOT field personnel and headquarters staff in the construction division review the data. The internal audit department will perform spot checks of contractor employment records.

In contrast to the highway program, where GDOT is responsible for all of the Recovery Act reporting in the state, both GDOT and transit providers that are recipients of Transit Capital Assistance grants are responsible for Recovery Act reporting (see fig. 4). GDOT will report data supplied by the small urban and rural transit providers it oversees. To date, GDOT has not issued guidance on Recovery Act reporting to its subrecipients. To capture the data from its subrecipients, the department plans to use a system similar to the one it has developed for the highway program. GDOT's internal audit department plans to perform a review of the data submitted to OMB. Among other things, it will verify reported projects, subrecipients, and vendors; analyze the reasonableness of job impact numbers; and identify missing data that should be reported.

Figure 4: Transit Recovery Act Reporting Structure for GDOT and Transit Providers in Metropolitan Atlanta



 Counties

Source: GAO.

Both of the transit providers with which we spoke still were determining how to meet Recovery Act reporting requirements. For example, after reviewing guidance from FTA and OMB, Gwinnett County had not yet determined how it would account for job creation among its contractors. Officials cited their bus overhaul project as an example of how complicated it could be to estimate jobs. The bus overhaul work was awarded to a single contractor with subcontracts for engine overhaul, cooling system upgrades, and bus paint and body work. Gwinnett County plans to work with its contractors to come up with a methodology for estimating jobs created. MARTA had formed a working group to develop plans for Recovery Act reporting. For activities such as preventive maintenance, it plans to use the factors in the OMB guidance to convert staff hours to full-time equivalents. For its fire prevention system upgrade, it has issued an addendum to the proposed contract documents requiring

information on jobs created and retained. Officials noted that it was unclear if they should track jobs associated with their bus purchase. FTA's guidance on its reporting requirements indicated that transit providers did not need to report jobs associated with the vehicle manufacturing process because they were indirect jobs; however, OMB's guidance did not clearly indicate that jobs associated with vehicle procurements were indirect jobs.

For the weatherization program, GEFA will report data supplied by its service providers. According to GEFA officials, its contracts with service providers require them to provide GEFA with a report on the use of Recovery Act funding within 5 days of the end of each quarter. These reports are to include the total amount of funds received and spent; a list of the projects and activities funded, including a program description, completion status, and an estimate of the jobs created or retained; and details on subawards and other payments. GEFA officials are developing an electronic data collection tool to meet reporting requirements. This tool is projected to be implemented by September 30, 2009. All of the service providers must use the tool and certify that the information presented is correct. According to GEFA officials, the agency has not yet provided guidance to its service providers on Recovery Act reporting, but a webinar is planned for September 24, 2009.

For the WIA Youth Program, GDOL will be responsible for submitting information supplied by the local workforce boards. The local workforce boards will be required to submit data as of August 30, 2009. GDOL set this early cutoff date in order to have the data ready by October 10, 2009, as required. The department issued an OMB-developed spreadsheet for the local workforce boards to complete and guidance on August 28, 2009. The department plans to assess data quality during its regular monitoring visits, which include a financial component.

Georgia's Comments on This Summary

We provided the Governor of Georgia with a draft of this appendix on September 8, 2009, and a representative from the Governor's office responded on September 9, 2009. The official agreed with our draft, stating that it accurately reflects the current status of the Recovery Act program in Georgia.

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Appendix VII: Illinois

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Illinois. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

GAO's work in Illinois updated funding information on three education and one public housing program, and focused on three other programs funded under the Recovery Act—Highway Infrastructure Investment, the Transit Capital Assistance Program, and the Workforce Investment Act (WIA) Youth Program. The three programs we focused on were selected for different reasons:

- Illinois developed its own criteria to define economically distressed areas for projects to be funded with Highway Infrastructure Investment funds. We followed up to determine if Illinois reassigned any of its transportation projects in light of any feedback from federal or state officials pertaining to the state's criteria in identifying distressed areas. In addition, highway contracts have been underway in Illinois and provided an opportunity to review oversight procedures for use of Recovery Act funds.
- The deadline for obligating a portion of Transit Capital Assistance funds was September 1, 2009, and, further, this program provided an opportunity to review non-state entities that receive Recovery Act funds.
- The Recovery Act provided funding for WIA Youth Program activities including summer employment and, therefore, provided an opportunity to review a program that was well underway in Illinois.

For these three programs in Illinois, GAO focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Illinois and local governments stabilize their budgets, stimulate infrastructure development and expand existing programs.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

- **Three education programs under the Recovery Act.** The U.S. Department of Education (Education) has awarded Illinois approximately \$1.5 billion in **U.S. Department of Education State Fiscal Stabilization Fund (SFSF)** funds. These funds have helped the state restore its school districts' funding shortages. As of September 1, 2009, local educational agencies (LEAs) have drawn down \$1.2 billion. Additionally, Education has awarded Illinois \$210 million in Recovery Act funds under **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965**. These funds are to be used to help educate disadvantaged youth; for example, through providing professional development to teachers on how to relate to this special population. Based on information available as of September 1, 2009, LEAs have drawn down \$431,500. Education has also awarded Illinois \$253 million of its Recovery Act funds under the **Individuals with Disabilities Education Act (IDEA), Part B**. These funds are to be used to support special education and related services for infants, toddlers, children, and youth with disabilities. Illinois LEAs have drawn down \$1.4 million in IDEA funds as of September 1, 2009. While the first half were available as of April 1, 2009, Education announced on September 4, 2009 that the second half of Title I and IDEA Recovery Act funds were available.
- **Highway Infrastructure Investment.** The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned \$936 million in Recovery Act funds to Illinois for highway infrastructure projects. As of September 1, 2009, \$736 million had been obligated and \$200 million, the most of any state in the country, had been reimbursed by the federal government.
- **Transit Capital Assistance Program.** The U.S. Department of Transportation's Federal Transit Administration (FTA) apportioned \$375.5 million in Recovery Act funds to Illinois and urbanized areas located in the state. Of this amount, \$354.3 million was for urbanized areas, and \$21.2 million was for non-urbanized areas. As of September 1, 2009, the federal government's obligation for Illinois and urbanized areas located in Illinois was \$360.9 million.
- **Workforce Investment Act Youth Program.** The U.S. Department of Labor (Labor) allotted about \$62 million to Illinois in Workforce Investment Act Youth Program Recovery Act funds. The state has allocated about \$53 million to local workforce investment boards, and as of September 1, 2009, expended about \$22 million. As of the end of August, almost 13,000 youth had been placed in summer employment activities across the state. Illinois expects to meet its target for youth

summer employment activities of 15,000 youth, and the local workforce area in the state receiving the most funds—the Chicago local workforce area—has met its target of 7,300 youth. We found that the type of summer employment opportunities varied across the two workforce areas we visited and included positions such as office assistants, teacher’s aides, camp counselor assistants, and clerical aides.

- **Public Housing Capital Fund.** Illinois has 99 public housing agencies that, in total, have received \$221 million in Recovery Act-funded, Public Housing Capital Fund formula grants. As of September 5, 2009, 83 of these public housing agencies have obligated a total of \$76 million and 56 have drawn down a total \$6 million.

Recipient Reporting: States and localities are among those receiving Recovery Act funds directly from federal agencies that are expected to report quarterly on a number of measures—including use of the funds, an estimate of the number of jobs created and the number of jobs retained. In preparation for these reporting requirements, Illinois issued guidance since our last report requiring state agencies to develop procedures for collecting, entering, reviewing and reconciling these data elements. The state is also in the process of conducting a trial run of the reporting process for state agencies required to report on the impact of the act. In reviewing plans for complying with recipient reporting, we found that state and local agencies varied in their approach to, and understanding of, reporting requirements. For example, the Illinois State Board of Education is currently working on a collection tool that will be used by LEAs in reporting Recovery Act required data elements to the Board, while officials from transit agencies told us that they largely had existing systems in place to report required information. Local workforce board officials told us that while they are tracking required information for reporting, they were unclear on how to report potential jobs created or retained through the WIA program’s summer youth component.

As Illinois Begins Fiscal Year 2010 Facing Fiscal Stress, Recovery Act Funds Continue to Provide Financial Relief

Large decreases in Illinois' state revenues in fiscal year 2009 contributed to an anticipated shortfall of \$3.7 billion that will be carried into fiscal year 2010, which began on July 1, 2009. The budget for fiscal year 2010 was passed in July 2009, appropriating \$26.1 billion against \$29.3 billion in estimated revenues and transfers in as well as \$2.8 billion in statutory transfers out, such as debt payments. The appropriation for fiscal year 2010 is over \$4 billion less than that of fiscal year 2009, although the fiscal year 2010 appropriation does not include funds to pay down the estimated \$3.9 billion backlog in unpaid bills from fiscal year 2009. The state borrowed \$1.250 billion in August 2009 to assist in paying down this backlog of bills. The \$29.3 billion in revenue budgeted for fiscal year 2010 is about \$150 million more than estimated fiscal year 2009 revenues. However, state revenue sources have declined significantly since fiscal year 2008. See Table 1. Budgeted state revenue sources in fiscal year 2010 are nearly \$3 billion less than those earned in fiscal year 2008. Federal revenue sources increased substantially over the same time period, from \$4.815 billion in fiscal year 2008 to a budgeted \$7.131 billion in fiscal year 2010.

Table 1: State of Illinois Revenue Summary for Fiscal Years 2008, 2009 and 2010 (in billions of dollars)

	Fiscal Year 2008 Actual	Fiscal Year 2009 Estimated as of 9/9/09	Fiscal Year 2010 Budget as of 7/15/09
Total Revenues	27.759	27.551	27.078
State Sources	22.944	20.984	19.947
Federal Sources	4.815	6.567	7.131
Statutory Transfers In	1.900	1.593	2.221
Total Operating Revenues Plus Transfers In	29.659	29.144	29.299

Source: Illinois Governor's Office data.

The fiscal year 2010 budget included \$3.4 billion in borrowing to cover required pension costs, which would make additional funds available for other needs. The General Assembly granted the Governor discretion over these additional funds by allocating \$2.2 billion to human services programs and \$1.2 billion to undesignated programs in lump sums, as opposed to specific line items, requiring the Governor to make the final decision as to which programs to fund.

Governor Quinn also signed a 6-year, \$31 billion capital budget in July 2009, funded by bonds from the state in addition to federal and local matching funds. State officials expect over \$3.7 billion in Recovery Act funding for projects included in the capital budget, depending upon the

extent to which the state obtains additional grant money available through the Act. The state's anticipated contribution to the overall plan is \$13 billion. The capital plan calls for increases in a variety of motorist fees, in addition to the September 1, 2009 increases to sales taxes on candy, alcoholic beverages and other products to support the bonds. State officials also anticipated a new revenue stream of \$300 million annually from video gaming terminals to support the bonds, although revenues from the terminals were expected to be limited in fiscal year 2010 while the new program was implemented.

Recovery Act funds continued to assist the state in stabilizing its distressed financial condition. According to the Commission on Government Forecasting and Accountability, the receipt of Recovery Act funds allowed Illinois to avoid its largest ever 1-year decrease in revenue in fiscal year 2009. State officials expected the receipt of Recovery Act funding to allow the state to include an additional \$1.965 billion in services in the fiscal year 2010 budget. This includes \$1.016 billion from SFSF and \$949 million made available as a result of the increased FMAP, compared to \$1.039 billion from SFSF and \$1.145 billion² made available as a result of the increased FMAP in fiscal year 2009. State officials said that the state did not have any reserve funds available from prior years.

An official from the Illinois Office of Management and Budget said that the state is likely to seek an increase in tax revenues later in fiscal year 2010 and expected to see enhanced revenues as a result of an economic recovery from the recession over the next two fiscal years. This official anticipated that the revenue increases would provide the support necessary to transition into fiscal year 2011 when SFSF from the Recovery Act are not expected to be available. This state official also acknowledged that the state is likely to maintain a balance of approximately \$3.7 billion in unpaid bills at the end of fiscal year 2010. While this is a decrease from the expected balance of \$3.9 billion in unpaid bills at the end of fiscal year 2009, any balance at the end of fiscal year 2010 will still affect the budget for fiscal year 2011. The state has also formed a Pension Modernization Task Force to consider options for pension reform, as its pension plans contended with over \$54 billion in unfunded liabilities as of the state's most recently published calculation at the end of fiscal year 2008.

²Of the \$1.145 billion made available as a result of the increased FMAP in fiscal year 2009, \$527 million was made available by the increased FMAP and \$618 million was made available to assist in decreasing the state's Medicaid payment cycle to 30 days.

Following the federal Office of Management and Budget's (OMB) guidance on central administrative costs, an official from the Illinois Governor's Office said that Illinois had not determined the method by which to submit reimbursement requests³. However, this official noted that the state was leaning towards the billed services option because of the fluidity remaining in the fiscal year 2010 budget. The alternate option would rely on budgeted or estimated costs instead of actual costs, which would present a challenge for Illinois while its budget was still undergoing changes. The decision as to which method to use in claiming reimbursement for administrative costs was being delayed upon advice from the state's contractor for Statewide Cost Allocation Plan issues, who suggested that further legislation may be required in order for the state to comply with OMB's guidance. According to the official, the contractor advised the state that applying for reimbursement of administrative costs would be premature before the passage of H.R. 2182, currently under consideration in Congress⁴. The state sought clarification from the U.S. Department of Health and Human Services to address this concern, but as of September 10, 2009 had not received a response. The official confirmed that the state has identified programs for which it could eventually receive reimbursement for administrative costs and believed that the costs would fall within OMB's defined limit of 0.5 percent of Recovery Act funds received. This official further stated that Illinois may have been better positioned to monitor Recovery Act activities more aggressively and proactively if the funding for the administrative costs of doing so were more readily available.

³OMB Memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Activities*, provides two alternatives for states to recoup costs for central administrative services, such as oversight and reporting. Alternative 1, Use of Estimated Costs for Centralized Services, authorizes the state to use budgeted or estimated costs in the submission of Statewide Cost Allocation Plans (SWCAP). Alternative 2, Billed Services, allows a state to submit the methodology for identifying, recording and charging administrative costs.

⁴H.R. 2182, 111th Cong. (2009). H.R. 2182 passed in the House of Representatives on May 19, 2009, but, as of September 8, 2009, had not passed the Senate. As passed by the House, H.R. 2182 would allow state and local governments to set aside 0.5 percent of Recovery Act funds, in addition to funds already allocated to administrative expenditures, to conduct planning and oversight to prevent and detect waste, frauds, and abuse.

State Fiscal Stabilization Fund Largest Disbursement of Recovery Act Education Funds

SFSF

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHE). The initial award of SFSF funding required each state to submit an application to the U.S. Department of Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

ESEA Title I

The Recovery Act provides \$10 billion to help local educational agencies (LEA) educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires

these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.⁵ The U.S. Department of Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The U.S. Department of Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

IDEA

The Recovery Act provided supplemental funding for programs authorized by Part B of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). The U.S. Department of Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

Illinois' Allocation of Recovery Act Funds from the Department of Education

As of September 1, 2009, Illinois had been awarded \$1.5 billion, \$210 million, and \$253 million in SFSSF; ESEA Title I, Part A; and IDEA, Part B Recovery Act funds, respectively. Of these amounts, approximately \$1.2 billion in SFSSF; \$431,500 in Title I, Part A; and \$1.4 million in IDEA, Part B funds have been disbursed to LEAs. Illinois did not use any SFSSF funds to restore funding to public institutions of higher education (IHEs) for fiscal year 2009.

⁵LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

In fiscal year 2010, both LEAs and IHEs will receive SFSF funds to offset cuts in state education funding. SFSF distributions in 2010 are estimated to represent about 13 percent of the state’s spending of \$7.3 billion in general funds on K-12 education. The state’s total fiscal year 2010 budget for K-12 education is projected to be approximately \$11 billion, of which about \$2.3 billion represents non-Recovery Act federal spending. In fiscal year 2010, the Governor plans to also use all SFSF government services funds for education. Eighty-six percent of government services funds will be used to fund LEAs and 14 percent will be used for public higher education. Table 2 below shows how funds were awarded and disbursed for three Education programs in Illinois.

Table 2: Awards and Disbursements of IDEA- Part B, SFSF, and ESEA Title I- Part A Recovery Act Funds

Program Name—2009 Funding	Amount Awarded to State	Amount State Disbursed to LEAs
IDEA—Part B	\$253 million	\$1.4 million
SFSF	1.5 billion	1.2 billion
ESEA Title I—Part A	\$210 million	\$431,500

Source: GAO analysis of U.S. Department of Education data and Illinois State Board of Education data.

There was little Recovery Act activity related to the ESEA Title I and IDEA programs in Illinois in fiscal year 2009. Only four LEAs applied for 2009 ESEA Title I Recovery Act funds, and 11 LEAs applied for 2009 IDEA Recovery Act funds. Local officials said that they did not apply for these funds in 2009 because of a burdensome application process over a relatively short time span, in addition to the fact that the funds available in fiscal year 2009 would still be available in fiscal year 2010.

OIG Reviewing Illinois Education Recovery Act Internal Controls

The U.S. Department of Education’s Office of the Inspector General (OIG), Chicago/Kansas City/Dallas Region, is currently reviewing the internal controls used by entities in Illinois—such as LEAs—that are responsible for handling Recovery Act funds. This review will be performed in two phases. Phase I determines whether entities charged with responsibility for overseeing Recovery Act funds have designed internal control systems that are sufficient to provide reasonable assurance of compliance with the Recovery Act, program regulations, and guidance. During Phase II, reviewers will test controls to determine whether they are effective, and determine whether the entity is complying with applicable laws and regulations.

The scope of the review will be limited to controls over data quality, cash management, sub-recipient monitoring, and use of Recovery Act funds for the SFSF, ESEA Title I, and IDEA programs. The OIG has selected a small, medium, and large LEA for its detailed fieldwork. It will also include the Illinois State Board of Education's (ISBE's) role in distributing these funds in the scope of its review. The OIG plans to release its Phase I report on September 30, 2009.

Funds Distribution, Cash Management, and Reporting

ISBE is using the SFSF stabilization education funds to fill budget shortfalls in its General State Aid payments to LEAs. Therefore, ISBE officials explained, ISBE is required by state law to distribute these funds on a predetermined schedule of payments—semi-monthly, in equal installments on the 10th and 20th of each month. However, SFSF funds are federal funds governed by the applicable federal cash management rules.⁶ In general, these rules require executive agencies implementing federal assistance programs and states participating in them to minimize the time elapsing between the transfer of federal funds to a state and the disbursement of those funds by the state and the time elapsing between a state's disbursement of federal funds to subgrantees, such as LEAs, and the disbursement of those funds by subgrantees.⁷

ISBE has used SFSF funds for its semi-monthly payments to LEAs since April 2009, but has not documented cash needs for these payments as required prior to making the semi-monthly disbursements. State officials explained that ISBE does not have the ability to identify specific cash

⁶The Cash Management Improvement Act of 1990, as amended, requires the Secretary of the Treasury, along with the states, to establish equitable funds transfer procedures so that federal financial assistance is paid to states in a timely manner and funds are not withdrawn from Treasury earlier than they are needed by the states for grant program purposes. The act requires that states pay interest to the federal government if they draw down funds in advance of need and requires the federal government to pay interest to states if federal program agencies do not make program payments in a timely manner. The Department of the Treasury promulgates regulations to implement these requirements. 31 C.F.R. pt. 205. However, cash management by subgrantees, such as LEAs, is subject to Department of Education grant administration regulations, which may require subgrantees to remit to the U.S. government interest earned on excess balances. *See* 34 C.F.R. §§ 74.22, 80.21.

⁷For the Department of Education, see 34 C.F.R. § 80.21(b). The specific requirements can vary depending on whether the program (1) is listed in the Catalogue of Federal Domestic Assistance, (2) meets the threshold for a major federal assistance program, and (3) is covered by an agreement between the U.S. Treasury Department and the state, among other circumstances.

needs from LEAs prior to distributing SFSF. Failure to adequately manage cash needs could result in two possible adverse effects on the federal government. First, ISBE may draw down SFSF funds unnecessarily by not minimizing the time elapsing between its drawdown and its payments to LEAs, effectively borrowing money from the federal government contrary to the general cash management rules. Second, the federal government may be subsidizing excess cash balances by LEAs if ISBE makes unnecessary payments to the LEAs and the LEAs do not then remit interest on the balances to the federal government.

ISBE, as part of its quarterly expenditure reporting process, completes a Cash Summary report designed to identify excess cash balances maintained by LEAs. According to state officials, LEAs are considered to be maintaining excess cash balances when they do not expend the funds they receive within the established timeframe. Cash management by ISBE and LEAs in Illinois is an issue we intend to continue addressing in future reports. The OIG is also currently evaluating Illinois' timeliness in monitoring excess cash among LEAs.

Illinois Is Managing Highway Projects and Will Be Asked to Review Its Determinations of Economically Distressed Areas

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms and states must follow the existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

Illinois was apportioned \$936 million in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$736 million has been obligated. For the Highway Infrastructure Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay

for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. As of September 1, 2009, \$200 million has been reimbursed by FHWA, the highest amount for any state in the country. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

The majority of Highway Infrastructure Investment funds apportioned to Illinois under the Recovery Act have been obligated, but some funds remain unobligated at both the state and local levels. At the state level, about \$38 million in funds available for highways have not been obligated largely because contractors' bids came in below estimated costs. At the local level, less than half of the funds available for highway projects have been obligated. As of September 1, 2009, a total of \$736 million had been obligated in Illinois, resulting in 423 highway projects. See Table 3 for data on the amount of allocated, obligated, and unobligated funds.

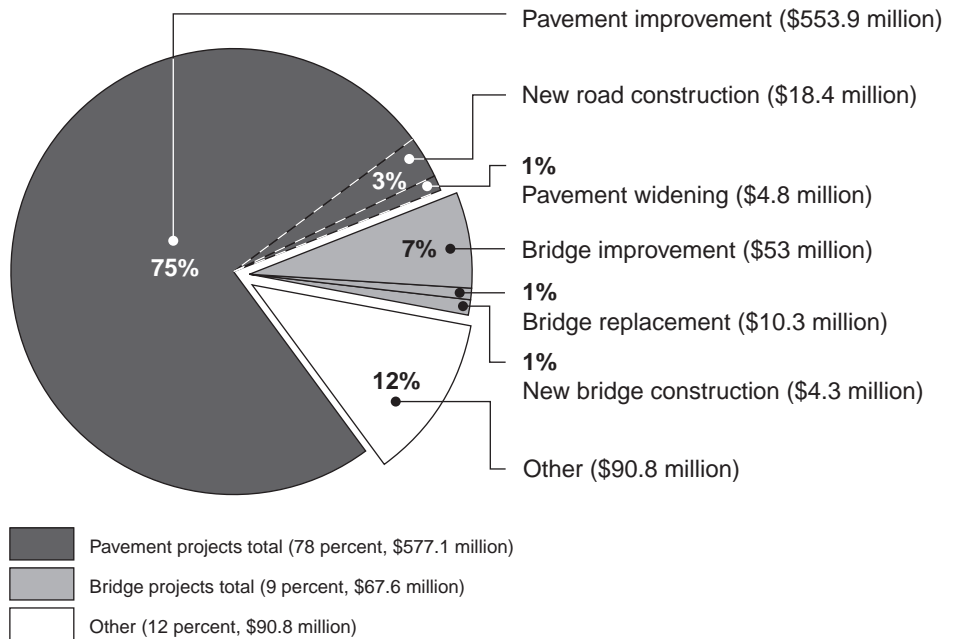
Table 3: Illinois's Highway Funds Allocated, Obligated, and Unobligated

	Allocated	Obligated	Unobligated
70 percent for use on state highways	\$654,914,893	\$616,685,395	\$ 38,229,498
30 percent of apportioned funds suballocated for metropolitan, regional and local use	280,677,811	118,825,790	161,852,021
Total	\$935,592,704	\$735,511,185	\$200,081,519

Source: GAO analysis of FHWA data.

About 78 percent of Recovery Act highway obligations are for Illinois's highway pavement projects, compared with 9 percent for bridges and 12 percent for other projects. Specifically, \$577 million of the \$736 million obligated for Illinois state highway projects as of September 1, 2009, is being used for highway pavement projects. This includes \$554 million for pavement improvements, such as resurfacing. State officials told us they selected pavement improvement projects because these types of projects can be completed quickly and can create jobs immediately. Figure 1 shows obligations by the types of road and bridge improvements being made.

Figure 1: Highway Obligations for Illinois by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. States are required to do the following:

- Ensure that 50 percent of apportioned Recovery Act funds were obligated within 120 days of apportionment (before June 30, 2009). The 50 percent rule applies only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated, primarily based on population, for metropolitan, regional, and local use. In addition, states are required to ensure that all apportioned funds—including suballocated funds—are obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames.⁸

⁸Pub. L. No. 111-5, 123 Stat. 115, 206 (Feb. 17, 2009).

- Give priority to projects that can be completed within 3 years and to projects that are located in economically distressed areas. Distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended.⁹ According to this act, to qualify as economically distressed, the area must (1) have a per capita income of 80 percent or less of the national average; (2) have an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate; or (3) be an area the Secretary of Commerce determines has experienced or is about to experience a special need arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short- or long-term changes in economic conditions.¹⁰
- Certify that the state will maintain the level of spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.¹¹

FHWA Will Ask Illinois to Review Its Economically Distressed Areas

As of September 1, 2009, Illinois DOT had contracts for 197 of its 223 Recovery Act highway construction projects, or 88 percent, in the 85 counties that the state classified as economically distressed. These were the same projects the state had reported in June 2009, except for three new projects in distressed counties that previously had projects. To determine which counties would be considered economically distressed, Illinois developed its own criteria, based on the Recovery Act provision that a distressed area can be one that has experienced a special need arising from severe unemployment or economic adjustment problems arising from severe changes in economic conditions, as determined by the Secretary of Commerce. Illinois's criteria reflected the most current data available to the state based on changes in unemployment for each of the

⁹42 U.S.C. § 3161

¹⁰42 U.S.C. § 3161(a). Eligibility must be supported using the most recent federal data available or, in the absence of recent federal data, by the most recent data available through the government of the state in which the area is located. Federal data that may be used include data reported by the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other federal source determined by the Secretary of Commerce to be appropriate (42 U.S.C. § 3161(d)).

¹¹Pub. L. No. 111-5, § 1201, 123 Stat. 115, 212 (Feb. 17, 2009).

state's 102 counties.¹² Use of these criteria allowed the state to focus its Recovery Act projects on areas that were most severely affected by the recent economic downturn, according to Illinois Department of Transportation (IDOT) officials. The state could have used the original criteria described by FHWA and supported by maps of each county on FHWA's website. Using those criteria, Illinois would have had 87 of its 223 Recovery Act projects, or 39 percent, in the 74 counties that FHWA classified as economically distressed. FHWA has since issued additional guidance which clarifies the special need criteria, changing the locations that can be classified as economically distressed.

Use of Illinois's criteria led the state to identify several distressed areas in more populous areas of the state that were not originally identified as economically distressed under FHWA's criteria. By FHWA's criteria, 12 of the 15 most populous counties in the state were not economically distressed. These included the Chicago area (Cook County and its five collar counties) where IDOT put 95 projects, plus several other counties with smaller population centers, such as Champaign-Urbana, Bloomington, Peoria, Rock Island-Moline, and Springfield. While most of the available funds are already obligated, IDOT officials said they would consider placing projects in the 35 distressed counties, according to Illinois criteria, that have no projects.

We recommended in our July report that the Secretary of Transportation, in consultation with the Secretary of Commerce, develop (1) clear guidance on identifying and giving priority to economically distressed areas, and (2) more consistent procedures for FHWA to use in reviewing and approving states' criteria for designating distressed areas. In response to the recommendation, FHWA, in consultation with the Department of Commerce, developed guidance that addresses our recommendation. In particular, FHWA's August 2009 guidance directs states to give priority to projects that are located in an economically distressed area and can be completed within the 3-year timeframe over other projects. In the guidance, FHWA also directs states to maintain information as to how they identified, vetted, examined, and selected projects located in economically distressed areas. In addition, FHWA's guidance sets out criteria that states may use to identify economically distressed areas based on "special need."

¹²IDOT classified counties as economically distressed based on (1) whether the 2008 year-end unemployment rate was at or above the statewide average, (2) whether the change in the unemployment rate between 2007 and 2008 was at or above the statewide average, or (3) whether the number of unemployed persons for 2008 had grown by 500 or more.

The criteria aligns closely with criteria used by the Department of Commerce's Economic Development Administration (EDA) in designating special needs areas in its own grant programs, including factors such as actual or threatened business closures (including job loss thresholds), military base closures, and natural disasters or emergencies. According to EDA, while the agency traditionally approves special needs designations on a case-by-case basis for its own grant program, it does not have the resources to do so for the purpose of Recovery Act highway funding.¹³ Rather, in supplemental guidance issued August 24, 2009, FHWA required states to document their reliance on "special need" criteria and provide the documentation to FHWA Division Offices, thereby making the designation of new "special need" areas for the for Recovery Act highway funding "self executing" by the states, meaning the states will apply the criteria laid out in the guidance to identify these areas. We plan to continue to monitor FHWA's and the states' implementation of the economically distressed area requirement, including the states' application of the special needs criteria, in our future reviews. FHWA Illinois Division Office officials said they notified an Illinois DOT official about release of the new guidance in early September 2009 but had not yet discussed its application with state officials. FHWA Division Office officials said they will ask Illinois DOT officials to reassess their determinations of economically distressed areas in the state.

State Officials Expect to Meet the State's Maintenance-of-Effort Requirement

Illinois state officials were satisfied with the state's ability to maintain spending levels for transportation. Illinois passed a capital plan on July 13, 2009, that should fund transportation infrastructure projects, even if the state has an unexpected revenue shortfall. As such, while DOT is continuing to enforce the Recovery Act requirement that states maintain their February 2009 level of effort, Illinois officials say they expect to meet their maintenance-of-effort requirements.

States are required to certify that the state will maintain the level of spending that it had planned on the day the Recovery Act was enacted. Because the state's initial certification submitted in March 2009 contained extra explanatory language and required an adjustment in an amount computed for the state's maintenance of effort, the state was asked to resubmit its certification with revisions. As we reported in July 2009,

¹³FHWA's guidance specifies that special needs determinations will be solely for Recovery Act highway funding and will not apply to EDA grant programs.

Illinois resubmitted its certification on May 20, 2009, to the DOT and DOT concluded that the form of the Illinois’s resubmitted certification was consistent with its additional guidance. FHWA has gathered data to evaluate Illinois’s method of calculating the amounts it planned to expend for the covered programs to determine if the state’s calculation complies with DOT guidance, but, according to FHWA Illinois Division officials, FHWA has not yet completed its evaluation.

Illinois Is Using Existing Contracting and Oversight Procedures to Oversee Recovery Act Highway Funds

According to state officials, Illinois uses the same contracting procedures for Recovery Act projects as it does for all other highway construction projects. According to officials, the City of Chicago, which awards contracts for its own projects, also follows its normal contracting procedures. A contract in each area is discussed below (see Tables 4 and 5). Both entities use construction performance bonds to assure the work is completed satisfactorily. According to officials, both entities also incorporate the Recovery Act requirements into the written contracts. Illinois DOT has implemented enhanced oversight procedures for Recovery Act highway funds. Specifically, the services of consultants have been retained to assist management with additional oversight activities. Using a risk-based selection approach to oversight, the goal is to conduct additional on-site reviews of 25 percent of state let state projects, 40 percent of state let local projects, and 100 percent of local let local projects, including the City of Chicago. The enhanced oversight includes additional documentation reviews, materials testing and independent weight checks. These activities are being coordinated and overseen by in-house management.

Table 4: Summary of Contract Information for State Administered Contract

<p>Grundy County—11 Miles of Milling and Resurfacing on IL Route 47 from IL Route 113 to Interstate 55</p> <ul style="list-style-type: none"> • Cost—\$2,270,771 • Project start—August 2009 • Expected completion—40 working days
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Source: Illinois Department of Transportation data.

IDOT awards and manages contracts related to Recovery Act construction projects in Illinois outside of the City of Chicago. According to IDOT officials, to perform the work for this project, the new contract was awarded competitively, using a fixed-price contract. The contract was reviewed by FHWA before the award to ensure it met Recovery Act requirements. Agency officials stated that IDOT construction

requirements, which are located in the IDOT Construction Manual, were followed when the contract was awarded. The officials also stated that the federal suspension and debarment list maintained by the General Services Administration (GSA) is not checked prior to contract award; however, contractors and subcontractors are required to certify that they have not been disbarred or suspended. According to officials, DOT regulations state that participants in the program are not required to make the check, but are encouraged to develop a procedure to verify eligibility. Illinois DOT is developing a procedure to verify whether or not contractors are on the GSA “Excluded Parties List System” (EPLS) prior to contract award and will check all Recovery Act contractors (including Aeronautics) against the EPLS to ensure no contracts were awarded to debarred/suspended contractors. Additionally, Illinois DOT is exploring the possibility of automating the procedure to verify whether or not contractors are on the GSA EPLS prior to contract award.

According to agency officials, the agency has standard procedures for monitoring construction projects. Inspectors will review the work and check material quantities, and conduct spot interviews with employees to ensure employees are paid the prevailing wage rates.

Table 5: Summary of Contract Information for Locally Administered Contract

Chicago Project—9 miles of Arterial Streets Resurfacing—North Area

- Cost—\$7,985,964
 - Project start—July 2009
 - Expected completion—December 2009
-

Source: Chicago Department of Transportation data.

The Chicago Department of Transportation (CDOT) manages Chicago construction projects. The Chicago Department of Procurement Services awards the contracts, and for the Chicago project we identified, according to officials, a new contract was awarded to perform the project work. According to CDOT officials, the contract was awarded competitively, using a fixed-price contract. Agency officials stated that they followed their usual contracting procedures of conducting pre-bid meetings, and providing the bidders with the terms and conditions for construction contracts, instruction and execution documents, and detailed specifications in the bid books that the bidders receive. CDOT officials stated that they check a city suspension and debarment list, and that contractors and subcontractors are required to certify that they have not been disbarred or suspended. They also stated that IDOT reviews the contracts before they are awarded to ensure they meet the Recovery Act

requirements. According to officials, the contract includes requirements for the contractor to report monthly employment data as required by Section 1512 of the Recovery Act. According to agency officials, the agency

- has standard procedures for monitoring construction projects;
- has job site inspections conducted by resident engineers and the material quantities are reviewed; and
- utilizes compliance officers and IDOT engineers to conduct site visits as well.

Most Illinois Transit Agency Urbanized Area Formula Program Funds Have Been Obligated

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.¹⁴ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.¹⁵ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned

¹⁴The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

¹⁵Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

Recovery Act funds may also be used for operating expenses.¹⁶ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.¹⁷

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.¹⁸ FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure disadvantaged businesses are not discriminated against when awarding contracts.

Funds appropriated through the Transit Capital Assistance Program must be used in accordance with Recovery Act requirements, including the following:

- Fifty percent of Recovery Act funds apportioned to urbanized areas or states are to be obligated within 180 days of apportionment (before

¹⁶The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

¹⁷The federal share under the existing formula grant program is generally 80 percent.

¹⁸Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and metropolitan planning organizations designated for the area. Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's TIP and the approved State Transportation Improvement Program (STIP).

Sept 1, 2009) and the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.¹⁹

- State governors must certify that the state will maintain the level of state spending for the types of transportation projects, including transit projects, funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.²⁰ This requirement applies only to state funding for transportation projects. The Department of Transportation will treat this maintenance-of-effort requirement through one consolidated certification from the governor, which must identify state funding for all transportation projects.
- Project sponsors must submit periodic reports, as required under the maintenance-of-effort for transportation projects section (§1201(c) of the Recovery Act) on the amount of federal funds appropriated, allocated, obligated and outlayed; the number of projects put out to bid, awarded, or work has begun or completed; project status; and the number of jobs created or sustained. In addition, grantees must report detailed information on any subcontractors or subgrants awarded by the grantee.

The Recovery Act requires that 50 percent of the funds apportioned to urbanized areas or states for the Transit Capital Assistance Program be obligated before September 1, 2009. FTA concluded that, as of September 1, 2009, the 50 percent obligation requirement had been met for Illinois and urbanized areas located in the state. More specifically,

- In March 2009, a total of \$354.3 million in Transit Capital Assistance Recovery Act funds was apportioned to urbanized areas in Illinois. As of September 1, 2009, \$349.4 million, or 99 percent had been obligated by FTA.²¹

¹⁹Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

²⁰Pub. L. No. 111-5, §1201(a), 123 Stat. 115, 212 (Feb. 17, 2009).

²¹For the Transit Capital Assistance Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a grant agreement.

- Over 90 percent of these funds, \$327.6 million, were apportioned to the Chicago region, and within the Chicago region, the Regional Transportation Authority allocated funds among three transit agencies—the Chicago Transit Authority (CTA), Metra (the commuter rail system), and Pace (the suburban bus system)—according to an existing regional formula. As of September 1, 2009, \$325.6 million, or 99 percent of the funds apportioned to the Chicago region, had been obligated.²²
- Other urbanized areas in Illinois also received apportionments. A total of \$26.7 million in urbanized area formula funds was apportioned to other urban areas in, or partially in, Illinois.²³ All of these areas have met the 50 percent obligation requirement.

Large Transit Agencies Have Emphasized Repair and Rehabilitation of Vehicles

A significant portion of Recovery Act Transit Capital Assistance program obligations for the urbanized areas in Illinois have been for the repair and rehabilitation of transit vehicles, including the Chicago Transit Authority's use of \$75.2 million to overhaul and rehabilitate bus and rail fleet cars, and Metra's use of \$71 million to rebuild aging locomotives. Local transit officials told us they selected these projects for a large percentage of funding due to their agency's large maintenance backlogs. Transit agencies will also use the funds for other purposes. Metra, for example, will use funds to repair tracks and structures, upgrade signal systems, rehabilitate several stations, replace air conditioning units on rail cars, and build additional station parking. The agency will apply \$6.8 million to pay most of the cost of the new station and intermodal facility on its Rock Island District at 35th Street in Chicago. The CTA also will use funds to repair track and buy 50 hybrid buses, and expects that all of its Recovery Act capital projects will be completed by the end of 2010.

According to transit agency officials, identifying projects for Recovery Act funds was not difficult. Both the CTA and Metra had future planned projects identified in the regional transportation plan that were not yet funded, but could quickly be implemented. Projects they could quickly

²²Illinois also received a significant amount of Recovery Act transit assistance under the Fixed Guideway program. Specifically, the Chicago Transit Authority (CTA) has received \$48.9 million, and Metra, the Chicago regional commuter railroad, received 46.6 million. Illinois' Fixed Guideway funds are 100 percent obligated.

²³The jurisdiction of some urbanized areas within this state crosses into at least one other state. These urbanized areas are reflected in each state that it is located. Therefore, some urbanized areas are included in multiple state totals.

advance were selected, placed in a revised regional plan, and submitted to FTA for approval. Both agencies have ongoing contracts funded by federal grants and are familiar with federal project requirements, which facilitated the process.

**Illinois Has Met the
Obligation Requirement
for Nonurbanized Areas**

Illinois was apportioned about \$21.2 million in Recovery Act Funds for the nonurbanized area formula grant program. The state of Illinois is the primary recipient of nonurbanized area funds, and small transit agencies will receive Recovery Act funds through IDOT. IDOT has obtained an \$11.5 million grant, primarily to buy 74 new buses and 24 paratransit vehicles for these small agencies, to meet the 50 percent obligation requirement. For the remaining nonurbanized area funds, IDOT is working with small transit providers to identify which additional infrastructure projects are shovel-ready, and plans to submit these in a second proposal.

**Lack of a Capital Transit
Program in Illinois
Eliminates the
Maintenance-of-Effort
Requirement**

The Recovery Act includes provisions for the maintenance-of-effort on the part of states, specifically to continue funding existing programs at the planned level, and not reduce their level of financial effort. In the case of Illinois, the state did not have a capital program for transit for the 5 years prior to the passage of the Recovery Act, and the state was not providing capital funds to transit districts. As a result, Illinois effectively has no maintenance-of-effort threshold to meet. Illinois has not transferred any Recovery Act highway funds into transit programs.

Illinois Expects to Meet Its Participation and Expenditure Targets for Youth Placed in WIA Summer Employment Activities and Has Begun to Monitor Use of Recovery Act Funds

The Recovery Act provides an additional \$1.2 billion in funds for Workforce Investment Act (WIA) Youth Program activities, including summer employment. Administered by the Department of Labor (Labor), the WIA Youth program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,²⁴ the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.²⁵ Local areas may design summer employment opportunities to include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job (2) learn work readiness skills on the job, and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.²⁶ Labor’s guidance

²⁴H.R. Rep. No. 111-16, at 448 (2009).

²⁵Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

²⁶Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor's guidance. Each state's plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth Program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor's guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

Illinois Expects to Meet Expenditure and Participation Targets

Illinois was awarded a total of about \$62 million in Recovery Act funds for the WIA Youth Program. The Department of Commerce and Economic Opportunity (DCEO), the state's workforce agency, set aside 15 percent of this amount for statewide activities and allocated the remaining funds to the local workforce investment areas. As of September 1, 2009, about \$22 million of the \$62 million had been expended across the state, with \$270,000 of this amount expended from the state's 15 percent set-aside for statewide youth activities. In addition, a total of about \$57 million had been obligated by the state as of that date, including nearly \$4 million from the state's 15 percent set-aside.

State officials told us that they expect to meet participation targets for youth placed in summer employment activities. The state targeted 15,000 youth to be placed in Recovery Act-funded WIA summer youth employment activities. As of August 31, Illinois reported that almost 13,000 participants had been placed in summer employment activities across the state. DCEO officials told us that they expect the state to meet its target of 15,000 youth placed in employment activities as more participant reports come in from local workforce areas. The Chicago local workforce area targeted 7,300 youth to be placed in summer employment activities, and surpassed this target in August. Department of Family and Support Services (DFSS) officials we spoke with told us that they were able to work with a total of 34 contractors to help meet this target. The Grundy-

Livingston-Kankakee local workforce area targeted 205 youth for summer employment activities, and a local workforce board official told us that the area was able to place 75 of the targeted 205 youth for the summer. According to officials, the area was not able to achieve its target largely due to eligibility—either youth that were recruited by contractors not being eligible, or youth that may have been eligible failing to submit the required documentation. However, in addition to the 175 currently enrolled, 130 youth served through the traditional year-round program are having summer employment activities supplemented by Recovery Act funds.

DCEO did not set a spending target for local areas' Recovery Act funding for the WIA Youth Program but the agency issued guidance in May and June advising local workforce investment areas to expend significant Recovery Act funds in the summer of 2009, so long as they have the necessary infrastructure in place to quickly implement programming. The two local workforce areas we visited—Chicago and Grundy-Livingston-Kankakee—had set spending targets for summer youth employment activities in their areas. The Chicago local workforce area, which was allocated about \$17 million in Recovery Act WIA Youth funds, set a target to expend its entire allocation by September 30. According to officials we met with from the Chicago Workforce Investment Board and the Chicago DFSS, they expect to meet this target.²⁷ As of September 10, about 50 percent of the area's allocation had been expended. The Grundy-Livingston-Kankakee local workforce area targeted about \$400,000 of its roughly \$900,000 Recovery Act WIA Youth Program allocation to be expended by September 30. Officials from the local workforce investment board stated that they expect about \$370,000 to be expended by that date. However, this local workforce area also used Recovery Act funds to cover youth from the WIA year-round program who were enrolled in summer employment activities. According to a program official, a total of about \$195,000 in additional Recovery Act funds will be spent for this purpose by September 30.

²⁷The WIA Youth Program in Chicago is implemented by the Chicago Department of Family Support Services in coordination with the Chicago Workforce Investment Board.

Local Workforce Areas Faced Challenges Related to WIA Youth Eligibility and Took Steps to Address Them

Officials from both local workforce areas we visited told us that challenges existed in determining and documenting WIA youth eligibility. Officials told us that they had a limited amount of time to determine whether youth applying for summer employment were eligible, and to obtain the necessary documentation from them. In the Chicago local workforce area, DFSS officials also faced a large number of applications, as a total of about 79,000 youth had applied for summer youth employment opportunities. To address these issues, DFSS officials told us that they provided training to their contractors on WIA eligibility, assigned a liaison to each contractor to provide assistance, and conducted file reviews for youth selected for employment by contractors to ensure that eligibility criteria were met. They also utilized other employees within the department to adequately implement eligibility tasks. A Grundy-Livingston-Kankakee Workforce Board official told us that, for new contractors—those not part of the WIA year-round program—a staff member was assigned to go on-site to assist the contractor in determining eligibility and obtaining proper documentation from youth. Board officials explained that the limited amount of time for youth to provide documentation contributed to the workforce area's inability to meet its target for youth participation. Finally, a contractor for WIA summer youth employment activities in the Grundy-Livingston-Kankakee workforce area also stated that eligibility restrictions—low-income youth without additional employment barriers were not eligible to participate in the program—added another challenge in recruiting and enrolling youth.²⁸

Summer Youth Employment Encompassed Various Demographic Categories and Sectors

WIA summer youth employment activities in Illinois encompassed various demographic categories, such as out-of-school and older youth, and in some cases, incorporated academic or occupational skills training. For example, as of August 31, a little less than half of all youth participants placed in employment activities across the state were out-of-school youth. Further, while about two-thirds of participants statewide were youth 14 to 18 years of age, about 10 percent were older youth—ranging from 22 to 24 years of age. We also found participation by various demographic categories at the local workforce areas we visited. In Chicago, more than half of youth placed in employment activities as of September 1 were out-of-school youth, and a little less than 10 percent were older youth. In the

²⁸One or more of the following barriers to employment must be demonstrated for eligibility: (1) school dropout; (2) basic literacy skills deficiency; (3) homeless, runaway, or foster child; (4) pregnant or a parent; (5) an offender; or (6) needs help completing an educational program or securing and holding a job.

Grundy-Livingston-Kankakee workforce area, a little less than half of the youth were out-of-school youth, and a little over 5 percent were older youth. See Table 6 for data on the age of youth placed in summer employment activities across the state.

Table 6: Age of Illinois Youth Placed in Summer Employment Activities, as of August 31, 2009

Category	Number of youth	Percentage
Youth age 14 to 18	8,152	63
Youth age 19 to 21	3,420	26
Youth age 22 to 24	1,384	11
Total	12,956	100

Source: Illinois Department of Commerce and Economic Opportunity data.

According to officials in both workforce areas, about one-fourth of the youth received academic skills training as part of their summer work employment. In the Chicago local workforce area, DFSS officials also told us that one-fourth to one-half received occupational skills training in areas such as hospitality, marketing, and health and nutrition. Further, one contractor we spoke with in Chicago included a financial literacy component for younger youth to teach them how to manage their finances, and youth spent the first week of their summer experience learning life skills, such as how to prepare for a job and address issues in the workplace. In the Grundy-Livingston-Kankakee workforce area, officials told us that occupational skills training was not required and, instead, was offered informally by contractors. These officials estimated that about one-half of the youth they placed were receiving training of this type.

WIA youth summer program participants were also placed in a range of jobs at the two local workforce areas we visited. In the Chicago local workforce area, contractors had flexibility in designing their own summer program based on the types of jobs they wanted to offer and the youth they wanted to target. Overall, youth were employed in a variety of work sites, such as Chicago Public Schools, City Colleges of Chicago, the Chicago Park District, local museums, retail stores, hotels, and community centers. The jobs included positions such as office assistants, teacher’s aides, data entry positions, and clerical aides, and some included supervisory positions of other summer youth participants. One worksite we visited—the Museum of Science and Industry—enrolled youth as peer educators who facilitated science activities to youth and young children at various locations across the city, such as libraries and schools. The

museum also enrolled some participants as staff who supervised youth presenting science activities at the museum. Another work site we visited employed youth at a retail clothing store, where they assisted with customer service and various retail tasks, such as inventory and cataloging.

In the Grundy-Livingston-Kankakee workforce area, youth were employed in jobs such as office assistants, camp counselor assistants, and groundskeepers at various worksites such as a local park district, community resource center, and community college. At one worksite we visited, older youth were mentoring and tutoring younger youth on basic education skills, such as math and reading. At both local workforce areas, officials stated that some youth were participating in green jobs, such as recycling positions at park districts. One contractor we interviewed in Chicago had about 25 percent of youth employed in green jobs. In the Grundy-Livingston-Kankakee workforce area, about one-fourth of employers had youth enrolled in green jobs. Officials in both local workforce areas did not identify any issues with how to define a green job. However, they primarily defined jobs as green based on their own criteria or criteria they identified as appropriate.

State and Local Efforts to Monitor WIA Youth Summer Employment Focus on File Reviews and Site Visits

The Illinois Department of Commerce and Economic Opportunity indicated that staff has begun to monitor aspects of the Recovery Act-funded summer youth employment activities, such as whether youth have met eligibility requirements of the program, and the extent to which work sites are adhering to workplace safety guidelines and federal/state wage laws. The state will utilize similar procedures for monitoring and oversight of Recovery Act WIA funds as it does for other WIA funds. For example, according to officials, the agency utilizes a file review instrument and samples files from all 26 local workforce areas to check that eligibility requirements are being met. The agency also conducts site visits to the local workforce areas to verify information such as participation and completion rates. However, the fiscal year 2008 Statewide Single Audit contained a finding that the agency did not adequately document supervisory reviews of on-site monitoring procedures for the program, and did not communicate findings to sub-recipients in a timely manner. The agency noted to us that in the process of monitoring summer employment activities thus far, it has encountered some eligibility documentation issues, such as participant files missing signatures or documentation of citizenship status. The agency has notified local workforce areas that they must produce documentation to prove compliance with eligibility, or costs associated with their program participants will not be reimbursed. The

agency is also conducting additional file reviews where eligibility issues have been found to determine the costs that could be disallowed. Further, officials indicated that, as of August 31, programmatic monitoring plans were incorporated into the state's automated system for WIA file reviews.

The two local workforce areas we visited relied primarily on file reviews and site visits to conduct monitoring of Recovery Act-funded summer youth activities. Chicago's DFSS officials explained that, in addition to providing training on WIA eligibility to summer youth contractors, DFSS officials conducted file reviews of youth placed in summer employment activities to confirm that the proper eligibility documents were in place. DFSS officials stated that the department also has an auditing unit that will be conducting file reviews of 20 percent of the applications submitted for summer youth employment. Furthermore, of the two contractors we visited in Chicago, one used a checklist for documenting youth eligibility, and the other required youth to meet with in-house staff members that typically work with youth on the WIA-year-round program, to obtain the necessary documentation. Officials from the latter contractor also told us that they hired eight additional staff to assist with determining eligibility, among other program implementation tasks. As mentioned earlier, officials with the Grundy-Livingston-Kankakee Workforce Board told us that for new contractors—those not part of the WIA year-round program—a staff member was assigned to go on-site to assist the contractor in determining eligibility and obtaining proper documentation from youth, and conducted file reviews to ensure the necessary documents were in place.

Both local workforce areas also utilized site visits to monitor whether youth had meaningful work, and whether worksites met safety requirements. In Chicago, DFSS officials told us that a liaison assigned to the contractor and staff from the monitoring division of the department conduct announced and unannounced site visits to work sites. After a site visit, a report is completed that describes whether youth employment activities correspond to descriptions submitted by the contractor, timesheets are completed on a weekly basis, and the extent to which participants have completed work readiness requirements. According to officials in the Grundy-Livingston-Kankakee workforce area, workforce board staff conducts two site visits to each worksite over the course of the summer and fills out a similar report for each visit. We also found that contractors conduct site visits to their work sites. For example, one contractor that has multiple work sites in Chicago told us that staff conducts weekly site visits to ensure that youth are performing meaningful

work. Similarly, a contractor we interviewed in Kankakee also told us that staff members visit each work site twice throughout the summer.

State and Local Workforce Areas Are Attempting to Measure Program Outcomes

State and local officials we spoke with stated that they are attempting to measure the outcome of Recovery Act-funded summer youth employment activities. The Recovery Act specifies that, of the WIA Youth Program performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth. Work readiness focuses on personal traits—such as work ethic and professionalism—and communication and interpersonal skills.

In Illinois, local workforce boards are required to utilize the WorkNet system to measure work readiness. The system contains an online portal with a work readiness feature that requires youth to take a pre-test, work through several modules such as interviewing and workplace skills, and then take a post-test to measure work readiness gains. In addition to tracking the work readiness measure, Illinois also plans to rely on existing systems that track measures under the traditional WIA year-round program to track more information on summer employment activities, such as the number of participants enrolled and completion rates, per Labor’s requirements. A DCEO official told us that a few modifications were made to reporting fields based on program features in the Recovery Act. For example, the agency made changes to account for youth ages 22 to 24 since they became eligible for WIA Youth Program activities through funds made available under the Recovery Act. Workforce Investment Board officials from both local areas we visited told us that they will also be tracking work readiness, and participation and completion rates through their existing systems, and will also be attempting to track the extent to which any youth are hired on permanently after their summer employment activities are over. Officials in both workforce areas explained that since the end-date for summer employment activities is September 30, 2009, information on all youth would not be available until after that date.

Illinois Public Housing Agencies Continue to Obligate and Draw Down Recovery Act Formula Grants

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management.²⁹ The Recovery Act requires the U.S. Department of Housing and Urban Development (HUD) to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date on which they are made available to public housing agencies, expend at least 60 percent of funds within 2 years, and expend 100 percent of the funds within 3 years. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date on which the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in their current required 5-year capital fund plans.

HUD is also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published May 7, 2009, and revised June 3, 2009, HUD outlined four categories of funding for which public housing agencies could apply:

- creation of energy-efficient communities (\$600 million),
- gap financing for projects that are stalled due to financing issues (\$200 million),
- public housing transformation (\$100 million), and
- improvements addressing the needs of the elderly or persons with disabilities (\$95 million).

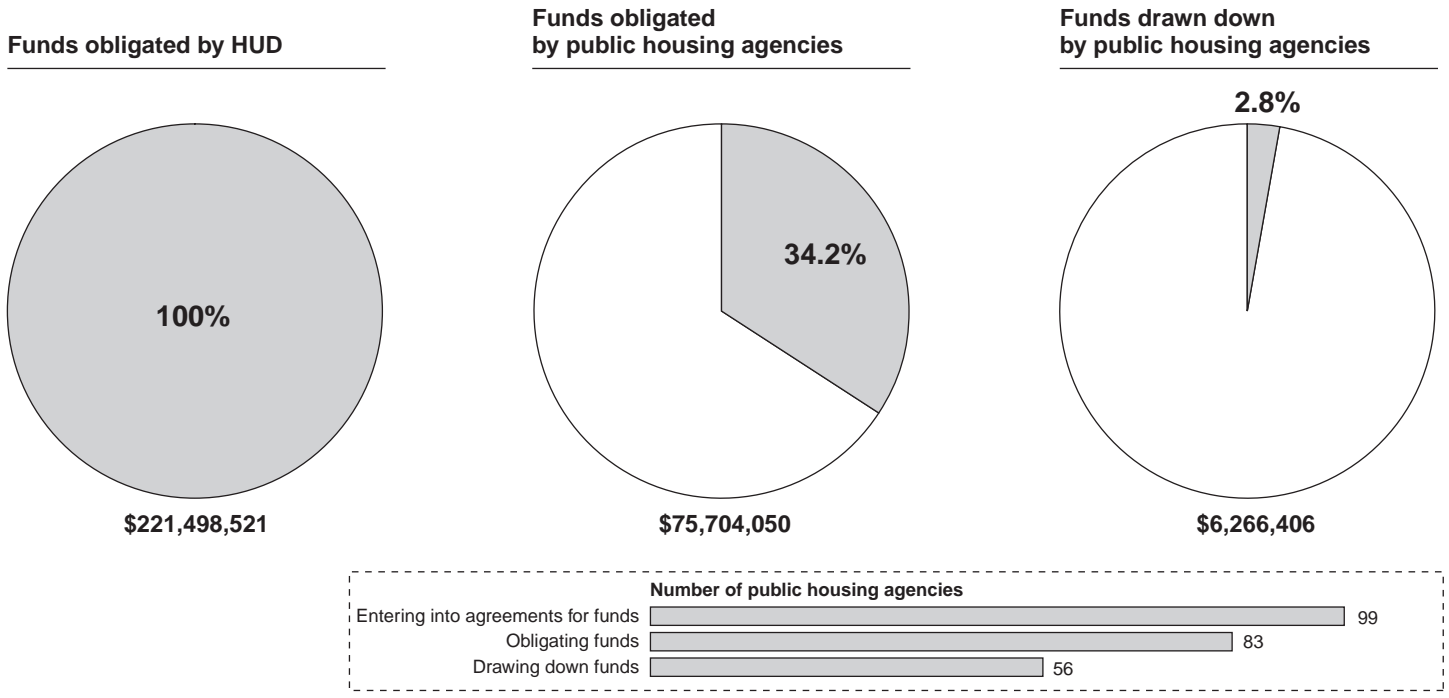
For the creation of energy-efficient communities, applications (which were due July 21, 2009) were to be rated and ranked according to criteria outlined in the Notice of Funding Availability. The last three categories will be threshold based, meaning applications that meet all the threshold requirements will be funded in order of receipt. If funds are available after

²⁹Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

all applications meeting the thresholds have been funded, HUD may begin removing thresholds after August 1, 2009, in order to fund additional applications in the order of receipt until all funds have been awarded. Applications in these three categories were accepted until August 18, 2009.

Illinois has 99 public housing agencies that have received Recovery Act formula grants. In total, these public housing agencies received \$221 million in Public Housing Capital Fund formula grants (see fig. 4). As of September 5, 2009, 83 of these public housing agencies have obligated \$76 million and 56 have drawn down \$6 million. We visited two public housing agencies in Illinois for our July report. They are the Chicago Housing Authority and the Housing Authority for LaSalle County. We will provide updated information on these housing agencies in a future report.

Figure 2: Percentage of Public Housing Capital Funds Allocated by HUD that Have Been Obligated and Drawn Down in Illinois, as of September 5, 2009



Source: GAO analysis of HUD data.

State and Local Agencies We Met with Varied in Their Approaches to, and Understanding of, Recipient Reporting Requirements

States and localities are among those receiving Recovery Act funds directly from federal agencies that are responsible for tracking and reporting on those funds.³⁰ More specifically, they are expected to report quarterly on a number of measures, including the use of funds and an estimate of the number of jobs created and the number of jobs retained. The jobs created and jobs retained numbers are part of the recipient reports required under section 1512(c) of the Recovery Act and will be submitted by recipients starting in October 2009. In preparation for reporting, Illinois has disseminated guidance to state agencies on federal reporting requirements, including preliminary guidance on jobs created and retained. Since our last report, the state's Recovery Act Executive Committee issued a memorandum to state agencies requiring that they develop procedures and reconciliations for the collection of data elements, entry of data, and review of data.³¹ The Executive Committee has also sent a questionnaire to state agencies inquiring about award amounts, number of subrecipients and related contract information, project status documentation, and job creation information to assess the potential timeliness and accuracy of reporting. Further, Illinois is in the process of utilizing the templates made available through federalreporting.gov to conduct a 'test run' by each of the state agencies required to report on the impact of the act on October 10th. According to state officials, the main benefit of conducting the test run is that it will provide additional information for the state to proactively identify areas where reporting and technical questions still exist. It will also allow the state to identify misconceptions or conflicts to previously issued guidance and provide clarifications prior to the October deadline. The reporting deadline for the test run was September 9, 2009. As of September 15th, specific results from the test run had not yet been completely finalized.

Education Programs

The Governor's Office has directed ISBE to perform certain functions related to the administration of Recovery Act SFSF funds, including collection of data and reporting, in meeting the requirements of Section 1512. ISBE is currently working on a collection tool that will be used by LEAs in reporting Recovery Act required data elements to ISBE. The electronic expenditure reports generated will be collected along with

³⁰Pub. L. 111-5, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

³¹The Recovery Act Executive Committee is comprised of state executives, including the Deputy Chief of Staff for Economic Recovery, the Chief Internal Auditor, the Budget Director, and the Chief Information Officer

required Recovery Act data on jobs saved, created, and vendor information. ISBE will capture and forward all of these required data to federalreporting.gov. ISBE officials have also met with staff in the Governor's office responsible for Recovery Act reporting to ensure that they are adequately prepared. ISBE has also received guidance from the state on job creation and retention, and officials have attended all OMB Recovery Act reporting online seminars to ensure they are familiar with, and meeting, OMB requirements. Lastly, ISBE is working with a technical assistance team from the U.S. Department of Education Risk Management Service office to resolve questions and issues related to the Recovery Act, including reporting.

Highway Infrastructure Investment

For highway projects, Illinois collects and reports employment data and information related to project implementation and expenditures. Illinois transportation officials stated that they require contractors and subcontractors to submit monthly employment information, including the number of employees, the amount they are paid, and hours worked. According to Illinois Department of Transportation officials, they use a Web application called IDOT American Recovery and Reinvestment Act—Contractor/Consultant Reporting to track the number of jobs created through Recovery Act highway funds. This contractor reporting system was originally developed around FHWA's Recovery Act monthly employment data requirements, but is being modified to capture additional data specified in OMB's recent guidance.³² For any project that receives FHWA Recovery Act funds, the state must require its contractors to report on its own workforce as well as the workforces of any subcontractors that were active for the reporting month, and to report data quarterly to OMB's federalreporting.gov Web site.

Both state and local highway officials were unclear on how to treat one reporting requirement described in OMB's guidance. The requirement calls for recipients and subrecipients to report the names and compensation for each of their five most highly compensated officers for the calendar year in which the award is given. State and local officials stated that while this could apply for contractors, they were uncertain as to how it should be applied to government agencies. IDOT officials said they had asked FHWA for clarification. In September 2009, FHWA provided guidance explaining

³²Recent OMB reporting guidance includes its June 22, 2009, memo and a recipient reporting data model (version 2.0 and version 3.0).

that this reporting requirement only applies to certain recipients—contractors working for a state or local agency do not have to report and state or local governments only have to report if they meet specific reporting thresholds.³³ Illinois governments do not meet those reporting thresholds, according to an Illinois DOT official.

Transit Capital Assistance

The Recovery Act also provides reporting requirements for transit agencies to track funds they receive. Officials from the large transit agencies we visited for this review—the Chicago Transit Authority and Metra—did not consider the reporting requirements to present compliance problems. Officials from both agencies said existing information systems could readily segregate Recovery Act funds and accommodate the reporting requirements. For example, Metra’s existing grants tracking system produces detailed reports on the financial status of all projects by funding source, including Recovery Act funding. Likewise, IDOT officials said that existing systems can be used to collect and report the transit information required under the Recovery Act.

WIA Summer Youth Activities

For WIA summer youth employment activities, officials with the Department of Commerce and Economic Opportunity told us that they are not delegating any Section 1512 reporting to subrecipients, and expect that this will avoid any potential double-counting. Officials told us that they are confident in the agency’s ability to report on the amount of funds spent using the agency’s own system, which tracks information on obligations and expenditures. However, officials told us that specific information regarding vendors of subrecipients—entities that the local workforce boards contract with—may not be readily available or easily verified. They also told us that the agency is working on a system or a Web site to capture this information, but the details of how this information will be collected had not been finalized at the time of our meeting. Officials at both local workforce areas we visited told us that they are tracking jobs created or retained through use of Recovery Act funds either at their local offices or by vendors to support implementation of the program, but are

³³A state or local government would meet the reporting threshold if it received 80 percent or more of its annual gross revenues in the preceding fiscal year from federal awards, and it received \$25 million or more in annual gross revenues in the preceding fiscal year from federal awards, and the public does not have access to the information through Securities and Exchange Commission or Internal Revenue Service filings as specified in the Federal Funding Accountability and Transparency Act of 2006.

not clear on how to report this information due to little guidance they have seen. Further, officials are attempting to track the number of youth hired permanently with employers after their summer employment activities are completed, but are also unsure of how to report this information. They anticipate receiving additional guidance from the Department of Commerce and Economic Opportunity.

State Comments on This Summary

We provided the Office of the Governor of Illinois with a draft of this appendix on September 11, 2009. The Deputy Chief of Staff responded for the Governor on September 14, 2009. The state concurred with our statements and observations. The official also provided technical suggestions that were incorporated, as appropriate.

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Appendix VIII: Iowa

Overview

The following summarizes our work on the third of our bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Iowa. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

Our work in Iowa examined the state's actions to stabilize its budget, to report on Recovery Act results to the federal Office of Management and Budget (OMB), and to monitor controls over Recovery Act funds. We updated funding information on Recovery Act education programs. In addition, for three programs—higher education, highway infrastructure, and weatherization—we reviewed the use of Recovery Act funds; the implementation of safeguards over these funds, including those related to the procurement of goods and services; and efforts to assess results from the use of these funds. We selected these three programs because they are among the programs receiving the greatest amount of Recovery Act funds in Iowa and have recently begun to disburse or are already using significant amounts of Recovery Act funds. Specifically, Iowa institutions of higher education have received their first disbursements of Recovery Act funds, providing the opportunity to examine the use of Recovery Act funds by nonstate entities. Iowa has obligated funds for several highway infrastructure projects, providing an opportunity to review contract administration for four selected projects—two state-administered and two locally administered—located in different highway districts and counties. Finally, Iowa's Weatherization Assistance Program has received 50 percent of its total Department of Energy (DOE) allocation, providing the opportunity to examine the use of some of these funds and review Iowa's program to weatherize more than 7,000 homes of low-income residents.

Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Iowa and its local governments stabilize their budgets and promote economic recovery—thereby providing needed services and potentially creating and saving jobs. In addition, the use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free up state funds to address their projected budget shortfall. The following provides highlights of our review:

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

**Education Programs
Funded under the
Recovery Act**

- As of August 31, 2009, the U.S. Department of Education (Education) has made available about \$439.1 million of the total \$566.6 million in Recovery Act funds Iowa expects to use for education.
- As of August 31, 2009, Education had made available to Iowa about \$51.5 million in Recovery Act funds under Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965. The Iowa Department of Education had disbursed about \$16.2 million to school districts. These funds are to be used to help educate disadvantaged youth.
- As of August 31, 2009, Education had also made available to Iowa about \$126.2 million in Recovery Act funds under the Individuals with Disabilities Education Act (IDEA), Part B. The Iowa Department of Education had disbursed about \$25.2 million to school districts and area education agencies. These funds support special education and related services for children and youth with disabilities.
- As of August 31, 2009, Education had made available to Iowa about \$261.4 million of the \$388.9 million in State Fiscal Stabilization Fund (SFSF) funds for education stabilization and government services funds that Iowa plans to use for education. Iowa had disbursed about \$40 million to school districts, \$13.2 million to public universities, and \$4.3 million to community colleges. Iowa plans to use these funds to restore state aid to school districts and community colleges and to restore state appropriations to public universities. Iowa plans to use an additional \$83.5 million in SFSF government services funds for other programs, including public assistance and Medicaid.

**Institutions of Higher
Education**

- Of the \$388.9 million in SFSF funds Iowa plans to use for education, it is using approximately \$105 million to support institutions of higher education—about \$79.4 million for public universities, and about \$25.6 million for community colleges. As of August 31, 2009, public universities had received about \$13.2 million, and community colleges had received about \$4.3 million in SFSF funds. The two institutions of higher education that we visited are using Recovery Act funds to stabilize their budgets, mitigate tuition increases, and save jobs.

**Highway Infrastructure
Investment Program**

- The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$358 million in Recovery Act funds to Iowa. As of September 1, 2009, the federal government had

obligated \$320 million for Iowa projects,² and Iowa had been reimbursed \$91 million for work submitted for payment by highway contractors.³

- According to state transportation officials, citing Iowa’s most recent report to the U.S. House Committee on Transportation and Infrastructure, the Recovery Act funded 2,724 highway contractor employees in July 2009. Officials said that, cumulatively, Iowa’s Department of Transportation has reported to the committee that the Recovery Act has funded more than 363,000 hours of work.
- Iowa transportation officials estimated that for projects completed as of August 17, 2009, Recovery Act funding has contributed to the repair of more than 110 miles of state, county, and city roads.

Weatherization Assistance Program

- The U.S. Department of Energy (DOE) allocated \$80 million in Recovery Act funds to Iowa for the Weatherization Assistance Program. Iowa plans to use these funds to help more than 7,000 low-income families reduce their utility bills by making long-term energy-efficient improvements to their homes.
- As of August 31, 2009, Iowa had received about \$40.4 million, or 50 percent of its total DOE allocation, but had spent only about 5 percent of the funding received. No homes had been weatherized using Recovery Act funds, but Iowa has used funds to provide training and technical assistance and purchase vehicles and equipment—“ramp up” activities—that will be used when the Recovery Act Weatherization Program is fully implemented in the state.
- Home weatherization activities were on hold in Iowa until August 19 when the Department of Labor (Labor) established a prevailing wage rate for weatherization work in the state. On August 20, state officials received notification that prevailing wages had been determined and notified local agencies that they could accept bids and issue contracts for weatherization.

²This does not include obligations associated with \$0.6 million of apportioned funds that were transferred from FHWA to the Federal Transit Administration (FTA) for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k) (1) to transfer funds made available for transit projects to FTA.

³States request reimbursement from FHWA as they make payments to contractors working on approved projects.

While Recovery Act Funds Helped Iowa Respond to Declining Revenues, the State Is Planning for the Possibility of Additional Budget Shortfalls

Iowa's use of approximately \$710.3 million in Recovery Act funds for fiscal years 2009 and 2010 has helped stabilize its state budgets for these fiscal years by replacing some of the state's lost tax revenues.⁴ The Iowa Department of Management expects the fiscal year 2009 budget to be balanced after the Iowa Department of Management reconciles the books in September 2009, while the Legislative Services Agency expects a year-end revenue shortfall for the fiscal year 2009 budget. Senior officials from the Iowa Department of Management indicated that, in addition to the use of Recovery Act funds as allocated by the General Assembly, the Governor has the authority to transfer up to \$50 million from Iowa's Economic Emergency Fund to balance the fiscal year 2009 budget. Additionally, state officials expect a reduction in revenues for the state budget in fiscal years 2010 and 2011. The Governor also has the authority to continue controls on certain administrative expenditures and to implement across-the-board reductions in agency budgets if the Iowa Revenue Estimating Conference (REC) reduces revenue projections for fiscal year 2010 according to state officials. Further, some agencies are planning for furloughs and layoffs in fiscal year 2010.⁵ Depending on the decision by the REC, the state is also considering the need for further reductions in agencies' budgets in fiscal year 2011.

As of July 2009, state officials reported that gross General Fund receipts for fiscal year 2009 had declined more than previously expected,⁶ primarily due to a reduction in revenues collected from personal income, corporate income, and taxes on insurance premiums. Iowa had already used approximately \$166.2 million in Recovery Act funds to offset revenue losses in fiscal year 2009, thereby avoiding layoffs, program cuts, and furloughs. Nonetheless, in the Iowa Department of Management's monthly 2009 General Fund receipts memorandum, budget officials reported that year-to-date gross fiscal year 2009 receipts for Iowa's General Fund were about \$57.7 million below the March 2009 revenue projections made by the REC. Similarly, the Iowa Legislative Services Agency reported on July 1,

⁴The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free up state funds to address their projected budget shortfalls.

⁵The REC, which is comprised of the Governor or a designee, the director of the Legislative Services Agency or a designee, and a third member agreed to by the other two, convenes quarterly to prepare the state's estimates of tax-receipt revenues for use in preparing the annual budget.

⁶Iowa's fiscal year begins July 1 and ends June 30.

2009 that fiscal year 2009 revenues could be as much as \$161 million below projections.⁷ If additional funding is needed, state officials said that they cannot use Recovery Act funds because the General Assembly did not provide the statutory authority for the Governor to use Recovery Act funds to mitigate such shortfalls. However, senior officials from the Iowa Department of Management said that the Governor has the authority to transfer up to \$50 million from Iowa's Economic Emergency Fund to balance the state's fiscal year 2009 budget, and to continue controls on certain administrative expenditures such as association memberships and out-of-state travel. In addition, senior officials from the Iowa Department of Management said that the Governor can call a special session of the General Assembly; however, the Governor has indicated that he would not schedule a special session. Senior officials from the Iowa Department of Management expect that the fiscal year 2009 budget will be balanced when the Iowa Department of Management closes the fiscal year 2009 books, because refunds are lower than projected by the REC and the return of appropriated funds from state agencies are higher than expected due to non-program expenditure controls.

While senior officials from the Iowa Department of Management said that the state's fiscal year 2010 budget is balanced using current revenue projections from the REC, the REC could lower its estimate of revenues available for fiscal year 2010 at its next meeting, which is scheduled to occur on October 7, 2009. According to senior officials from the Iowa Department of Management, the Governor's executive authority provides various options to address any resulting projected shortfalls in the state's budget. For example, the Governor may implement across-the-board reductions in the state's General Fund appropriations through an Executive Order,⁸ increase efficiencies in programs and services, or continue current controls on certain expenditures such as out-of-state travel. Senior officials from the Iowa Department of Management said that

⁷According to state budget officials, the Governor's calculations for the gross fiscal year 2009 General Fund receipts currently do not include estimated tax refunds for taxpayers, receipts of additional federal funds, and transfers of surplus funds from agencies. Such information will not be completed by state budget officials until the state finishes processing revenues and expenses for fiscal year 2009, which should occur by the end of September 2009. According to officials from the Legislative Services Agency, the agency's calculations for fiscal year 2009 revenues include estimated tax refunds for taxpayers and monthly transfers to Iowa's school infrastructure refund account.

⁸In December 2008, because of declining revenue projections, the Governor directed an across-the-board 1.5 percent reduction in the state's General Fund appropriations.

the Governor also has the authority to call the General Assembly into a special session to address budgetary issues. Iowa plans to use approximately \$544.1 million in Recovery Act funds in fiscal year 2010 for, among other things, maintaining funding levels for existing education and health care programs.⁹ However, senior officials from the Iowa Department of Management noted that if the estimated revenues are lowered, and the Governor implements an across-the-board reduction in General Fund appropriations, some state agencies may have to begin laying off state workers during the fiscal year. Furthermore, a few state agencies are already developing contingency plans for furloughs of state employees throughout fiscal year 2010.

At the direction of the Governor, Iowa's budget director sent a letter on July 23, 2009 to state agencies requiring that they draft a "status quo" General Fund budget request for fiscal year 2011, in view of a potential decline in General Fund revenues. Each agency was requested to limit its fiscal year 2011 budget to its 2010 General Fund expenditures, after adjusting for certain one-time appropriations, such as those from Recovery Act funds. Additionally, senior officials the Iowa Department of Management suggested that agencies draft recommendations for reducing the General Fund appropriation from their fiscal year 2010 appropriation. According to senior officials from the Iowa Department of Management, agencies are required to submit their budget requests to the Governor by October 1, 2009. The Governor will then use the agencies' requests and revenue estimates from the December 2009 REC to formulate a consolidated fiscal year 2011 budget proposal for consideration by the General Assembly.

Additionally, state officials are seeking ways to improve government efficiency. For example, to make the delivery of state services more efficient, the Governor has hired a performance-review consultant to identify operational efficiencies and cost savings, such as eliminating any duplicate government services provided by different state agencies. State officials also said they planned to seek public input for identifying cost savings and to develop a Web site for the public to track state plans for streamlining government operations. Similarly, the bipartisan State Government Reorganization Commission, made up of 10 General

⁹Recovery Act funds used to maintain funding levels include, but are not limited to, Federal Medical Assistance Percentage funds (discussed in [GAO-09-1016](#)) and State Fiscal Stabilization Fund monies.

Assembly members, held its first meeting on September 9, 2009. The Commission is to consider options for reorganizing state government to improve efficiency, modernize processes, eliminate duplication, reduce costs, and increase accountability. It is also to address the expanded use of the Internet and other technology. It is scheduled to meet again on December 10, 2009.

Senior officials from the Iowa Department of Management said that Iowa does not plan to take advantage of the federal OMB's recent memorandum on recouping administrative costs related to Recovery Act activities because the General Assembly has already appropriated and prescribed the use of Recovery Act funds for fiscal years 2009 and 2010.¹⁰ Consequently, according to senior officials from the Iowa Department of Management, the Governor does not have the authority to reallocate such funds for administrative costs. Senior officials from the Iowa Department of Management added that the General Assembly had already allocated \$400,000 in the fiscal year 2010 budget for the central administration of Recovery Act funds in Iowa, and noted that state agencies are already spending most Recovery Act funds.

Iowa Is Developing a Centralized Database to Report Financial and Performance Information on the Recovery Act to OMB

Through a Recovery Act implementation working group, the Iowa Department of Management is developing a centralized database to report Recovery Act information—funds received and expended, and performance measures, such as jobs created and saved—to OMB, other federal entities, and the general public, as required by section 1512 of the Recovery Act.¹¹ However, state officials said that they need specific answers from OMB to help them report information centrally. Iowa is implementing procedures and controls in its centralized database to help ensure the completeness, accuracy, and consistency of the information it reports. In addition to the Recovery Act database, Iowa's "Results Iowa" Web site provides information about Iowa's efforts towards achieving results in areas such as workforce development, economic growth, health care, and education and may offer an additional opportunity to demonstrate results of Recovery Act funding.

¹⁰OMB, Memorandum M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Activities* (May 11, 2009).

¹¹Pub. L. No. 111-5, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

Iowa's Executive Working Group Is Collaborating with State Agencies and Localities to Create a Centralized Database for Reporting on the Recovery Act

In March 2009, Iowa established a Recovery Act implementation executive working group to provide a coordinated process for (1) reporting on Recovery Act funds available to Iowa through various federal grants and (2) tracking the federal requirements and deadlines associated with those grants. The implementation working group comprises representatives from nearly two dozen state agencies, led by the executive working group, and assisted by groups that will focus on implementation issues such as budget and tracking, intergovernmental coordination, and communications. Officials from this group told us that they are working with Iowa agency officials to create a centralized database to collect and summarize Recovery Act information, such as funds received and expended and the number of jobs created and saved, to be reported to OMB and the general public. Iowa officials noted that their first priority is to report on funds received and expended by state agencies and then those funds received directly by localities throughout the state.

To centralize reporting on the Recovery Act, Iowa officials told us that they are developing a Web-based system that is to collect and summarize financial and performance information by state agencies and localities receiving funds through state distributions to communicate how Recovery Act funds are being used in Iowa, as well as the results of those funds. To facilitate this process, Iowa officials told us that they provided instructions to state agencies, and are building instructions into their database program on how to account for and report Recovery Act funds, among other things. Iowa officials also completed a summary of data element descriptions to help ensure the consistency of the data reported. To help ensure their readiness to report on Recovery Act funding by October 10, 2009, Iowa officials planned to perform two tests of their Recovery Act reporting system. From August 13 through 21, 2009, Iowa tested the appropriateness of the data elements and reviewed controls over Recovery Act subrecipients who have been delegated reporting responsibilities under section 1512 of the Recovery Act. The results of the first test revealed program errors, such as difficulties in uploading spreadsheet data, that Iowa officials plan to promptly correct. For the second test, to be held September 8 through 18, 2009, all agencies are required to report Recovery Act funds received in the state's reporting database.

In addition, Iowa officials told us that they have created a working group to develop a consistent methodology to measure jobs created and saved from Recovery Act funds as well as from Iowa's I-JOBS program—a state program to invest in infrastructure—and federal flood recovery. Consistently measuring jobs created and saved can help provide greater transparency of the benefits of these programs.

Iowa Is Developing Internal Controls to Help Ensure Accurate Reporting of Recovery Act Results

According to officials with the Iowa executive working group, they are developing internal controls to help ensure that information reported to OMB and the general public from Iowa's centralized reporting database is accurate. For example, all Recovery Act funds are identified by unique codes in state agencies' accounting systems. In addition, data validation processes are being built into the database to help reviewers identify and correct any inaccurate data. As an added measure, the executive working group plans to reconcile Recovery Act funds received against expenditures using reports generated from the Recovery Act reporting database as well as Iowa's existing accounting system. The executive working group also plans to incorporate a tracking function into the database so the state can identify Recovery Act recipients and subrecipients and notify appropriate officials if reporting time frames are not met.

As a way to help improve the completeness, accuracy, and consistency of the information, state agency and locality officials will be required to certify their approval of their agency's Recovery Act Section 1512 information prior to submission. For example, Iowa transportation officials told us that it has a dedicated group that is responsible for reviewing Iowa transportation information before it is submitted. Similarly, Iowa education officials told us that they are developing policies and procedures for the Recovery Act to improve the quality of the information.

Iowa Seeks More Specific Information from OMB on Reporting the Results of the Recovery Act

Since June 22, 2009, OMB has provided guidance on the reporting requirements of the Recovery Act, including how to calculate the number of jobs created and saved. Iowa officials told us that they have asked OMB for specific guidance on the reporting requirements included in Section 1512 of the Recovery Act but as of September 11, 2009, OMB had not responded. For example, the state would like to confirm that it may use a single Dun & Bradstreet, or D-U-N-S, number because the state intends to report Section 1512 information centrally.¹² State officials are also seeking an answer on whether OMB would serve as Iowa's sponsor so that Iowa officials could access the federal Central Contractor Registration (CCR) database¹³ to help them validate that Recovery Act subrecipients are

¹²The D-U-N-S number is used by the federal government to identify business organizations.

¹³The CCR is the primary federal registrant database that collects, validates, stores, and disseminates data in support of federal agencies' acquisition missions, including agency contract and assistance awards.

registered in the CCR system, and use this information to verify whether its subrecipient data is consistent with federal data requirements.

“Results Iowa” Web Site Provides Opportunities for Iowa to Demonstrate Results of Recovery Act Funding

Iowa created the “Results Iowa” Web site, <http://www.resultsiowa.org>, to provide information about its efforts toward achieving results in areas such as workforce development, economic growth, health care, and education. Furthermore, for each state agency under the authority of the Governor, “Results Iowa” provides strategic and performance plans linking agency programs and strategies to specific performance goals, as well as performance reports detailing agencies’ progress on such goals. Additionally, “Results Iowa” allows agencies to highlight and update selected performance measures as desired. The “Results Iowa” Web site is an existing reporting mechanism that could demonstrate the effects of Recovery Act funding on agency programs and initiatives.

As a next step, Iowa could use “Results Iowa” to demonstrate how Recovery Act funding is affecting key performance measures, such as the state’s unemployment and other key economic indicators. Iowa could also modify agency documents, including strategic and performance plans and performance reports, to demonstrate how Recovery Act funding is affecting progress towards achieving agency wide performance goals, and send guidance to agencies on how to integrate the use of Recovery Act funding into performance plans. Furthermore, Iowa could integrate information from the “Results Iowa” Web site with its Economic Recovery Web site’s proposed “dashboard” feature¹⁴—a user-friendly search capability that is to provide detailed information on how and where Recovery Act funds are spent. Such efforts would enable the state to link Recovery Act spending for specific programs to statewide and agency wide performance goals, which, in turn, would allow Iowa to better demonstrate to citizens, state officials, and other policymakers how the Recovery Act is affecting Iowa’s government and economic climate. In response, state officials agreed that using “Results Iowa” to demonstrate the effect of Recovery Act funding could help to integrate this information onto Iowa’s Economic Recovery Web site. However, they acknowledged that resources were limited and not generally available to immediately modify the “Results Iowa” Web site. State officials also agreed that acknowledging the receipt of Recovery Act funds in state agency

¹⁴<http://recovery.iowa.gov> (downloaded on Sept. 9, 2009).

performance plans was important and said they would consider providing guidance to agencies to adjust their plans to reflect these funds.

Iowa's State Auditor and Iowa Accountability and Transparency Board Continue to Monitor Controls over Recovery Act Funds

The Office of the State Auditor is in the final stages of updating its 2009 audit plan. State audit officials expect to complete the audit plan shortly after the state's fiscal year 2009 accounting records are closed in September 2009. According to state audit officials, their audit plan reflects the increased risk associated with Recovery Act funding, as well as agency risk assessments submitted by agency auditors. In addition, state audit officials told us that although their appropriation was recently reduced by 30 percent, this reduction is not expected to affect their ability to oversee Recovery Act funds because of their ability to bill state agencies directly for work associated with auditing federal funds. However, this reduction to the State Auditor's appropriation will likely result in a qualified opinion on the state of Iowa comprehensive annual financial report because the Office of the State Auditor may not be able to conduct enough audit work on certain state agencies to issue an unqualified opinion.

As we reported in April and July 2009, the Governor created the Iowa Accountability and Transparency Board (Iowa Board). The Iowa Board has several purposes: ensure that Iowa meets or exceeds the accountability and transparency requirements of the Recovery Act; monitor Iowa's use of Recovery Act funds to prevent fraud, waste, and abuse; and make recommendations to the Governor, as needed, to ensure that best practices are implemented. Most recently, the Iowa Board has created an Internal Control Evaluation Team (Evaluation Team) composed of representatives from Iowa's Department of Management, the Auditor's Office, and the Legislative Services Agency to perform an internal control evaluation of state agencies receiving Recovery Act funds. To assess agencies' risk levels, the evaluation team has reviewed agencies' single audit reports and risk assessment questionnaires filled out by state agency officials and has prepared a report for the Iowa Board that includes recommendations for improvement.¹⁵

¹⁵The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or nonprofit organization that expends \$500,000 or more a year in federal awards must have a single audit conducted for that year subject to applicable requirements, which are generally set out in OMB Circular No. A-133, *Audits of States, Local Governments and Non-Profit Organizations* (June 27, 2003). If an entity expends federal awards under only one federal program, the entity may elect to have an audit of that program.

The report from the Evaluation Team identified six high-priority programs from the 82 programs surveyed that the Evaluation Team expects will have some difficulty in fully complying with the accountability and transparency requirements in the Recovery Act. The six high-priority programs are as follows:¹⁶

- Office of Energy Independence—State Energy Program,
- Office of Energy Independence—Energy Efficiency and Conservation Block Grants,
- Office of Energy Independence—Energy Efficient Appliance Rebates Program,
- Department of Education—State Fiscal Stabilization Fund,
- Department of Human Rights—Weatherization Assistance Program, and
- Iowa Utilities Board—State Electricity Regulatory Assistance Grant.

The primary reasons for recommending additional technical monitoring for these programs were that they received a significant increase in funding, were newly created, or have personnel with limited experience. The Evaluation Team's Internal Controls Evaluation made three recommendations for the Iowa Board. First, all agencies receiving Recovery Act funding should receive training in internal controls and procurement from the U.S. Department of Energy Office of the Inspector General and the U.S. Department of Justice Antitrust Division. Second, each agency ranked as a high priority should implement a comprehensive accountability plan to review Recovery Act activities. Third, an internal agency team should conduct reviews of all high priority agencies to ensure that agencies are complying with the accountability plan.

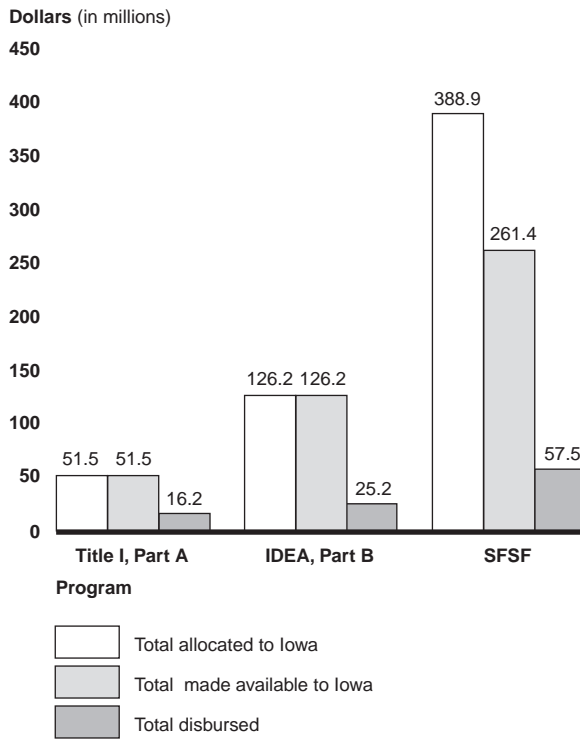
¹⁶Nine programs were not included in the risk assessment because funding had not yet been awarded or the federal guidelines have not been issued. These programs will be reviewed as awards are made or guidelines issued.

Iowa Is Disbursing Education Recovery Act Funds and Expects to Disburse Most Funds by the End of Fiscal Year 2010

Iowa will use approximately \$566.6 million in Recovery Act funds for education through three U.S. Department of Education (Education) programs: (1) Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA); (2) Individuals with Disabilities Education Act (IDEA), Part B; and (3) the State Fiscal Stabilization Fund (SFSF) for education stabilization and government services. The majority of this amount—about \$478.8 million—will be disbursed to school districts and institutions of higher education by the end of fiscal year 2010. As of August 31, 2009, about \$439.1 million of these funds had been made available to the Iowa Department of Education and the Department of Management, which had disbursed approximately \$98.9 million to school districts, area education agencies,¹⁷ and institutions of higher education, as seen in figure 1.

¹⁷Iowa's 10 regional area education agencies, which were established by the Iowa legislature in 1974 to provide equitable and economical educational opportunities for Iowa's children, partner with public and some private schools to provide education and instructional support services.

Figure 1: Recovery Act Education Funding Allocated, Made Available, and Disbursed in Iowa, as of August 31, 2009



Source: GAO analysis of Iowa Department of Education and Board of Regents data.

Note: In this figure, SFSF funds include only funds for education stabilization and government services that have been designated for school districts, community colleges, and public universities.

ESEA Title I, Part A. The Recovery Act provides \$10 billion nationally to help school districts educate disadvantaged youth by making additional funds available beyond those regularly allocated through ESEA Title I, Part A. The Recovery Act requires these additional funds to be distributed through states to school districts using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, school districts are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.¹⁸ Education is advising school districts to use the funds in ways that will

¹⁸School districts must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A, funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Recovery Act ESEA Title I, Part A, funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

As of August 31, 2009, Education had made available to the Iowa Department of Education its estimated \$51.5 million ESEA Title I, Part A, allocation under the Recovery Act. In turn, the Iowa Department of Education had disbursed a total of \$16.2 million to school districts through two of six planned disbursements to school districts. The next disbursement to districts is planned for October 1, 2009, and the Iowa Department of Education plans to disburse the majority of its ESEA Title I, Part A, funds—or an additional \$24.3 million—before the end of the state's fiscal year 2010.

IDEA, Part B. The Recovery Act provided supplemental funding for programs authorized by IDEA, Part B, the major federal statute that supports the provisions of early intervention and special education and related services for children and youth with disabilities. IDEA, Part B, funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

As of August 31, 2009, Education had made available to the Iowa Department of Education its estimated \$126.2 million IDEA, Part B, allocation under the Recovery Act. In turn, the Iowa Department of Education had disbursed a total of about \$25.2 million to school districts and area education agencies in the first of five planned disbursements. The next disbursement to districts and area education agencies is planned for October 1, 2009, and the Iowa Department of Education plans to disburse approximately an additional 40 percent of its allocation of IDEA, Part B, funds—or an additional \$50.4 million—in state fiscal year 2010.

State Fiscal Stabilization Fund (SFSF). The Recovery Act created the SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in

state support for education to school districts and public institutions of higher education. The initial award of SFSF funding required each state to submit an application to Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public institutions of higher education. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public institutions of higher education. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct institutions of higher education in how to use these funds.

Education allocated to Iowa a total of about \$472.3 million in SFSF funds, of which about \$386.4 million is specifically for education stabilization and about \$86 million is for government services. In total, Iowa plans to use approximately \$388.9 million of SFSF funds for education. As of August 31, 2009 Iowa had disbursed a total of about \$40 million to school districts, \$13.2 million to public universities, and \$4.3 million to community colleges. Specifically:

- As of August 31, 2009, two-thirds of Iowa's SFSF education stabilization funds—or about \$258.9 million—was made available to the state. The Iowa Department of Education and the Department of Management have begun disbursing education stabilization funds. As of August 31, the Iowa Department of Education had disbursed a total of \$40 million in education stabilization funds to school districts and about \$3.9 million to community colleges. The Department of Management had disbursed about \$13.2 million to public universities. According to education officials, these funds are replacing reduced

state aid payments to districts and community colleges, and replacing lost state appropriations for public universities.

- As of August 31, all \$86 million in SFSF government services funds had been made available to Iowa. Of this amount, \$2.5 million will go to community colleges, and the Iowa Department of Education had already disbursed about \$420,000 of those funds to community colleges. Iowa plans to use the rest of the government services funds for such programs as public assistance, public safety, and Medicaid. Iowa has allocated a total of approximately \$63.4 million in government services funds for fiscal year 2010.

University and Community College Officials Said They Will Use Recovery Act Funds to Stabilize Budgets, Mitigate Tuition Increases, and Save Jobs

Iowa plans to provide approximately \$105 million of its SFSF funds to higher education. Specifically, Iowa's three public universities—Iowa State University, the University of Iowa, and the University of Northern Iowa—will share approximately \$79.4 million in SFSF education stabilization funds, and its 15 community colleges will share \$23.1 million in SFSF education stabilization funds and \$2.5 million in SFSF government services funds. Funds are being disbursed to each university and community college in 12 monthly payments, the first of which went out in July 2009. As of August 31, 2009, public universities had received about \$13.2 million, and community colleges had received \$4.3 million in SFSF funds. Iowa's public universities receive about 51 percent of their operating budgets from tuition and fees, about 43 percent from state appropriations, and the rest from other sources. The Board of Regents, which governs Iowa's public universities, divided the SFSF funds among the state's three universities in proportion to the size of each university's budget.¹⁹ The Iowa Department of Education, which oversees Iowa's community colleges, divided the community college SFSF funds among the state's 15 community colleges according to its usual state aid formula, which is based on a statutory formula. Iowa community colleges receive about 47 percent of their operating revenue from tuition, 37 percent from state aid, 5 percent from local communities, and the rest from other sources.

¹⁹The Iowa Board of Regents also governs two special schools: the Iowa Braille and Sight Saving School and the Iowa School for the Deaf. The Board of Regents allocated SFSF funds for these two special schools to put them on par with the general K-12 education system in Iowa, and allocated the remaining SFSF funds to Iowa's public universities.

We visited two institutions of higher education: Iowa State University in Ames and Southwestern Community College in Creston. We selected these institutions to include one university and one community college located in a rural area. As of August 31, 2009, these two institutions had received about 17 percent of their allocation. (See table 1 for SFSF funds allocated and disbursed.)

Table 1: Recovery Act Allocations and Disbursements to Selected Institutions of Higher Education, as of August 31, 2009

Dollars in thousands

Institution	Allocations and disbursements	SFSF education stabilization funds	SFSF government services funds
Iowa State University	Allocated	\$31,600	\$0
	Disbursed	5,270	0
Southwestern Community College	Allocated	570	60
	Disbursed	90	10

Source: GAO analysis of Iowa Department of Education and Board of Regents data.

Institutions of Higher Education Plan to Spend All SFSF Funds in Fiscal Year 2010 to Pay Salaries and Sustain Academic Services and Programs

In December 2008, to balance the state’s budget, the Governor issued an executive order for a mid-year 1.5 percent across-the-board reduction in its General Fund appropriations for the 2009 state fiscal year. As a result of this and other reductions in state funding, Iowa State University’s \$519 million fiscal year 2009 budget was reduced by about \$7.2 million, and Southwestern Community College’s \$10.2 million fiscal year 2009 budget was reduced by \$67,581. For fiscal year 2010, as state funding levels continued to decline, Iowa State University’s budget was reduced to \$502.7 million, a decrease of 3.1 percent compared with the initial fiscal year 2009 budget. Southwestern Community College’s 2010 state aid was reduced in total by about \$600,000, representing about a 6 percent reduction to its operating budget compared to fiscal year 2009.

Iowa State University and Southwestern Community College will both receive SFSF funds equal to or greater than the reduction to their 2010 state appropriations: \$31.6 million and \$630,027, respectively. In addition, according to officials at Iowa State University, appropriating legislation directed public universities to obligate or spend all SFSF funds by the end of fiscal year 2010, or return the funds to the state. Southwestern Community College plans to use all of its \$630,027 SFSF allocation in fiscal year 2010 to pay salaries and employee benefits. According to the Southwestern Community College chief financial officer, about 76 percent of the school’s budget is for salaries. Iowa State University plans to spend

about \$22.2 million, or 70 percent, of its \$31.6 million SFSF allocation, to pay salaries. Other expenses being paid for with SFSF funds include building repairs (\$4.0 million), supplies and services (\$3.6 million), and equipment (\$1.1 million).

Iowa institutions of higher education plan to use SFSF funds to sustain key educational programs and services even as enrollment increased and budgets declined. For example, Iowa State University's enrollment for the 2008-2009 school year increased by 2.5 percent over the prior year. Southwestern Community College's enrollment for the 2009-2010 school year increased by at least 7 percent over the prior year. Iowa State University attributed much of its increased enrollment to an increase in nonresident students, while Southwestern Community College attributed its increased enrollment to layoffs in the local economy and students returning to school to learn new skills. Officials from both schools said that they expect enrollment to continue to increase at least through the current academic year. Southwestern Community College is using its SFSF funds to preserve associate degree and trade programs, which are critical to students directly affected by the downturn in the economy. For example, Southwestern Community College's School of Nursing has a waiting list for enrollment, and the institution plans to use SFSF funds to hire one nursing instructor. Iowa State University used SFSF funds to hire about 10 new veterinary medicine faculty in 2009 to educate an anticipated influx of veterinary medicine students. Under an agreement with a university in another state, veterinary medicine students will attend the out-of-state university for their first 2 years after which they will transfer to Iowa State University to complete their training.

Two Institutions of Higher Education Are Tracking SFSF Funds Using Existing Systems and Methods

Both Iowa State University and Southwestern Community College have established new accounts within their existing accounting systems for SFSF education stabilization and government services funds and plan to separately track and monitor SFSF funds using existing processes and procedures. Iowa State University sends monthly reports to the Board of Regents and the Department of Management on its use of SFSF funds. Iowa State University officials said they have received guidance on the use of SFSF funds from the Iowa Board of Regents. As a matter of practice for SFSF funds, the Board of Regents will approve all university infrastructure expenditures of \$500,000 or greater. Southwestern Community College's chief financial officer said that she will prepare all reporting on the use of Recovery Act funds and maintain file copies of supporting documentation and reports submitted to the Iowa Department of Education. She said she is also responsible for assuring the accurate recording of all deposits and

payments. According to the chief financial officer, the college's accounts receivable department will deposit SFSF funds into the appropriate accounts and the payroll department will verify all payees and the amounts paid using SFSF funds.

While Higher Education Institutions Report Positive Results from Recovery Act Funds, They Plan to Improve Efficiency in Anticipation of Ongoing Fiscal Constraints

Officials at the Iowa institutions of higher education we visited told us they have not yet reported on the use and results of Recovery Act funds under Section 1512 because they are awaiting specific guidance on how to report to Iowa's centralized reporting database. In the meantime, officials told us, they have identified some savings and efficiencies from the use of these funds. The universities and community colleges report annually to the state on performance and funding. For example, community colleges provide data to the state that are published in an annual *Condition of Iowa's Community Colleges Report*—a summary of fiscal and tuition data and enrollment and graduation rates.

Iowa State University and Southwestern Community College officials also told us that SFSF funds have allowed them to save jobs, based on their own estimates. Iowa State University identified about 50 professional, scientific, and other positions for potential layoffs by the end of state fiscal year 2010. If the university determines that some layoffs are necessary, it will use SFSF funds to pay employees' salaries until the time that the layoffs become effective. The university is also using SFSF funds to pay the salaries of 210 employees that accepted an offer to retire by January 31, 2010—thereby temporarily saving these jobs according to school officials. A Southwestern Community College official estimated that SFSF funds allowed the school to save seven jobs.

SFSF funds also allowed Iowa State University and Southwestern Community College to limit tuition increases. The Board of Regents increased tuition for academic year 2009-2010 by 4.2 percent for resident undergraduate students at the three public universities, including Iowa State University. According to the Iowa Board of Regents, however, without SFSF funds, tuition might have increased by as much as 8 percent at state universities to offset the loss of state appropriations. Historically, when state budgets have declined, Iowa State University's tuition has increased significantly. For example, according to Iowa State University officials, when state budgets declined in the early 2000s, the university raised tuition and fees by 18.5 percent, followed by a 17.6 percent tuition hike in the following year. For Southwestern Community College, the result of the 2010 budget shortfall was a potential \$19 tuition increase per credit hour. (Annual tuition increases have averaged \$5.72 per credit hour

for the past 9 years.) However, SFSF funds allowed Southwestern Community College to limit the tuition increase to \$5.50 per credit hour, about a \$14 reduction for students compared to the potential increase.

SFSF funds have also provided institutions of higher education the opportunity to plan strategically for the long term by restructuring for greater efficiency and avoiding the funding cliff effect (i.e., the shortfall when Recovery Act funds are spent). Iowa State University asked each of its departments to submit plans for reducing costs by a total of \$38.8 million, an amount equal to the university's 2009 and 2010 budget cuts. Southwestern Community College also asked its departments to submit plans to reduce their budgets by 5 percent (a percentage greater than the 2009 statewide reduction, in anticipation of future budget cuts). Department plans included proposals for staff reductions and process improvements.

To reduce costs, both institutions have allowed vacant positions to remain unfilled and reduced staffing levels through attrition and some layoffs. Iowa State University also identified for layoffs 25 of about 800 professional and scientific staff, and, as discussed earlier, officials reported that 210 general services employees will retire by January 31, 2010, under the university's early retirement incentive offer. SFSF funds will be used to pay the salaries of these employees up to their retirement date. Southwestern Community College reduced the number of instructors from 48 to 43: 2 instructors left voluntarily, 2 retired, and 1 was laid off. Both Iowa State University and Southwestern Community College plan to retain or hire adjunct professors or lecturers—adjunct faculty and lecturers do not have full or permanent status and therefore are less costly. Iowa State University plans to use technology, such as adding computers or streaming video, to provide classroom instruction. Southwestern Community College reduced its printing costs by eliminating paper copies of the course catalog and student handbook—now both are available only online.

Iowa State University officials told us that they do not expect to have a funding cliff in 2010 because the university has reduced its payroll through retirements and layoffs and has reengineered education by increasing faculty workload and class size. Southwestern Community College's strategy to avoid a funding cliff includes avoiding any new long-term costs and to plan and operate under the assumption that state funds will be cut again. According to Southwestern Community College, it is important that the school budget conservatively because it is a small, rural school and therefore has fewer funding resources.

Iowa Has Awarded Most of Its Highway Recovery Act Funds, and Reports Funding over 2,700 Contractor Employees in July 2009

The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$358 million in Recovery Act funds to Iowa for highway construction. As of September 1, 2009, the federal government had obligated \$320 million for Iowa projects, and Iowa had been reimbursed \$91 million for work submitted for payment by highway contractors. According to state transportation officials, citing the state's most recent report to the U.S. House Committee on Transportation and Infrastructure, the Recovery Act funded 2,724 highway contractor employees in July. Officials said, cumulatively, the department has reported that more than 363,000 hours of work have been funded by the Recovery Act. In addition, transportation officials estimate that Recovery Act funding contributed to the repair of more than 110 miles of state, county, and city roads.

The Recovery Act provides funding to the states to restore, repair, and construct highways, and conduct other activities allowed under the Federal-Aid Highway Surface Transportation Program. The act requires that 30 percent of these funds be suballocated for projects in metropolitan and other areas of the state. Highway funds are apportioned to the states through existing federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act, paying a prevailing wage in accordance with federal Davis-Bacon requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

To receive Recovery Act funds for highway infrastructure spending, states must meet certain requirements. For example, the states must do the following:

- Ensure that 50 percent of apportioned Recovery Act funds were obligated within 120 days of apportionment (before June 30, 2009). The 50 percent rule applies only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated primarily based on population, for metropolitan, regional, and local use. In addition, states are required to ensure that all apportioned funds—including suballocated funds—are obligated within 1 year. The Secretary of Transportation is to withdraw and

redistribute to other states any amount that is not obligated within these time frames.

- Give priority to projects that can be completed within 3 years and to projects located in economically distressed areas.
- Certify that the state will maintain the level of spending (maintenance of effort) for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.²⁰

Iowa has met, or is in the process of meeting, these requirements, and the U.S. Department of Transportation is currently validating Iowa's maintenance-of-effort calculations—the amount of state funds Iowa planned to expend for the covered programs through September 30, 2010.

Iowa has also initiated I-JOBS, an \$830 million state-funded program to invest in infrastructure. A key component of this program is \$115 million for transportation projects across the state, including \$50 million for bridge safety, \$45 million for city streets and secondary roads, and the remainder for enhancing public transit and recreational trails. As of September 1, 55 bridge safety projects under the state's jurisdiction had been approved for I-JOBS funding in fiscal years 2010 and 2011.

Almost 90 Percent of Highway Recovery Act Funds Has Been Obligated for Iowa Highway Projects

As we previously reported, Iowa was apportioned \$358 million for highway infrastructure and other eligible projects. As of September 1, 2009, \$320 million had been obligated (about 90 percent of available funds) for 183 highway projects in 83 of the state's 99 counties.²¹ For those projects where funds have been awarded, Iowa Department of Transportation officials reported that 139 projects, representing \$268 million, had begun. As of September 1, 2009, \$91 million had been paid to contractors and reimbursed by FHWA.²² Officials estimated that Iowa will spend and be

²⁰Pub. L. No. 111-5, § 1201, 123 Stat. 115, 212 (Feb. 17, 2009).

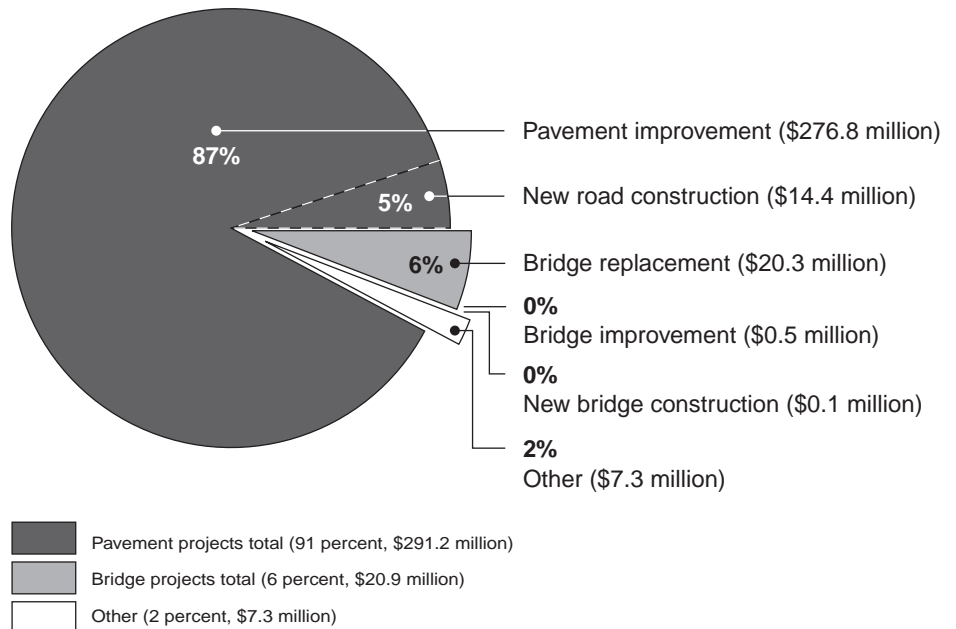
²¹For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

²²A state requests reimbursement from FHWA as it makes payments to contractors working on approved projects.

reimbursed a total of about \$215 million of its Recovery Act transportation funds by the end of December 2009.

About 87 percent of Recovery Act highway obligations for Iowa have been for pavement improvement projects. Specifically, \$277 million of the \$320 million obligated to Iowa, as of September 1, 2009, was being used for pavement improvement projects, such as the \$1.5 million patching and resurfacing of 6.4 miles of County Route G35 in Cass County, Iowa (discussed below). Additionally, \$20 million is being used for bridge replacements, such as the \$1.1 million for Iowa State Route 92 bridge over Keg Creek near Treynor, Pottawattamie County, Iowa (discussed below). Figure 2 shows obligations by the types of road and bridge improvements being made.

Figure 2: Highway Obligations for Iowa by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Iowa Department of Transportation Is Using Existing Procedures for Internal Controls and Contract Administration of Highway Projects

State program agencies, such as the Iowa Department of Transportation, are responsible for establishing internal controls and procedures to ensure that their agencies spend funds as intended by law. Among other things, the department is responsible for ensuring contract award and performance are in accordance with established standards and conducted in compliance with laws and regulations. It is also responsible for maintaining important contract and financial documentation.

The Iowa Department of Transportation has detailed procedures for the administration and inspection of work performed by contractors, including written contracting procedures, contractor qualification standards, and material and construction specifications and guidelines. For example, the manual provides detailed guidance on how to sample and analyze materials such as freshly mixed concrete. The manual also requires that all of the materials used in highway construction in the state be listed on the state's list of approved manufacturers and brand names. All of this information is published in hard copy, online, and on compact discs. The state and local governments also employ construction and material inspectors and technicians, and construction engineers, to review, measure, and accept work performed by contractors. According to officials at the Iowa Department of Transportation, each item of work has a method of measurement and basis of payment, as well as various associated construction and materials specifications. The Iowa State Auditor's Single Audit Report for 2008 does not identify any material weaknesses in the Department of Transportation's highway planning and construction program.

In addition, according to agencies officials, to help achieve consistent contracting procedures across the state, the Iowa Department of Transportation requires that all Recovery Act-funded highway projects be advertised and bid centrally through the state contracts office. For example, the department review includes ensuring that only contractors that have been prequalified are requested to bid on projects.

As part of our assessment for this cycle, we reviewed four highway infrastructure projects—two resurfacing projects, a grading project, and a bridge replacement project—to determine if the contracting process for these projects reflected the state's published procedures. Two of these projects were state-administered projects and two were locally administered; they are located in different state highway districts and different counties. The following describes these projects:

- **Project 1.** The Cass County Board of Supervisors, in southwest Iowa, awarded a contract to patch and resurface 6.4 miles of County Route G35. This \$1.5 million project is being administered locally by the Cass County engineer.
- **Project 2.** The Iowa Department of Transportation awarded a contract to replace the Iowa State Route 92 bridge over Keg Creek, 3 miles west of Treynor, in Pottawattamie County, Iowa. This \$1.14 million project is being administered by Iowa Department of Transportation District 4.
- **Project 3.** The Iowa Department of Transportation awarded a contract to regrade a 2.6 mile segment of Iowa State Route 141, northwest of Mapleton, in western Iowa's Monona County. This \$2.27 million project to reduce snow blockage along this route is being administered by Iowa Department of Transportation District 3.
- **Project 4.** The Polk County Board of Supervisors awarded a contract to resurface 6 miles of N.W. 118th Avenue in northern Polk County, north of the Des Moines metro area, in central Iowa. This \$2.1 million project, administered by the Polk County engineer, has been completed.

We reviewed these contracts and confirmed with state and county highway officials that all four contracts

- were competitively awarded to the lowest qualified bidder;
- were for a fixed price;
- considered only prescreened, qualified contractors;
- established financial penalties for failure to start or complete work, as contracted;
- required reporting of contractor staff and hours worked on the project; and
- were regularly monitored and inspected by qualified state or local engineers and inspectors.

Iowa's Department of Transportation Reports That the Recovery Act Funded More Than 2,700 Contractor Employees in July 2009

Like other Iowa agencies, the Department of Transportation has not yet reported under Section 1512 of the Recovery Act. However, the department continues to report project, financial, and employment information to FHWA. This reporting is required by the Recovery Act to provide greater accountability and transparency and includes, among other things, monthly reporting of contracts awarded, projects in process, employees working and employee hours worked. Also the department reports this information to the U.S. House of Representatives' Committee

on Transportation and Infrastructure. In addition, the department's Web site provides weekly updates on projects funded and contracts awarded under the Recovery Act, and Recovery Act funds spent on each project.

To support these reporting requirements, the Iowa Department of Transportation established its own centralized reporting system, in addition to the state's centralized reporting system, which allows the department's district offices, local governments, and contractors to enter and verify required Recovery Act financial and employment data. This information provides the basis for the department's report to the state's central system, FHWA, the House Committee on Transportation and Infrastructure, the Iowa public, and the media.

In July 2009, according to state transportation officials, citing Iowa's most recent report to the House Committee on Transportation and Infrastructure, the Recovery Act funded 2,724 highway contractor employees. For the same period, transportation officials said that more than 160,000 hours of work were funded by the Recovery Act. Officials said that, cumulatively, Iowa's Department of Transportation has reported to the committee that more than 363,000 hours of highway employee work have been funded by the Recovery Act. Iowa transportation officials estimate that for projects completed as of August 17, 2009, Recovery Act funding has contributed to the repair of more than 110 miles of state, county, and city roads.

Use of Weatherization Funds Has Been Limited because of Delay in Setting Prevailing Wages for Workers

Iowa has for years operated a Weatherization Assistance Program that receives funding from several sources, including the U.S. Department of Energy (DOE). Each year, Iowa uses this funding to weatherize approximately 2,000 homes of low-income clients. The Division of Community Action Agencies manages the state's Weatherization Assistance Program, and it, in turn, relies on 18 local agencies, all experienced in weatherization work, to carry out the program at the local level. In 2009, Iowa received \$8.6 million in regular weatherization funding from DOE. However, the amount significantly increased when the Recovery Act provided a large increase in weatherization funding later in the year. Using the Recovery Act funding, DOE allocated \$80.8 million for the Weatherization Assistance Program to be used over a 3-year period. Iowa plans to use these funds to weatherize an additional 7,196 homes.

On July 2, 2009, DOE approved Iowa's weatherization plan under the Recovery Act and released an additional \$32.3 million of the total \$80.8 million allocated to the state. As of August 31, 2009, Iowa had been

awarded about \$40.4 million, or 50 percent of its total DOE allocation, but had spent only about 5 percent of the funding received. Furthermore, no homes had been weatherized using Recovery Act funds. Instead, Iowa has used these funds to provide training and technical assistance and purchase vehicles and equipment—"ramp up" activities—that will be used when the Recovery Act Weatherization Program is fully implemented in the state.

According to state weatherization officials, they refrained from spending Recovery Act funds on weatherization work until the U.S. Department of Labor (Labor) established the prevailing wage rates for weatherization workers covered by the Recovery Act Weatherization Assistance Program.²³ State officials told us that they and all 18 local agencies that manage the Weatherization Assistance Program responded to the Labor survey to gather wage and benefit data on weatherization workers in Iowa by the requested date. The officials understood that the prevailing wages for Iowa would be available by July 25, 2009. On July 24, they received notice from Labor that the wage rates would be delayed, but should be available by August 14, 2009. On August 19, 2009 Labor established a prevailing wage rate for weatherization work in the state. On August 20, 2009 state officials received notification that prevailing wages had been determined and notified local agencies that they could accept bids and issue contracts for weatherization.

Because the requirement that workers be paid at least the prevailing wages, as determined by the Davis-Bacon Act, had not previously applied to the weatherization program and prevailing wages were not yet established, state officials provided general guidance to the local agencies on the overall requirements of the Davis-Bacon Act and on completing the Labor survey. However, officials told us that they were reluctant to implement the Recovery Act Weatherization Assistance Program without knowing the wages that local agencies and contractors who do the work must be paid and because they had limited experience with the Davis-Bacon Act. Many of the weatherization contractors are small companies that employ few full-time staff, and most do not provide benefits to their employees. According to these officials, if wages and benefits paid to weatherization workers turned out to be less than the prevailing wages,

²³Use of Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act. See Pub. L. No. 111-5, § 1606, 123 Stat. 115, 303 (Feb. 17, 2009).

the contractors would be liable for back payments. These back payments could be burdensome, especially for the smaller contractors, and might also give the appearance that contractors intentionally underpaid their employees. Furthermore, under the Davis Bacon Act, the local agencies or contractors must prepare a certified payroll each week and pay weatherization workers on a weekly basis. Both of these requirements are new to the Iowa program. Therefore, while waiting for Labor to determine the Davis-Bacon wage issues, Iowa continued to use program funds made available through annual DOE appropriations to weatherize homes.

**Recovery Act
Weatherization Funds Will
Be Monitored Largely by
Existing Program Controls**

According to state weatherization officials we spoke with, Iowa did not complete a risk-based assessment of the local agencies that implement its weatherization program primarily because all the agencies have demonstrated successful track records implementing a weatherization program, as evidenced in annual evaluations. These officials also consider existing program controls sufficient to ensure that weatherization funds are used for their intended purpose. Seventeen of the 18 agencies that implement the Weatherization Assistance Program have done so for more than 25 years, and the newest agency has implemented the program since 2006. In addition, state officials informally assess each local agency's performance on a continuing basis.

Controls over the Weatherization Assistance Program require the state to conduct an annual fiscal evaluation of each local agency. An on-site fiscal evaluation is completed under an established audit process and includes an examination of documents and records pertaining to salaries, materials, equipment, and indirect costs charged to the Weatherization Assistance Program. According to state officials, the same fiscal evaluation will be completed at all local agencies that receive Recovery Act funds. In addition, according to state officials, each local agency is contractually required to segregate, track, and maintain Recovery Act funds independently of other revenue streams. We found that the following audit steps are included in the state's fiscal evaluation:

- A sample of files is reviewed to determine if expenses charged to the program are adequately documented and comply with established limits. The review includes a sample of invoices for materials and labor charges and a review of timesheets and payroll ledgers.
- Inventory data for equipment costing \$5,000 or more are reviewed and tracked from year to year to assure that the local agency retains the equipment and is properly accounting for the equipment on hand.

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- The agency's procedures for handling interest earned on cash deposits is reviewed to assure that the agency complies with federal rules governing the amount of interest the agency may retain. For the Weatherization Assistance Program, interest amounts up to \$100 per year may be retained.
 - A sample of transactions for costs typically allocated to several programs (such as copiers and phones) is reviewed to determine if the cost allocation plan and procedures provide for a fair and equitable distribution of costs.

Iowa Officials Plan to Use Existing Performance Measures to Monitor the Results of Weatherization Funds

State officials will use the existing program performance measures, such as the number of homes weatherized and the resulting energy savings, to evaluate the Iowa Recovery Act Weatherization Assistance Program from an overall perspective and to assess the performance of each local agency. In addition, according to state officials, the local agencies are contractually required to track and report data on the effect of Recovery Act funds, such as the number of jobs created, to the Division of Community Action Agencies. The division, in turn, will report this information to the state's data center operated by the Iowa Department of Management. While state weatherization officials are confident that they will be able to track and measure the effect of Recovery Act funding, they are awaiting guidance on the specific items they are to measure and report.

Under current DOE requirements, which will continue to be followed under the Recovery Act program, each local agency must inspect all homes weatherized to ensure that all work was completed properly, all materials used were of good quality and installed properly, and no health or safety problems were created. The state is required to inspect at least 5 percent of the homes weatherized by each local agency, but according to state officials, they typically inspect 7 percent to 9 percent of all homes weatherized. State officials are also required to annually assess each agency's performance. During this annual assessment, officials evaluate each agency's house inspection process and determine the number of homes weatherized, the resulting energy savings, and the attendance of the agency's staff at training sessions and state meetings. In addition, state officials plan to conduct several monitoring visits to each local agency each year to determine how well each agency is spending Recovery Act funds and how well it is tracking and reporting required data, such as the number of jobs created. The state will be adding five staff to assist with the monitoring of Recovery Act weatherization funding—two new staff have already been hired in the Division of Community Action Agencies and

another has been reassigned to the program. Two new staff to assist in monitoring the local agencies' fiscal controls over weatherization will be added in the near future.

State Comments on This Summary

We provided the Governor of Iowa with a draft of this appendix on September 9, 2009. The Director, Iowa Office of State-Federal Relations, and the Director for Performance Results, Department of Management, responded for the Governor on September 14, 2009. Officials agreed with our findings. The officials also offered technical suggestions, which we have incorporated, as appropriate.

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Staff Acknowledgments

In addition to the contacts named above, Thomas Cook, Assistant Director; Christine Frye, analyst-in-charge; James Cooksey; Daniel Egan; Ronald Maxon; Marietta Mayfield; Mark Ryan; and Carol Hernstadt Shulman made key contributions to this report.

Appendix IX: Massachusetts

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Massachusetts. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

We reviewed three programs in Massachusetts funded under the Recovery Act—Highway Infrastructure Investment funds, Transit Capital Assistance funds, and the Workforce Investment Act (WIA) Youth Program. We selected these programs for different reasons:

- Contracts for highway projects using Highway Infrastructure Investment funds have been under way in Massachusetts for several months and provided an opportunity to review financial controls, including oversight of contracts.
- The Transit Capital Assistance funds had a September 1, 2009, deadline for obligating a portion of the funds and, further, provided an opportunity to review nonstate entities that receive Recovery Act funds.
- The WIA Youth Program in Massachusetts is largely directed toward a summer employment program and, therefore, was in full operation.

With all of these programs, we focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed. We reviewed contracting procedures and examined two specific contracts under both the Recovery Act Highway Infrastructure Investment funds and the WIA Youth Program. In addition to these three programs, we also updated funding information on three Recovery Act education programs where significant funds are being disbursed—the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF) and Recovery Act funds under Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and the Individuals with Disabilities Education Act (IDEA), Part B. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Massachusetts and local governments stabilize their

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

budgets and to stimulate infrastructure development and expand existing programs—thereby providing needed services and potential jobs.

Following are the highlights of our review of these funds:

Highway Infrastructure Investment

- The U.S. Department of Transportation’s (DOT) Federal Highway Administration (FHWA) apportioned \$438 million in Recovery Act funds to Massachusetts. As of September 1, 2009, the federal government has obligated \$203.2 million to Massachusetts and \$4.8 million has been reimbursed by the federal government.² As of September 12, 2009, Massachusetts had awarded contracts or advertised for bids on 39 projects.
- Most of the projects involve road paving, but the state is beginning to advertise more complex projects, such as a project making safety and mobility improvements at four major intersections along the Dorchester Avenue corridor in Dorchester.
- The commonwealth anticipates that the additional funds suballocated to urban areas will be obligated by the March 2, 2010, deadline.
- State officials have some concerns about Massachusetts’s ability to meet its transportation maintenance-of-effort requirement because of the commonwealth’s difficult budget situation.

Transit Capital Assistance Funds

- DOT’s Federal Transit Administration (FTA) apportioned \$290 million in Recovery Act funds to Massachusetts and urbanized areas located in the state. As of September 1, 2009, FTA has obligated \$206 million.
- The Massachusetts Bay Transportation Authority (MBTA), the largest transit provider in New England, will use the first round of funding for a series of projects worth \$112.6 million that include facility improvements, fleet enhancements, and capital improvement projects, as well as an enhancement of the MBTA’s Silver Line rapid transit service.
- FTA found that the September 1, 2009, 50 percent obligation requirement was met.

²Transportation has interpreted “obligation of funds” to mean the federal government’s commitment to pay for the federal share of the project.

WIA Youth Program

- The U.S. Department of Labor allotted about \$24.8 million to Massachusetts in WIA youth Recovery Act funds. The commonwealth allocated \$21.1 million to local workforce boards, and as of September 5, 2009, the local boards have drawn down about \$11 million and served 6,850 youth.
- While the commonwealth met its goal of serving 6,500 youth, programs faced challenges in getting youth on board in the initial weeks of the summer. One reason for the delay was that youth had difficulty supplying suitable documentation of eligibility.

Updated Funding Information on Education Programs

- Education has awarded Massachusetts about \$726 million, or about 73 percent of its total SFSF allocation. As of September 4, 2009, the commonwealth has distributed \$412 million to local educational agencies, helping the state restore aid to school districts.
- Additionally, Education has awarded Massachusetts all of its Recovery Act funds under *Title I, Part A, of ESEA, as amended*—about \$164 million. Based on information available as of September 4, 2009, the commonwealth has allocated \$78 million to local educational agencies and about \$2 million has been drawn down by local educational agencies (LEA). These funds are to be used to help improve teaching, learning, and academic achievement for students in families that live in poverty.
- Education has also awarded Massachusetts all of its Recovery Act funds under the *Individuals with Disabilities Education Act (IDEA), Part B*—about \$291 million. Massachusetts has allocated \$145 million to LEAs, which have drawn down almost \$10 million as of September 4, 2009. These funds are to be used to support special education and related services for children, as well as youth with disabilities.

As Massachusetts Begins Its Fiscal Year 2010 Facing Fiscal Stress, Recovery Act Funds Continue to Provide Fiscal Relief

In our July 2009 report, we noted that the commonwealth of Massachusetts needed to close a significant budget gap (approximately \$4 billion from its \$28 billion budget) during fiscal year 2009, which ended on June 30, 2009. This gap was largely driven by lower-than-expected revenue collections and was addressed by a combination of budget cuts and use of funding sources, such as Recovery Act funds and state rainy-day funds.³ As fiscal year 2009 closed, revenue collections have continued to be less than anticipated, while supplemental funding was requested for some programs.⁴ For example, according to the state's budget director, the state's Medicaid program experienced higher-than-expected claims and utilization, and these additions to the budget gap require further state action heading into fiscal year 2010. The fiscal year 2010 budget was signed by the Governor on June 29, 2009, prior to the start of the new fiscal year. Fiscal year 2010 revenue estimates were lowered by more than \$1.5 billion after the Governor submitted his initial fiscal year 2010 budget proposal. The spending level during fiscal year 2010 is projected to be lower than the past 2 fiscal years.⁵ The Executive Office for Administration and Finance is evaluating fiscal risks for the fiscal year 2010 budget and beyond by working with state agencies on spending plans. State officials noted that they will be closely monitoring revenues throughout fiscal year 2010. Another area requiring close attention is the state's Medicaid program, as enrollments and costs have risen during the past several years.

The commonwealth plans to continue to use Recovery Act funds along with state rainy-day funds during state fiscal year 2010 to help balance its operating budget. The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free up state funds to address their projected budget shortfalls. The state plans to use Recovery Act funds to a greater extent in fiscal year 2010 than it did in fiscal year 2009. In fiscal year 2009, the commonwealth used \$1.4 billion in Recovery Act funds to stabilize its budget, while the

³Massachusetts officials refer to rainy-day funds—reserves built up during more favorable economic conditions to be used during difficult economic times—as stabilization funds. However, to avoid confusion with the Recovery Act's State Fiscal Stabilization Fund, we will use the term rainy-day funds.

⁴State revenues for fiscal year 2009 were \$177 million lower than the revised benchmark levels set in May, and the total fiscal year 2009 revenue gap was more than \$3.2 billion.

⁵The projected budget for fiscal year 2010 is \$27 billion compared to \$27.5 billion in spending during fiscal year 2009 and \$28 billion in spending in fiscal year 2008 (dollars are not adjusted for inflation).

commonwealth plans to use at least \$1.7 billion in fiscal year 2010 for the same purpose.⁶ State rainy-day funds will also be used to help stabilize the state's budget but to a lesser extent than in fiscal year 2009. The commonwealth used \$1.39 billion in state rainy-day funds during fiscal year 2009, while the state budget for fiscal year 2010 assumes the use of \$214 million in rainy-day funds. This leaves the state with a projected rainy-day fund balance of \$571 million at the end of fiscal year 2010 compared with \$2.1 billion at the beginning of fiscal year 2009.

The state is preparing for when Recovery Act funds will no longer be available by trying to stabilize the state budget through a combination of spending reduction and revenue generating strategies. During its fiscal year 2010 spending plan process, the Executive Office for Administration and Finance issued spending caps for each state secretariat to help ensure that state spending levels are aligned with future revenue projections. The state has also capped the number of employees at each department to help prevent payroll increases or reduce payroll spending. In addition, state officials are encouraging state departments to minimize the need for forced layoffs by lowering personnel costs in creative ways, such as through reduced work hours, job sharing, and voluntary furloughs. Also, during the past fiscal year, the state instituted a policy that employees paid from Recovery Act funds would work only as long as those funds were available. Furthermore, state officials are preparing agencies for possible midyear budget reductions in the event that a new budget gap emerges during the course of the fiscal year.⁷ In addition to spending reductions, the appropriations act for fiscal year 2010 increased a state sales tax from 5 percent to 6.25 percent, effective August 1, 2009, among other changes.⁸

Senior state officials have expressed concern about their ability, given the tight budget, to pay for extra oversight and reporting activities needed on Recovery Act funds. U.S. Office of Management and Budget (OMB) guidance discusses two options states have to recoup costs for central

⁶Recovery Act funds used to stabilize the state's operating budget include funds made available as a result of the Federal Medical Assistance Percentage funds (discussed in detail in [GAO-09-1016](#)), State Fiscal Stabilization Fund funds, and Temporary Assistance for Needy Families contingency funds.

⁷According to a state official, the Governor may invoke his power to make budget reductions if revenue collections are below levels assumed in the budget.

⁸Mass. Gen. Laws ch. 64H, § 2.

administrative services, such as oversight and reporting.⁹ The commonwealth plans to use the “billed services” option, which charges agencies for central services and allocates them to federal grants. Such services include both personnel and information technology system costs for central oversight and reporting, such as staff within the newly created Office of Infrastructure Investment and the Office of the State Auditor. However, for two reasons, state officials were concerned that this methodology, although preferred, would not enable the state to recoup additional administrative costs of Recovery Act implementation:

- Small grants may require significant central resources, while larger grants may require proportionally fewer central resources, but this approach, which includes a 0.5 percent limit on the amount allowed to be recouped, may not adequately cover the state’s costs if Recovery Act programs may not be combined.
- The depreciation rules for information systems would require them to allocate costs over the 5-year life of the system created for tracking Recovery Act funds, yet the costs could be recovered only over the shorter period during which they will receive funds.

As a result, the commonwealth submitted a proposal to the Division of Cost Allocation, Department of Health and Human Services (HHS), to try to improve flexibility in the formula to calculate and account for these central administrative costs.¹⁰ According to state officials, they received approval for their cost allocation proposal from the Division of Cost Allocation on August 10, 2009, although it included limitations on the depreciation methodology proposed.¹¹ In addition, the National Association of State Auditors, Comptrollers and Treasurers, representing all states, submitted a waiver proposal to OMB related to the depreciation methodology for cost recovery, among other issues. OMB approval for this waiver proposal is pending.

⁹OMB Memorandum M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities* (May 11, 2009).

¹⁰The Division of Cost Allocation within HHS administers state cost allocation plans, which provide a process whereby state central service costs can be identified and assigned to benefited activities. The Massachusetts submission proposes to amend the commonwealth’s 2010 statewide cost allocation plan.

¹¹The commonwealth submitted an amendment to its Statewide Cost Allocation Plan on June 8, 2009. The Division of Cost Allocation at HHS responded back to the state with a series of questions, to which the state responded.

Massachusetts Is Focusing on Developing Statewide Recovery Act Reporting Procedures

To report on Recovery Act funds as required under the Recovery Act, the commonwealth designed ways to collect data and review data quality for public reporting on both federal and state government Web sites. Senior officials noted that the commonwealth is committed not only to providing timely information on Recovery Act spending to meet federal reporting requirements as outlined in Recovery Act section 1512,¹² but also to achieving the Governor’s commitment to providing transparent information on the state’s recovery Web site. Recovery Act reporting requirements include identifying the entities receiving Recovery Act dollars—and the dollar amounts—projects or activities being funded, projects’ status, and an estimate of the number of jobs created and the number of jobs retained by the projects and activities. The lead state organization for developing reporting processes, the Office of Infrastructure Investment, is hiring a manager to develop reporting protocols and oversee Recovery Act reporting. The state also appointed a “reporting” lead within each secretariat to serve as a single point of contact on reporting issues. Information will be gathered from both prime funding recipients, such as state agencies, as well as subrecipients, such as private contractors. State officials expressed concerns that public reporting of Recovery Act funds will be challenging, especially reporting on funds going to private and nonprofit entities that lack experience with such reporting or that lack the administrative capacity to produce reports. Also, officials noted that the definition of a “project” still required clarification, and if not clarified, aggregating this information to meet federal reporting requirements will be difficult.

One key required element in the Recovery Act is reporting an estimate of the number of jobs created and the number of jobs retained by projects and activities. Senior state officials noted that they awaited further federal guidance on job reporting methodologies. They said that for some federal agencies, guidance is clear, but facing an October deadline, they decided to move ahead with developing job counting methodologies across state agencies. The commonwealth’s Executive Office of Labor and Workforce Development took the lead. State officials said the state may develop three or four different methodologies for job counting, depending on the program area. They also said that some entities, such as those familiar with Davis-Bacon Act job reporting requirements, will have an easier time reporting on jobs compared to entities in education or health care, for

¹²Pub. L. No. 111-5, 123 Stat. 115, 287 (Feb. 17, 2009).

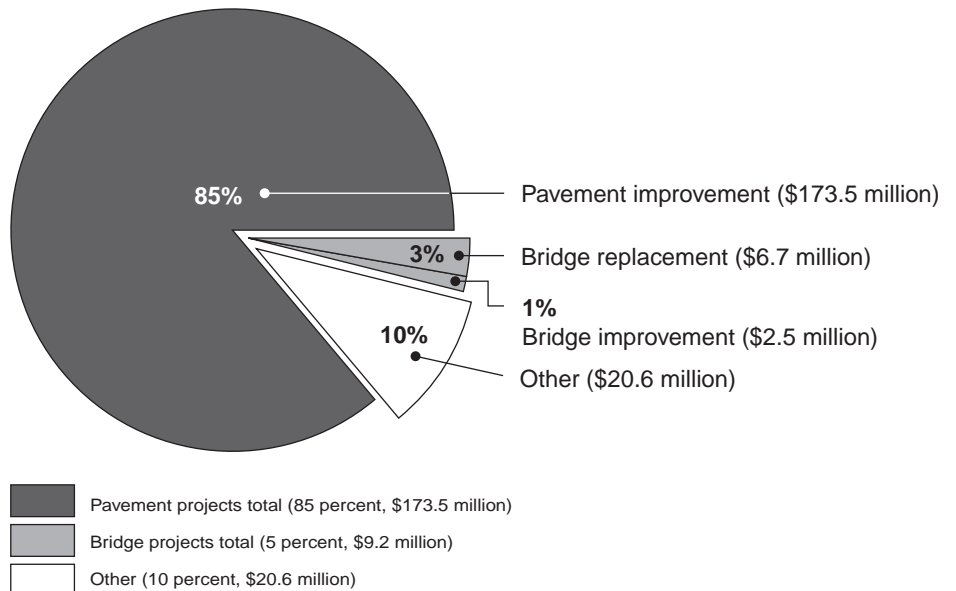
example, where they do not have certified payrolls from which to draw these data.

Massachusetts Is Managing Highway Projects but Faces Challenges Regarding Funds Suballocated to Urbanized Areas

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms, and states must follow the requirements of the existing program, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

Massachusetts was apportioned \$438 million in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$203.2 million has been obligated. The U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s commitment to pay for the federal share of the project. This commitment occurs at the time the federal government approves a project and a project agreement is executed. As of September 1, 2009, \$4.8 million has been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects. Almost 85 percent of Recovery Act highway obligations for Massachusetts have been for pavement improvement. As of September 1, 2009, \$173.5 million of the \$203.2 million obligated in Massachusetts is being used for pavement improvement. Figure 1 shows obligations by the types of road and bridge improvements being made.

Figure 1: Percentage of Highway Obligations for Massachusetts by Project Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases. Totals may not add due to rounding.

Highway Infrastructure Investment funds appropriated under the Recovery Act continue to be obligated to projects, but the types of projects are increasing in both size and complexity. The first several projects were limited largely to paving, but more recent projects included intersection improvements and design and construction of a new interchange. In our July 2009 report, we stated that due to "use-it-or-lose-it" requirements, Recovery Act funds had initially been obligated for small, short-term projects that require little lead time for planning and design, such as repaving and resurfacing projects that can be completed within 2 years, and the majority of the cost estimates for first-round projects came in at less than \$5 million per project. As the Massachusetts Executive Office of Transportation (EOT) continues to select projects, the projects have increased in terms of both funding amounts and complexity. New projects include the reconstruction of Dorchester Avenue in Dorchester and construction of the North Bank Bridge. The reconstruction of Dorchester Avenue in Dorchester, which FHWA has approved, is estimated to cost \$15 million and will make safety and mobility improvements at four major intersections along the Dorchester Avenue

corridor in Dorchester. The North Bank Bridge, a pedestrian bridge that will connect Cambridge and Charlestown, is estimated to cost \$30 million to \$36 million, according to an official at the EOT. Recovery Act funding for the North Bank Bridge project is currently under review by FHWA and is contingent upon the state's completion of the transfer of \$30.5 million to the Massachusetts Department of Conservation and Recreation as part of its approximately \$100 million mitigation commitment for enhancement projects for the Central Artery Tunnel, commonly known as the "Big Dig." According to an FHWA official, in order for the North Bank Bridge to be funded under Recovery Act funds, the transfer of \$30.5 million must be made prior to March 2, 2010.

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. States are required to do the following:

- Ensure that 50 percent of apportioned Recovery Act funds were obligated within 120 days of apportionment (before June 30, 2009). The 50 percent rule applies only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated, primarily based on population, for metropolitan, regional, and local use. In addition, states are required to ensure that all apportioned funds—including suballocated funds—are obligated within 1 year. The Secretary of DOT is to withdraw and redistribute to other states any amount that is not obligated within these time frames.¹³
- Give priority to projects that can be completed within 3 years and to projects located in economically distressed areas. Distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended.¹⁴ According to this act, to qualify as an economically distressed area, the area must (1) have a per capita income of 80 percent or less of the national average; (2) have an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate; or (3) be an area the Secretary of Commerce determines has experienced or is about to experience a "special need" arising from actual or threatened severe unemployment or economic

¹³Pub. L. No. 111-5, 123 Stat. 115, 206 (Feb. 17, 2009).

¹⁴42 U.S.C. § 3161

adjustment problems resulting from severe short- or long-term changes in economic conditions.¹⁵

- Certify that the state will maintain the level of spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state was required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.¹⁶

Massachusetts Is Working toward Having Funds Obligated to Suballocated Areas but Faces Capacity Challenges

As mentioned earlier, states were required to suballocate 30 percent of their apportionment to metropolitan and other areas of the state. As of September 1, 2009, \$31 million for 7 projects have been obligated as part of Massachusetts's 30 percent suballocation. According to the Economic Stimulus Coordinator at the Massachusetts Executive Office of Transportation (EOT), which oversees highway projects, there were several reasons for obligating only 24 percent of these funds thus far. Massachusetts Highway Department (MassHighway) faces challenges with staffing and with the multistep nature of the process.¹⁷ MassHighway's existing project planning and design personnel have been strained by the increased workload associated with Recovery Act projects and the state's recently implemented Accelerated Bridge Program.¹⁸ Additionally, the state works collaboratively with the metropolitan planning organizations (MPO),¹⁹ who serve as regional transportation planning and programming

¹⁵ 42 U.S.C. § 3161(a). Eligibility must be supported using the most recent federal data available or, in the absence of recent federal data, by the most recent data available through the government of the state in which the area is located. Federal data that may be used include data reported by the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other federal source determined by the Secretary of Commerce to be appropriate (42 U.S.C. § 3161(d)). As of August 29, 2009, Massachusetts obligated an estimated total of \$80.6 million to three projects located in the state's only economically distressed area.

¹⁶ Pub. L. No. 111-5, § 1201(a) 123 Stat. 115, 212 (Feb. 17, 2009).

¹⁷ EOT oversees MassHighway, which is responsible for highway projects.

¹⁸ In May 2008, Governor Deval Patrick introduced the \$3 billion Accelerated Bridge Program to reduce the commonwealth's growing backlog of structurally deficient bridges.

¹⁹ MPOs are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation, and are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues, including major capital investment projects and priorities.

agencies, to identify projects for urbanized areas. The state and MPOs are working to balance the preferences of individual cities and their broader region. According to one MPO staff member, all federally funded highway projects must be reviewed by MassHighway at various stages, and an MPO official stated that the state-MPO approval process does not lend itself to obligating new funds within a short time frame. Despite challenges, the state and MPO officials are in the process of identifying projects that are ready to go and predict they will have no difficulty meeting the March 2010 deadline for the obligation of these funds.

The EOT Economic Stimulus Coordinator also said there was some initial confusion around obligating the 30 percent suballocation to urban areas and that EOT received instruction from FHWA. The FHWA Massachusetts Division Administrator said that to ensure continued progress in advancing the federally funded statewide road and bridge projects on the state's transportation improvement program while pursuing Recovery Act projects, FHWA encouraged EOT to first focus on obligating the state apportionment of the Recovery Act highway funds by the June 29, 2009, deadline because these projects were more likely to be shovel ready. This strategy allowed the state to set priorities for obligating the 30 percent suballocation while fully addressing all federal requirements. According to this FHWA official MassHighway has made strides in improving the quality and completeness of their final project submissions for their regular federal aid program projects and improved their ability to cut the time from award to notice to proceed significantly. FHWA wanted to make sure that quality, timeliness and readiness of projects not be compromised while the state identified and vetted Recovery Act project priorities.

State Concerns about Meeting the Maintenance-of-Effort Requirement

States were required to certify that the state will maintain the level of spending that it had planned on February 17, 2009, the day the Recovery Act was enacted. As part of the certification review, DOT will evaluate Massachusetts's method of calculating the amounts it planned to expend for the covered programs to determine if the state's calculation complies with DOT guidance. Massachusetts officials are awaiting the results of this review. Massachusetts state officials continue to express concern about the state's ability to maintain spending levels for transportation. According to the Governor's Deputy Chief Counsel, the requirement that the state commit to spend in the future what it planned to spend on February 17, 2009, puts the state in a difficult position since the state transportation spending plan in February 2009 was based on a 5-year capital plan that was developed before the state's revenues dropped significantly. The state would like to reserve the right to scale down its capital spending plan in

line with debt affordability analysis updates, but DOT is continuing to enforce the Recovery Act requirement that states maintain their February 2009 level of effort. Although the state realizes it is too early to gauge whether it will be able to meet its maintenance-of-effort requirements, the Deputy Chief Counsel stated that the commonwealth would like to maintain a continuing dialogue with DOT officials to see if they can alter the maintenance-of-effort requirements given the significant change in the state’s fiscal situation. According to DOT, no provision for a waiver or relief is provided in the Recovery Act.

Massachusetts Is Using Existing Contracting and Oversight Procedures for Recovery Act Highway Funds

EOT has controls and processes in place for the use of Recovery Act funds. According to MassHighway documents and a MassHighway contracting official, the state uses an established competitive bid process for awarding all highway contracts, including the two Recovery Act highway projects we reviewed (see table 1), and all bidders must be prequalified by MassHighway. The annual prequalification process requires each contractor to submit a completed application, original bonding letter, and power of attorney from a surety company. According to a MassHighway contracting official, after tabulating all bids and analyzing their material soundness, MassHighway awards a unit price contract to the lowest bidder.²⁰ The contracts we examined, and as confirmed by a MassHighway contracting official, contained additional language that was inserted to explain the Recovery Act requirements, notice of providing access to relevant federal inspectors general, and whistleblower protection.

Table 1: Key Contract Information for Two Highway Projects

Characteristic	Adams project	Swansea project
Description	1.5 miles of road resurfacing and sidewalk reconstruction on Route 116	Resurfacing of 5.7 miles of Route 6 from Somerset to Rehobeth
Estimated cost	\$2,199,456	\$4,159,044
Project start	April 2009	April 2009
Estimated completion	July 2010	August 2010

Source: GAO analysis of Massachusetts Highway Department information.

²⁰According to an official at MassHighway, with unit price contracts at MassHighway, unit prices are fixed for quantities within 25 percent over or under the specified quantity.

EOT officials stated they have an online database that allows transportation officials to segregate, itemize, and track Recovery Act funds. A MassHighway contracting official stated that all safeguards and contract management are overseen by MassHighway engineers in MassHighway's district offices. District office engineers provide oversight based on an established Standards of Procedure guide and meet with officials from the MassHighway construction office every other month. Oversight personnel are assigned to a contract after the contract is awarded. A MassHighway contracting official said that the Resident Engineer, an employee of the MassHighway district office, directly oversees projects within the districts. As we observed, the Resident Engineer keeps a daily diary of each project to record the number of hours worked by employees, the number and type of equipment used, and the amount of building materials used that day. This information is then entered into an online system that tracks the daily expenditures of the job and prepares reports, which we also observed.

Reporting on Recovery Act Results Continues to Evolve

Massachusetts continues to collect and report employment data and data related to project implementation and expenditures. Data relating to transportation projects is now available through the state's recovery Web site. As we reported in July 2009, Massachusetts transportation officials require contractors and subcontractors to submit monthly employment information, including the number of employees, hours worked, and payroll. However, it is unclear how this information will be used to identify new and existing employees and how to ensure that one employee working on two different projects is counted as one job created and not two.

According to the Economic Stimulus Coordinator at EOT, EOT uses the Equitable Business Opportunity (EBO) system to track the number of jobs created through Recovery Act highway funds. EBO is a Web-based contractor payroll information system. Massachusetts has integrated the monthly employment data collection forms from the FHWA with the EBO system to calculate number of workers and hours worked per project. The FHWA form collects data from contractors, consultants, and the states. For any project or activity that receives FHWA Recovery Act funds, the state must complete the FHWA forms for any month where associated employment occurs. The EOT official said that EOT submits the employment data to FHWA on the 20th of each month, and that FHWA's format for reporting this data has changed four times since EOT began reporting after projects were approved. Additionally, the EOT official

expressed concern that after submitting the monthly reports, there has been no feedback and little additional guidance from FHWA.

FTA Found Key Recovery Act Obligation Deadline Was Met, and Massachusetts Will Use Funds for Fleet Improvements and Intermodal Enhancements

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.²¹ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.²² Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.²³ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.²⁴

²¹The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

²²Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

²³The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

²⁴The federal share under the existing formula grant program is generally 80 percent.

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.²⁵ FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure disadvantaged business are not discriminated against in the awarding of contracts.

In March 2009, \$290 million in Recovery Act Transit Capital Assistance funds was apportioned to Massachusetts and urbanized areas located in the state for transit projects.²⁶ As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Massachusetts and urbanized areas located in the state. Under the Recovery Act, Massachusetts's only large urbanized area was apportioned \$199.8 million in Transit Capital Assistance funding. An additional \$37.9 million was apportioned to medium-size urbanized areas with populations of 200,000 to 999,999, and \$9.2 million was apportioned to small urbanized areas with populations of 50,000 to 199,999. In addition, the state was apportioned \$5.2 million for transit projects in nonurbanized areas. Transit Capital

²⁵Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of DOT, having an urbanized area population of more than 200,000, or upon request from the Governor and MPO designated for the area. Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's Transportation Improvement Program (TIP) and the approved State Transportation Improvement Program (STIP).

²⁶The total apportionment includes funds apportioned to other states because some urbanized areas cross state boundaries. For example, the Providence, RI-MA urbanized area includes the Rhode Island Public Transit Authority and two transit agencies located in southeastern Massachusetts—the Greater Attleboro Taunton Regional Transit Authority and the Southeast Regional Transit Authority.

Assistance funds are administered by transit agencies who are designated recipients of this funding. The transit agencies in the urbanized area meet to develop an agreement that spells out how the apportionment will be divided among the various transit agencies in the urbanized area.²⁷ The state administers a smaller portion of the federal transit aid for projects in smaller communities and rural areas of the state.

Massachusetts Transit Agencies Have Used Transit Capital Assistance Apportionments for Fleet Improvements and Intermodal Access Enhancements

Massachusetts transit agencies are using Recovery Act funding to finance a variety of fleet enhancement and capital improvement projects that include replacing aging bus fleets with hybrid vehicles, installing automatic vehicle locator systems on buses, adding solar panels to bus shelters, and developing plans for a regional interoperable rail fare system to allow transit users to transfer between several different transit agency systems using one fare card. According to the Executive Director of the Massachusetts Association of Regional Transit Authorities, Recovery Act funding has allowed Massachusetts transit agencies to fund projects that they otherwise would not have been able to afford. For example, according to the Massachusetts Bay Transportation Authority (MBTA), funds have been obligated for projects worth \$112.6 million, including a series of smaller preventive maintenance projects, fleet enhancements, and capital improvements, as well as an enhancement of MBTA's Silver Line rapid transit service. MBTA officials told us they have received final approval from FTA and are preparing bid announcements and procurement packages.²⁸ MBTA expects the first delivery of paratransit vans funded under the Recovery Act in September 2009, and transit construction projects are expected to be under way in the fall of 2009 and completed by October 2011. According to an MBTA official, the federal transit capital funds are drawn down through the FTA's Web-based Electronic Clearing House Operations System. MBTA is required to reimburse vendors within 3 days of receiving the federal funds, but in practice, MBTA generally pays its vendors the same day it draws down the federal funds.

²⁷In Massachusetts, transit agencies are independent, quasi-public authorities.

²⁸According to FTA officials, transit projects recommended for Recovery Act funding are initially submitted to FTA for review and comment. Once all comments are addressed by the transit agency, the project list is forwarded to the U.S. Department of Labor (Labor) for certification, a process that may take up to 60 days. Labor reviews transit grant applications to gauge the impact of the planned project on local transit workers. Once Labor certifies the application, FTA "approves" funding and the project is obligated.

According to another transit agency we spoke with—the Pioneer Valley Transit Authority (PVTA), which serves 24 communities in Hampden and Hampshire Counties—funding has been obligated for projects worth \$16.3 million, including purchasing 29 new buses, installing solar panels on rural bus shelters to provide security lighting, making improvements to transit facilities, and installing bicycle racks on buses (see table 2). PVTA officials report they have awarded contracts for projects worth \$10.7 million, including contracts for purchasing bicycle racks and repairing maintenance facilities. PVTA officials expect these projects to be completed by the first of the year and the remaining projects to be completed by the end of 2010.

Table 2: Pioneer Valley Transit Authority Transit Capital Assistance Grant Application

Project description	Estimated cost
Purchase bus shelters	\$25,000
Purchase bicycle access, facilities and equipment on buses	80,000
Buy 16 35-foot replacement buses	5,934,500
Buy 18 replacement vans	990,000
Buy 13 40-foot replacement buses	4,810,000
Acquire 130 mobile fare-collection units	2,600,000
Acquire 200 mobile survey and security units	740,000
Renovate administration and maintenance facility	847,953
Renovate storage facility	82,000
Renovate yards and shops	150,000
Estimated total cost	\$16,259,453

Source: GAO analysis of FTA data.

In addition, PVTA officials reported they have plans to purchase new buses through a pre-existing contract awarded by another public transit agency. Under this process, referred to by PVTA officials as piggyback procurement, one transit agency may assign some or all of its existing contract rights to another transit agency to purchase all or a portion of that contract’s supplies, equipment, or services under the same contract terms and pricing as originally advertised, competed, evaluated, and awarded. PVTA officials told us that piggyback procurement is in the best interest of the agency because, they believe, it saves time and money by lowering per-unit costs and avoiding the lengthy procurement process. According to these officials, they obtain a copy of the contract from the originating transit agency and review it for compliance with FTA procurement regulations. According to the administrator for FTA Region I,

piggyback procurement is a common practice among public transit agencies.

State EOT and transit agency officials we spoke with told us they used several key criteria for selecting transit projects to be funded under the Recovery Act, including shovel readiness (project readiness), short- and long-term jobs creation, economic development, regional equity, and modal equity.²⁹ According to transit officials, projects are placed on the Transportation Improvement Program after considerable input from EOT and the regional MPO. Furthermore, according to an EOT official, transit agencies, in conjunction with the regional MPO, conduct extensive outreach with key community stakeholders, including private bus companies, taxi companies, and advocates for disabled and elderly transit users, to gauge public opinion on proposed projects.

FTA Found That Massachusetts and Its Urbanized Areas Have Met the 50 Percent Obligation Requirement

Funds appropriated through the Transit Capital Assistance Program must be used as required by the Recovery Act; specific provisions include the following:

- Fifty percent of Recovery Act funds apportioned to urbanized areas or states were to be obligated within 180 days of apportionment (before September 1, 2009) and the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation must withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.³⁰
- Project sponsors must submit periodic reports, as required under the maintenance-of-effort for transportation projects section (§ 1201(c) of the Recovery Act) on the amount of federal funds appropriated, allocated, obligated, and outlayed; the number of projects put out to bid, awarded, or work has begun or completed; project status; and the number of jobs created or sustained. In addition, grantees must report detailed information on any subcontractors or subgrants awarded by the grantee.

FTA found that the requirement to obligate 50 percent of the transit funds apportioned for Massachusetts transit projects within 180 days has been

²⁹Modal equity refers to the practice of ensuring that all modes of transportation are given equal consideration in deciding where to obligate federal funds.

³⁰Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

met.³¹ In order to get projects through the approval process quickly, the regional FTA administrator encouraged transit agencies to “bundle” multiple projects together under one grant application.³² For example, FTA provided informal guidance to MBTA to encourage the bundling of multiple projects for each Recovery Act program (see table 3). MBTA is expected to receive approximately \$232 million in Recovery Act funds (\$181 million of Transit Capital Assistance urbanized area funds and \$52 million of Fixed Guideway Infrastructure Investment funds). According to the FTA Region I Administrator, without bundling, MBTA could have filed 18 separate Recovery Act applications for 18 separate projects. According to this official, bundling projects reduces the number of grants that need to be managed and reported on and reduces the number of grants needing FTA approval and Department of Labor certification. Thus, bundling projects could reduce the time it takes to get an application through the approval process. In addition, bundling grants provides flexibility to transit agencies by providing them with the ability to shift grant funds among projects within the same grant. In instances where favorable bid conditions result in excess funds, bundling provides an opportunity to move funds to another project within the same grant that may cost more than the original estimate. According to this official, given the advantages of bundling, FTA tries to promote bundling projects to all transit agencies in Region I.

³¹The U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s commitment to pay for the federal share of the project. This commitment occurs at the time the federal government approves a project and a project agreement is executed.

³²Region I FTA officials encourage public transit agencies to combine several projects into one application to expedite the approval process and provide flexibility to grant recipients to move excess funds from one project to another.

Table 3: MBTA Transit Capital Assistance Grant Applications

Project description	Estimated cost
First grant application	
RIDE vehicles - procurement of 108 vans	\$5,500,000
MBTA - replace and repair fencing	3,800,000
Back Bay Station - improve ventilation and air quality in lobby area	3,000,000
Construction of enhanced bicycle parking facilities at up to 50 stations	4,803,250
Bus stop amenities (e.g., shelters, benches, signage, pavement markings, and amenities related to the Americans with Disabilities Act) between Ashmont and Ruggles Station	7,825,000
Silver Line and Dudley-South Station - new bus stops at Chinatown and South Station, queue jumper lanes, traffic signal priority, and real-time arrival system	1,700,000
Total first grant	\$26,628,250
Second grant application	
MBTA - various bus facility improvements (e.g., bus washing equipment, pavement repairs, and heating, cooling, and lighting systems at five bus garages)	\$14,636,188
Fitchburg double-tracking project between West Acton and Ayer, including Littleton Station work	39,810,000
Procurement of 25 articulated 60-foot hybrid buses to replace aging buses	30,700,000
Silver Line - reconstruct Essex Street ramps	800,000
Total second grant	\$85,946,188

Source: GAO analysis of MBTA data.

Massachusetts transferred \$12.8 million in Recovery Act highway funding to fund a transit project in Franklin County. The EOT Economic Stimulus Coordinator told us the decision to transfer money from highway projects to transit projects was a joint decision between EOT and the Franklin Regional Transit Authority and was chosen because the community of Greenfield, in Franklin County, needed the funds to upgrade its maintenance facilities to address safety concerns and ease significant congestion. Because Greenfield lacks a transportation depot, riders assemble at city hall to catch the bus, causing traffic delays. According to an EOT official, this situation has caused significant congestion around city hall and raised concern for the safety of riders who stand by the side of the road in a busy section of the city. This official said that the planned intermodal facility that will be funded with the \$12.8 million is expected to reduce the congestion and ease safety concerns by providing a central bus depot for riders that will be also be a staging point for eventually connecting the community to high-speed rail.

MBTA and PVTA Have Developed New Accounting Procedures to Track Recovery Act Funds but Will Use Existing Procedures to Manage Contracts

MBTA and PVTA have developed budget codes to track Recovery Act funding to segregate it from funding for projects under their regular formula grants. PVTA maintains an internal tracking system that mirrors FTA's Transportation Electronic Award Management system that enables them to track expenditures in finer detail.³³ MBTA has devised new "mode codes" within the MBTA accounting system for Recovery Act funding and has created a separate bank account for Recovery Act-funded projects, which enables them to write separate checks for these expenditures.

Officials from MBTA and PVTA have stated they are using existing procedures to manage Recovery Act contracts and have engaged external consultants to provide additional oversight and project management. While both transit agencies are currently following existing contract management procedures specified by FTA, MBTA has hired a consultant to develop an oversight plan for Recovery Act-funded projects, and PVTA officials reported that they will be using an external consultant to provide off-site inspections of manufactured goods that are being procured with Recovery Act funding. In addition, MBTA will hire external management firms to provide oversight support for several rail, bus, and transit station projects.

MBTA and PVTA Are Developing Plans for Reporting on Expenditures and Jobs Created

MBTA and PVTA reported they have received guidance from FTA on the Recovery Act reporting requirements and a separate request for information from the U.S. House of Representatives Transportation and Infrastructure Committee (the Oberstar Report). They are currently determining how to meet both sets of requirements. For example, PVTA has questions concerning how to calculate indirect jobs created from equipment purchases made with Recovery Act funding versus how to count jobs created from Recovery Act-funded construction projects. Hoping to get answers to these questions, officials from both MBTA and PVTA said they planned to attend one of FTA's upcoming webinars. Neither transit agency had job data for the U.S. House of Representatives Transportation and Infrastructure Committee July report because they did not have projects under way at that time, but both agencies expect to be able to report job data for the next reporting cycle.

³³The Transportation Electronic Award Management System is FTA's online grant application and project management system, which allows grant recipients to manage the grants awards, monitor project budgets and milestones, and make budget and scope revisions.

In addition to reporting job and spending data, transit agencies are required to submit quarterly reports to FTA on scheduled milestones for all projects funded under the Recovery Act. They are also required by FTA to include both the purpose and the rationale for federal investment in each grant application funded under the Recovery Act. Grant applicants are asked to explain how the infrastructure investment will contribute to one or more of the Recovery Act purposes, such as the preservation or creation of jobs, the long-term economic benefits, and whether the project addresses an immediate maintenance need. According to the Deputy Director of Financial Planning, in the future, MBTA may use these purpose and rationale indicators as performance measures to assess how well transit projects funded under the act are meeting their intended purpose, but the agency is not currently aware of any requirements that it report on these additional measures. According to this official, MBTA's ability to maintain schedule and stay within the budget are the primary performance measures tracked and reported to FTA for all grant-funded projects, including Recovery Act grant programs. MBTA also provides information to the state through EOT that includes information on Recovery Act project status and copies of reports submitted to the U.S. House of Representatives Transportation and Infrastructure Committee and FTA for Section 1201(c) reporting requirements. According to this official, this information will then be posted to the EOT Recovery Act Web site for public review.

Massachusetts Faced Challenges in Reaching Its Target Number of Summer Youth Participants

The Recovery Act provides an additional \$1.2 billion in funds for Workforce Investment Act (WIA) Youth Program, including summer employment. Administered by the Department of Labor (Labor), the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became

the Recovery Act,³⁴ the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth Program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.³⁵ Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job (2) learn work readiness skills on the job, and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.³⁶ Labor’s guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor’s guidance. Each state’s plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth Program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor’s guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the

³⁴H.R. Rep. No. 111-16, at 448 (2009).

³⁵Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

³⁶Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

Massachusetts was allotted \$24,838,038 in Recovery Act WIA youth funds. Labor stipulated that these funds be expended by June 30, 2011. The Massachusetts Executive Office of Labor and Workforce Development (EOLWD), the agency responsible for overseeing the commonwealth's WIA Youth Program, allocated \$21,112,332 of the WIA youth Recovery Act funds to 16 workforce investment areas within the state. EOLWD developed its own spending guidelines and instructed local workforce investment boards (boards) to spend at least 60 percent of their Recovery Act funds by September 30, 2009, and the remainder by September 30, 2010. Although these are the formal deadlines, state officials verbally encouraged the boards to spend all of their funding as soon as possible to stimulate the economy. As of September 5, 2009, local boards had drawn down about \$11 million or 53 percent of WIA youth Recovery Act funds.

Fewer Youth Than Planned Have Been Served with WIA Youth Funds by Some Local Workforce Investment Boards

State officials planned to provide 6,500 youth³⁷ with summer employment activities through the WIA Youth Program, but some local boards had problems identifying eligible youth.³⁸ While EOLWD anticipated that the youth would participate throughout the summer, fewer than expected youth were served in the beginning. As of July 31, 2009, a few weeks into summer activities, Massachusetts reported to Labor that it had served 5,640 youth, but as of August 24, 2009, it had met its goal and served over 6,750 youth.

When we met with local board officials in July 2009, they said they were having difficulty recruiting eligible youth in some areas. The Central Massachusetts Regional Employment Board, as of July 23, 2009, had only about 65 of its goal of 100 participants in one of its areas. The Merrimack

³⁷As stated in our July 2009 report, the Governor's office estimated that each of the 6,500 youth would work 30 hours per week for 8 weeks at the rate of \$8 per hour.

³⁸In total, the Governor's office planned to create about 10,000 summer jobs for youth across the state by leveraging and coordinating Recovery Act WIA youth funds, Recovery Act Edward Byrne Memorial Justice Assistance Grant funds provided to the state Executive Office of Public Safety and Security, and state-funded Youthworks funds. As of August 6, 2009, the state had surpassed its goal of serving 3,565 youth through the Youthworks program. The Recovery Act Edward Byrne Memorial Justice Assistance Grant program served 4 youth as of early September 2009.

Valley Workforce Investment Board reported 304 participants as of the week ending July 31, 2009, and was not sure it would be able to reach its goal of 700 participants.

Local officials said they found it difficult to recruit eligible youth in the short time they had to ramp up their programs. Local officials said it was challenging for youth to provide all of the documents that were required to demonstrate WIA Youth Program eligibility, especially in such short time frames. Officials from the Central Massachusetts board said that on average, youth had to come back to the program office about two or three times to supply the proper documentation. According to local board officials, it was especially onerous for students to be required not only to demonstrate they were from families at or below the poverty level, but also to prove they were eligible for the program because of another barrier, such as being pregnant, a parent, or an offender. According to local officials, parents and community members were troubled to learn that low-income youth without employment barriers were not eligible to participate in the program.³⁹

The state has received a waiver from Labor that allows them the flexibility to provide work experiences to out-of-school youth 18 to 24 years old through March 31, 2010. This waiver allowed local boards to continue using only the work readiness indicator instead of all of the WIA indicators. Thus, the streamlined program operated in the summer will have additional time to serve other youth. Merrimack Valley officials told us they will attempt to recruit and begin serving more out-of-school youth and hope to meet their goal of serving 700 participants.

Challenges Still Exist with Implementing the Recovery Act WIA Youth Program

Local boards we met with faced additional challenges ramping up their summer programs and supporting and monitoring youth. As mentioned in our July 2009 report, both state and local officials commented that setting up WIA youth summer employment activities was time consuming and needed to be done within short time frames. State guidance required that local boards spend at least 60 percent of their Recovery Act WIA youth funds by September 30, 2009. Although these are formal deadlines, state officials verbally encouraged the boards to spend all of their funding as

³⁹One or more of the following barriers to employment must be demonstrated for eligibility: (1) school dropout; (2) basic literacy skills deficiency; (3) homeless, runaway, or foster child; (4) pregnant or a parent; (5) an offender; or (6) needs help completing an educational program or securing and holding a job.

soon as possible. To achieve their goal of serving a large number of youth in a short time frame, officials from one board said that some staff were required to work extra hours and staff that normally performed other duties were also assigned WIA Youth Program-related work.

Local board officials made use of existing relationships with community-based organizations, schools, and businesses to identify employers and youth quickly. The Merrimack Valley board hosted information sessions with local business organizations, like the Chamber of Commerce, and with school and municipal officials. According to local board officials, their relations with community-based organizations were strained as a result of the restrictive eligibility and documentation requirements of the WIA Youth Program. They noted that youth who were recruited through these organizations were subsequently not allowed to participate in the program because they either did not have any barriers to employment or did not provide full documentation to meet the requirements for additional barriers to employment.

Local Workforce Boards Had Flexibility to Design and Administer Their WIA Youth Programs

While the state provided guidance on a number of issues, generally as long as the programs complied with the Recovery Act, Labor requirements, and state provisions, the local boards were provided with the flexibility to design and administer their WIA youth programs as they liked. The two boards we visited varied slightly in the opportunities they provided to program participants. Both the Central Massachusetts and the Merrimack Valley programs offered work experiences; the Merrimack Valley program also offered some work experience positions combined with academic instruction to their participants. For example, we visited a work learning site where youth were taught academic subjects such as reading and writing for part of their day and then worked in a warehouse setting for the rest of the day.

WIA youth summer participants were employed in a range of jobs. (See table 4.) One of the local boards we spoke with placed some youth with what they characterized as either green employers or green jobs. According to local officials, some green jobs included work at an urban farm and a light bulb efficiency start-up and manufacturing company. Both state and local officials told us there is little guidance on what technically constitutes a green job.

Table 4: Program Characteristics for Two Local WIA Youth Programs

Program characteristics	Central Massachusetts Regional Employment Board	Merrimack Valley Workforce Investment Board
Areas served	Greater Worcester, South County, Blackstone Valley	Area cities and towns, including Haverhill, Lawrence, and Newburyport
Program design	One 25-hour paid week of pre-employment training Six or ten 25-hour weeks of paid employment	2-hour orientation Up to 30-hour weeks of work and learning (work readiness employment and academic learning), or Up to 30-hour weeks of paid employment
Compensation	Youth are paid \$8 to \$12 per hour	Youth are paid \$8 per hour for employment and stipends of \$8 per hour for academic learning activities
Length of program	July 6 to September 18, 2009 ^a	July 6 to September 31, 2009
Outreach	Community organizations, youth council, state youth-serving agencies, media, and others	Chambers of Commerce, municipal and school officials, media, and others
Target number of participants	500 youth	700 youth
Number of participants as of September 5, 2009	537 youth	535 youth
Amount allocated to the board	\$1,942,576	\$1,477,861
Amount expended by the board as of September 5, 2009	\$1,389,036	\$706,587
Examples of job types	Camp counselors, Web design, landscaping, weatherization crew work	Cabinetmaker apprentice, museum docent, groundskeeper, laborers, clerical positions
Work readiness measure	Completion of pre-employment training (1 week) and exit interview	Completion of a section of the Massachusetts Work-based Learning Plan

Source: GAO analysis of WIA Youth Program information.

^aThe majority of youth completed the program on August 21, 2009; however, others were to complete the program on August 28 and September 18, 2009.

Multiple Monitoring and Tracking Activities Are Performed on Recovery Act WIA Youth Funds

State officials, as well as officials from the boards we met with, are monitoring and tracking activities of Recovery Act WIA youth funds in myriad ways. The two boards chose different administrative structures for their programs—either administering funds internally and contracting with providers directly (as in the case of the Merrimack Valley board) or contracting with an external organization to administer various program functions (as in the case of the Central Massachusetts board). Our selection of two contracts to discuss in greater depth with relevant agency contracting officials reflects this distinction. According to officials, each contract we examined was awarded competitively on a cost-reimbursement basis with a not-to-exceed ceiling price.

In the case of the Central Massachusetts board, we examined a contract awarded by the board to a community action agency for administration of the WIA Youth Program. This contract was awarded on May 18, 2009, at a total value of \$873,362 with a project start date of April 24, 2009, and a projected completion date of September 30, 2009. It is intended to provide work readiness skills training for 300 WIA youth participants in the greater Worcester area. We noted, and officials confirmed, contract provisions requiring the submission of programmatic and fiscal reports; the contract also made clear that if this requirement and others are not met, program termination and withholding of funds can result.

The Merrimack Valley board via its fiscal agent (the city of Lawrence's Division of Grants Administration) awarded a contract to provide WIA youth services. This contract was awarded on July 6, 2009, at a total value of \$6,839 with a project start date of July 6, 2009, and a projected completion date of September 30, 2009. It is intended to provide 10 eligible youth 18 to 24 years old who are disabled with a combination of work and learning activities—e.g., manufacturing, leadership, employability, and other skills. We noted, and officials confirmed, provisions in the contract that require monthly contractor expense reports and specify consequences (such as revocation of funds and program termination) for failure to submit accurate and complete reports within designated time periods.

In addition to overseeing contracts, state and local officials discussed procedures in place to report on Recovery Act funds. Both state and local officials we spoke with stated they are using separate accounting codes to track Recovery Act funds, which will enable them to report on these funds separately. Also, short-term staff were hired to monitor the programs and funds. For example, on the state level, EOLWD created the Economic Recovery Project Coordinator position, with responsibilities for all Recovery Act monitoring and reporting requirements. At the local level, the boards we met with created staff positions to monitor work sites and keep abreast of each youth's work performance.

Both the state and one of the boards we visited are conducting compliance assessments for each work site. According to state officials, staff from the Commonwealth Corporation, a quasi-public agency created by the State Legislature, planned to visit each board at least twice to monitor the boards' WIA youth summer programs. At the time of our interview, the first visits had already occurred. Commonwealth Corporation staff told us that during these monitoring visits, they perform file reviews and assess work sites. Both local boards we visited developed their own monitoring activities. For example, the Merrimack Valley board generated weekly

reports that included enrollment, youth served, work-site data, and total expenditures.

State and Local Officials Are Attempting to Measure Program Outcomes

In accordance with Labor's guidance, the state requires each local board to track and report the number of youth employed and program completion rates. In addition, for WIA Youth Program performance measures, only the work readiness measure (which focuses on skills like work ethics, professionalism, communication skills, and interpersonal skills) is required to assess the effectiveness of summer employment for youth served with Recovery Act funds. Local boards may determine the methodology they use to measure work readiness gains. EOLWD's guidance instructed local boards to choose from a variety of assessment tools, including work-site supervisor evaluations, work readiness skill checklists administered by program staff, portfolio assessments, and any other relevant forms of assessing work readiness skills.

We found that the local areas we visited use different assessment instruments to determine work readiness skills upon beginning and completing the summer experience. The Merrimack Valley board is using a section of the Massachusetts Work-based Learning Plan, a goal-setting and assessment tool designed to drive learning and productivity on the job, to satisfy the work-readiness measure.⁴⁰ Youth receiving a work experience are evaluated weekly on their time sheets by their supervisors according to such dimensions as work maturity skills—e.g., punctuality and dressing professionally; personal skills, such as teamwork and exercising leadership; and work-related skills, such as use of computers and the Internet and customer service. These evaluations will be used to evaluate the youth over time, identify trends, and assess their work readiness. The Central Massachusetts Regional Employment Board will use completion of the pre-employment training as its measure of work readiness. An evaluation of youth satisfaction will also be conducted.

Results of assessments were not yet available at the time of our visits to local boards, although officials commented anecdotally that some immediate results are apparent from the WIA youth summer program. Officials from both boards we met with state that the youth they are

⁴⁰Youth will be assessed on attaining competencies in completing applications, resume development, interviewing skills, job search strategies, attendance and punctuality, workplace appearance, interaction with co-workers and supervisors, initiative, communication skills, money management, transportation, and workplace safety.

...serving have been positively impacted by the programs. For example, local officials stated that some youth expressed a sense of pride and completion when they completed their orientation or training or when they received their first paycheck. Some youth were also provided with skills for activities of daily living, such as how to write a check.

At the time of our visit, the commonwealth had not yet decided how it will address the OMB reporting requirements on jobs created and retained, not only for the WIA Youth Program but also for other Recovery Act-funded activities. However, subsequent to our visit, on August 14, 2009, Labor issued guidance clarifying that participants in employment and training programs, such as the WIA Youth Program, are not to be reported in the jobs created and retained numbers. At the local level, boards are compiling data on the number of non-youth positions fully and partially funded with WIA youth funds.

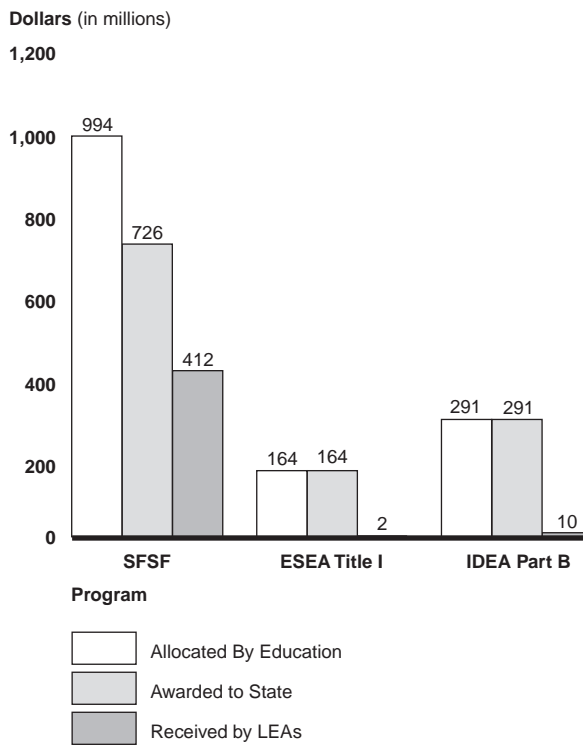
Recovery Act Education Funds Continue to Be Distributed and Help Address State Funding Shortfalls

As of September 4, 2009, Massachusetts was awarded funds for the following Recovery Act education programs: about \$726 million through the State Fiscal Stabilization Fund (SFSF), \$164 million in ESEA Title I, Part A, funds, and \$291 million in funds through IDEA, Part B. Local educational agencies (LEA) have received \$412 million in SFSF funds, \$322 million in education stabilization funds, and \$90 million, or about half, of its government services funds. According to state officials, Massachusetts, by the end of October, plans to restore public higher education funding for fiscal years 2009 and 2010 using a total of \$54 million and \$168 million, respectively of SFSF funds. Upon receipt of the \$268 million remaining of the state's SFSF Recovery Act funds, the state plans to distribute an additional \$168 million to LEAs in SFSF funds in fiscal year 2010. Similar to fiscal year 2009, LEAs and institutions of higher education will receive SFSF funds to offset cuts in state education funding for fiscal year 2010. Also, the Governor will use approximately \$20 million of the \$181 million available from the SFSF government services fund for public safety in fiscal year 2010 for grants to fire departments. Plans for use of the remaining SFSF education stabilization and government services funds have not been announced.

As of September 4, 2009, 99 of the state's 258 LEAs that were allocated ESEA Title I funds have submitted and had approved by state officials their state-required program applications. These LEAs have received about \$2 million in ESEA Title I Recovery Act funds. In addition, at least 227 of the state's LEAs that were allocated IDEA, Part B, Recovery Act funds have submitted their required application to the state to begin accessing

funds. These LEAs have received almost \$10 million in IDEA, Part B, Recovery Act funds. (See figure 2 for funding information.) According to state officials, LEAs are spending non-Recovery Act ESEA Title I and IDEA, Part B, funds before spending Recovery Act funds.

Figure 2: Financial Information on Three Recovery Act Education Programs as of September 4, 2009



Source: GAO analysis of state reported data.

State Comments on This Summary

We provided the Governor of Massachusetts with a draft of this appendix on September 3, 2009, and representatives from the Governor’s Office and the Office of the State Auditor responded on September 9 and 10, 2009. Officials agreed with our draft and in some cases provided clarifying or technical suggestions that were incorporated, as appropriate.

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Appendix X: Michigan

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Michigan. The full report on our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

This appendix focuses on how Michigan used Recovery Act funds; how it had implemented safeguards, such as controls over the procurement of goods and services; and how recipients were assessing results of the Recovery Act funding, such as the number of jobs created. In Michigan, we reviewed six Recovery Act programs. We selected these programs because they had a number of risk factors, including the receipt of significant amounts of Recovery Act funds or a substantial increase in funding from previous years' levels. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Michigan and local governments stabilize their budgets and to stimulate infrastructure development and expand existing programs—thereby providing needed services and jobs. Specifically, work on contracts for highway projects using Highway Infrastructure Investment funds had been under way in Michigan for several months, and provided an opportunity for us to review the use of the funds and the financial controls, including oversight of the contracts. Similarly, the three U.S. Department of Education (Education) programs we reviewed had also been under way in Michigan for several months and provided an opportunity to review the use of the additional Recovery Act funds and consider internal controls at the state and locality level, including controls and financial management reforms under way at the Detroit Public Schools (DPS). We also reviewed Michigan's weatherization program because it experienced significant growth due to Recovery Act funds. Finally, the WIA Youth Program in Michigan also experienced significant growth due to Recovery Act funds and was largely directed toward a summer employment program which was in full operation at the time of our review. Highlights of these programs are:

Highway Infrastructure Investment Funds

- The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$847 million in Recovery Act funds to Michigan. As of September 1, 2009, the federal government

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

had obligated \$575 million to Michigan and \$41 million had been reimbursed by the federal government.

- As of September 1, 2009, Michigan had awarded 153 contracts for highway projects. Of these 153 contracts, work had begun on 94 contracts and 1 had been completed. The majority of funds obligated in Michigan are for highway pavement projects.
- According to transportation officials, because the contracts generally have been awarded for less than the original estimates, the state will be able to fund additional projects. The additional projects will primarily be pavement and bridge improvements in economically distressed areas.
- We reviewed two transportation contracts and spoke with officials who stated that the Michigan Department of Transportation (MDOT) has contracting procedures and internal controls in place for awarding and overseeing highway infrastructure investment Recovery Act contracts.

Weatherization Assistance Program

- The U.S. Department of Energy (DOE) allocated about \$243 million in Recovery Act Weatherization funding to Michigan for a 3-year period ending in March 2012. Based on information available on August 31, 2009, DOE provided about \$121.7 million to Michigan representing 50 percent of the amount allocated by DOE, and the state had obligated about \$198.7 million to subrecipients, subject to limitation based on the availability of federal funds.
- According to state officials, as of August 31, 2009, Michigan had awarded 32 weatherization contracts and had expended about \$2 million.
- The state's goal is to weatherize at least 33,000 units, a large increase over the 14,346 units weatherized during program years 2005 through 2007.
- To help monitor whether these funds are used appropriately, Michigan's Department of Human Services (DHS) hired additional staff to monitor the program and plans to hire several more.

State Fiscal Stabilization Fund

- The U.S. Department of Education (Education) allocated \$1.592 billion in State Fiscal Stabilization Fund (SFSF) moneys to Michigan, with

\$1.302 billion for education stabilization and \$290 million to fund government services.

- As of September 1, 2009, Education had made two-thirds of the total education stabilization funds available to the Michigan Department of Education (MDE)—\$873 million. MDE officials told us that they allocated \$600 million of these funds to local educational agencies (LEA).
- As of September 1, 2009, MDE had approved LEAs' applications for \$599 million of the education stabilization funds and LEAs had drawn down \$584 million. MDE officials told us that LEAs plan to use most of the funding for teacher salaries.
- State officials told us they planned to use the government services portion of the SFSSF to replace state general fund revenues and pay for other state services; none of the funds will be provided to MDE.

Title I, Part A, of the Elementary and Secondary Education Act of 1965, as Amended

- As of August 18, 2009, Education made 50 percent of Michigan's total Title I, Elementary and Secondary Education Act of 1965 (ESEA) Recovery Act funds available to MDE—\$195 million of the state's total allocation of \$390 million.
- According to MDE officials, they made a preliminary allocation of all of these funds to the LEAs and planned to make final allocations to the LEAs later in the fall of 2009 after reviewing their applications.
- MDE officials said they have encouraged LEAs to use their ESEA Title I Recovery Act funds for programs such as professional development for teachers and professional staff and for supplemental reading programs.

Individuals with Disabilities Education Act, Parts B and C

- On April 1, 2009, Education made the first half of Michigan's total \$213 million in Individuals with Disabilities Education Act (IDEA) Recovery Act funds available to the state—\$207 million for the Part B grants and about \$6 million for Part C grants.
- As of August 14, 2009, MDE had allocated all of the IDEA Part B funds for grants for school-aged children and youth, but it had not provided any of the funds because it had not yet approved the grant applications.

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- According to MDE officials, LEAs intend to use the Part B grants to, among other things, retain special education teachers; acquire new technologies, including automated data systems and electronic smart boards for use in classrooms; enhance professional development for teachers; and provide additional bus transportation services to students with disabilities.
 - The MDE officials also said the Part C grant funds will be used for early intervention services and, as of August 14, 2009, they had approved 42 applications for almost \$5 million of these funds.

Workforce Investment Act Youth Program

- The U.S. Department of Labor (Labor) allotted about \$74 million in Workforce Investment Act (WIA) Youth Recovery Act funds to Michigan and, as of August 31, 2009, Michigan had drawn down about \$20.2 million. The state allocated \$63 million to 25 Michigan Works! Agencies (MWA).
- As of July 31, 2009, Michigan had enrolled 12,166 youth in summer jobs through its Recovery Act-funded WIA summer employment programs. The state Department of Energy, Labor and Economic Growth (DELEG) provides overall program guidance to the MWAs, but the design, implementation, monitoring, and reporting on the use of and accounting for WIA Recovery Act funds is the responsibility of the MWAs.
- Although DELEG and MWA officials in Detroit initially said they did not foresee any difficulties, they later cited several challenges in running the program. Our work identified significant internal control issues with payroll preparation and distribution; the process for making eligibility determinations; and a lack of documentation supporting such decisions in the Detroit summer youth program. Progress is under way by state and local officials to address each of these issues, although more work remains.

Michigan officials continue to work towards developing a state-level centralized system that the state will use to report to the Office of Management and Budget (OMB) and satisfy Recovery Act reporting requirements. The Director of Michigan's Economic Recovery Office (Recovery Office) believes the state will be able to report centrally, but said that state agencies could report directly to the federal government if needed.

As Michigan's Overall Economic Condition Creates Pressure on the State's Fiscal Position, Recovery Act Funds Will Continue to Provide Partial Relief

Michigan continues to face considerable economic difficulties and significant fiscal challenges in meeting its balanced budget obligations for fiscal years ending September 30, 2009, and beyond. The state's overall unemployment rate was 15 percent in July 2009, up from 8.3 percent in July 2008. Michigan's manufacturing sector was particularly hard hit, losing about 108,900 jobs between July 2008 and July 2009, representing over 19 percent of all the manufacturing jobs in the state.² Local communities that have historically relied on manufacturing jobs must deal with even higher unemployment rates. For example, in July 2009 the city of Detroit had an unemployment rate of 28.9 percent and the city of Flint's unemployment rate was 28.6 percent.

This increase in unemployment has been accompanied by a continuing decline in state revenues. As noted in our July 2009 report, the state's May 2009 revenue estimate projected lower state revenues for fiscal year 2009 compared not only to fiscal year 2008 revenues, but also to revenue estimates published four months earlier.³ Despite lowered expectations, actual revenue collections have continued to fall short of projections. For example, according to the Senate Fiscal Agency's monthly revenue reports, revenues for June and July 2009 totaled \$110 million, which was 3.1 percent below what the May revenue estimate had projected for this 2-month period. This decline illustrates the rapid deterioration in the state's fiscal condition and the difficulty in projecting Michigan state revenues. State budget officials also reported that revenues that can only be used for specified purposes, such as fees from game and wildlife licenses and state parks, have also declined in recent months.

Michigan is using a combination of Recovery Act funds and cost-cutting measures to balance the state's budget and is relying on Recovery Act funds to substantially, although not entirely, fill growing budget gaps. Over the 3 years ending September 30, 2011, Michigan expects \$3.6 billion to be available, as a result of the Recovery Act funds, for budget stabilization.⁴

²Within manufacturing, the automotive industry—including automotive parts producers—declined by more than 42,000 jobs (28 percent) from July 2008 to July 2009.

³The Michigan Department of the Treasury, House Fiscal Agency, and Senate Fiscal Agency prepare the Consensus Revenue Estimate in January and May of each year to help legislators prepare the state's budget.

⁴The state is expecting just over \$2 billion in state funds to be made available as a result of the enhanced Federal Medical Assistance Percentage (FMAP) (discussed in detail in [GAO-09-1016](#)); \$1.3 billion through SFSF education stabilization funds and \$290 million through SFSF government services funds.

For example, state officials expect Recovery Act funds, in addition to almost \$400 million in spending cuts described below, to free up sufficient state revenue to address a \$1.4 billion revenue shortfall and allow the state to end fiscal year 2009 with a balanced budget. As noted in our July 2009 report, for the fiscal year ending September 30, 2009, Michigan's cost-cutting actions included reducing revenue sharing to cities, villages, and townships by 10 percent; mandating 6 unpaid furlough days for 38,000 of the state's 52,000 state employees; laying off 400 employees (including 100 state troopers); closing three correctional facilities; and enacting a 4 percent across-the-board cut for most state agencies. State Budget Office officials told us that, despite initial hopes to use Recovery Act funding for new projects, Michigan has used a large portion of these funds to free up state revenues for the maintenance of existing programs due to the state's ongoing fiscal challenges.

Michigan's "rainy day fund"—the Counter-Cyclical Budget and Economic Stabilization Fund—does not offer assistance to meet the state's existing fiscal challenges. Since fiscal year 2005, the fund has had a balance of about \$2 million, and the Senate Fiscal Agency did not anticipate that any transfers out of this fund would occur during fiscal years 2009 or 2010 because it would not adequately address Michigan's budget situation.

State officials continued to express concerns about Michigan's fiscal outlook when the Recovery Act funds run out. Rather than spending all of its Recovery Act funds up front and creating the need for massive spending cuts in fiscal year 2011, Michigan is considering a range of options, including spending cuts and possibly tax increases, to balance the state's annual budgets. State officials also said they are working with state agencies to prioritize Recovery Act spending in ways that could be sustained in 2011 and going forward after the majority of Recovery Act funds expire. Officials from the House Fiscal Agency, Senate Fiscal Agency, and State Budget Office told us their strategy is to minimize the effects of the budget shortfall by using Recovery Act funds in fiscal years 2010 and 2011, primarily by using state funds that will be made available as the result of SFSF and the increased Federal Medical Assistance Percentage (FMAP). However, the exact allocation of Recovery Act funds remains uncertain as fiscal year 2010 budget negotiations continue and the state, as of September 17, 2009, did not yet have an approved budget for fiscal year 2010.

According to state budget officials, Michigan will seek reimbursement from the U.S. Department of Health and Human Services (HHS) for the cost of the state's Economic Recovery Office (Recovery Office), which is

expected to be about \$2 million for fiscal year 2009. On June 26, 2009, the state formally identified Recovery Office-related costs in an amendment to its statewide cost allocation plan submitted to HHS. In this amendment, Michigan opted to use the “billed cost” option available for calculating administrative costs associated with the Recovery Office. Officials told us that the state chose this option to avoid any potential lag that might arise from trying to reconcile estimated costs with actual costs.⁵ Further, they informed us that HHS responded to Michigan’s submission in August and the state is planning to submit a revised addendum by the end of September.

Michigan Continues to Develop a Statewide Central Reporting System

The Michigan Economic Recovery Office Director told us that, as of September 1, 2009, the state plans to meet the October 10, 2009, due date for reporting to the federal government on Recovery Act spending through a centralized reporting process. The Recovery Office Director believes the state will be able to report centrally, but said that state agencies could report directly to the federal government if needed. If reporting under a centralized approach is not practical for the initial report due to the federal government in October 2009, then state agencies will report directly to their cognizant federal departments and to OMB. The Recovery Office Director said that the state agencies have been instructed to register with the OMB, a necessary procedure for direct reporting.

Michigan officials continue to work toward developing a state-level centralized system that the state plans to use for reporting to OMB and complying with the reporting requirements under Section 1512 of the Recovery Act.⁶ These officials said they believe that a centralized reporting system will provide the best mechanism for reporting accurate and consistent data to the federal government and enhance the state’s oversight and monitoring. Specifically, Recovery Office officials said they

⁵The State Budget Office said it reviewed Office of Management and Budget (OMB) Memorandum M-09-18, *Payments to Grantees for Administrative Costs of Recovery Act Activities* (May 11, 2009) that provides guidance to the states regarding the use of either “estimated cost” or “billed cost” options for determining the amount of administrative costs to be recovered. Because of the narrow scope of administrative costs the state is pursuing, M-09-18 did not affect the decision to use the “billed cost” option for Recovery Office costs.

⁶Recovery Act reporting requirements include identifying the entities receiving Recovery Act dollars, the amounts, which projects or activities are being funded, projects’ completion status, and an estimate of the number of jobs created and the number of jobs retained by projects and activities.

will be able to analyze the data they receive from all state agencies for consistency and reasonableness in relation to other state agency spending data. The officials also said they believe that this level of review will not be as effective if each state agency reports directly to the federal government under a decentralized model. The Michigan Recovery Office has recommended that state agencies not delegate reporting requirements to subrecipients of Recovery Act funds so the state can maintain better control over the reporting process. However, state agencies have the authority to delegate reporting requirements to subrecipients.

Officials from the Michigan Department of Information Technology (MDIT) said they had been working to develop the state-level centralized reporting system and intended to begin testing the system in July 2009. However, after receiving the OMB guidance in June, they recognized that the system under development did not have provisions for all of the data elements specified in the OMB guidance.⁷ Officials told us they are working to include all required information in their system.

Michigan Has Begun Several Highway Projects Using Recovery Act Funds

As we reported in July 2009, FHWA apportioned \$847 million to Michigan in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, the state had obligated \$575 million, or 68 percent, of these funds.⁸ In addition, as of September 1, 2009, FHWA had reimbursed \$41 million to the state.⁹

The Recovery Act provides funding to states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must

⁷OMB Memorandum M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009).

⁸For the Highway Infrastructure Investment Program, DOT has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

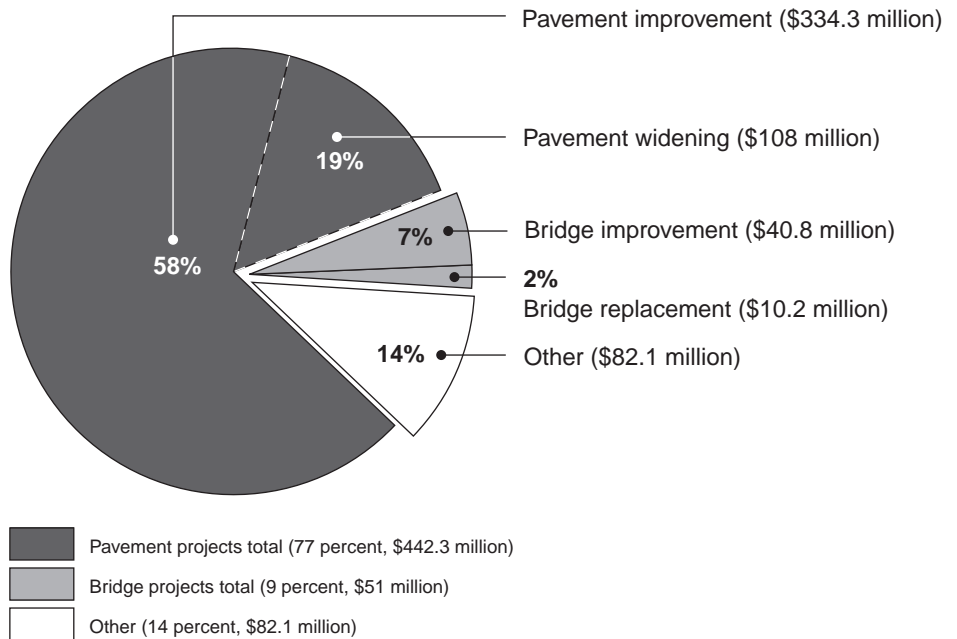
⁹States request reimbursement from FHWA on an ongoing basis as the state makes payments to contractors working on approved projects.

follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act, paying prevailing wages in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

The Majority of Funds Obligated in Michigan Are for Highway Pavement Projects

About 77 percent of Recovery Act highway obligations for Michigan are for pavement projects. Specifically, \$334 million of the \$575 million obligated in Michigan as of September 1, 2009, is being used for projects such as pavement improvement, including \$120 million for road resurfacing. MDOT officials told us that they selected mostly pavement projects because the primary focus of Michigan's capital improvement plan for highways has been maintaining existing roads and bridges and improving pavement conditions. In addition, pavement projects met one of the Recovery Act requirements that funds for highway infrastructure investments be obligated within 120 days of apportionment. Figure 1 shows obligations by the types of road and bridge improvements being made.

Figure 1: Highway Obligations for Michigan by Project Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Notes: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

MDOT officials further told us that, as of September 1, 2009, Michigan had awarded 153 contracts for highway projects. Of these 153 contracts, work had begun on 94 contracts and 1 had been completed. According to MDOT officials, the completed project, which started in April 2009 and was completed in June 2009, involved preventive maintenance, including concrete pavement repairs to about 11 miles of Interstate 75 on the Ogemaw and Arenac County lines. The officials also said that the contract had a total value of about \$854,000. As of September 1, 2009, 38 contracts were pending award, 16 were out for bid, and MDOT planned to advertise another 53 contracts. Since our July 2009 report, MDOT officials stated that Michigan has continued to find that contracts for Recovery Act projects are being awarded for less than the amounts it had estimated when the funds were obligated for the projects, which will allow them to allocate funds to additional projects. Because MDOT initially identified more projects than it estimated could be funded with the \$847 million apportioned to Michigan for highway infrastructure projects, officials plan to use the funds freed up by the lower bids for these additional projects,

which are primarily for pavement and bridge improvements in economically distressed areas.

Michigan Is Using Existing Contracting Procedures and Internal Controls for Awarding and Overseeing Recovery Act Contracts

MDOT has processes in place for the award and oversight of contracts using Recovery Act funds. We selected two contracts for pavement improvement projects to review—one for more and one for less than \$20 million. The first contract we reviewed was a state-administered contract in a rural, economically distressed area with a value of \$21.7 million—making it a large highway project for the state. MDOT awarded this contract to resurface about 7 miles of Interstate 196 (I-196) in Allegan County and building a new rest area. The project was scheduled to begin in May 2009 and be completed by November 2009. The second contract we reviewed was a locally-administered contract in an urban, economically distressed area. MDOT awarded this contract, which totals about \$1.6 million, for concrete pavement and repair of about 1.2 miles of Pasadena Avenue in Flint. It was scheduled to start in August 2009 and be completed by June 2010.

According to MDOT officials, they awarded these two contracts competitively and followed the department's procurement procedures. Officials provided the following facts about the procurement procedures. Contractors seeking to bid on MDOT projects must be pre-qualified to perform tasks such as road and bridge construction and repair and concrete or hot mix asphalt paving. Only bidders who have been prequalified by MDOT are allowed to submit bids on projects. As a part of its review process, MDOT ensures that contractors that have either had their prequalification suspended or have been debarred¹⁰ are not allowed to bid. Contracts are then awarded to the lowest prequalified bidder for each project. MDOT received bids from four and six bidders for the I-196 and Pasadena Avenue projects, respectively, and all bidders were prequalified and had not been suspended or debarred, and the contracts were awarded to the lowest bidders.

¹⁰According to officials, MDOT can debar a contractor if (1) the contractor has been debarred by the federal government and is on the debarment list posted on a federal website maintained by the General Services Administration (<https://www.epls.gov>) that lists contractors that are excluded from receiving federal contracts and certain subcontracts or (2) the contractor has serious performance issues, such as felony convictions, work performance and safety issues, or contract violations.

According to MDOT officials, these two contracts are fixed unit price contracts with estimated quantities. Specifically, the unit price for all construction material is fixed but the final price of the contract depends on the quantity of materials used. For example, according to state officials, the contractor for the Pasadena Avenue project is required to repair the concrete base after removing the old asphalt, but the quantity of concrete required for these repairs cannot be determined until the asphalt is removed, which will affect the final price of the contract.

According to officials, to help the state meet its Recovery Act reporting requirements regarding job creation, the contracts require the contractors to report to MDOT every month on the total (1) number of employees who performed work on the contracts, (2) number of hours worked by those employees, and (3) wages of the employees working on the projects. In August 2009, MDOT began using a new Web-based system to allow contractors to input employment and wage data directly into a database rather than filling out a form to report these data. MDOT officials told us that this system should increase efficiency and reduce data entry errors.

Since construction on the I-196 project began on June 1, 2009, contractors have submitted reports for June and July to MDOT. The July 2009 report showed that 108 employees worked on the project. To check the accuracy and completeness of the data, MDOT field staff for this project compared the information provided in the contractor's reports with weekly payroll information and on-site inspection reports that the MDOT Project Manager prepared.

MDOT officials intend to use the department's standard procedures to monitor whether Recovery Act construction contractors deliver quality goods and services in accordance with the contract terms. For example, for the two contracts we reviewed, we discussed procedures with agency officials who stated that all of the following monitoring activities have taken place. After contract award, MDOT assigned a project manager to oversee day-to-day construction activities and make sure the contractor met all contract requirements. The project manager and his oversight staff conducted routine inspections, reviewed testing and certifications of materials used in the project, and drafted daily inspection reports. The project manager also held regular on-site meetings with the contractor, which provide a vehicle for identifying issues that may arise so officials can take necessary actions to resolve them.

MDOT uses a program/project management system that tracks the project schedule and resource needs based on information received from the

project manager. A Project Steering Committee reviews the information in this system and information from the contractors' monthly reports to identify areas needing attention. MDOT uses separate accounting codes to track Recovery Act projects and generate reports for FHWA and Michigan's Economic Recovery Office.¹¹

Officials told us that, at the end of each project, the project manager is required to reconcile and account for the work completed and the materials used before issuing the final payment. Officials explained that, before issuing final payment to a contractor, the project manager is also required to evaluate a contractor's performance. Officials stated that MDOT's Contractor Performance Evaluation Review team reviews the performance evaluations for all prime contractors and subcontractors. According to MDOT officials, this team's review is intended to determine whether the contractor's performance on the project has been satisfactory in meeting MDOT's performance standards and whether staff have followed MDOT's procedures and guidelines in rating contractors' performance.

Michigan's Use of Recovery Act Funds for Weatherization Assistance Is Under Way

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the DOE administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation, sealing leaks; and modernizing heating equipment, air circulation fans or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in

¹¹MDOT also provides project status updates to FHWA area engineers and conducts site reviews on an as-needed basis.

weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.¹² Because the Davis-Bacon Act had not previously applied to weatherization, Labor had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties”¹³ about labor rates for weatherization work. The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Michigan’s Weatherization Plan Provides Goals for Reducing Energy Usage

DOE allocated a total of \$243 million in Recovery Act funds for a 3-year period to Michigan and approved Michigan’s weatherization plan on July 6, 2009. As of August 31, 2009, DOE provided about \$121.7 million of the funds representing about 50 percent of the amount allocated by DOE. Officials from Michigan’s Department of Human Services (DHS), which administers the Weatherization Assistance Program and is the prime recipient of funds, stated that as of August 31, 2009, DHS had obligated \$198.7 million and expended about \$2 million. According to the officials, as of August 24, 2009, DHS had awarded contracts with 30 community action agencies (CAA) and 2 limited purpose agencies for the total amount obligated.¹⁴ According to state officials, the amount obligated by the state is subject to limitation based on the availability of federal funds. DHS officials told us that each CAA that uses subcontractors has prepared a

¹²The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

¹³The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

¹⁴CAAs are agencies that support low-income residents’ efforts to achieve self-sufficiency primarily in the areas of housing, employment, education, energy, nutrition, healthcare and transportation. Limited purpose agencies are non-CAAs that perform weatherization for the state of Michigan.

request for quotation (RFQ) to obtain vendors for weatherization materials and services and that they plan to review all the RFQs. As of August 31, 2009, DHS officials had reviewed almost 20 RFQs to ensure they met Recovery Act and state requirements. The state's goal is to weatherize at least 33,000 units with Recovery Act funds, a large increase over the 14,346 units weatherized in program years 2005 through 2007.¹⁵ DHS is also using Recovery Act funds to train weatherization workers, pre-inspect homes to determine eligibility for weatherization, and hire and train new DHS program staff. In addition, DHS has provided technical assistance to CAAs through a workshop. Further, some agencies have purchased specialized equipment that inspectors use to test for leaks and heat loss in houses as part of the pre-inspection process. DHS has established a statewide goal that 20 percent of those served will be elderly and 15 percent will be persons with disabilities. Although a CAA establishes individual goals, DHS must approve any goals that are below the statewide goals.

Use of Recovery Act Weatherization Funds Was Slowed by the Need to Determine Prevailing Wages under the Davis-Bacon Act

According to agency officials, approval of expenditures for weatherization contracts using Recovery Act funds was slowed by the need for DHS to include prevailing wage rates for use in setting contract terms with CAAs. Although CAAs could have used Recovery Act funds to begin weatherizing homes (providing they paid construction at least Labor's wage rates for residential construction or an appropriate alternative category and compensate workers for any differences if appropriate), DHS officials told us that most CAAs preferred to wait for Labor to determine the prevailing wage rates. CAAs did not want to face the administrative difficulties of correcting wages already paid. In order to determine prevailing wages, Labor created a survey that DHS forwarded to the CAAs along with instructions for completing it. On August 12, 2009, Labor posted the prevailing wage rates for Michigan to be paid under the requirements of the Davis-Bacon Act. According to officials, DHS subsequently awarded contracts with all CAAs and two limited purpose agencies.¹⁶

Initial concerns that Michigan officials had before determining the prevailing wage rates for weatherization activities have diminished. In July 2009, DHS officials expressed concerns about determining the wage rates for weatherization activities. According to DHS officials, job classifications

¹⁵This number includes units that may have been weatherized previously.

¹⁶The only DOE weatherization projects to which Davis-Bacon applies are those receiving Recovery Act funding.

specific to weatherization had not been identified. Additionally, they said that the wage rates for employment related to weatherization work were inconsistent from one county to another. For example, one CAA in the Lansing area, which provides weatherization services in four counties, paid \$18 an hour to workers in three of the four counties and \$42 an hour to workers in the remaining county. However, Labor subsequently determined that the prevailing wage in this remaining county is \$28 an hour, a rate in better alignment with the wage rates across the four counties. Additionally, in July 2009, DHS officials expressed concerns that certain areas of the state had prevailing wage rates that would be prohibitively high, which would negatively affect their ability to work within the state's funding limit of \$6,500 per unit average for weatherization. However after Labor released the prevailing wage rates for Michigan, officials found the wage rates to be acceptable.

DHS Has Increased Staff to Monitor the Use of Recovery Act Weatherization Funds

Since June 2009, DHS officials have used Recovery Act funds to hire five additional staff to monitor the use of Recovery Act funds related to the Weatherization Assistance Program. Specifically, they said they hired a manager to oversee the program, two staff to review weatherization projects, a technical supervisor, and a fiscal analyst. They also plan to hire 15 additional staff, including technical specialists and administrative support staff, and are considering hiring someone with expertise in the compliance and reporting requirements of the Davis-Bacon Act.

DHS officials created a plan to monitor the Weatherization Assistance Program and said that they plan to monitor the use of weatherization funds by conducting annual visits to each CAA. These visits would alternate between comprehensive and shorter monitoring visits. The comprehensive visits would include a fiscal review, staff interviews, job site visits, and reviews of client files. DHS officials also plan to have their technical supervisors review at least 5 percent of all weatherized units. Michigan's State Auditor General told us that the Single Audit review of DHS for 2007 through 2008 is in process and includes consideration of the Weatherization Assistance Program. The most recent Single Audit report on DHS for the fiscal years 2005 through 2006 did not include a review of the state's Weatherization Assistance Program.

DHS Officials Remain Concerned about Recovery Act Reporting

On August 31, 2009, DHS officials told us that for the first Recovery Act reporting period, ending September 30, 2009, they were planning to report information directly to the federal government. DHS conducted a workshop for CAAs on the reporting requirements of the Recovery Act so

that the CAAs could assist local subrecipients in understanding the requirements. DHS officials plan to use the data elements supplied by DOE and Labor to estimate job impact of the funds and noted they can use much of the information they already collect for these reports. However, DHS officials expressed concerns about the precision of the data that will be reported. They said that, although the Recovery Act requires them to report their use of the funds by October 10, 2009, agency data for Michigan's fiscal year 2009, which ends on September 30, 2009, will not be finalized until October 24 or 25.

SFSF Will Be Used to Maintain Education Programs and Replace General Fund Gaps Caused by Reductions in State Revenues

The Recovery Act created a state fiscal stabilization fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHE). The initial award of SFSF funding required each state to submit an application to Education that provided several assurances, including that the state will meet maintenance-of-effort requirements (or will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use education stabilization funds, but states have some ability to direct IHEs in how to use these funds.

Education allocated \$1.592 billion in SFSF moneys to Michigan on April 1, 2009: \$1.302 billion for education stabilization and \$290 million in

government services funds. As of September 1, 2009, Education had made \$873 million (two-thirds of the total education stabilization funds) available to MDE. MDE officials told us that LEAs had to submit applications for the education stabilization funds to MDE. MDE officials told us that they allocated \$600 million of these funds to LEAs and, as of September 1, 2009, had approved LEAs' applications for \$599 million of the education stabilization funds. These officials told us that the states' LEAs had drawn down \$584 million of the education stabilization funds after MDE approved their applications. Two of the state's LEAs—a charter school and a small district—did not apply for education stabilization funds because, according to MDE, those LEAs had decided not to accept Recovery Act funds. MDE officials also told us that although they did not allocate any of these funds to IHEs—the state's colleges and universities—for the 2008–2009 school year, they plan to allocate \$68 million to IHEs for the 2009–2010 school year. According to the MDE officials, most LEAs plan to use the education stabilization funds to restore items deleted from their budgets as a result of cuts in state education funding made during the 2008–2009 school year. Therefore, they anticipated that most of the funds would be applied to teacher salaries, which represents the bulk of the LEAs' budgets.

Officials with Michigan's Office of the State Budget told us the state will use the state's total SFSF government services allocation of \$290 million to address areas where the state's general funds were cut as a result of reductions in state revenues. As of September 16, 2009, the state legislature had not yet specified the programs to be supported with the state's government services portion of SFSF funds.

Michigan Has Made Preliminary Allocations of ESEA, Title I Recovery Act Funds

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of the funds by September 30,

2010.¹⁷ Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

As of August 18, 2009, Michigan had made preliminary allocations of the \$195 million in ESEA, Title I Recovery Act funds, which was about 50 percent of the \$390 million Education made available to the state on April 1, 2009. MDE officials told us they planned to make the final allocations of these funds to LEAs in the fall of 2009 after approving LEAs' applications. Applications from LEAs that had summer programs were due to MDE by the end of July 2009, but applications from LEAs without summer programs were not due until September 1, 2009. MDE officials expressed concern that the Recovery Act funds they are allowed to use for administrative support were not sufficient to cover the resources required to review the large number of additional applications for ESEA, Title I and other education-related Recovery Act funds and to monitor LEAs' uses of the funds. They also said that Education's proposal to adjust the statutory caps on administrative costs did not fully address their concerns because these costs would be capped at \$1 million, which represents about .26 percent of their total Title I, ESEA Recovery Act funds. In addition, based on their reviews of the applications received to date, MDE officials said they expected many LEAs would be required to revise their applications to provide additional information on their planned use of the funds.

According to MDE officials, the carryover waiver they received from Education for their ESEA Title I funds will be critical in allowing LEAs to use the funds after the September 30, 2010, cutoff date for obligating 85 percent of ESEA Title I funds. However, they also said that some LEAs have expressed concern about challenges in meeting the "supplement not supplant" provisions of ESEA Title I.¹⁸ Specifically, LEAs rely on education funding provided by the state through sales tax revenues, which have

¹⁷LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver, and must obligate all of their funds by September 30, 2011. This requirement is referred to as a carryover limitation.

¹⁸In general, ESEA Title I requires states and LEAs to use federal funds to supplement and not supplant the funds that would, in the absence of federal funds, be made available from nonfederal sources.

declined significantly in recent years. As a result, LEAs may find it difficult to only use Recovery Act funds to supplement their ESEA Title I programs rather than supplanting them because of the recent declines in state funding for these programs.

MDE has encouraged LEAs to use their ESEA Title I Recovery Act funds for programs such as professional development for teachers and staff and for supplemental reading programs. MDE officials said that the applications they reviewed indicate that many LEAs also plan to purchase equipment such as “smart boards”— electronic boards linked to the Internet that can be used to display interactive educational materials in the classroom. According to MDE officials, the LEAs’ applications for ESEA Title I Recovery Act funds describe a range of activities because Michigan has LEAs that vary greatly in size, including a few large urban districts and many that are small and rural. For example, one LEA has fewer than 100 students, at least five LEAs are made up entirely of one-room schools, and two LEAs are located on islands only accessible by boat or plane during much of the school year. In addition, 250 of the state’s LEAs are public school academies (charter schools) with no defined geographic boundaries that overlap with those of the other LEAs. As a result, MDE must recalculate funds provided via formula grants in order to determine the funds to be allocated to the public school academies that are based on the income eligibility of their students using the number of students who receive free and reduced lunches rather than U.S. Census poverty data, which are based on geographic boundaries.

Michigan Department of Education Has Not Approved All LEAs’ Applications for IDEA Recovery Act Funds

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of Individuals with Disabilities Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Part C funds programs that provide early intervention and related services for infants and toddlers with disabilities—or at risk of developing a disability—and their families. Education made the first half of states’ Recovery Act IDEA funding available to state agencies on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

On April 1, 2009, Education made the first half of Michigan's IDEA Recovery Act funds available to the state—a total of \$207 million for both types of Part B grants and \$6.2 million for Part C grants. As of August 14, 2009, MDE had allocated all of the Part B funds for grants for school-aged children and youth—\$200.3 million—to LEAs through the state's intermediate school districts (ISD) but none of the funds had been provided because their applications had not been approved.¹⁹ As of September 1, 2009, MDE officials said that they were in the process of reviewing the applications but had not yet approved any of them. As of August 14, 2009, MDE had allocated all of the \$6.7 million in Part B IDEA preschool grant funds to ISDs and LEAs had drawn down \$2.3 million of these funds. According to MDE officials, as of August 14, 2009, they allocated all of the \$6.2 million in Part C IDEA grant funds to the ISDs and had approved 42 applications for \$4.9 million of these funds.²⁰

MDE officials said that according to the applications they had reviewed, LEAs intend to use the \$200.3 million in IDEA Part B grants for school-aged children and youth to, among other things, retain special education teachers; acquire new technologies, including automated data systems and electronic smart boards for use in classrooms; enhance professional development for teachers; and provide additional bus transportation services to students with disabilities. According to MDE officials, \$2.3 million in the applications for Part B grants for preschool students approved by MDE will be used for salaries and to purchase services. According to MDE officials, most of the Part C grant funds will be provided to ISDs to purchase home-based early intervention services, but some LEAs plan to use the Part C funds for training programs in which the objective is to increase families' understanding of how to meet the needs of their children with disabilities. They also told us that about 10 LEAs plan to use their IDEA Part C funds for new construction.

¹⁹Unlike most other states, Michigan's IDEA funds are provided to and managed by the state's 57 ISDs. IDEA funds provided to schools go through the ISDs to the LEAs and then to individual schools. Some IDEA funds, however, are provided directly by the ISDs to service providers rather than LEAs and schools. Except for ISDs in the upper portion of the state (the Upper Peninsula), an ISD generally corresponds to a county. For example, the ISD in which Detroit's LEA is located covers all 34 LEAs in Wayne County, Michigan and 82 public school academies.

²⁰MDE provides the Part C IDEA funds to Michigan's ISDs, which contract with public and private service providers such as public health departments, mental health agencies, and private organizations to provide home-based early intervention services to children with disabilities. Some Part C funds are provided via the ISDs to LEAs, but most funds are used by the ISDs to purchase services directly from service providers.

MDE Will Use Existing Systems for Tracking and Reporting on Recovery Act Education Funds, but Challenges Remain

MDE officials said that they will use their existing cash management and grants management systems to track Recovery Act funds and meet the reporting requirements. LEAs will input data on the use of Recovery Act funds and on jobs created and retained into these systems. MDE officials said they will test these data to help ensure that they are timely, complete, and accurate. MDE has provided some guidance on the reporting requirements to LEAs and plans to train them on how to comply with the requirements. However, MDE officials said that LEAs vary significantly in their capacity to accurately track the use of the Recovery Act funds and the requirements present some challenges to LEAs. For example, generally LEAs have not reported data on the use of grant funds on a quarterly basis as required by the Recovery Act—they have only reported on the use of the funds at the end of each grant. In addition, some of the adjustments needed in the state's grants management system to distinguish Recovery Act grant funds from regular federal education grants and produce reports on the use of these funds had not been completed, according to MDE officials. This may hinder MDE's ability to track and report on the uses of Recovery Act funds.

MDE staff are responsible for reviewing and approving LEAs' applications for Recovery Act funds and their use of the funds. As part of the oversight and monitoring process, MDE officials said that they plan to conduct on-site visits of schools to review their use of Recovery Act funds. These visits, which will each take about 3 days, will consist of MDE's internal auditors reviewing selected districts' financial statements, improvement in the district's student achievement on standardized tests, progress in implementing corrective action plans, and compliance with federal regulations. To increase accountability for Recovery Act funds, MDE also chairs a weekly meeting, called the ARRA Education Core Team meeting, to facilitate working with external partners, school boards, and public school academies (also known as charter schools) to identify issues regarding the use of Recovery Act funds. According to MDE officials, these meetings have provided valuable feedback on the use of Recovery Act funds.

The State Auditor General reported in a previous audit that MDE needs to improve the completeness and accuracy of the education data reported in the state's cash management and grants management systems.²¹ In

²¹Michigan State Auditor General, *Performance Audit of Selected Payment and Related Systems, Michigan Department of Education and Michigan Department of Information Technology*, November 2008.

addition, in its Single Audits reports on MDE, the State Auditor General reported significant deficiencies in MDE's internal controls. For example, in its 2005 through 2007 Single Audit report, the State Auditor General found that the agency's internal controls over special education programs did not ensure compliance with federal laws and regulations regarding reporting and subrecipient monitoring.²² In April 2009, MDE issued its plan for corrective action to the State Auditor General. MDE officials told us that they were implementing their corrective action plan to improve the completeness and accuracy of data reported through the department's cash management and grants management systems.

MDE's Oversight of Detroit Public Schools Has Focused on Correcting Weaknesses in Financial Management and Eliminating the District's Budget Deficit

The Detroit Public Schools (DPS) has faced many challenges in recent years, including serious financial weaknesses, sizeable budget deficits, and large reductions in its student population. Single Audit reports on DPS identified several material weaknesses, including lax, system-wide oversight and controls in DPS contracting.²³ The 2008 Single Audit report contained 84 findings that identified deficiencies in five areas: (1) internal controls, (2) financial reporting, (3) policies and procedures, (4) training, and (5) information technology. DPS developed a corrective action plan for 70 of the findings and has contracted with a consulting firm to review the adequacy of its plan. The DPS Office of the Auditor General, an internal audit operation, is responsible for audits and reviews of district operations, including internal controls. The DPS Office of the Auditor General recently completed reviews of all the district's 194 schools and found that 189 schools (97 percent) had inadequate bookkeeping. The DPS Single Audit report dated December 10, 2008, reported that material audit adjustments were necessary for the financial statements to be fairly stated. Financial statements were not available in a timely manner to meet statutory and other deadlines.

In addition, as a result of the July 2008 Education Office of Inspector General audit of DPS's use of ESEA Title I funds, Education designated

²²Michigan State Auditor General, *Financial Audit Including the Provisions of the Single Audit Act of the Michigan Department of Education, October 1, 2005 through September 30, 2007*, June 2008.

²³Independent Public Accountants: *Detroit Public Schools, Single Audit, For the Year Ended June 30, 2008* (December 10, 2008); *Detroit Public Schools, Single Audit Report, Fiscal Year Ended June 30, 2007* (February 13, 2008); *The School District of the City of Detroit Public Schools, Single Audit Report, Fiscal Year Ended June 30, 2006* (November 30, 2006).

DPS's Deficit Elimination Plan
Outlines Many Actions to Be
Taken

DPS a high-risk district, requiring that all federal funds provided to DPS receive additional Education and MDE oversight. To comply, DPS must follow a checklist of required actions and develop strong internal controls. Education and MDE are working with DPS to address the district's financial management challenges. DPS officials said that they meet weekly with MDE officials and monthly with officials from Education's Office of Risk Management to discuss financial management issues.

As a result of financial management weaknesses and DPS's budget deficits, Michigan's Governor appointed an Emergency Financial Manager for the district in March 2009. The Emergency Financial Manager also appointed two oversight officials for the district to help improve its financial oversight. Since the Emergency Financial Manager has been in place, DPS has begun developing and implementing new policies and procedures to address the district's financial management challenges.

For fiscal year 2008, DPS reported in its audited financial statements an excess of expenditures over revenues of \$154 million.²⁴ Further, in April 2009, DPS officials projected an excess of expenditures over revenues of \$166 million for fiscal year 2009. Officials explained that in light of DPS's ongoing operating deficits it was required by law to submit a deficit elimination plan to MDE. MDE returned the district's first plan because it did not contain a long-range plan for eliminating the entire cumulative deficit—it only addressed the current year's deficit. DPS recently submitted a revised deficit elimination plan to MDE for its review.

DPS has significantly reduced the number of teachers by eliminating 2,400 positions and reduced its central office staff by 72 percent. However, according to DPS officials, further reductions will be required because 80 to 85 percent of its budget consists of teacher salaries and benefits. Over the past several years, DPS's budget problems have been compounded by declines in student enrollment as many former DPS students have moved or chosen to attend charter or private schools. Six years ago, DPS had about 167,000 students; by the 2008-2009 school year, its enrollment had declined to 93,000; and the estimate for the 2009-2010 school year is 88,000. This is a significant problem because the district's funding is based, in large part, on its enrollment. This decrease in enrollment has resulted in

²⁴Detroit Public Schools, *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2008*, Detroit Public Schools Division of Financial Services, December 10, 2008.

the district having many buildings with unused capacity; it recently closed 61 buildings. One of DPS's primary goals is to improve its academic standards and performance to bring students back to the district and increase its enrollment. DPS officials noted that establishing and sustaining Recovery Act-funded initiatives will be difficult given the challenges the district faces. In addition to reducing its cumulative budget deficit under the direction of its Emergency Financial Manager and with the approval of MDE, DPS must continue its operations in order to meet the educational needs of students.

MDE Has Allocated Significant Recovery Act Funds to DPS

MDE allocated \$80 million in SFSF funding to DPS through fiscal year 2010. DPS plans to use most of its SFSF Recovery Act funds to backfill state aid cuts and support teacher salaries. Specifically, DPS officials said that they plan to pay the salaries of about 187 teachers with a portion of the district's \$80 million in SFSF Recovery Act funds. DPS's SFSF application stated that it also intends to use the funds to purchase a new information system that will track data such as students' demographic characteristics, schedules, registration dates, daily attendance, grades, and test scores.

MDE allocated \$148 million in ESEA Title I Recovery Act funds to DPS through fiscal year 2010. However, DPS had not received any of these funds because MDE had not approved its Title I application. As of September 10, 2009, DPS had been informed by MDE that its application has been substantially approved and that final approval of the application is pending. DPS officials plan to use the funds to develop a system for assessing the academic performance of children in kindergarten through third grade and a "Learning Village"—an electronic compilation of model curricula that can be used as a resource for enhancing student education and DPS's management of its education programs.

MDE allocated \$11.3 million in Recovery Act funds to DPS for IDEA Part B grants and \$700,000 for IDEA Part C grants. MDE provided the IDEA funds to the Wayne Regional Educational Service Agency (Wayne RESA), an intermediate school district. The Wayne RESA covers all LEAs in Wayne County, Michigan, including DPS and 33 other school districts, and 82 public school academies in the Detroit area. None of the IDEA funds, however, had been provided to DPS because MDE had not approved the ISD's application for IDEA funds. DPS officials said that they did not have an estimated date as to when the district will receive its IDEA Recovery Act funds. DPS officials said that they planned to use these funds to develop electronic individual development plans for students with

disabilities and to support an initiative to enhance teachers' professional development.

DPS officials said that they will report information on the use of SFSF, ESEA Title I, and IDEA Recovery Act funds using the state's cash management and grants management systems. They also said that they are not sure whether MDE will add any requirements for tracking and reporting of Recovery Act funds.

Questions Remain about MDE's Ability to Accurately and Timely Report on Recovery Act Funds

Based on prior audit reports, questions remain about MDE's ability to report accurately and timely on the use of Recovery Act funds consistent with the accountability and transparency requirements of the act. A strong system of internal controls provides checks and balances against waste, fraud, abuse, and mismanagement and is an important component of an organization's ability to operate efficiently and effectively. GAO's guidance on internal controls may be useful in assisting MDE officials in implementing effective internal control over Recovery Act funds and determining what, where, and how improvement can be implemented.²⁵

MDE and the state's largest LEA—DPS— do not have strong systems of internal controls and will need to compensate for existing systems and processes in order to meet the timing and other accountability requirements of the Recovery Act. Given that the first comprehensive report on the use of Recovery Act funds used through September 30, 2009, is due to the federal government by October 10, 2009, the risks and challenges that MDE faces include timely accounting for the significant amount of Recovery Act funds provided for education as well as the use of Recovery Act funds by LEAs. In June 2008, the State Auditor General reported significant deficiencies in MDE's internal controls. Also, LEAs vary significantly in their capacity to accurately track and report on the use of Recovery Act education funds. The poor internal controls of MDE and LEAs and the large amount of Recovery Act education funds allocated to the state result in increased risk that Recovery Act funds will not be used and accounted for in accordance with provisions of the act. According to MDE and DPS officials, the LEAs plan to use existing systems and processes to track funds. DPS will receive significant Recovery Act funds and plans to use its existing systems and processes to

²⁵GAO, *Internal Control and Management Tool*, [GAO-01-1008G](#) (Washington, D.C.: Aug. 1, 2001).

account for and report on the use of Recovery Act funds. The independent auditor for DPS reported as recently as December 2008 that material weaknesses existed, including weaknesses in systemwide oversight and controls. Further, the auditor reported that material adjustments were necessary for DPS's financial statements to be fairly stated and that financial information was not available in a timely manner to meet statutory and other deadlines.

According to state and DPS officials, the district has a number of initiatives under way to address its accountability challenges. For example, in March 2009, Michigan's Governor appointed DPS's Emergency Financial Manager who has initiated a number of important actions, such as developing a strategic approach to address long-standing and often repeated audit findings. However, as of September 2009, improvements in the controls and processes for DPS remain a work in process. Many identified control deficiencies are still in need of attention despite numerous special efforts to transform accountability at DPS. Questions remain about the reliability of DPS financial information and the capacity of DPS to produce timely and accurate financial information. Further, change actions implemented and those under way at DPS are designed to address long-standing deficiencies through deliberate processes; however, they are not aimed at short-term actions that may be necessary to provide reasonable assurance that Recovery Act funds used through September 30, 2009, are properly accounted for and reported in October 2009, and that quarterly reports thereafter are accurate and timely. Further, the results of change actions have not yet been validated through external audit processes.

To provide accurate and timely Recovery Act reporting, MDE, in coordination with DPS, will need to consider implementing policies and procedures in the near term to provide reasonable assurance that education-related Recovery Act funds, including those provided to DPS, are reported accurately and timely, that jobs retained and created are accurately and timely reported, and that funds are used only for allowable purposes. It will also be important to implement targeted accountability practices—internal and external—with timely validation processes for reports on the use of education-related Recovery Act funds, including those submitted by DPS in accordance with the act's requirements.

WIA Recovery Act Funds Provided Summer Employment to Many of Michigan’s Low-Income Youth, but Significant Internal Control and Program Challenges Exist

The Recovery Act provides an additional \$1.2 billion in funds for WIA Youth program activities, including summer employment. Administered by Labor, the WIA Youth program is designed to provide low-income in-school and out-of-school youth 14 to 21 years of age, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,²⁶ the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth program requires a summer employment component to be included in its year-round program, Labor issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.²⁷ Local areas may design summer employment opportunities including any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as they also include a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job; (2) learn work readiness skills on the job; and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.²⁸ Labor’s guidance requires that each state and local area conduct regular oversight

²⁶H.R. Rep. No. 111-16, at 448 (2009).

²⁷Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

²⁸Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor's guidance. Each state's plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor's guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

Michigan received \$74 million in Recovery funds for the WIA Youth program and, as of August 31, 2009, had drawn down \$20.2 million. After reserving 15 percent for statewide activities, the state allocated \$62.9 million to the 25 local Michigan Works! Agencies (MWA) to provide services to youth. The Michigan's Department of Energy, Labor and Economic Growth (DELEG)—the state agency that administers the program—set a goal to spend the majority of its allocation during the summer of 2009. DELEG officials expected to serve 21,000 youth with Recovery Act funds compared to about 4,000 youth served in the summer of 2008 in the WIA year-round program.²⁹ The 25 MWAs have local flexibility in planning Recovery Act funded summer youth employment activities. For example, local areas have discretion to determine whether it is appropriate to link academic learning to summer employment opportunities.

Characteristics of WIA Summer Youth Employment Activities

We visited the MWAs in Detroit and Lansing. According to officials, both locations contracted out all their summer youth employment activities to other organizations. In Lansing, the MWA had contracts for youth services

²⁹Revised from preliminary estimate of 25,500 as of July 2009 to 21,000 as of September 2009 based on updated operational and wage data.

with nine entities, including two faith-based organizations. Jobs for summer youth in Lansing included positions with Michigan State University and Lansing’s Board of Water and Light. Detroit Workforce Development Department (Detroit MWA) contracted with an organization to recruit youth for employment in its 2009 summer youth program. As of August 31, 2009, the contractor had filled 6,774 summer jobs at 221 worksites, including a retail pharmacy chain, Henry Ford Hospital, the Detroit City Council, Detroit’s police and fire departments and Wayne County Community College District. Table 1 contains selected program features of the Detroit and Lansing local workforce development agencies as well as for all programs in the state.

Table 1: Program Characteristics of Two Local WIA Youth Programs and for the State

Program features	Detroit MWA	Lansing MWA	Total for Michigan
Michigan Works! Agency (MWA)	Detroit Workforce Development Department	Capital Area Michigan Works!	25 local workforce agencies of DELEG
Areas served	City of Detroit	Ingham, Eaton, and Clinton Counties	Statewide
Program design	Six 20-hour weeks, maximum 120 hours, of paid employment	Under 18: Up to 40 hours per week, including remediation Over 18: Up to 40 hours per week, plus remediation if needed	Determined by each MWA
Length of program	May 18 to September 30, 2009 ^a	June 22 to September 30, 2009 ^b	Determined by each MWA
Outreach	Local schools, nonprofit organizations, neighborhood initiatives, and word of mouth	Public service announcements and schools	Determined by each MWA
Target number of participants	7,000	600	21,000
Actual number of participants	6,774 ^c	725 ^c	12,166 ^d
Amount allocated	\$14.5 million ^e	\$3.3 million	\$73.9 million
Amount expended	\$7.8 million ^f	\$2.6 million ^g	\$3.3 million ^h
Range of jobs	Office assistant, senior citizens assistant, childcare assistant, teacher assistant, forestry apprentice, and “green” education coordinator	Animal care, office assistant, environmental services, and legislative aide	Determined by each MWA

Program features	Detroit MWA	Lansing MWA	Total for Michigan
Work readiness measure	Employability skills, job search and workplace readiness Measured at the completion of the program by an assessment instrument	Interpersonal and professional measures including punctuality, attendance, quality of work, grooming, operation of tools and equipment, and personal behavior Measured at the beginning, middle and end of the program by an assessment instrument	Determined by each MWA

Source: GAO analysis of local and state information for the WIA Youth program.

^aAccording to a Detroit MWA official, out-of-school youth over 18 years old may continue participating in the program until March 31, 2010, or until program funds are exhausted, whichever occurs first.

^bAll participants were to receive a week of leadership training before beginning work on June 22, 2009.

^cAs of August 31, 2009.

^dAs July 31, 2009.

^eOf the \$14.5 million awarded, of which \$11.4 million is from Recovery Act funds, Detroit MWA contracted with a contractor for \$6.2 million and retained \$8.3 million for participant payroll and administration.

^fAs of September 3, 2009. Of the \$7.8 million expended, Detroit MWA paid approximately \$2.1 million to the prime contractor and spent approximately \$5.7 million for youth payroll and administrative expenses.

^gAs of August 14, 2009.

^hAmount expended through June 30, 2009, the latest data available, by Michigan's 25 MWAs according to DELEG was \$3.3 million. DELEG obtains expenditure information from the 25 MWAs through quarterly expenditure reports. According to a DELEG official information through the quarter ended September 30, 2009, is expected to be available on October 20, 2009.

Detroit and Lansing Experienced Program Challenges for WIA Youth Summer Employment and Detroit Has Significant Internal Control Issues

Detroit and Lansing experienced challenges in implementing their WIA youth summer employment program—including managing a significant funding increase, the fact that the contractor for Detroit was new to the program, few program monitors for both Detroit and Lansing, the organizational complexity of the program delivery arrangement for Detroit, and no written policies and procedures for Detroit's payroll and its process for determining eligibility and a lack of documentation supporting such decisions. Further, Detroit had significant internal control problems with paying youth and weaknesses in its process for making program eligibility determinations. Effective internal control is a major part of managing any organization to achieve desired outcomes and manage risk.³⁰

³⁰GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

GAO guidance on internal controls describes challenges to the efficient and effective achievement of organizational goals and objectives as risk.³¹ GAO's *Standards for Internal Control in the Federal Government* includes risk assessment as part of an overall framework for establishing and maintaining internal control and for identifying and addressing major performance challenges and areas at greatest risk for fraud, waste, abuse, and mismanagement.³²

Further, the Recovery Act requires recipients of funds to comply with federal internal control standards. The Office of Management and Budget has stated that it will use its Circular No. A-133 Compliance Supplement to notify auditors of program requirements that should be tested for Recovery Act programs, and will issue interim updates as necessary.³³

In May 2009, DELEG and MWA officials in Lansing and Detroit told us that they did not foresee any difficulties in implementing their Recovery Act funded WIA summer youth employment activities. State officials initially said they expected a smooth transition in using Recovery Act funds because of their experience running programs for displaced workers combined with the experiences of local MWA directors. However, in discussions throughout July and August 2009, officials cited several challenges as the much larger program got under way.

In accordance with Labor's requirements, DELEG's overall guidance states that MWA directors must conduct regular oversight and monitoring of Recovery Act funds in order to monitor whether expenditures are made against the appropriate cost categories and within cost limitations.³⁴ The guidance further states that oversight and monitoring should determine compliance with programmatic, accountability, and transparency

³¹GAO-01-1008G.

³² GAO/AIMD-00-21.3.1. See also GAO-01-1008G.

³³The Office of Management and Budget's Circular No. A-133 sets out implementing guidelines for the single audit and defines roles and responsibilities related to the implementation of the Single Audit Act, including detailed instructions to auditors on how to determine which federal programs are to be audited for compliance with program requirements in a particular year at a given grantee.

³⁴Michigan State Workforce Investment Plan Modification, Implementation of the American Recovery and Reinvestment Act of 2009, July 1, 2009 through June 30, 2010 <http://www.michigan.gov/mdcd/0,1607,7-122--217944--,00.html> (accessed September 15, 2009).

requirements of the Recovery Act. To this end, DELEG set up separate accounting codes to track Recovery Act funds. The agency also holds monthly meetings with all 25 MWA directors to encourage reporting of consistent information. State program officials said they planned to conduct on-site monitoring visits of WIA worksites as well as three site visits each year at each of their MWAs. As of September 9, 2009, DELEG officials said that they had not begun their review of any of the MWAs.

Officials in both Detroit and Lansing told us that it was challenging to implement a larger program than they had in the prior year in a short time frame. Both Detroit and Lansing had more applicants than available jobs, necessitating much more screening of applications than in previous years. Detroit's summer youth program in 2009 had over two times the number of youth participants than in the prior year. Detroit MWA officials told us that they received 25,000 applications for 7,000 jobs. In August 2009, Detroit MWA officials told us that with 6,774 participants on August 31, 2009, they expect to reach their goal of 7,000 jobs before the end of the program. Lansing served over 100 more youth than expected and exceeded its goal of employing 600 youth during the summer of 2009. On September 16, 2009, DELEG officials told us that the state has not met its target but expects to meet its target to employ 21,000 youth.

In addition, Detroit MWA officials stated that they encountered several challenges working with the prime contractor. The contractor and its subcontractor were both new to the WIA program and one challenge was obtaining approval to use them from the City Council, a process which took several months. Detroit awarded the contract on May 4, 2009. Officials told us that the new contractor, however, did not have written policies or procedures or other related controls for payroll processing and distribution of the payroll. According to Detroit MWA officials, the previous contractor—that was not eligible to compete for the summer 2009 contract—had been in place for several years and had established policies and procedures for processing and distribution of the payroll.

Detroit fell short of its initial staffing goals for monitoring the program. Detroit MWA officials told us that the contractor's initial plans were to hire up to 150 additional staff, including 50 worksite monitors, by June 30, 2009. As of September 9, 2009, the contractor had 21 worksite monitors on staff. Detroit MWA and contractor officials told us final contract negotiations resulted in reducing total staffing to 140, including 21 worksite monitors. Lansing MWA officials told us that finding staff to monitor program activities was a challenge because of the limited amount of time available to recruit and employ youths for the summer. Lansing

MWA officials told us that they met their goal and hired 3 staff to monitor over 200 worksites. Also, Lansing officials indicated that they relied on their nine contractors to provide monitoring assistance through periodic reports on monitoring activities and results.

The design and delivery of WIA Youth summer employment activities was complex and involved many parties. According to state and local program officials this has proven to be challenging. For example, Detroit’s summer youth program involved roles and responsibilities spread among multiple parties including the Michigan Works! Agency—the Detroit MWA, the contractor and its subcontractor, an external payroll service provider, as well as approximately 221 worksites, and nearly 7,000 youth.

Detroit Had Significant Internal Control Problems with Paying Youth Participants on Time and in the Correct Amounts

Some of the youth in Detroit’s WIA summer youth program were not paid for their employment in a timely manner and checks had incorrect amounts, payee names, and addresses. The lack of written policies or procedures for the preparation and distribution of payroll affected Detroit’s ability to ensure accountability for Recovery Act funds. Progress is under way by Detroit MWA officials and the contractor to document the process flow for the preparation and distribution of payroll, identify problem areas, and develop written policies and procedures, and they expect to complete the initial phase (documenting the payroll process flow) by September 30, 2009.

As shown in table 2, 4 percent to 20 percent of youth in Detroit’s summer youth program were owed a paycheck but were not paid on time.

Table 2: Summary of Payroll Preparation Results for the First Three Pay Periods

	July 25, 2009	August 8, 2009	August 22, 2009
Number of youths due a paycheck	2,614	4,686	5,617
Number of checks printed	2,080	4,259	5,371
Amount of checks printed	\$449,122	\$1,335,227	\$1,707,907
Number of youth owed paychecks but not paid when due	534	427	246
Percentage of youth not paid when due	20.4	9.1	4.4
Unclaimed checks	Information not available	459	977

Source: Detroit summer youth program contractor data, unaudited.

In August 2009, contractor officials told us that they were exercising due diligence in following up on providing all youth with checks in the correct amounts and that they were seeking to resolve all issues with paychecks as quickly as possible. At one of the worksites we visited where 25 youth were employed, the site manager told us that 10 of the youth were not paid the funds they were owed when they were due on August 8, 2009. We followed up with the manager at this worksite who said that, by the following week, all of the youth had been paid. There has been improvement in performance, such as the percentage of youths not paid when due, from the date of the first payroll on July 25, 2009, to the payroll that we observed on August 22, 2009. However, issues with payroll, such as youth owed paychecks but not paid when due, remain and additional work is necessary to correct the internal control problems with payroll processing and distribution.

There was also confusion as to where youth were to pick up their paychecks at the first payroll distribution on July 25, 2009. The logistics at the distribution site were not transparent and youth reported to the contractors that they did not know which line to use or whom to talk to in order to discuss problems with or questions about their paychecks.

Youths were also working at worksites that had not completed the registration process, and officials told us that as a result no checks were prepared for these youths. There were also issues in resolving problems, according to Detroit MWA officials, because youth initially did not have a place to go to ask questions regarding errors in their paychecks, including incorrect amounts, payee names and addresses, or when they did not receive their paychecks.

Although payroll distributions had improved over the summer, some problems remain. We observed the payroll distributions on August 8, 2009, and August 22, 2009, and found that the contractor had made some improvements. For example, the contractor had established a customer care unit to address the youth's concerns. The contractor also modified the payroll distribution process and distributed checks alphabetically, which decreased some of the confusion over the former worksite-based distribution process that it had used. However, there were problems during these two payroll distributions with the checks having the incorrect amount, payee name or address, and with youths not receiving their checks when due. In addition, we found that there were still problems with long lines. At the August 22, 2009, distribution, we observed that youth had to wait in lines as long as 4 hours while standing in the rain to receive their paychecks. Detroit MWA officials confirmed that the amount

of time youths had to stand in line to receive their paychecks was, on average, 3 to 4 hours. Further, we observed on several occasions on August 22, 2009, local police were called to assist with crowd control. Contractor officials told us that the use of a larger venue for the September 4, 2009, payroll distribution reduced the waiting time.

It will be important that DELEG work with the Detroit MWA and contractors for the City of Detroit WIA Summer Youth Program to continue to address the internal control issues with youth not being paid on time and checks being prepared with incorrect amounts, payee names, and addresses, as well as to resolve past payroll issues and distribution challenges.

Detroit's Process for Determining Participation in Its WIA Summer Youth Program Needs Improvement

We found weaknesses in Detroit's process for making WIA Youth summer program eligibility determinations and a lack of documentation supporting such decisions. The federal requirements for WIA eligibility are meeting (1) the income test (limit on family income), (2) the age test (from 14 to 21),³⁵ and (3) having any one of six barriers to success.³⁶ Labor authorized the states to delegate the definition of the sixth barrier to local agencies.³⁷ Detroit MWA officials provided us with the City of Detroit's Comprehensive 5-year Local Plan (Plan) which included the definition for the sixth barrier. State officials told us that they had approved the 2008 program year plan that contained the same definition for the sixth barrier

³⁵The Recovery Act extended eligibility to age 24.

³⁶The six barriers to success are: (1) limited English language proficiency, (2) school dropout, (3) foster child, homeless, or runaway youth, (4) single parent, pregnant, or parenting youth, (5) offender, or (6) is an individual (including a youth with a disability) who requires additional assistance to complete an education program or to secure and hold employment.

³⁷29 C.F.R. § 664.210.

as in the plan currently under review as of September 9, 2009. The applicable section of the Plan provides the following definition:³⁸

“The Detroit WDB³⁹ has defined “youth residing in high poverty neighborhoods”⁴⁰ as its locally developed sixth criterion for eligibility. A high poverty neighborhood is one in which 30 percent⁴¹ or more of all households are beneath the poverty line as defined by the U.S. Department of Health and Human Services, Office of Management and Budget.”

Although this definition was used in the Plan, neither Detroit MWA officials nor contractor officials could explain how they used the sixth criterion when making eligibility determinations. Further, these officials provided no explanation about how staff made eligibility determinations using this category absent guidance on how to interpret this category in reviewing applications. Moreover, the local contractor and subcontractor, told us they did not receive any instructions from the Detroit MWA on required documentation for this eligibility category. Therefore, the basis used for determining whether an applicant was eligible for the program or not is unclear.

During our fieldwork, we selected a nonprobability sample of 11 participant files.⁴² Our review of these participant files revealed inadequate or nonexistent support of WIA eligibility determinations. One participant file’s registration form did not claim any barrier to success. While the other 10 participant’s eligibility determinations were based on the sixth criteria, we found that none of these files had documentation to support eligibility for this program. We discussed these issues with Detroit MWA

³⁸City of Detroit, “Revised Comprehensive Five-Year Local Plan July 1, 2000 – June 30, 2005 with an Extension From July 1, 2005 – June 30, 2010, Detroit Workforce Development Department <http://www.ci.detroit.mi.us/Departments/DetroitWorkforceDevelopmentDepartment/CurentRFPs/tabid/1665/Default.aspx> (accessed September 15, 2009).

³⁹Workforce Development Board (WDB) is a policy unit in the Detroit Michigan Works! Agency.

⁴⁰Detroit MWA officials told us that they define the entire city of Detroit as a high poverty neighborhood.

⁴¹The U.S. Census Bureau reported that the percentage of all households in Detroit that were beneath the poverty level in 2007 was estimated to exceed 30 percent.

⁴²Because our selection was not statistical, our results may not be projected to the population.

officials and they told us that based on their review of the 11 files we reviewed, it would not be possible to determine eligibility based on the documentation in the files. Progress is under way by Detroit MWA to assess the process for determining eligibility and the documentation of eligibility determinations. Officials told us that they are reviewing 100 case files but as of September 8, 2009, this analysis had not been completed. We did not review the Detroit MWAs methodology for selection of the case files or for its review of the files.

On September 2, 2009, DELEG officials told us they are considering the information that we brought to their attention over the course of our work regarding the Detroit WIA program's eligibility process and the absence of documentation to support decisions on eligibility. It will be important for DELEG and Detroit officials to identify program risks and implement the appropriate internal controls to address issues involving eligibility determinations, and the lack of documentation supporting eligibility decisions.

State and Local Officials Are Attempting to Measure the Outcomes of the WIA Summer Youth Employment Activities

In accordance with Labor requirements, the state requires each MWA to track and report items such as the number of youth employed and program completion rates. Although the Recovery Act requires states to report the number of jobs created and retained through any activity supported by Recovery Act funds, Labor has issued guidance stating that states should not include WIA program participants in that number. In addition, the Recovery Act provided that only the measurement of work readiness gains is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. States and local areas may decide the particular assessment tool to use to gauge work readiness gains.

The local areas we visited used different assessment instruments to determine work readiness skills. Youth participating in Lansing's program are evaluated by their supervisors on dimensions such as punctuality, grooming, quality of work, operation of tools and equipment, and personal behavior. Youth in Detroit's program were evaluated on employability skills and workplace readiness. Lansing evaluated participants at the beginning, middle, and upon completion of the program. Detroit evaluates participants using an external party upon their completion of the program. Officials from Lansing and Detroit said that the youth they are serving have been positively affected by the program (see fig. 2). For example, local officials stated that some youth expressed a sense of pride when they completed their orientation training or when they received their first

paycheck. Other youth were provided with skills for independent activities of daily living, such as how to write a check.

Figure 2: WIA Summer Youth Participant



Source: GAO.

WIA summer youth employment program participant assisting in food service at a Lansing, Michigan hospital.

Officials at both MWAs that we visited were aware of the Recovery Act's emphasis on "green" jobs. Detroit defined green jobs as those that build awareness and understanding of the natural environment and encourage careers in environmental sciences and industry. According to Detroit MWA officials, their contractor's definition of a green job is one that "builds awareness and understanding of the natural environment and encourages careers in environmental sciences and industry." For example, green sector jobs in Detroit are those where youth are engaged in education as well as hands-on experience in activities such as recycling, reducing waste or carbon emissions and reusing products in a new and creative way. MWA officials in Detroit told us that they had developed a task force to address this issue and planned to place 600 youths in green jobs. As of August 31, 2009, 446 of Detroit's 6,774 WIA summer jobs (7

percent) were defined by city officials as “green” jobs. Detroit MWA officials told us they expect to meet their goal by the end of the program. Lansing officials told us that they had difficulty identifying significant numbers of green jobs suitable for youths, although they created 42 green jobs for youths at worksites such as the Lansing Board of Water and Light and the School of Agriculture at Michigan State University.

Michigan Used Existing Contracting Procedures for Recovery Act WIA Funds

According to DELEG officials, existing state policies and procedures are intended to help safeguard the use of Recovery Act funds for the 25 MWA WIA Youth summer programs. We selected the Detroit MWA summer youth contract for review because this contract was for the largest WIA program in the state. According to the Detroit’s MWA officials, they follow city procurement practices and guidelines in awarding contracts, including those for the WIA program. In addition, officials told us that the Detroit MWA contract for the WIA program was competed. Officials explained that after selection of the winning bidder, a contract is drafted and reviewed by the city’s purchasing, budget, finance, and law departments before obtaining City Council approval. DELEG allocated \$14.5 million to the Detroit MWA for the WIA Youth program of which \$11.4 million is from Recovery Act funds.⁴³ According to officials, Detroit MWA awarded a cost reimbursement contract not to exceed \$6.2 million to a contractor for its WIA summer youth program for the period May 1, 2009, to June 30, 2010, and retained \$8.3 million for payroll and administrative costs.⁴⁴ This contract is funded by the Recovery Act and regular WIA funding. According to officials, the contractor issued a cost reimbursement subcontract not to exceed \$3.7 million for program delivery including payroll processing and worksite development and monitoring from May 15, 2009, to June 30, 2010. We discussed the contract with Detroit MWA procurement officials who told us that the award process was generally consistent with that described to us.

⁴³Of the \$11.4 million of Recovery Act funding allocated to Detroit MWA, Detroit MWA contracted with a contractor for \$3.1 million and retained \$8.3 million for participant payroll and administration.

⁴⁴According to the Detroit officials, the prime contractor was awarded the WIA summer youth program contract under the City’s procurement process on May 4, 2009. The contract with the prime contractor was executed on July 8, 2009, following approval by city council.

State Comments on This Summary

We provided the Governor of Michigan with a draft of this appendix, and staff in the Michigan Governor's office and the Michigan Economic Recovery Office reviewed the draft appendix and responded on September 15, 2009. In general, they agreed with its overview of the state's activities in the six programs selected for analysis. Further they stated that they believe that the report identifies several critical challenges that all states, including Michigan, must address to ensure timely, accurate and effective implementation of the Recovery Act. They also stated that they remain committed to our efforts to work with state agencies and local recipients to ensure that all implementation challenges are identified and addressed. The officials also provided technical suggestions that we incorporated, as appropriate.

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Appendix XI: Mississippi

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of the American Recovery and Reinvestment Act (Recovery Act)¹ spending in Mississippi. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

Our work in Mississippi focused on specific programs funded under the Recovery Act and included reviewing three Recovery Act programs in detail, collecting summary data on two education programs, and updating the state's fiscal condition since our July report. The programs we reviewed in detail were the state's highway program, the Weatherization Assistance Program, and Recovery Act funds being provided under Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. We selected the highway program because the state's full allocation of Recovery Act funds was available for use and the state had work underway, the weatherization program because the Recovery Act significantly increased the program's funding, and the ESEA Title I program because the state was expected to make the first release of Recovery Act funds to schools during the time frame of our review. In addition to these programs, we also updated funding information on the U.S. Department of Education's (Education) State Fiscal Stabilization Fund (SFSF) and the Individuals with Disabilities Education Act (IDEA). Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Mississippi and local governments stabilize their budgets and expand existing programs—thereby providing needed services. We focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed. The funds include the following:

Highway Infrastructure Investment

- The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$355 million in Recovery Act funds to Mississippi.

¹Pub. L. No. 111-5, 123 Stat. 115.287 (Feb. 17, 2009).

- As of September 1, 2009, the federal government has obligated \$289 million to Mississippi and \$21 million has been reimbursed by the federal government.²
- Almost 76 percent of Recovery Act highway obligations for Mississippi have been for pavement projects, including roadway repaving, widening, and new construction projects. Specifically, \$154 million of the \$289 million obligated for Mississippi's use as of September 1, 2009, is being used for roadway repaving projects, including \$4 million for approximately 18 miles of repaving at a site we visited in the south central region of the state.

Weatherization Assistance Program

- The Department of Energy (DOE) allocated \$49.4 million in Recovery Act funding to Mississippi for the Weatherization Assistance Program. As of September 1, 2009, DOE had provided the Mississippi Department of Human Services (MDHS), the prime recipient of the funds, with \$24.7 million.
- MDHS is contracting with Mississippi's 10 community action agencies to perform weatherization work. These agencies are responsible for purchasing materials and awarding labor contracts to make homes more energy efficient. As of July 31, 2009, three community action agencies that we visited had completed the weatherization of 134 homes.
- As of September 1, MDHS had disbursed \$3.37 million to community action agencies for home weatherization. MDHS plans to provide community action agencies with a total of about \$35.5 million from the state's allocation of \$49.4 million. With this the agencies are expected to weatherize a total of at least 5,468 homes.
- MDHS expects to use the remaining \$13.9 million, or 28 percent, for administrative costs, technical and training assistance, and audit fees for community action agencies' year-end audits by private accounting firms.

²For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

ESEA Title I, Part A Funds

- Education has awarded Mississippi \$132.9 million in Recovery Act funds under ESEA Title I, Part A.
- As of September 8, Mississippi had released no Recovery Act ESEA Title I, Part A funds to local education agencies (LEA). Each agency is required to submit an application to the state, outlining its planned uses of these funds. According to MDE, it will review applications through the end of September.
- Once funds are released, the agencies plan to use them for technology upgrades and supplemental reading and math programs.

Updated Funding Information on Other Education Programs

- As of September 4, 2009, the Governor of Mississippi had not released any of the \$262.7 million that Education allocated under the SFSF for education stabilization. The Governor plans to release the education stabilization funds after the state has resubmitted its application for the funds to Education and after reviewing applications submitted by LEAs that detail each agency's planned use of the funds.
- Education has also awarded Mississippi about \$127 million in Recovery Act funds under IDEA, Parts B and C, as of September 4, 2009. None of these funds have been released to LEAs.

Mississippi Continues to Face Fiscal Challenges

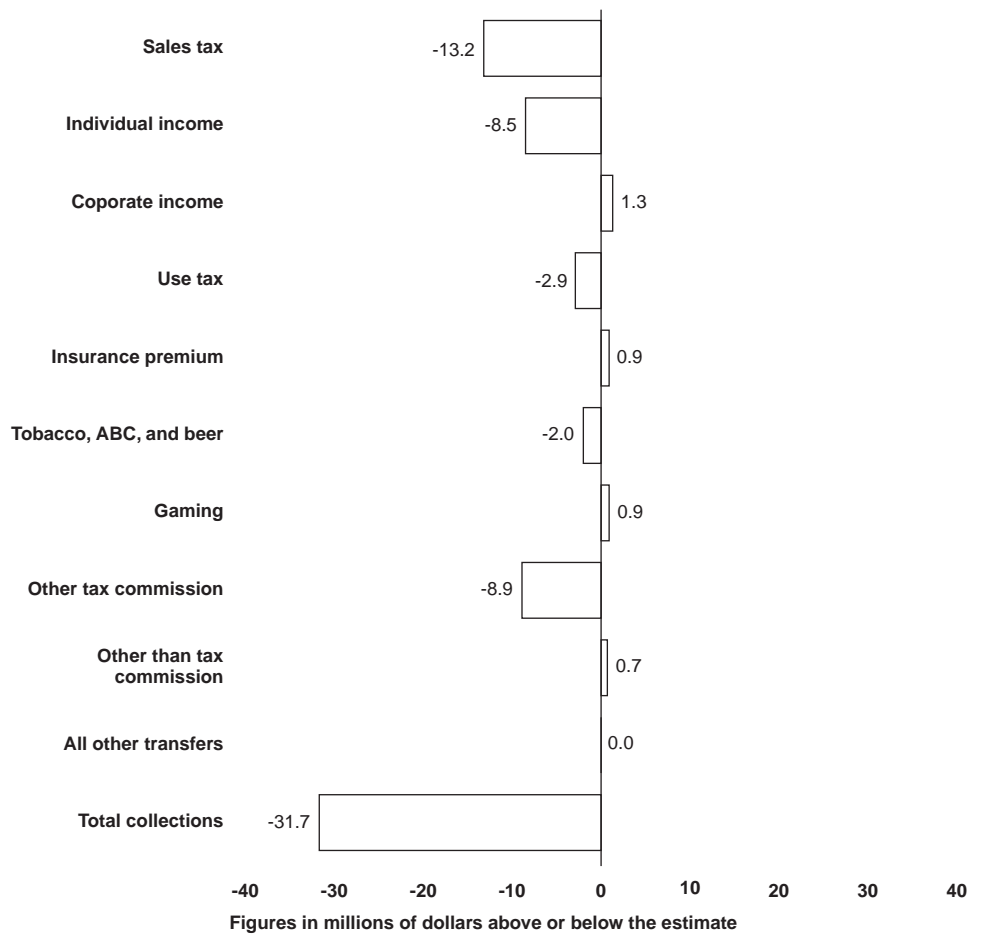
In the face of declining tax revenues, Mississippi continues to experience significant fiscal challenges. Revenue collections for July and August 2009, the first 2 months of fiscal year 2010, were \$26.2 million and \$5.5 million below expectations, respectively. As shown in figure 1, total tax collections through fiscal year 2010 are down \$31.7 million, which is nearly 6 percent below projections. The State Fiscal Officer estimates that the budget shortfall for the fiscal year could be more than \$800 million, but is more likely to range from \$175 million to \$350 million. The major causes for decreasing tax revenue are declines in sales taxes, individual income taxes, and other tax commissions.

On September 3, the Governor ordered reductions in state agencies' budgets totaling \$171.9 million. The Governor took this action after reviewing August tax revenues and determining that tax revenue collections did not meet estimates for the first 2 months of fiscal year 2010. The budget cuts reduce nearly all agencies' budgets to at least 5 percent below fiscal year 2009 appropriation levels. According to the Governor, he is statutorily prohibited from cutting an agency by more than 5 percent until he has cut spending for all agencies by 5 percent. The

Governor exempted only a few agencies and programs, such as the Department of Corrections and Medicaid, from the budget reductions.

The budget cuts reduce fiscal year 2010 funding for education agencies by approximately \$158.3 million while reducing funding for noneducation agencies by about \$13.7 million. According to the Governor, because education spending makes up more than 60 percent of the state budget, Mississippi cannot control spending without addressing the largest line item in the state budget.

Figure 1: Mississippi July/August 2009 Tax Revenue



Source: Mississippi Legislative Budget Office.

The Legislature Took Various Actions to Stabilize the Fiscal Year 2010 Budget

The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free-up state funds to address their projected budget shortfalls. Mississippi was able to use Recovery Act funds in this manner. On June 30, 2009, the legislature approved the fiscal year 2010 Mississippi state budget using more than \$519 million of Recovery Act funds to bring it into balance. The legislature appropriated \$111.5 million and \$19.6 million of education stabilization funds to K-12 education and institutions of higher education (IHE), respectively. This amount, plus \$74.6 million of Recovery Act funds appropriated in fiscal year 2009 that will carry forward into fiscal year 2010, freed up \$205.7 million in General Funds that had been planned for K-12 education, IHEs, and community colleges. In addition, a provision of the Recovery Act that increased the Federal Medical Assistance Percentage³ requirement made another \$313 million available by lowering the portion of Medicaid costs that Mississippi must pay, thereby freeing up a like amount of state funds. According to a state budget official, these state funds were redirected to other programs.

To further balance the budget, the legislature transferred \$65.2 million of “Rainy Day Funds”⁴ to the Budget Contingency Fund⁵ to help cover projected shortfalls that appear likely to occur in the General Fund. Officials explained that the legislature also authorized an assessment on hospitals, amounting to \$60 million, to offset the costs of Medicaid. In addition, the legislature increased General Fund revenues by raising the tax on each pack of cigarettes, which is expected to raise \$106.1 million in additional tax revenue.

³Recovery Act funds used to stabilize the state’s operating budget includes, SFSF moneys, Temporary Assistance for Needy Families contingency funds, and funds made available as a result of the increased Federal Medical Assistance Percentage funds (see [GAO-09-1016](#)).

⁴The Mississippi Rainy Day Fund, formally called the Working Cash-Stabilization Reserve Fund, is intended, among other uses, to be used to cover any projected deficits that may occur in the General Fund at the end of a fiscal year as a result of revenue shortfalls. Miss. Code § 27-103-203.

⁵The Budget Contingency Fund was created in 2001 by the legislature to identify nonrecurring funding that the legislature could use in the budget process. The sources of funds deposited in the Budget Contingency Fund can differ from Special Fund transfers to the General Fund that are identified as nonrecurring.

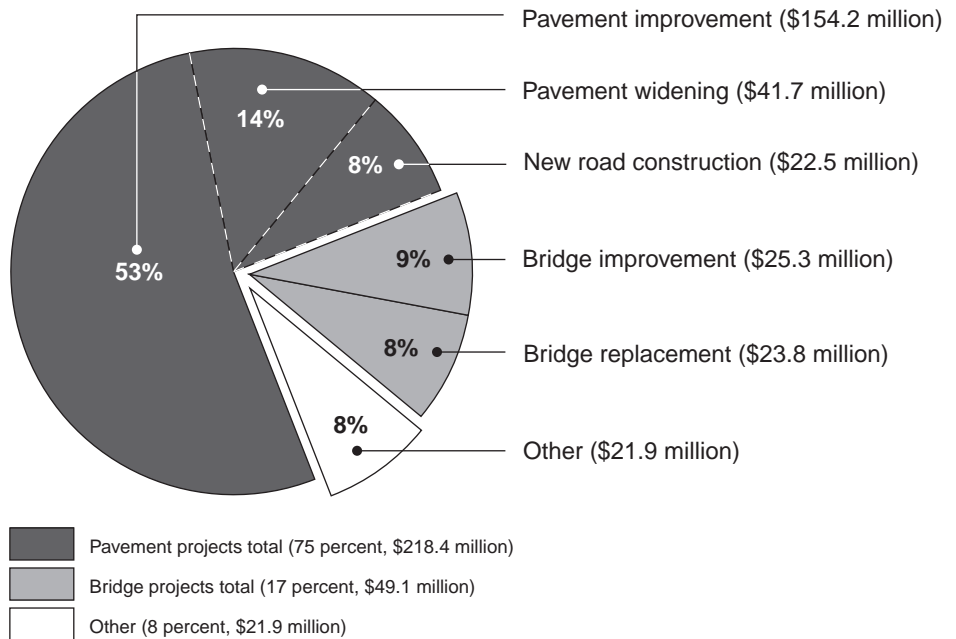
Mississippi Continues to Develop Recovery Act Highway Projects, but Is Challenged by Evolving Reporting Requirements and Tight Time Frames

The Recovery Act provides funding to states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act, paying a prevailing wage in accordance with federal Davis-Bacon requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

As we previously reported, \$355 million was apportioned to Mississippi in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, FHWA had obligated \$289 million for Mississippi highway projects and had reimbursed the state \$21 million.

A little more than 75 percent of all Recovery Act highway obligations for Mississippi have been for pavement projects, including roadway repaving, widening, and new construction projects. Specifically, \$154 million of the \$289 million obligated for Mississippi's use as of September 1, 2009, is being used for roadway repaving projects, including \$4 million for approximately 18 miles of repaving at a site we visited in the south central region of the state. Figure 2 shows the types of road and bridge improvements for which funds have been obligated.

Figure 2: Highway Obligations for Mississippi by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Two Agencies Administer Mississippi Transportation Projects

As we reported in July, Mississippi has two agencies administering Recovery Act funding for transportation projects. These two agencies are MDOT and the Office of State Aid Road Construction (OSARC). MDOT is responsible for operating and maintaining 14,300 miles of roadway statewide, including interstate highways, U.S. highways, and state routes. Furthermore, MDOT oversees all road construction projects that fall under the jurisdiction of any of the state's four metropolitan planning organizations (MPO), which select and approve transportation projects for cities and counties known as local public agencies (LPA).⁶ MDOT also

⁶MPOs are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation, that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities.

oversees projects carried out by LPAs that are not part of MPOs. OSARC assists Mississippi's 82 counties in the construction and maintenance of 19,019 miles of secondary, nonstate roads, and bridges. The Governor appoints the State Aid Engineer; in contrast, an elected commission, independent of the Governor, controls MDOT. Since FHWA only recognizes one transportation agency in each state, all federal funding must flow from FHWA through MDOT. Although OSARC determines how Recovery Act funds will be allocated to Mississippi counties for the improvement of eligible county roads and then administers the funding, the agency must seek MDOT's approval for each of the projects. After awarding contracts for federal projects, OSARC pays all contractor bills and then submits a request for reimbursement to MDOT.

The Majority of MDOT and OSARC Recovery Act Projects Are Under Way

Of the approximately \$355 million in Recovery Act funds that FHWA allocated to Mississippi, MDOT is responsible for administering \$343 million and OSARC has responsibility for \$11.7 million. As of September 1, FHWA had obligated approximately \$279 million of MDOT's \$343 million, and MDOT had awarded contracts for 45 projects.⁷ By that same date, FHWA had obligated approximately \$10.1 million of OSARC's \$11.7 million and OSARC had awarded contracts for 10 projects.

Both MDOT and OSARC have awarded contracts for less than estimated. MDOT awarded Recovery Act contracts for nearly 12 percent less than the state's estimate. Officials mentioned one project in Jackson County where increased competition resulted in the winning bid coming in 25 percent under the state estimate, something the officials had not witnessed in years. Of the 45 projects, for which MDOT has awarded contracts, contractors have begun construction on 39 and have completed 6. Similarly, OSARC awarded projects for nearly 15 percent less than originally estimated. Of the 10 projects for which OSARC has awarded contracts, 9 are under construction and 1 has been completed.

We examined three Recovery Act contracts awarded prior to September 1.⁸ We reviewed the contracts and discussed them with MDOT

⁷As we reported in July, MDOT met the requirement that 50 percent of these funds be obligated by June 30 of this year. The 30 percent of funds required to be suballocated, primarily based on population, for metropolitan, regional, and local use were not subject to this requirement.

⁸Our sample included two MDOT contracts and one OSARC contract.

and OSARC officials, who told us that the contracts were awarded to the lowest responsive bidder.⁹ Furthermore, according to MDOT and OSARC officials, each MDOT and OSARC Recovery Act request for proposal and contract includes the act's reporting requirements as well as the U.S. Department of Labor's (Labor) Davis-Bacon requirements.

MDOT Implements an Internal Obligation Deadline to Prevent the State from Losing Funds

Included in the \$343 million of Recovery Act funds that MDOT administers is \$94.7 million that is set aside for LPA projects. Although the Recovery Act requires that these funds be obligated within 1 year of apportionment, MDOT chose to implement an internal deadline of September 3, 2009. MDOT established this deadline to encourage the LPAs to take action in advance of the final deadline, which reduces the risk that the state will lose any of its Recovery Act funding.

As of September 1, FHWA had obligated \$1.6 million of the \$94.7 million set aside for LPA projects. In late August, the MDOT engineer responsible for LPAs told us that MDOT intended to ask LPAs to develop alternate projects if, by the September 3 deadline, funds for their projects were not close to being obligated or if the projects were facing substantial challenges, such as acquiring right-of-way. However, despite the fact that only 1 LPA project had funds obligated as of September 9, 6 days after the deadline, the engineer said that MDOT had reviewed the status of the LPA Recovery Act projects and determined that the projects were progressing well.

LPAs Experience Challenges in Developing Projects

In response to a 2006 national FHWA review that examined state oversight of locally administered projects, FHWA-Mississippi Division directed MDOT to enhance its oversight of LPA projects and update its *Project Development Manual for LPAs* to document the new oversight procedures. The updates include additional steps that LPAs must follow to activate a project. For example, MDOT previously allowed LPAs to certify that a project followed MDOT's project activation protocol. LPAs now submit a written request to MDOT for project activation, along with documentation detailing the purpose and need of the proposed improvements, and LPA board meeting minutes. MDOT made the changes

⁹According to state officials, a responsive bidder is one that is not on the federal suspension and debarment list and that has submitted a balanced bid. A balanced bid is free from mathematical or material deficiencies.

in the project activation process because the department is ultimately responsible for ensuring that the state's LPAs are in compliance with applicable state and federal requirements. However, as a result of these changes, LPAs undergo a much longer and more demanding protocol to activate their projects. This caused some MPO officials, who select and approve projects for the LPAs under their jurisdiction, to question whether the September 3, 2009, obligation deadline was achievable.

Furthermore, officials at one MPO explained that MDOT's new project activation process and the September 3 obligation deadline have affected the types of projects that are being approved in Mississippi. Officials from the Central Mississippi Planning and Development District (CMPDD) stated that most of its LPAs would have preferred to develop other projects with Recovery Act funds, such as new construction projects. But the officials told us that CMPDD ended up selecting more modest repaving and signal projects because of tight deadlines. According to those officials, over 90 percent of the Recovery Act projects that their MPO approved were repaving projects.

In contrast, officials from the Gulf Regional Planning Commission (GRPC) told us that they chose to focus on safety improvement projects such as pedestrian walkways, intersection improvements, and bridge replacements rather than street-repaving projects because they felt these projects better reflected the goals of the Recovery Act. But, according to the officials, because projects were planned quickly to meet tight time frames, some projects have run into unanticipated issues that in some cases have caused costs to exceed the LPA engineers' estimates. For instance, one locality had to deal with unanticipated drainage problems before it could begin constructing a planned sidewalk. According to GRPC officials, some LPAs had to come back to GRPC to ask for additional funding. GRPC officials initially told LPAs that if their engineers' estimates were low, the LPA would have to pay the excess costs. However, GRPC officials stated that because some localities did not have funds to cover the additional costs, GRPC officials amended the transportation improvement program¹⁰ and added funds from other sources to fully fund the projects.

Finally, MDOT and MPO officials informed us that some LPAs' limited project administration experience might affect their ability to handle

¹⁰The Transportation Improvement Program is the four year project list for federally funded transportation projects located within the jurisdiction of a MPO.

Recovery Act projects. According to CMPDD officials, two member LPAs that were behind in the planning process have never managed a transportation project. Furthermore, MDOT's State LPA Engineer also stated that some LPAs were dealing with mayoral changes, and that some new mayors simply did not know how to move projects forward. Officials from the GRPC also told us that one of its member localities did not receive funding because the town was in the midst of a mayoral change and did not have any staff to develop a suitable project.

Reporting Requirements Present Challenges for FHWA, MDOT, and OSARC

Officials from FHWA-Mississippi Division said that their counterparts at FHWA headquarters proactively developed a two-part system to collect and analyze Recovery Act project data on a monthly basis. This two-part system was made-up of prime recipient and subrecipient hard copy reporting forms as well as a computerized data base system, known as the Recovery Act Data System (RADS). Officials from FHWA-Mississippi Division told us that MDOT is experiencing challenges in meeting the reporting requirements set out in Section 1512 of the Recovery Act¹¹ because FHWA developed RADS and the associated hard copy reporting forms before June 22, 2009, when the Office of Management and Budget (OMB) released Section 1512 reporting guidance. For example, FHWA-Mississippi Division officials cited one challenge as being that the original versions of RADS and prime recipient and subrecipient reporting forms were not formatted to collect all of the Section 1512 reporting elements. Therefore, FHWA-Mississippi Division officials explained that their counterparts at headquarters have been reworking RADS and the hard copy reporting forms so that each is formatted to collect all required information. FHWA wanted to complete the task by August 31, 2009, so that it could conduct a test run during the September monthly reporting cycle. The test run would help ensure that RADS is ready before the states must submit their reporting information for OMB's first quarterly report, which is set for release in October. However, as of September 9, an FHWA-Mississippi Division official told us that FHWA had not completed its work.

¹¹Section 1512 of the Recovery Act requires that each recipient who receives funds from a federal agency submit a report to that agency that includes the amount of funds received, the projects and activities for which the funds were expended or obligated, the completion status of each project or activity and estimates of the number of jobs created and the number of jobs retained by the project or activity. *See*, Pub. L. No. 111-5, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

Officials from FHWA-Mississippi Division also explained that the changes being made to RADS and the hard copy reporting forms may result in prime recipients and subrecipients having to collect additional information. The officials told us that prime recipients and subrecipients may not have collected all information needed to comply with Section 1512 reporting requirements because the original reporting forms did not require the information. According to the officials, both groups may find that they must retroactively collect data elements that were not collected prior to the changes in FHWA's data collection system.

For MDOT and OSARC officials tasked with compiling prime recipient and subrecipient Section 1512 reporting elements, the implementation of an evolving FHWA reporting system has constrained limited resources while causing confusion. MDOT and OSARC officials are most concerned about an ever-increasing workload as they are now required to carry out their normal work duties as well as complete the monthly FHWA reporting requirements. For example, MDOT officials explained that the MDOT Contract Administration Department employs about 13 to 14 staff members who typically oversee construction contracts with a total value of \$300 to \$400 million annually. MDOT officials stated that with the enactment of the Recovery Act, the department now has an additional \$355 million worth of construction contracts to monitor, and the added reporting requirements that come with the state's acceptance of this money. In addition, MDOT cited another challenge in that it only has 10 calendar days, from the 11th through the 20th of each month, to verify the accuracy of the reporting elements provided to it from its own subrecipients as well as the data provided by OSARC. MDOT officials responsible for verifying these data said that 10 calendar days often only gives them enough time to identify very noticeable irregularities in the data, such as data fields that have been left completely blank or reported numbers that do not make sense for the element being reported.

Our Spot Checks of Three Construction Sites Found That Internal Controls Were Being Implemented

Given that Recovery Act funds are to be distributed quickly, effective internal controls over the use of funds are critical to help ensure effective and efficient use of resources, compliance with laws and regulations, and accountability over Recovery Act programs. Internal controls include management and program policies, procedures, and guidance that help ensure effective and efficient use of resources; compliance with laws and regulations; prevention and detection of fraud, waste, and abuse; and the

reliability of financial reporting. During visits to three projects being funded under the Recovery Act, we examined some of the internal controls that MDOT and OSARC have adopted.¹²

On Tuesday, August 11 and Wednesday, August 12, 2009, we conducted three site visits at one MDOT and two OSARC Recovery Act construction projects. Each of these site visits was conducted in association with the FHWA-Mississippi Division; MDOT and OSARC management were not aware that we planned to visit.¹³ The two OSARC site visits were bridge reconstruction projects located in the northwest region of the state, whereas the MDOT site visit was a repaving project located in the south central region of the state.¹⁴ In table 1, the findings of these site visits are summarized.

Table 1: Site Visit Findings with Regard to Certain MDOT and OSARC Internal Controls

Site visited	Was work being conducted which involved a pay item?	Was a technician on-site?	Was the daily diary/ inspection report completed?	Were the Davis-Bacon questionnaires completed?
OSARC #1	Yes	Yes	Yes	Yes
OSARC #2	No	Yes	Yes	Yes
MDOT	Yes	Yes	Yes	Yes

Source: GAO analysis.

During each of the three site visits we conducted, MDOT and OSARC officials were following procedures at the required level or above. According to MDOT and OSARC officials, both MDOT and OSARC require

¹²Additional information on internal controls may be found in the Mississippi appendix of GAO's second bimonthly review, which may be accessed at <http://www.gao.gov/recovery/bimonthly/ms/ms-july-09.php>.

¹³However, only the first of the two OSARC site visits can be classified as unannounced because the OSARC official at the second site told us that he had been informed of the possible visit. Furthermore, we cannot say that the conditions at the MDOT site, during the time of the visit, would have been exactly the same as those that may have existed because on the day of our visit to the site, FHWA had planned its own inspection of the site and had informed MDOT officials of these plans.

¹⁴The site visit locations were selected on the day of the visit as the accessibility of projects under construction changes on a day-to-day basis based on weather and contractor workload.

that a technician be on-site whenever work is being conducted that involves a contract pay item.¹⁵ Furthermore, MDOT and OSARC officials stated that they require that the technician be certified in the line of work involving that particular pay item. The contractor at the first OSARC site explained to us that he was scheduled to pour concrete, and the technician at that site was a certified concrete technician. At the MDOT site, the division assistant construction engineer told us he was there to fill the technician requirement by checking the density of the asphalt being poured. However, at the second OSARC site, a technician was on-site even though he specifically told us that no pay item work was being completed.

Further, we verified that the MDOT and OSARC on-site technicians were either in the process of completing or had completed the daily diary, which is an MDOT and OSARC internal control requirement. The daily diary includes information such as type(s) of work performed, location of work, daily quantities of pay items, major pieces of equipment located on-site, contractor's labor force, specific instructions given to the contractor's foreman, and visitors to the project site. Each technician at the two OSARC projects was able to verify that they were required to complete a daily diary and each technician submitted a completed daily diary to us for the day that the site visit was conducted. At the MDOT site, we spoke with an engineer, who also confirmed the required completion of a daily diary, and we reviewed the form for the day that we visited.

We also asked the on-site technicians or, in the case of the MDOT project, an engineer, for documentation showing that required Davis-Bacon Labor questionnaires were being completed. These questionnaires ask contractor employees to provide such information as their job classification, their hourly pay rate, whether they received overtime pay for time worked in excess of 40 hours during a work week, as well as other information pertaining to whether they had filed a complaint for being underpaid. MDOT officials stated that they require their inspectors to complete at least one questionnaire every 2 weeks until all contractor and subcontractor employees have been interviewed or construction at the site is finished, while OSARC requires that its inspectors complete at least one questionnaire every month until all contractor and subcontractor employees have been interviewed or construction at the site is finished. Both OSARC technicians and the MDOT engineer were able to provide us

¹⁵A pay item is a specifically described unit of work for which a price is provided in the contract.

with copies of questionnaires they had recently completed. From the provided questionnaires, we were able to verify that MDOT officials conducted interviews, at the site we visited, every two weeks during June, as required. Also, for the OSARC sites we visited, documentation showed that during the months of July and August, officials conducted the interviews once per month as required.

Weatherization Assistance Program Providing Assistance to Low-Income Families

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis Bacon Act.¹⁶ Because the Davis-Bacon Act had not previously applied to weatherization, Labor had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor's wage rates for residential construction, or an appropriate

¹⁶The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work.¹⁷ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Mississippi Receives Large Increase in Weatherization Funding

DOE allocated \$49.4 million in Recovery Act funding to Mississippi for the Weatherization Assistance Program. This represents a large increase over prior years when DOE’s allocation to Mississippi typically ranged from \$1.5 million to \$2 million. MDHS, the state agency responsible for administering the Weatherization Assistance Program, contracts with 10 community action agencies across the state to provide weatherization services to households at or below 200 percent of the poverty level.¹⁸ MDHS is giving priority to income-eligible households with elderly members, disabled individuals, or young children by allocating 90 percent of its Recovery Act weatherization funds to these groups. The department intends to use the remaining 10 percent of the Recovery Act weatherization funds for income-eligible customers with high levels of energy usage.

To receive weatherization funds from the Recovery Act, DOE required each state to submit a preliminary plan laying out how weatherization funds would be spent. MDHS submitted this plan on March 18, 2009, and on April 3, 2009, DOE released a 10 percent allocation (\$4.9 million) to cover administrative costs, such as hiring and training new staff. On May 11, 2009, MDHS submitted a comprehensive plan and certification to DOE. This was followed by DOE’s release of an additional 40 percent of allocated funds, or \$19.7 million. With this release, MDHS has received 50 percent of its total allocation, or \$24.7 million. DOE expects to make the remaining 50 percent of the Recovery Act weatherization funds available when the current award has been successfully expended. As of September 1, 2009, MDHS had disbursed \$3.37 million to the community action agencies.

¹⁷ The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

¹⁸ The Recovery Act raised the income eligibility for the program from 150 percent of poverty to 200 percent of the poverty level. Pub. L. No. 111-5 § 407, 123 Stat. 115, 145 (Feb. 17, 2009).

Of the total \$49.4 million in Recovery Act weatherization funds that MDHS is to receive, \$35.5 million will be allocated to community action agencies that purchase materials and contract for weatherization services. MDHS expects to use the remaining \$13.9 million, or 28 percent, for administrative costs, technical and training assistance, and audit fees for community action agencies' year-end audits by private accounting firms. According to information provided by MDHS, of the \$13.9 million, the department will expend approximately \$8.6 million for training and technical assistance; \$4.9 million, shared equally by MDHS and the community action agencies, for administrative costs; and \$255,000 for the audits performed by the accounting firms.

The Recovery Act has allowed states to increase the amount of funds that may be used to weatherize a home. Formerly, DOE allowed \$2,500 to weatherize a home, but the Recovery Act increased this to a maximum of \$6,500. MDHS has directed community action agencies to spend no more than \$4,500 of that amount to purchase labor and materials for each home. The remaining \$2,000 per home may be spent on overhead costs, such as program staff salaries, travel, supplies, rent, and utilities.¹⁹

MDHS determined that it can weatherize a total of 5,468 homes with Recovery Act funds (\$35.5 million allocated to community action agencies divided by \$6,500). An agency official stated that the 5,468 homes are a minimum goal and are based on projected costs per home. Should weatherization cost per home be less than \$6,500, the agency official told us that additional homes will be weatherized.

MDHS employed two formulas to determine the amount of funds that should be allocated to each agency and the number of homes each community action agency could need to weatherize. First, to determine how much funding should be allocated to each community action agency, MDHS multiplied the total programmatic funds (\$35.5 million) by the percentage of the state's impoverished population living within the area. MDHS then determined the number of homes within each community action agency's coverage area that could be weatherized by dividing each agency's allocation of funds by the Recovery Act allowance per home (\$6,500). Table 2 shows the allocation of weatherization funds by community action agency.

¹⁹The overhead costs charged to each home are in addition to administrative costs that DOE allows the community action agencies to recover.

Table 2: Allocation of Weatherization Funds and Estimated Number of Homes to Be Weatherized, by Community Action Agency

Community action agency	Allocation ^a	Estimated number of homes to be weatherized
Bolivar County	\$1,524,867	235
Central Mississippi, Inc.	2,417,038	372
Lift, Inc.	2,601,871	401
Multi-County	3,255,893	501
Northeast	1,613,729	248
Pearl River Valley Opportunity	7,663,433	1,179
Prairie Opportunity	2,996,417	462
South Central	4,837,631	744
Southwest Mississippi	3,298,546	507
Warren Washington Issaquena Sharkey	5,324,593	819
Total	\$35,534,018	5,468

Source: Mississippi Department of Human Services/Division of Community Services.

Note: These figures are through March 12, 2012.

^aThis column refers to the programmatic allocation for each community action agency, as opposed to the total allocation, which includes funds for equipment, audit, and technical and training assistance.

According to MDHS, a community action agency may weatherize a home if it is occupied by a family unit that is qualified to participate in the Weatherization Assistance Program.²⁰ The local community action agency must ensure eligibility of the family unit by verifying, among other things, household income level, Social Security information, and household energy expenses. Community action agency personnel then perform a pre-weatherization audit to determine the amount of weatherization that the home should receive. MDHS has directed that improvements be made in the following order, with the first three typically installed as a package. The remaining improvements are then made (also in order) if needed and if funding is available.

- Air sealing
- Attic insulation
- Dense-pack sidewalls

²⁰A renter or a homeowner may apply for the Weatherization Assistance Program. If MDHS approves a renter's application, the owner of the property must agree that the home may be weatherized and to certain conditions laid out in a written agreement.

- Floor insulation
- Sealing and insulation of ducts
- Smart thermostat
- Compact fluorescent lamps
- Replacing of refrigerator

In addition, the following low-cost improvements may be made where applicable:

- Weather stripping, caulking, glass patching
- Water heater tank wrap
- Pipe insulation
- Installation of faucet aerators
- Installation of low-flow showerheads
- Installation of furnace filter
- Reglazing of windows (as needed)
- Installation of carbon monoxide detectors, smoke alarms, and fire extinguishers

GAO Visited Three Community Action Agencies

We visited three community action agencies in August 2009 to collect information on weatherization contracts, including data on contractor certifications, the costs incurred to weatherize a home, and how community action agencies plan to measure program performance. We also gathered information from the three agencies regarding compliance with the Davis-Bacon Act, job creation, reporting requirements, and oversight procedures.

We chose to visit the Multi-County Community Service Agency (Multi-County), the South Central Community Action Agency (South Central), and the Warren Washington Issaquena Sharkey Community Action Agency (WWISCAA). We visited Multi-County because it had extensive experience weatherizing homes, South Central because it had no previous experience weatherizing homes, and WWISCAA because it received the second largest allocation of funding, \$5.78 million.

Agencies Have Awarded Contracts and Homes Have Been Weatherized

An official at one of the community action agencies told us that weatherization work on homes began in June 2009. Further, the official explained that the agency had to hire and train staff and purchase equipment before the work could begin. As of July 31, 2009, Multi-County had completed 31 homes; South Central had completed 47; and WWISCAA had completed 56 using Recovery Act funds.

To identify contractors to perform weatherization work, all of the community action agencies we visited told us that they advertised opportunities to bid for contracts through local media sources, the Mississippi Department of Employment Security, and Mississippi job centers. According to agency officials at the sites we visited, the agencies selected contractors through a competitive bid process and awarded contracts for labor only. The community action agencies purchase materials that meet DOE standards for weatherization and provide them to the contractors as needed.²¹ Agency officials also told us that they procure materials competitively by obtaining prices on a list of materials from vendors and then selecting the lowest-cost materials.

DOE and the State of Mississippi both impose requirements on contractors selected to weatherize homes. DOE requires the contractors to purchase liability insurance and it strongly recommends that the contractors also obtain special pollution insurance. (All three community action agencies told us that they require both general liability and the special pollution insurance.) In addition, MDHS requires that contractors carry workers' compensation insurance and obtain adequate bonding. The state also requires that all contractors and laborers complete a minimum of 80 hours of annual training. Training includes but is not limited to classes in gas leak detection, DOE lead safe work practices, DOE energy-related mold and moisture practices, and whole-house weatherization practices for both site-built homes and mobile homes.

The average cost to weatherize a home using Recovery Act funds varied among the three agencies, with costs ranging from \$3,000 to \$4,500 per home.²² The differences in weatherization costs result from differences in calculating contractor labor costs, the amount of weatherization work performed, and, thus, the amount of materials used. One agency estimates labor using a fixed labor cost of \$2,100 per house, a figure it arrived at when the labor rate for all bidders was at or near \$87.50 per hour and the agency estimated that each home would require 24 hours of weatherization work.²³ After establishing the labor rate competitively, this community action agency awards contracts to qualified contractors based

²¹MDHS does not develop an approved list of suppliers; instead, agencies develop their own respective lists.

²²Total cost per home consists of labor and materials.

²³The figure of \$87.50 per hour is a cumulative hourly labor rate for all workers on a particular job.

on their availability. The other two agencies base labor rates on material costs, with one agency pricing labor at 125 percent of materials and another agency pricing labor at 100 or 110 percent of materials, depending on the distance the contractor has to travel to the work site. Officials at each of the latter two agencies told us that the contractor for each house is selected competitively based on the number of hours bid to complete the work, but that the labor rates are a set percentage of material costs.

The effect of weatherization on individual homes, and therefore regions and the state as a whole, will take time to realize. MDHS requires the community action agencies to measure program outcomes by collecting residents' utility bills for the 12 months before a home is weatherized and for 12 months afterwards. By comparing pre- and postweatherization utility bills, the agencies will determine the savings resulting from weatherization. MDHS has a goal of reducing energy usage by 17,000 MBtu²⁴ across the 5,468 homes it plans to weatherize.

Davis-Bacon Not a Concern for Community Action Agencies

The Davis-Bacon Act requires that contractors and subcontractors pay prevailing wage rates to laborers who are employed on construction projects that receive federal assistance. The Weatherization Assistance Program has not been previously subject to Davis Bacon wage requirements. However, the Recovery Act requires all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government with Recovery Act funds be paid wages at rates that are not less than those paid on local projects of a similar character as determined by the Secretary of Labor.²⁵ To that end, Labor recently conducted a nationwide survey to determine wages for weatherization contractors and laborers. MDHS required all agencies receiving the survey to complete and return the survey to MDHS by July 31, 2009. MDHS submitted the surveys to Labor before August 14, 2009 and Labor posted prevailing wage rates for Mississippi on August 24, 2009.

²⁴The British thermal unit (Btu) is a precise measure of the heat content of fuels. It is the quantity of heat required to raise the temperature of 1 pound of water by 1 degree Fahrenheit at the temperature that water has its greatest density (approximately 39 degrees Fahrenheit). An MBtu is equal to 1,000 Btu.

²⁵Pub. L. No. 111-5, §1606, 123 Stat. 115, 303 (Feb. 17, 2009).

When we visited the three community action agencies in August, none were concerned with the outcome of the survey. Each of the three agencies stated that the labor rates being paid by the agencies and their contractors were at or above similar prevailing labor rates for their respective areas. MDHS officials told us that they did not expect Labor to release prevailing wage data that indicated a higher prevailing wage rate than the agencies were paying weatherization contractors and laborers. However, should this occur, a community action agency official told us that contractors would receive back pay from the community action agency, using Recovery Act funds.

Community Action Agencies Hired Additional Staff to Support Weatherization Program

The three community action agencies have each hired new staff as a result of the increase in weatherization work because of Recovery Act funding. Officials at each of the agencies visited could clearly identify the number of internal jobs created as a result of the funding. According to respective agency officials, Multi-County hired seven weatherization coordinators and two administrative staff; South Central hired four weatherization coordinators and two case managers; and WWISCAA hired a bookkeeper, three weatherization coordinators, and three case managers. In addition, officials at two of the three agencies wanted to hire additional staff with Recovery Act funding and would like to retain the new staff even after Recovery Act funds are no longer available.

MDHS Working to Mitigate Potential Reporting Problems on the Use of Funds

The Recovery Act imposes upon states an extended level of accountability and transparency in the use of federal funds. All prime recipients of Recovery Act funding must submit their first report to www.FederalReporting.gov by October 10, 2009.

MDHS officials told us that to prepare for Section 1512 reporting requirements, MDHS plans to conduct two “trial runs” of data gathering and report preparation before the October 10, 2009 reporting deadline. In addition, MDHS requires the community action agencies to provide monthly submissions of all data required under Section 1512, including job creation/sustainment data. According to the officials, this will help them understand what information is needed to comply with the reporting requirements and give MDHS an opportunity to verify the accuracy of data the agencies report. One of the community action agencies we visited had limited data regarding jobs created by contractors and had no data regarding jobs created by vendors. MDHS officials stated that the community action agencies will collect both sets of data and report the information to MDHS by the deadline. An MDHS official stated that the

department has registered as required in preparation for Section 1512 reporting.

Oversight Is Carried Out at Multiple Levels

State and local agencies are monitoring the Recovery Act Weatherization Assistance Program in Mississippi. At the state level, MDHS provides three levels of oversight. The first level is conducted by an independent division of MDHS, the Division of Program Integrity, who told us that they monitor 10 percent of the total number of homes weatherized. The division monitors fiscal and programmatic records to determine, for example, whether community action agencies are meeting Davis-Bacon requirements and whether activities performed by contractors relate to the appropriate funding source. The second level of review is conducted by MDHS regional weatherization coordinators, and includes monitoring an additional 20 percent of the total number of homes. The Division of Community Services weatherization staff is responsible for the third level review, which includes monitoring 10 percent of the homes that were monitored by the regional coordinators, as well as an additional 10 percent of homes not reviewed by the regional coordinators. The second and third level reviews will include examining subgrantee files and monitoring contractor performance.

At the local level, MDHS requires all community action agencies to conduct both pre- and postwork energy audits on homes. According to a community action agency official, the purpose of a pre-audit is to determine the most cost-effective measures for reducing energy costs associated with inefficiencies in the home, whereas the purpose of a postaudit is to determine whether appropriate improvements have been made and whether further work is needed. The official also stated that work on a particular home is not considered complete, nor is the contractor paid for the job, until the postweatherization audit is performed and the house passes the necessary criteria set out in the preweatherization audit.

Mississippi Has Not Yet Distributed Recovery Act Education Funds to LEAs

The Recovery Act provides education funds to the State of Mississippi through ESEA Title I, Part A; SFSF; and IDEA. Recovery Act funds provided through ESEA Title I, Part A help local school districts educate disadvantaged youth and are in addition to those funds regularly allocated through the ESEA Title I program. The SFSF provides funds to states to help avoid reductions in education and other essential public services. Finally, the Recovery Act provides supplemental funding for programs authorized by IDEA, the major federal statute that supports special

education and related services for infants, toddlers, children, and youth with disabilities. We conducted a detailed review of the Title I program and collected summary data for the SFSF and IDEA, Part B programs.

MDE Providing Guidance and Reviewing LEAs' Applications for ESEA Title I, Part A Recovery Act Allocations

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through ESEA Title I, Part A. The Recovery Act requires these additional funds be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.²⁶ Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

As of September 4, Mississippi has received \$132.9 million in ESEA Title I, Part A Recovery Act funds. The state had released none of these funds to LEAs as of September 8. MDE officials told us that each LEA is required to submit an application to the state, outlining its planned uses of these funds. These applications were due to the MDE at the end of July. As of September 8, 2009, several LEAs had not yet submitted their applications. According to MDE, it will review applications through the end of September.

Along with ESEA Title I Recovery Act application packets, MDE released a guidance package to LEAs outlining the application process and suggesting uses of ESEA Title I Recovery Act funds. In addition to considering the guiding principles of the Recovery Act, MDE encouraged the LEAs to use the funds in ways that would allow for increased capacity, extended school days, professional development, instructional supplies and materials, transparency and accountability, school reform, and parental involvement. Included in the ESEA Title I, Part A Recovery Act

²⁶LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

application package is an additional requirement that MDE normally does not place on ESEA Title I, Part A funds. MDE is requiring that each LEA address at least two of five ESEA performance goals and indicators. One goal is to help all students attain high standards in reading/language arts and mathematics, as indicated by the percentage of students who perform at an acceptable level on state assessments. Another goal is to enable all students with limited English skills to achieve high academic standards, as indicated by state assessments. Goals also include having “highly qualified” teachers teach all students in safe, drug free environments that are conducive to learning. Finally, ESEA performance goals include all students graduating from high school. In the application, an LEA must provide narrative on how they will achieve these goals, as well as a budget narrative detailing how the ESEA Title I, Part A Recovery Act funds will be used.

MDE Could Pursue ESEA Title I Waivers

MDE officials told us that they are concerned about the LEAs’ ability to obligate Recovery Act ESEA Title I funds in addition to regular ESEA Title I, Part A funds within the ESEA spending timeframes. That is, MDE is concerned that the LEAs cannot obligate 85 percent of the funds by September 30, 2010, and the full amount by September 30, 2011. MDE is considering applying to Education for a waiver that would allow MDE to waive the carryover limitation for individual LEAs. If granted, a LEA could carry over more than 15 percent of its Recovery Act allocation into the next fiscal year. Under ESEA, state education agencies currently have authority to waive carryover limitations only once every three years if the requests are reasonable and necessary. The waiver MDE wishes to apply for would allow it to grant waivers to LEAs more frequently if the LEAs needed additional time to expend their Recovery Act allocations. MDE officials said that they are currently assessing the guidance from Education on this issue, as well as surveying the LEAs in the state to determine if there is concern and interest among the LEAs in applying for such a waiver. In addition, MDE officials told us that they are interested in applying for permission to use the SFSF funds to satisfy maintenance-of-effort requirements for ESEA Title I.²⁷ According to MDE officials, they

²⁷A state meets the maintenance-of-effort requirement if either the combined fiscal effort for per student or the aggregate expenditures within the state with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year (20 U.S.C. § 6337(e)(1)).

have asked for, but not yet received, clarification on this issue from Education.

Visited LEAs Intend to Use ESEA Title I, Part A Recovery Act Funds for Upgraded Technology in Classrooms and Supplemental Reading and Math Programs

We visited three LEAs in Mississippi to discuss their planned uses of ESEA Title I, Part A Recovery Act funds: Jackson Public School District, Rankin County School District, and Greenville Public Schools. We chose to visit Jackson Public School District because it has a number of schools that are categorized under ESEA Title I as needing improvement, is an urban school district, and is receiving the largest ESEA Title I Recovery Act allocation in the state. Jackson Public School District is the largest LEA in the state in terms of student enrollment. We visited Greenville Public Schools because it is located in a rural town and is receiving the second largest ESEA Title I Recovery Act allocation in the state. Greenville Public Schools is the 12th largest school district in student enrollment. Finally, we visited Rankin County School District at the recommendation of Mississippi’s Office of State Auditor (OSA) and Office of the Governor, which cited this LEA as one of several in the state that follows “best practices” related to internal controls, compliance, and management. Rankin County School District is the third largest district in the state in terms of student population and is receiving the 15th largest ESEA Title I, Part A allocation in the state.

Jackson Public School District is expected to receive a total allocation of \$15,683,083. In determining how to apply the district’s ESEA Title I, Part A Recovery Act funds, Jackson Public School District officials solicited recommendations from district and school administrators, private school administrators, and parents. In addition, the district’s test scores indicated a critical need to address language arts and mathematics. In its application to the state, Jackson Public School District indicated that it wishes to use the additional ESEA Title I, Part A funds for supplemental instruction, particularly in those subjects with low student test scores. For example, officials told us that they plan to purchase math software programs, as well as the associated technologies that will be needed to use the software, such as computers and graphing calculators. Jackson Public School District will also use some of the funds for professional development for teachers.

Rankin County School District is expected to receive an ESEA Title I, Part A Recovery Act allocation of \$1,680,397. Rankin County School District officials told us that they plan to use these funds for technology upgrades in the classroom in order to create “21st century learning centers” for students and teachers. District officials plan to bring new technologies

into classrooms, such as laptop computers, interactive whiteboards, projectors, document cameras, digital video cameras, and printers. The district made the decision to use the ESEA Title I, Part A Recovery Act allocation in this way following a comprehensive needs assessment and conversations and focus groups with principals and teachers. District officials told us that efforts to modernize and upgrade classroom technology were already under way, but the additional Recovery Act funds will help the school district achieve these goals. Additionally, the district wants to use the funds for professional development of teachers, including instructing them on the use of the new equipment purchased, as well as improving the teachers' instructional practices.

Greenville Public Schools expect to receive an ESEA Title I, Part A Recovery Act allocation of \$4,329,295. School officials told us that they plan to use the additional funds to purchase technology upgrades for the classroom in order to create "model classrooms" at each grade level. According to district officials, a model classroom is built around a set of best practice methodologies for instruction and motivation. Creating such a classroom involves purchasing upgraded technologies, such as modern computers that are compatible with current software, and providing corresponding instruction for teachers. With upgraded technologies, Greenville Public Schools can invest in supplemental instructional software in mathematics and language arts. Based on statewide testing programs, the school district identified these subjects as in need of intensive support and effective interventions. Additionally, Greenville Public School officials want to hire 15 additional teachers to offset teacher reductions caused by previous budget cuts. This will change student-to-teacher ratio from 27: 1 to 22: 1. In determining how the additional allocation will be used, Greenville Public Schools officials told us that they took into account the opinions of stakeholders, such as parents, local businesses, advocacy groups, teachers and administrators. Greenville Public Schools held a public community meeting and then a central office meeting to determine the best uses of the additional Recovery Act funding before submitting its application to MDE for approval.

ESEA requires each LEA to use ESEA Title I, Part A funds for the participation of children in private schools, as well as for homeless and neglected children. The act also allows ESEA Title I, Part A funds to be used for children living in local institutions for delinquent children, as appropriate. For example, Jackson Public School District officials told us that there are 11 private schools and 3 institutions for delinquent children in their district that will receive Recovery Act ESEA Title I, Part A Recovery Act funds.

In addition to the set-asides required for ESEA Title I, a 1996 policy passed by the Mississippi State Board of Education permits LEAs in Mississippi to reserve up to 20 percent of their regular Title I, Part A allocation for administrative purposes.²⁸ MDE has instructed LEAs that the same policy applies to the Title I, Part A Recovery Act allocation. MDE did not require LEAs to discuss in detail their plans for the administrative set-asides. However, according to state school board policy, such costs can include salaries, benefits, travel, and office costs of ESEA Title I bookkeepers; cost of audits; and indirect costs. As part of its review process, MDE will ensure that set-asides do not exceed 20 percent of the total allocation. Rankin County School District and Jackson Public School District officials stated that they would consider using administrative funds to hire additional bookkeeping staff to handle the additional workload of tracking and monitoring the funds.

MDE Developing Internal Control Plans

Mississippi's Department of Finance and Administration (DFA) has required each state agency to develop and submit a written internal control plan that covers safeguarding of agency assets, segregation of duties by function, and execution of transactions in accordance with laws of the State of Mississippi. The internal control plan will apply to all state and federal funding received by the agencies. The plan for MDE was still in draft as of September 4, 2009.

To monitor the LEAs' use of Recovery Act funds, MDE officials said that they have an Educational Accountability Office with an Internal Accountability division. MDE officials told us that this office is responsible for reviewing each LEA's financial audit, following up on findings with the LEAs, and assisting them in taking corrective action. The audits are conducted annually by a private firm in conjunction with OSA. The Internal Accountability Office has three staff to cover 152 LEAs.

MDE's Office of Federal Financial Management also monitors LEAs' use of federal funds for proper use and compliance with appropriate laws. MDE officials stated that LEAs are monitored on a 3-year cycle. At this time, there are no definite plans for additional monitoring of Recovery Act funds.

²⁸Mississippi State Board of Education Policy 7802, "Expenditures of Funds on Instruction," 1996.

LEAs Plan to Use Existing Policies and Procedures to Control Recovery Act Funds

The three LEAs we visited said that they are not planning to make significant changes to their current policies and procedures for tracking federal funds in order to track the Recovery Act funds. The LEAs will use their current systems but will use unique identifying codes for the Recovery Act funds, as required by DFA. The LEAs we visited have not completed written internal control plans or risk assessments of internal control weaknesses.

Officials with Jackson Public School District told us that they will set up a budget for each of the district's schools that is based on the information the school provided to the district regarding how it plans to use its Recovery Act funds. These budgets are subject to school board approval to ensure that the uses fit within the district's goals for improving instruction and comply with state guidelines. Requisitions for Recovery Act funds first must be approved by each school's principal. Requests for expenditures will then be checked against these written budgets by Jackson Public School District's federal programs and purchasing offices. At monthly grant review meetings, the Executive Director of Finance and others will review Recovery Act expenditures that were initiated centrally or at the school level. Jackson Public School District officials stated that they intend to be transparent with their uses of the Recovery Act funds. They will update parents and the community via newsletters and public access television programming.

Officials with Rankin County School District told us that each employee is trained on accounting and purchasing rules. They plan to follow the same set of procedures for tracking Recovery Act funds as they do for all federal funds. An official in Rankin County Public Schools' Federal Programs Department will be primarily responsible for tracking Recovery Act funds. This person will develop a budget, enter and track purchase orders, file invoices, and compile monthly reports to ensure that funds are being properly utilized. Requisitions for Recovery Act funding will be subject to approval by the Assistant Superintendent before being turned into purchase orders. A purchase order will be subject to approval by the accounting department at Rankin County School District, and may be additionally reviewed by the Business Manager or Purchasing Director. The accounting department will not approve a payment until services or materials are received, an invoice is filed, and the school board has approved the expenditure. School board meetings are open to the public, and uses of Recovery Act funds will also be made public via parent newsletters and email communications.

Greenville Public Schools officials said that they would not make any significant changes to their plans for tracking federal funds, other than that the Recovery Act funding would be coded and tracked separately in the system. The Business Manager said that all staff are trained in accounting, and he would update their training to deal with the Recovery Act funds. Regarding the flow of funds to the individual schools, the business manager said that a requisition will be approved by the principal before being submitted to the district. The Greenville Public Schools Federal Programs Director will review the requisition to ensure that it addressed the district's instructional goals, and the Business Office will ensure that the requisition complies with applicable purchasing laws and that there is an adequate budget for it. All funds will also be checked against the school's monthly budget. The requisition will then become a purchase order. Purchase orders over a \$5,000 threshold will require additional approval from the Superintendent. Also, computer purchases will require approval from the Information Technology Department. Once a purchase is made and items are delivered, the items are to be matched with the invoice and the purchase order and tagged for delivery. Physical inventories are conducted twice annually. The business manager said that the office is probably adequately staffed to handle the additional workload, but once the funds begin flowing, he will reevaluate the staffing needs.

**MDE Concerned about
Timing of Reporting
Requirements, and LEAs
Request More Guidance**

MDE told us that it plans to use a centralized reporting approach, collecting information for the required quarterly reports from the LEAs and posting the data collectively rather than having each LEA do this individually. However, MDE is concerned that the 10-day data quality review period will not be sufficient to thoroughly review and validate 152 LEA submissions and correct any deficiencies before the reports are released to federal agencies on www.FederalReporting.gov. MDE is also unsure about how the information is to be presented. Officials noted that they are working to develop a template that will detail the information required so that it can share this with the LEAs. MDE officials said that they requested additional guidance on this issue from Education and were told that it would be available in mid-September. Once additional guidance is received, the Governor's office will advise state agencies on how to fulfill the reporting requirements. Without the guidance they have requested, MDE is concerned about meeting the reporting deadline of October 10. The three LEAs we visited stated that they are unsure of the specifics of reporting requirements and the format in which they will be required to report the data. School officials said that they would like for MDE to provide some clarity on this issue.

Mississippi Has Not Yet Released SFSF or IDEA Funds

In addition to collecting detailed information on the ESEA Title I, Part A program, we collected summary funding information on SFSF and IDEA funds provided to Mississippi through the Recovery Act. We found that none of these funds have been released.

The Recovery Act created SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and IHEs. The initial award of SFSF funding required each state to submit an application to Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

As of September 4, LEAs in Mississippi had drawn down none of the \$262.7 million of education stabilization funds allocated to the state by Education. According to MDE officials, the Governor is requiring all LEAs to submit applications for these funds. The SFSF application is in draft and currently being reviewed by the Governor's office, but it has not yet been sent to LEAs for completion. Additionally, the Governor is in the process of resubmitting his application to Education. When the initial application was submitted, Mississippi had not yet passed its fiscal year 2010 budget. According to state officials, the state funding information upon which the Governor based the original application varied from the fiscal year 2010

budget that was later passed by the legislature. The resubmitted application will include the enacted budget information. No SFSP funds will be released to LEAs until both the Governor's application and the individual LEA applications are approved. However, according to MDE officials, LEAs have been informed of their allocation amounts, so that they can begin to make definite plans regarding the use of the funds.

The Recovery Act also provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

Education awarded Mississippi about \$127 million in Recovery Act funds under IDEA, Parts B and C, but as of September 9, 2009, none of these funds have been released to LEAs. MDE is requiring each LEA to submit an application to the state for their allocation of IDEA, Part B funds and the department is currently reviewing the completed applications.

State Officials Continue to Express Concern over Reporting Requirements and Administrative Costs

Mississippi state officials continue to express concern regarding Recovery Act reporting requirements and costs associated with the act. These include the following:

Clarifying recipient reporting responsibilities: The Recovery Act imposes upon states an extended level of accountability and transparency in the use of Recovery Act funds. While the Governor of Mississippi has determined that he is primarily accountable for the use of Recovery Act funds, this responsibility is shared by each executive officer of any entity that is a prime recipient or subrecipient of Recovery Act funds. As required by the Section 1512 recipient report requirement of the Recovery Act,²⁹ all prime recipients within the State of Mississippi are to submit

²⁹Pub. L. No. 111-5, § 1512, 123 Stat. 115,287 (Feb. 17, 2009).

their first report to www.FederalReporting.gov by October 10, 2009. The reports required under Section 1512 of the act will contain, among other requirements, detailed information on the projects and activities funded by the Recovery Act, including (1) the name and description of each project or activity, (2) the total amount of Recovery Act funds expended or obligated to each project or activity, and (3) an evaluation of the completion status of projects or activities and an estimate of the number of jobs created and the number of jobs retained by each project or activity.

DFA officials continue to express concern as to whether the state is responsible for all Recovery Act funds flowing into the state, including those that do not flow through the state treasury or are not reported through the state's central accounting system. DFA officials told us that they do not have direct oversight of entities such as community colleges, local governments, and institutions of higher learning that may be receiving Recovery Act funding directly from federal agencies. According to the officials, a query of USAspending.gov completed in early August identified approximately 400 entities receiving Recovery Act funds directly from federal agencies.

To help ensure that the State of Mississippi is in compliance with Recovery Act reporting requirements, the Governor issued a memo outlining the state's reporting requirement in regard to these funds. The memo explained that unless an entity receiving these funds has been notified in writing by its federal granting/lending agency that the entity is only accountable to the federal granting agency, it must follow the state's reporting guidance.

On August 28, 2009, OMB issued guidance requiring that federal agencies report all Recovery Act grants to the states. The report is intended to inform states of Recovery Act funding obligated to nonfederal entities such as states and state agencies, grantees, tribes, and local governments. A DFA official stated that going forward the OMB guidance should help the state identify all Recovery Act funds that do not flow through the state's treasury or central accounting system. However, the guidance does not help the state identify those funds if they were obligated before August 2009, because the guidance does not require retroactive reporting. According to the DFA Deputy Executive Director, staff have used USAspending.gov to identify those Recovery Act funds that flow into the state without the state's knowledge. However, DFA is finding erroneous data are being posted to the Web site. For example, the officials told us that USAspending.gov is reporting as Recovery Act awards some loan guarantees that have not been identified as such to the recipients.

Recovering oversight and auditing costs: Officials in Mississippi’s OSA told us that there is a need for clarity regarding reimbursement of administrative costs associated with oversight of Recovery Act funding. In commenting on recent OMB guidance, officials observed that even though the Recovery Act provided no funding for state oversight activities, OSA believes there are expectations that states will carry out the act’s transparency and accountability mandate. OSA requested that OMB provide guidance as to what funds will be used to reimburse states for oversight, auditing, and administrative activities and to explain how reimbursement will take place. Although OMB’s recent guidance indicates that states can recoup Recovery Act administrative costs through the State-wide Cost Allocation Plan (SWCAP) in amounts that do not exceed 0.5 percent of their Recovery Act allocations, officials believe that the 0.5 percent limit is inadequate.³⁰

State Comments on This Summary

We provided the Governor of Mississippi with a draft of this appendix on September 4, 2009. The Director of Federal Policy, who serves as the stimulus coordinator, responded for the Governor on September 10, 2009. The official provided technical suggestions that were incorporated, as appropriate.

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Staff Acknowledgments

In addition to the contacts named above, Barbara Haynes, Assistant Director; James Elgas, analyst-in-charge; Ellen Phelps Ranen; Carrie Rogers; Erin Stockdale; and Ryan Stott made major contributions to this report.

³⁰OMB’s memorandum-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities*, May 11, 2009, provides that a state can recoup central administrative costs through SWCAP. The guidance permits a state, after approval by the U.S. Department of Health and Human Services, to bill these costs to Recovery Act programs, but the costs so billed cannot exceed 0.5 percent of total Recovery Act funds received by the state.

Appendix XII: New Jersey

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in New Jersey. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery>.

We reviewed five programs in New Jersey funded under the Recovery Act—Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended; the Individuals with Disabilities Education Act (IDEA), Part B; Highway Infrastructure Investment funds; Transit Capital Assistance funds; and the Weatherization Assistance Program. We selected these programs for different reasons. To expedite spending of ESEA Title I and IDEA, Part B Recovery Act funds, New Jersey's Department of Education opened a request for applications for local educational agencies (LEA) to use up to 50 percent of each LEA's allocation during the summer recess. Contracts for highway projects using Highway Infrastructure Investment funds have been under way in New Jersey for several months, which provided an opportunity to review and discuss with officials New Jersey's progress in suballocating funds to local areas, as required by the Recovery Act, and the oversight of contracts. The Transit Capital Assistance funds had a September 1, 2009, deadline for obligating a portion of the funds. The Weatherization Assistance Program in New Jersey had begun to spend Recovery Act funds on start-up activities related to the weatherization of homes and, as in other states, the large influx of Recovery Act funds posed a risk to program implementation. With these programs, we focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services for highway and weatherization contracting; and how results were being assessed. We reviewed and discussed with officials contracting procedures and three specific contracts under the Recovery Act Highway Infrastructure Investment funds program. In addition to these five programs, we also updated funding information on the U.S. Department of Education State Fiscal Stabilization Fund (SFSF) and the U.S. Housing and Urban Development (HUD) Public Housing Capital Fund. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help New Jersey and local governments stabilize their budgets and to stimulate infrastructure development and expand existing programs—

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

thereby providing needed services and potential jobs. The following provides highlights of our review of these programs:

**ESEA Title I, Part A and
IDEA, Part B**

- New Jersey has allocated \$91.5 million—50 percent of its total allocation of \$183 million—in Recovery Act funds to LEAs under ESEA Title I, Part A. Similarly, New Jersey has allocated \$186 million in Recovery Act funds under IDEA, Part B to LEAs.
- As of September 1, 2009, New Jersey LEAs have not drawn down funds for ESEA Title I or IDEA, Part B. However, state officials reported that LEAs are spending on Recovery Act-funded activities such as summer programs for at-risk students or purchases of equipment and materials for students with disabilities.
- In an effort to expedite spending, New Jersey approved applications in 199 of the state’s 616 LEAs to implement summer activities and procure materials and equipment for which they will receive reimbursement with ESEA Title I and IDEA, Part B Recovery Act funds.
- Some pre-existing weaknesses with monitoring at the state department of education and with managing funds at the local level, as well as competing priorities for state department of education staff and responsibility for monitoring 616 LEAs, will make monitoring the use of education Recovery Act funds a challenge for New Jersey.

**Highway Infrastructure
Investment**

- The U.S. Department of Transportation’s (DOT) Federal Highway Administration apportioned \$652 million in Recovery Act funds to New Jersey, of which \$196 million—30 percent—was suballocated to metropolitan and other areas.
- As of September 1, 2009, the New Jersey Department of Transportation (NJDOT) had awarded contracts, or advertised for bids on, 60 projects, obligating a total of \$473 million in highway infrastructure funds. Most of these projects involve road paving, but many also involve bridge replacement and improvements, along with streetscape improvements.

**Transit Capital Assistance
Funds**

- DOT’s Federal Transit Administration (FTA) apportioned more than \$1 billion in Recovery Act Transit Capital Assistance funds to New Jersey and urbanized areas that include New Jersey for transit projects. As of September 1, 2009, FTA concluded that the 50 percent obligation

requirement had been met for New Jersey and the urbanized areas located in the state.

- New Jersey Transit (NJT) is the primary public operator of bus and commuter rail transit lines in New Jersey. As of August 20, 2009, NJT had received nearly \$357 million for Transit Capital Assistance projects.
- The largest funded project is design and early construction of a new rail tunnel under the Hudson River, which will receive \$130 million in Recovery Act funds.

Weatherization Assistance Program

- As of August 31, 2009, the state had obligated \$24.1 million of its initial allocation of weatherization funds and disbursed \$3.4 million of these funds.²
- New Jersey has begun to spend weatherization funds, particularly for start-up activities such as hiring and training. The state plans to use Recovery Act funds to weatherize 13,400 homes.
- The Department of Labor (Labor) has issued prevailing wage rate information for weatherization work, which will facilitate weatherization program implementation.
- The state agency administering the program will rely on the automated systems it has used for non-Recovery Act weatherization work to track accountability.
- New Jersey officials stated that they will be able to meet Recovery Act reporting requirements.

Updated funding information on SFSF and the Public Housing Capital Fund

- The U.S. Department of Education has awarded New Jersey about \$891 million, or about 67 percent of its total SFSF allocation. As of September 1, 2009, New Jersey has allocated these funds to LEAs, but LEAs have not drawn down funds. SFSF funds have helped New Jersey restore and increase the state's portion of education aid to LEAs for the 2009-2010 school year.

²New Jersey's Department of Community Affairs, the agency administering the weatherization program, defines the term "obligate" as monies available for Community Action Agencies (CAA) to draw down and the term "disburse" as monies CAAs have drawn down.

- New Jersey has 80 public housing agencies to which HUD allocated Recovery Act formula grants. In total, these public housing agencies received \$104 million in Public Housing Capital Fund formula grants. As of September 5, 2009, 64 of these public housing agencies have obligated \$31 million, and 46 of these public housing agencies have drawn down \$6.1 million.

Recovery Act Funds Continue to Assist in Stabilizing New Jersey's Budget

According to New Jersey state budget officials, the fiscal impact of Recovery Act funds has not changed since they provided budget estimates for GAO's July 2009 Recovery Act report.³ New Jersey budget officials continue to estimate that the state will take in approximately \$4.0 billion less than originally projected for fiscal year 2009 and have closed a budget gap of \$8.25 billion for fiscal year 2010.⁴ New Jersey budget officials previously estimated that, overall, about \$5.6 billion of their estimated \$17.5 billion Recovery Act funding and tax benefits will actually pass through the state budget. The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free up state funds to address their projected budget shortfalls. In response to our question about how New Jersey planned to phase out Recovery Act funds, the Governor's Chief of Staff said that the state had not yet finalized plans to phase out Recovery Act funds. In addition, as a result of New Jersey's budget cycle, New Jersey does not begin budget planning until October or November of this year. By late February, according to state officials, the Governor is required to propose a balanced budget and by then the Governor's Office would have to propose measures that reflect a phasing out of the funds.

As previously reported, New Jersey budget officials said they used their entire rainy-day reserve fund of \$735 million in fiscal year 2009 to offset their revenue shortfall. Although the rainy-day fund currently does not contain any funds, the state plans to maintain \$500 million for fiscal year 2010. New Jersey budget officials referred to this fund as a "free balance" account, which, they explained, means that it contains unrestricted funds which can be used for any purpose.

³GAO, *Recovery Act States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*, GAO-09-830SP (Washington, D.C.: July 8, 2009).

⁴Recovery Act funds used to stabilize the state's operating budget includes funds made available as a result of the increased Federal Medical Assistance Percentage (discussed in detail in the main report—see GAO-09-1016), SFSF funds, and Temporary Assistance for Needy Families contingency funds.

Recovery Act Education Funds Allocated to New Jersey

SFSF Funds

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHE). The initial award of SFSF funding required each state to submit an application to the U.S. Department of Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

ESEA Title I, Part A

The Recovery Act provides \$10 billion to help local educational agencies (LEA) educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty.

In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.⁵ The U.S. Department of Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The U.S. Department of Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

IDEA, Part B

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). The U.S. Department of Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

New Jersey Continues to Allocate Recovery Act Education Funds, but Monitoring Challenges Exist

As of September 1, 2009, New Jersey had not drawn down its initial allocation of \$729 million, \$91.5 million, and \$186 million in Recovery Act funds for the SFSF, ESEA Title I, and IDEA, Part B programs, respectively.⁶ According to state officials, the state will draw down funds from the U.S. Department of Education in mid-September for SFSF payments to LEAs and will begin to draw down funds for ESEA Title I and IDEA, Part B after it makes final approvals of LEAs' applications for the funds and receives requests for reimbursement from the LEAs.

⁵LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

⁶See [GAO-09-1016](#) for a detailed description of these programs.

On July 7, 2009, the New Jersey Department of Education (NJED) allocated \$1 billion⁷ of SFSF education stabilization funds and \$39.4 million⁸ of SFSF government services funds to help cover the state's portion of education funding for the 2009-2010 school year. NJED issued guidance that strongly advised LEAs to spend SFSF funds on salaries in order to minimize earning interest on the funds and to more easily track the funds separately.^{9,10} NJED will disburse SFSF funds to LEAs through 18 semimonthly payments that will begin in September 2009 and end in May 2010. New Jersey is requiring LEAs to provide quarterly reports on their spending of SFSF funds in order to monitor LEAs' compliance with the requirements for expenditures of Recovery Act funds.¹¹

As reported in our July 2009 report, NJED has allocated ESEA Title I and IDEA, Part B Recovery Act funds to all 616 LEAs. LEAs can begin to submit claims for reimbursement and receive Recovery Act funds for ESEA Title I and IDEA, Part B once NJED approves the formal electronic

⁷NJED officials allocated the total amount of SFSF education equalization funds they expected to receive and that were included in New Jersey's fiscal year 2010 budget.

⁸New Jersey received about \$240 million in SFSF government services funds and plans to use the funds for a range of budget stabilization purposes, including education.

⁹According to the U.S. Department of Education's guidance on SFSF, states must have an effective system to ensure that entities are able to draw down funds as needed to pay program costs but that also minimizes the time that elapses between the transfer of the funds and their disbursement by the grantee or subgrantee, in accordance with U.S. Department of the Treasury regulations at 31 C.F.R. Part 205. Education requires grantees and subgrantees to remit interest earned on advances to the department at least quarterly. 34 C.F.R. §80.21(i).

¹⁰Because New Jersey is using SFSF Recovery Act funds, LEAs will have to separately track expenditures. According to guidance provided by NJED regarding SFSF, LEAs will have to track three separate funding sources—state funds, government services funds, and education stabilization funds—that will equal the total amount of funding the state would have provided. This requirement to track funds separately will require LEAs to make the equivalent adjustment to expenditure accounts. As such, NJED strongly recommended that LEAs make the expenditure side adjustments in salary accounts to minimize accounting errors. The guidance on SFSF also noted that while NJED recommends using SFSF for salaries, LEAs can make the adjustments to expenditure accounts in any general fund category consistent with the programs authorized under ESEA, except for the prohibited categories.

¹¹Officials from New Jersey's Office of the Governor noted that NJED plans to use the quarterly reports to monitor compliance with federal cash management requirements.

applications submitted on or before September 14, 2009.¹² For ESEA Title I and IDEA, Part B funds, NJED disburses funding through a reimbursement system in which LEAs spend their own funds and submit claims to the department for reimbursement. NJED officials noted that some LEAs are currently spending on approved activities under ESEA Title I and IDEA, Part B for which they will later request reimbursement with Recovery Act funds. For example, Newark Public Schools officials reported spending \$2.25 million for a summer program for underperforming students in July and August 2009 and stated they will request reimbursement with Recovery Act ESEA Title I funds.

New Jersey Targeted ESEA Title I and IDEA, Part B Funds Toward Summer Education Activities to Expedite Spending

As we previously reported in July 2009, New Jersey allocated ESEA Title I and IDEA Part B Recovery Act funds to all 616 LEAs and, in an effort to expedite spending, opened an application process for LEAs to use up to 50 percent of their allocations on summer activities.¹³ LEAs with approved plans for summer activities could implement these activities with the assurance that they would receive reimbursement.¹⁴ NJED officials noted that this expedited process was essentially a preapproval process to ensure that LEAs planned allowable activities under each program. These officials also said the department did not track the implementation of summer plans because, given the limited time, the state did not require LEAs to implement all approved activities. NJED will not know which of the approved activities LEAs were able to implement until their claims for reimbursement go through the department's electronic accounting and grants management system, known as the Electronic Web-Enabled Grant System.

According to data provided by NJED, the department approved applications for summer Recovery Act-funded activities in 199 of the 616 LEAs (32 percent). The number of LEAs with approved plans and the corresponding spending projections are presented in table 1 below. As noted in our July 2009 report, the majority of these approvals were for IDEA Part B.¹⁵ NJED officials provided two possible reasons for this. First,

¹²The electronic applications contained LEAs' planned uses of Recovery Act funds, as well as actual activities implemented. LEAs can obligate funds after NJED designates applications as "substantially approvable."

¹³[GAO-09-830SP](#).

¹⁴NJED required LEAs to submit a plan for each Recovery Act-funded activity.

¹⁵[GAO-09-830SP](#).

more LEAs in New Jersey receive IDEA Part B funding than ESEA Title I funding. Second, finding activities on which to spend money quickly is not as challenging with IDEA Part B, whereas it takes more time for staff to develop ESEA Title I programs. One reason why spending IDEA Part B funds may be less challenging is that, traditionally, LEAs use the summer months to purchase equipment or materials for students with disabilities for the upcoming school year. Recovery Act funds provide a way for LEAs in the state to expand or create in-district opportunities for students with disabilities, as well as reinstate programs that LEAs may have cut due to a lack of funds. For example, an official with the Newark Public Schools reported that the district’s 30-day extended year program¹⁶ for students with disabilities in July and August 2009 was in jeopardy due to a lack of funds, but the district was able to provide the program using Recovery Act IDEA Part B funds.

Table 1: Summary of New Jersey’s Approved Summer Education Recovery Act Activities

Dollars in millions			
Program	Number of LEAs with approved plans	Number of approved plans ^a	Total estimated funding approved
ESEA Title I	78	141	\$12.4
IDEA Part B	155	455	20.1

Source: GAO analysis.

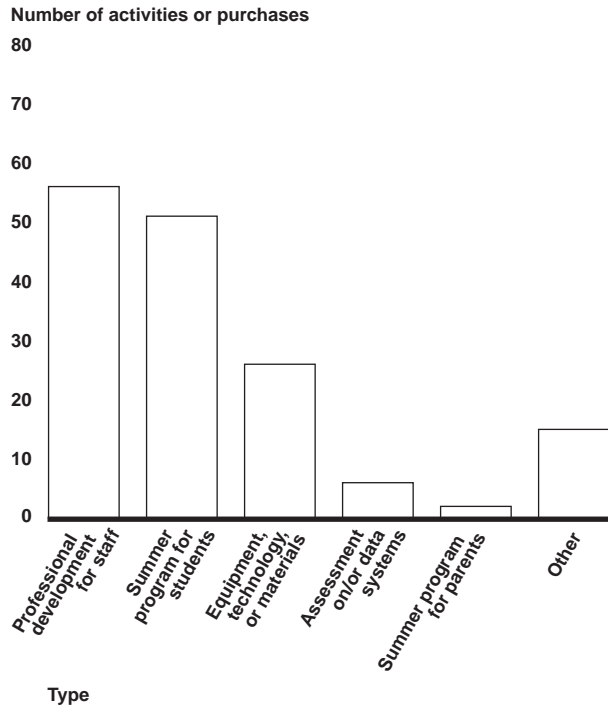
^aLEAs could submit multiple plans to NJED.

For ESEA Title I, NJED approved 141 plans in 78 LEAs on a range of activities. The most frequently reported activities were summer programs for at-risk students and professional development for teachers, as well as for purchasing equipment such as interactive computers for classrooms. For example, Newark Public Schools officials reported that the district received approval for and provided a professional development program for science teachers. District officials said that without Recovery Act funds, the program would have served only one or two teachers. ESEA Title I Recovery Act funds allowed the district to increase participation by

¹⁶Extended school year services are special education and related services that are provided to a child with a disability beyond the normal school year, in accordance with the child’s Individualized Education Plan, and at no cost to the parents of the child.

approximately 20 teachers.¹⁷ Figure 1 shows the approved activities or procurements for ESEA Title I, Part A Summer Plans, by type, as reported by NJED.

Figure 1: Number of Activities or Procurements included in Approved Recovery Act ESEA Title I, Part A Summer Plans, by Type



Source: GAO analysis.

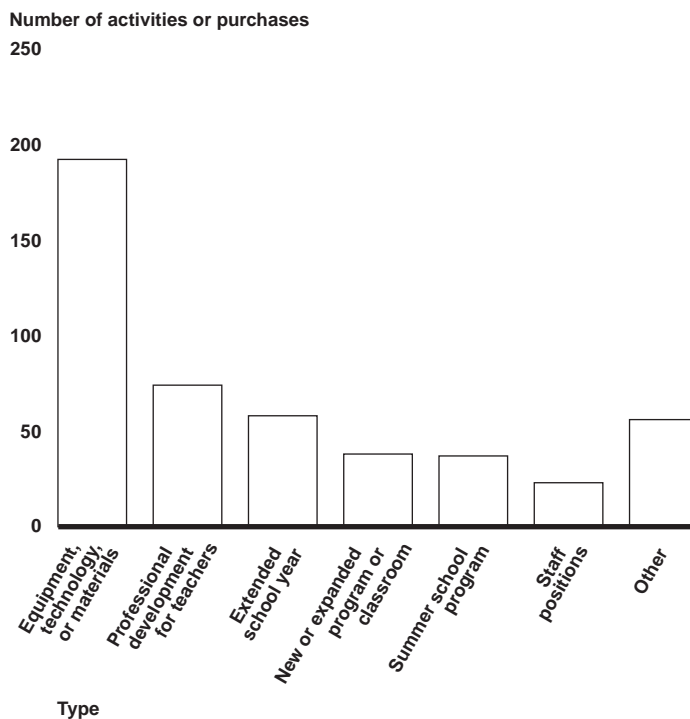
Notes: Plans could include more than one activity or could include an activity and a procurement. The "other" category mostly includes activities for which the descriptions did not provide enough information to categorize.

For IDEA Part B, the department approved 455 plans in 155 LEAs on activities such as extended school year programs, as well as for equipment and materials, including smart boards and purchases of reading programs designed for students with disabilities. For example, one LEA planned to purchase 20 computers for students with disabilities and another LEA planned to purchase seven wheelchair-accessible vans to transport students with disabilities. NJED officials observed that the speed with which the LEAs had to implement the summer programs was the primary

¹⁷Newark Public Schools budgeted and was approved for 22 teachers; however, 14 teachers actually participated.

challenge. Thus, most of the planned activities for IDEA Part B involved purchases of equipment, technology, and materials. Figure 2 shows the approved activities or procurements for IDEA Part B, by type, as reported by NJED.

Figure 2: Number of Activities or Procurements included in Approved Recovery Act IDEA Part B Summer Plans, by Type



Source: GAO analysis.

Notes: Plans could include more than one activity or could include an activity and a procurement. The "other" category includes a range of activities such as data management and planning efforts, as well as activities for which the descriptions did not provide enough information to categorize.

NJED Faces Challenges in Monitoring Education Recovery Act Funds

Pre-existing weaknesses with monitoring at the state level and with managing funds at the local level, as well as competing priorities for NJED staff and responsibility for monitoring 616 LEAs, will make monitoring the use of education Recovery Act funds a challenge for New Jersey. New

Jersey's Single Audit¹⁸ for fiscal year 2008 cited a material weakness in the special education programs which include IDEA, Part B; the audit found no evidence of NJED's monitoring of LEAs' use of federal funds to provide assurance of compliance with laws, regulations, or grant agreements. According to NJED officials, the state primarily relies upon independent audits of LEAs to monitor compliance at the local level. The department is responsible for conducting desk reviews of these independent audit reports of LEAs. However, the 2008 New Jersey Single Audit also found that NJED did not update its tracking system to include 214 of the 333 independent audit reports LEAs submitted to the department. The New Jersey Office of the State Auditor (OSA) has also noted that LEAs in the state have had weaknesses in accounting for and managing funds. For example, a 2009 OSA review of one district found numerous control deficiencies in key accounting areas such as payroll, an area to which NJED is suggesting LEAs apply their SFSF funds. Competing priorities for staff also pose a challenge to the department's ability to fully monitor funds. NJED's self-assessments for 2007, 2008, and 2009 document that inadequate levels of staffing have been and continue to be a risk to internal controls. In response to this, the department produced a corrective action plan that includes hiring new staff. NJED officials reported that the additional responsibilities that come with administering Recovery Act funds have put a strain on the department's already lean staff. While some staff have been reassigned to monitor Recovery Act funds and activities, other staff have responsibilities that compete with the Recovery Act among the department's priorities. For example, in response to the Single Audit finding, the U.S. Department of Education now requires New Jersey to conduct desk audits of 100 percent of LEA audit reports. This will require an increased effort, as the 2008 New Jersey Single Audit also found that in 2008, staff conducted 22 desk reviews (7 percent) of the 333 audit reports LEAs submitted to the department.¹⁹ These NJED staff are also responsible for conducting background checks for a range of state and

¹⁸The Single Audit Act of 1984, as amended (31 U.S.C. §§ 7501-7507), requires that each state, local government, or nonprofit organization that expends \$500,000 or more a year in federal awards must have a Single Audit conducted for that year subject to applicable requirements, which are generally set out in Office of Management and Budget Circular No. A-133, *Audits of States, Local Governments and Non-Profit Organizations* (June 27, 2003). If an entity expends federal awards under only one federal program, the entity may elect to have an audit of that program.

¹⁹According to the 2008 Single Audit, NJED's records indicated that staff conducted 22 desk reviews, but the department's tracking system indicated that staff conducted 6 desk reviews. NJED's response to these findings attributed the low number of desk reviews to a lack of staff.

local education employees. Responsibility for monitoring 616 LEAs will compound New Jersey's pre-existing and current issues related to monitoring education Recovery Act funds.

NJED officials have reported a range of strategies for mitigating potential issues with compliance, some of which were mentioned in our July 2009 report.²⁰ Since our July report, much of the department's efforts involved training LEA- and state-level staff on the requirements of the Recovery Act as a "first line of defense." NJED held several sessions across the state on the permissible uses of Recovery Act funds, how to properly account for the funds, and compliance with reporting requirements. The department also participated in a series of information sessions with the New Jersey Association of School Business Officials specifically for staff working in LEA accounting offices. In partnership with the New Jersey Office of the Inspector General, NJED conducted and videotaped training on internal controls, which LEA staff can access through the department's Web site. The New Jersey Recovery Accountability Task Force,²¹ the New Jersey Office of the Inspector General, and the Association of Government Accountants provided an audio conference for state staff on internal controls, a session NJED officials said that their staff attended. Officials from the New Jersey Governor's Office noted that the New Jersey Recovery Accountability Task Force also sent written guidance on complying with the Recovery Act guidance to all of the state's LEAs. NJED officials told us they were evaluating staffing needs for the department, including considering additional reassignments of staff, submitting a request to the Governor's Office for a waiver of the hiring freeze, and options for hiring short-term staff. According to these officials, in the short term, they have decided to reassign staff previously responsible for other duties to monitor the accounting for Recovery Act funds in the state's high-risk LEAs. On August 17, 2009, the U.S. Department of Education announced a proposal that would allow states to use more of their

²⁰[GAO-09-830SP](#).

²¹New Jersey's Governor created the New Jersey Recovery Accountability Task Force to monitor the distribution of Recovery Act funds in New Jersey and promote the efficient use of those funds. One role of this entity is to provide guidance to agencies receiving Recovery Act funds on merit-based project selection, internal controls, accounting practices, and best practices in contract management and grant administration.

Recovery Act ESEA Title I and IDEA, Part B funds for administration.²² NJED officials said that this flexibility provides moderate relief as the department has already allocated ESEA Title I and IDEA, Part B funds to LEAs and encouraged summer spending of up to 50 percent of those funds. These officials also said that any funds not already allocated would be used for monitoring activities such as hiring staff. An official from the New Jersey Governor's Office noted that NJED received approval on September 15, 2009 to hire 32 additional staff in order to help address deficiencies identified in the 2008 Single Audit and to assist with monitoring LEAs' use of Recovery Act funds.

We previously reported that the department planned to review the corrective action plans for the fiscal year ending June 30, 2008, for follow-up on all findings in LEAs' independent audit reports related to the Recovery Act. NJED officials initially told us this effort would begin on July 1, 2009, but now state that staff are in the final stages of planning a wider effort that will bring together auditors and other types of monitoring staff (budget managers, grant administrators, county administrators, for example) for a more comprehensive approach. NJED officials reported plans to send teams of these staff to a select number of LEAs to monitor the fiscal and programmatic aspects of LEAs' use of Recovery Act education funds (including SFSF). Currently, officials noted, they have a list of approximately 100 LEAs that may require additional monitoring and comprise about 60 to 70 percent of the Recovery Act education funds in New Jersey. According to NJED officials, they created this list of LEAs using criteria such as independent audit findings related to Recovery Act programs, presence of a state fiscal monitor, and low scores in the state's accountability system.²³ However, officials noted that the current staffing level is insufficient for intensive fiscal and programmatic monitoring of Recovery Act funds in 100 LEAs, while also monitoring state-funded and other federally-funded programs. NJED officials reported that they are finalizing the monitoring plan for Recovery Act funds, determining criteria for assigning a risk level to the LEAs in order to visit those that pose the

²²74 Fed. Reg. 41402. These two programs have limits, in place before the Recovery Act was passed, on the amount of funds states may reserve for administration. The Recovery Act allows the Secretary of Education to make reasonable adjustments to those limits to help states meet the additional data collection burden related to administering, monitoring, and reporting on the use of the funds.

²³New Jersey's Quality Single Accountability Continuum (NJQSAC) is used to monitor and evaluate LEA adherence to state goals by evaluating LEAs' performance in five areas: instruction and program; personnel; fiscal management; operations; and governance.

highest risk, and determining the staffing levels needed to implement the effort. These officials said they plan to send monitoring teams out to LEAs in October 2009.

NJED Is Implementing Plans to Meet Office of Management and Budget Reporting Requirements

NJED officials reported that the department is on track to meet Office of Management and Budget (OMB) reporting requirements. NJED is not delegating reporting responsibilities to subrecipients (LEAs). NJED officials said the department already collects most of the data required by OMB and plans to prepopulate a form with the data it already collects and send the form to LEAs. LEAs will then be expected to provide information about the number of jobs created and retained with Recovery Act funds and vendors. Because the state will report for LEAs, NJED officials said on July 31, 2009, that they were uncertain about the extent of follow-up required for vendors, particularly when LEAs cannot provide the number of jobs created. Finally, NJED is in the early stages of its plan to collect statewide data on the impact of the Recovery Act on a range of education-related performance measures, including student and teacher outcomes. The department does not plan to roll out this effort until data collection begins for the second quarterly report to OMB.

New Jersey Has an Overall High State Obligation Rate for the Federal Highways Program but the Obligation Rate of Funds to Suballocated Areas within the State Has Been Slow

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms and states must follow the existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

New Jersey Has an Overall High Obligation Rate

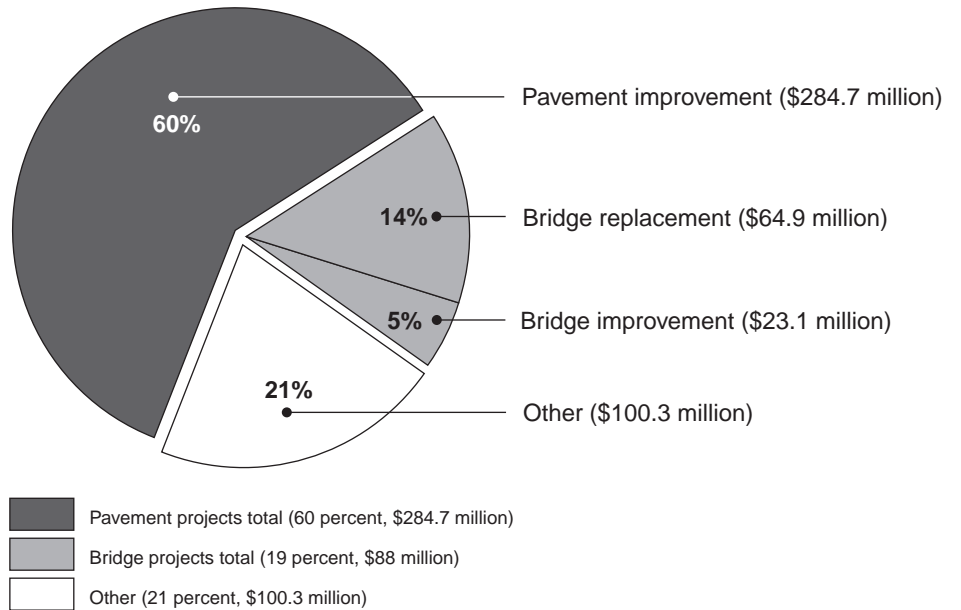
FHWA has obligated New Jersey's Recovery Act funding to statewide projects at a high rate. As of September 1, 2009, FHWA had obligated 73 percent for state highway projects. As we previously reported, \$652 million was apportioned to New Jersey in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$473 million had been obligated.²⁴ As of September 1, 2009, \$4 million had been reimbursed by FHWA.²⁵

This obligated total is for 60 projects—45 state and 15 local projects. This compares with 53 projects obligated on July 31, 2009. Almost 60 percent of Recovery Act highway obligations for New Jersey have been for pavement improvement. Specifically, \$285 million of the \$473 million obligated in New Jersey as of September 1, 2009, is being used for pavement improvement. Many state officials told us they selected pavement improvement projects because these projects were already in their pipeline, were identified infrastructure needs, could advance sooner than planned because funding was available, and had met federal planning requirements. Figure 3 shows obligations by the types of road and bridge improvements being made.

²⁴For the Highway Infrastructure Investment Program, U.S. DOT has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

²⁵States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Figure 3: Highway Obligations for New Jersey by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

The Obligation Rate of Funds to Suballocated Areas within the State Has Been Slow

NJDOT works with the three Metropolitan Planning Organizations (MPO)²⁶ in the state to obligate the local highway infrastructure funds. As required by the Recovery Act, 30 percent of Recovery Act highway funds must be suballocated to local areas, and the entire suballocation must be obligated

²⁶MPOs are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues, including major capital investment projects and priorities.

by March 2010. New Jersey's three MPOs work with their local officials to select projects within their region that qualify for Recovery Act funding. Officials from two MPOs told us they began the planning process before Recovery Act funding became available because they wanted to have projects in place within their region, including distribution mechanisms, once funding was approved.

Local highway infrastructure projects were selected based on their ability to benefit all areas within the MPO region and to be obligated within 1 year. MPO officials told us they endeavored to distribute the funding equitably. For example, one MPO told us it distributed funding in the region based on population, in addition to ensuring that every county would receive at least 3 percent of Recovery Act funding—an amount they considered sufficient in order to make substantial infrastructure improvements in a particular county. Also, NJDOT and MPO officials told us they looked for projects they could implement within the timeframes of the Act, advance projects sooner than current funding would have been available to do so, and were identified infrastructure needs. For example, of 63 projects one MPO selected for Recovery Act funding, 41 were for resurfacing, which can be accomplished in a relatively short amount of time. Other commonly selected projects include bridge repair, signalization, and streetscape improvements. Officials from the MPO told us that resurfacing projects are worthwhile, but given more time, they would have selected a wider variety of projects, including more bridge work in their region. Overall, officials from both MPOs told us that they looked for projects that they could accelerate quickly, and in some cases moved new projects on the region's transportation improvement plan (TIP) in order to receive Recovery Act funding.

Despite early planning, local highway infrastructure funds are being obligated locally at a low rate. As of September 1, 2009, FHWA has obligated funding for only 15 local projects. An NJDOT official told us he estimated that the three MPOs have identified approximately 100 local projects. Currently, New Jersey's obligation rate for the amount suballocated to local areas is 19 percent, whereas the average rate among the 16 states GAO is monitoring, plus the District of Columbia, is 52 percent. NJDOT and MPO officials told us that despite selecting faster-moving projects, funding was being obligated slowly, as many of these local projects were new and needed more start-up time. Also, officials told us that local staff working on many of the projects needed time to navigate federal requirements such as the National Environmental Policy Act (NEPA), which involves the environmental review process. This is an issue, in part because the state had previously planned to fund some of

these projects entirely with state funds, meaning the NEPA requirements may not have applied to the projects. Nonetheless, New Jersey is not in immediate danger of failing to meet the 100 percent obligation requirement within 1 year. However, NJDOT and MPO officials have told us they are watching these obligation rates closely and have safeguards in place to ensure the obligation requirement is met. For example, if a project does not meet established milestones or is in danger of not obligating within a year, officials may replace a local project with a state project in the region. In an effort to foster timely delivery, quality products and most importantly, proper project oversight, New Jersey DOT held two training sessions for counties and municipalities. These sessions included modules conducted by both state and federal officials.

NJDOT Will Use Existing Procedures Intended to Help Ensure Appropriate Use of Funds

Our review of management procedures for state highway construction contracts, as well as our discussions regarding three awarded contracts, indicates that NJDOT is using existing procedures intended to help ensure the appropriate use of Recovery Act funds. The three contracts we reviewed and discussed with state officials included two construction contracts and a design contract that NJDOT awarded.²⁷ An NJDOT official told us the state awards contracts competitively, by soliciting bids for projects and then selecting qualified contractors that provide the lowest responsible bid and are not on the state's excluded-contractors list. GAO did not verify NJDOT's process for awarding contracts; however, out of the three NJDOT highway contracts we reviewed and discussed with officials, there was an average of six bids per project. Additionally, NJDOT officials told us that bids for all projects are coming in, on average, 20 percent lower than expected, which could lead to more funding being available for other highway projects not currently funded through the Recovery Act.

According to officials, NJDOT is mandated by the state to use low-bid fixed price contracts for construction projects. Officials stated that for professional services, NJDOT's policy is to use a fixed price contract for professional services with the exception of construction inspection, construction engineering, litigation support, and instances where it is difficult to estimate the work effort required to satisfy a complex scope of

²⁷The three contracts we reviewed and discussed with New Jersey DOT officials were for repaving, road rehabilitation, and for project design. The three contracts were for a total value of \$113 million and are expected to be completed in the next 1 to 3 years.

work. In such cases, officials told us, NJDOT may utilize a cost plus fixed fee contract, also known as a cost reimbursable contract. For example, for the three contracts we reviewed and discussed with NJDOT officials, New Jersey used fixed-price contracts for the two construction contracts and a cost plus fixed fee contract for the design project. NJDOT officials told us that fixed fee contracts are mandated by the state, and in order to use a cost plus fixed fee contract that an exemption has to be granted by NJDOT Assistant Commissioner and documented to New Jersey's procurement division. A NJDOT official told us that the rationale for a cost plus fixed fee contract is that if a project is in its early phases, it could have numerous potential changes that will affect price, such as right of way, utility, and permit issues. According to an agency official, regardless of contract type, NJDOT has standard procedures for construction inspection and materials testing that are approved by FHWA and are currently in place. NJDOT officials told us that they plan to use these standard procedures for Recovery Act projects.

NJDOT is also beginning to use Single Audit results to monitor localities where any state or Recovery Act funding is used. Previously, FHWA officials told us that failure to track Single Audit findings against subrecipients was a weakness in NJDOT's oversight structure. In order to address this weakness, NJDOT officials told us that they have begun developing a program for monitoring Single Act findings in localities where any state or federal highway funds are being used. As part of its process to ensure appropriate use of Recovery Act funds, NJDOT reviews these Single Audit findings to determine if there are any significant findings related to FHWA funds, including Recovery Act funds. This provides NJDOT another mechanism to track Recovery Act funding.

NJDOT Expects to Meet Reporting Requirements

New Jersey has incorporated the Recovery Act's reporting requirements into its existing FHWA reporting processes, and NJDOT officials said that they are confident the state will be able to meet all requirements. NJDOT officials told us that because of their familiarity with existing FHWA reporting requirements, the additional reporting requirements in the Recovery Act will not be difficult to fulfill. Officials also said they expect to meet all of the Recovery Act reporting requirements by October 10, 2009, per OMB's guidance. For example, to meet the requirement to track the number of jobs created and retained by Recovery Act-funded projects, NJDOT officials have set up a statewide system using vendor reports from contractors and consultants and have centralized this reporting system in order to have statewide and local projects reported in the same database. NJDOT intends to conduct spot checks of the data to review accuracy and

also will work with FHWA to achieve proper reporting of employment numbers.

FTA Found Key Recovery Act Obligation Deadline for Transit Funding Was Met, and Efforts to Assure Compliance with Reporting Requirements Are Under Way

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.²⁸ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.²⁹ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.³⁰ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.³¹

²⁸The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

²⁹Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

³⁰The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, §1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

³¹The federal share under the existing formula grant program is generally 80 percent.

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and MPOs—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.³² FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure disadvantaged business are not discriminated against in the awarding of contracts.

The Recovery Act requires that 50 percent of the funds apportioned to urbanized areas or states for the Transit Capital Assistance Program be obligated before September 1, 2009 and the remaining funds are to be obligated within 1 year of apportionment. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.³³ As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for New Jersey and urbanized areas located in the state. FTA data showed that 84.6 percent of the funds had been obligated in the urbanized area that includes New Jersey and portions of New York and Connecticut, while 83.6 percent of the funds had been obligated in the Philadelphia urbanized area, which also includes portions of New Jersey. Similarly, 83.9 percent of the funds had been obligated in the Allentown-Bethlehem, Pennsylvania, urbanized area, which includes parts of New Jersey, and

³²Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and metropolitan planning organizations designated for the area. Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's TIP and the approved State Transportation Improvement Program (STIP).

³³Pub. L. No. 111-5, 123 Stat. 115,209 (Feb. 17, 2009).

exactly 50 percent of the funds had been obligated in the Atlantic City, New Jersey urbanized area.

State governors must certify that the state will maintain the level of state spending for the types of transportation projects, including transit projects, funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.³⁴ This requirement applies only to state funding for transportation projects. New Jersey Transit (NJT) also stated that New Jersey is meeting the Recovery Act requirement that the state maintain its level of funding support for transit and not reduce its transit funding due to receiving Recovery Act funds. NJT annually receives \$675 million from the state's highway trust fund, and this is the level of funding that applies to this requirement. In addition, project sponsors must submit periodic reports, as required under the maintenance of effort for transportation projects section on the amount of federal funds appropriated, allocation, obligated, and outlayed; the number of projects put out to bid, awarded, or for which work has begun or is completed; project status; and the number of jobs created or sustained. In addition, grantees must report detailed information on any subcontractors or subgrants awarded by the grantee.

NJT Used Transit Capital Assistance Funds to Improve Its Existing Transit System

NJT, the nation's third-largest provider of bus, rail, and light rail transit, is the primary public provider of transit service in New Jersey. As of September 1, 2009, NJT anticipated receiving grants totaling about \$423.4 million, of which \$356.8 million is through the Transit Capital Assistance Program, both urban and nonurban, and \$66.6 million is through the Fixed Guideway Modernization Program. The funds were allocated to the state's three MPOs based on existing formulas that consider overall population, population density, and existing transit service levels.

NJT, in consultation with the MPOs in the state, selected 16 projects—all of which are in its capital plan—to receive Recovery Act funds. The largest funded project is the new rail tunnel under the Hudson River, known as the ARC, or Access to the Region's Core, which will receive \$130 million of Recovery Act funds (the project's total cost is about \$8.7 billion). Overall,

³⁴Pub. L. No. 111-5 §1201(a).

NJT expects to receive more than \$1 billion in federal grants for capital projects for fiscal year 2009, including Recovery Act funding.

Of the 16 Recovery Act projects, 15 received Transit Capital Assistance funds. NJT officials stated that all of their Recovery Act projects are capital projects, and all but four projects (Hackensack Bridge improvements, enhanced track program, commuter rail rehabilitation, and bus rehabilitation) are “capacity expansion” projects designed to increase the number of riders that existing transit can serve. All projects were selected because they could start quickly (were “shovel ready”). Officials selected projects that had completed the environmental review process, were projects that did not require environmental analysis, or were far enough along in the environmental review process to start work by the fall of 2009. As of September 1, 2009, all but one project had completed environmental review.

All projects selected to receive Recovery Act funds were in the Statewide Transportation Improvement Plan (STIP) and approved by FTA, the relevant MPOs, and NJDOT. Officials told us they tried to distribute projects statewide in order to satisfy all of the MPOs and to provide transportation improvements throughout New Jersey, rather than concentrate them in one area of the state. FTA had also given NJT preaward authority for selected projects to enter into contracts before the grants were approved and funds obligated. As of July 31, 2009, FTA had reimbursed NJT about \$54.5 million.

According to NJT, work has begun on many of the capital projects, and all are on schedule. Many of the projects (Edison Rail, Plauderville Station, Danville, and Lower Hackensack Bridge Rehabilitation) were projects that received federal funding in the past for a study or to conduct an environmental clearance. Therefore, these projects were more advanced but would not have been completed, according to NJT officials, without Recovery Act funds.

Table 2: New Jersey Transit Capital Assistance Projects Funded with Recovery Act Grants as of August 20, 2009

Dollars in thousands

Project	Transit Capital Assistance	Out to bid (Yes/No)	Work begun (Yes/No)
ARC Final Design	\$110,000	Yes	Yes
ARC Tonnelle Avenue Construction	20,000	Yes	Yes
Edison Rail Park & Ride	11,000	Yes	Yes
Plauderville Station Improvements	15,000	Yes	No
Lower Hackensack Bridge Improvements	30,000	Yes	No
Morristown Line Signal Improvements	25,000	Yes	Yes
Newark Penn Station Plaza Improvements	17,300	Yes	No
River Line Cab Signals	24,000	No	No
Pennsauken Transfer Station Construction	40,000	Yes	No
Bus Shelter Installation	2,500	Yes	Yes
Commuter Rail Rehabilitation	1,500	N/A	Yes
Atlantic City Minibuses	16,000	Yes	Yes
Bus Rolling Stock Rehabilitation	35,000	N/A	Yes
Enhanced Track Rehabilitation Program	4,703	Yes	Yes
Rural Minibus Purchase	4,838	Yes	No
Total	\$356,841		

Source: NJT.

Note: N/A refers to projects done by in-house staff. No contract bids were required.

No Recovery Act funds are currently being used for operating costs; however, this could change if more funds become available. After NJT and the MPOs decided which projects to fund, the 2009 Supplemental Appropriations Act was enacted, which authorizes the use of up to 10 percent of each apportionment for operating expenses.³⁵ When the law was passed, NJT projects were already approved by the MPOs. However, NJT officials told us that due to the slowness of the economy, most project bids are coming in, on average, 20 percent below the projected costs. As such, officials believe that, once all of the bids are finalized and the MPOs are assured that all of the projects will be completed, NJT may opt to use some of the remaining Recovery Act funding for operating expenses.

³⁵Pub. L. No. 111-32, §1202.

NJT Efforts to Assure Compliance with Recovery Act Requirements

NJT officials stated that it has been proactive in building the management infrastructure needed to achieve accountability, compliance, and reliable reporting mandated by the Recovery Act. NJT's independent auditor provided an unqualified or "clean" opinion on its consolidated financial statements for the years ended June 30, 2007 and 2008.³⁶ The auditor stated that NJT complied, in all material respects, with the types of compliance requirements described in the OMB Circular A-133 Compliance Supplement and the New Jersey State Grant Compliance Supplement that are applicable to each of its major federal and state programs. Although the independent auditor did not express an opinion on NJT's internal controls,³⁷ it considered NJT's internal controls over financial reporting and compliance with the federal and state requirements as a basis for designing its own auditing procedures.

NJT has a long-standing process in place for handling federal funds. Essentially, NJT uses the same funding control procedures for Recovery Act funds as for its regular FTA funds. In most cases, the Recovery Act reporting is an addition to existing reports submitted to FTA and U.S. DOT. NJT sends financial data to FTA 10 days after the close of each quarter and enters quarterly milestone and progress reviews into FTA's reporting system.

NJT has taken additional steps to manage and account for Recovery Act funds. For example, NJT holds biweekly meetings to monitor the progress of Recovery Act projects. These meetings serve to review environmental, design, and other key milestones, as well as ensure that progress and workforce data collected are consistent and reported in a timely manner.

³⁶The independent auditor identified one significant deficiency related to NJT's leveraged leases, whose outstanding amount as of June 30, 2008, is approximately \$1.6 billion. Specifically, there is only one NJT employee who has in-depth knowledge of how these transactions are developed and monitored throughout the life of the lease. This employee maintains the closing documents for each of the transactions. As a result, a summary of outstanding leveraged lease obligations was not prepared and monitored, thus preventing NJT management from identifying and reporting that it was in technical default.

³⁷Internal control is an integral component of an organization's management that provides reasonable assurance that the objectives of effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations are being achieved. Internal controls also serve as the first line of defense in safeguarding assets and preventing and detecting errors and fraud. Organizations that award and receive grants need good internal control systems to ensure that funds are properly used and achieve intended results.

Additionally, NJT officials include Recovery Act projects in project status meetings with the Executive Director of NJT every 6 weeks.

To assure compliance at the project level and minimize risk, NJT has assigned project managers to each Recovery Act project. They prepare detailed budget data and approve all purchase requisitions. NJT staff also attended fraud awareness training sponsored by the U.S. DOT. In addition, FTA participates in quarterly progress reviews with NJT to review whether selected projects have an appropriate scope and budget and have met all federal requirements, such as Davis-Bacon prevailing wage rules and environmental review procedures. On June 1, 2009, FTA issued its Combined State Management Triennial Review of NJT. Although not an audit, the review provided an assessment of NJT's compliance with Federal requirements determined by examining grant management practices and program implementation activities. FTA's Triennial Review of NJT reported no deficiencies in 20 of 26 areas reviewed, including program and financial management and grants administration. Lack of staffing and related resources associated with particular civil rights programs generally contributed to NJT's deficiencies.³⁸ FTA regional officials told us it plans to hire more regional staff (for example, engineers and transportation specialists) to regularly review Recovery Act projects and provide more on-site monitoring.

NJT Is Preparing to Implement the Latest Recovery Act Reporting Requirements

NJT is preparing to implement the Recovery Act reporting requirements. However, NJT officials are concerned that reporting job creation may prove difficult when it comes to reporting job creation to various authorities. In the past, based on a request from the U.S. House of Representatives, Committee on Transportation and Infrastructure, NJT submitted information on direct and indirect jobs created. U.S. DOT reports that it will continue to collect estimates of both direct and indirect jobs, but NJT plans to submit to OMB information only related to jobs

³⁸FTA reviewed 26 areas, ranging from program management to safety and security, and found 11 deficiencies in 6 areas, in particular civil rights programs. In addition, 4 of the 11 deficiencies were related to inadequate monitoring over compliance with the Disadvantaged Business Enterprise (DBE) program. Specifically, NJT did not examine DBE payrolls, payments, and equipment used to verify that work committed to DBEs is actually performed by DBEs.

created directly due to Recovery Act funding.³⁹ Therefore, under the Recovery Act reporting requirement, the state would not report on someone delivering materials to a job site, even though that is creating employment, albeit indirectly. NJT officials said that some jobs may be missed due to this calculation. Overall, officials believe that estimates of job creation will be much easier to track when in-house staff are used, rather than outside contractors. Matching the old and new job creation reports may prove to be another challenge if all previous reporting has to be redone to match the new OMB guidance. No other performance measures are being used to evaluate performance of Recovery Act funds for transit.

Finally, NJT reported no particular challenges related to managing and reporting on Recovery Act projects. However, officials stated that multiple federal and state oversight agencies asking for the same program and financial information is burdensome. Officials told us that they have not hired any additional staff to manage the reporting requirements but that existing staff are working longer hours to accommodate the workload.

³⁹OMB Memorandum M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009), states that recipients should not report on the employment impact on materials suppliers and central service providers (so-called “indirect” jobs) or on the local community (“induced” jobs). Employees who are not directly charged to Recovery Act supported projects or activities, who provide critical indirect support (e.g., clerical/administrative staff preparing reports, institutional review board staff members, departmental administrators) are also not counted as jobs created or retained.

New Jersey Is Administering, Monitoring, and Implementing Reporting Requirements for Weatherization Assistance Program Funds, but Some Challenges Remain

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy-efficiency improvements to their homes by, for example, installing insulation, sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved the weatherization plans for all but two of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.⁴⁰ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties”⁴¹ about labor rates for weatherization work. The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

⁴⁰The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

⁴¹The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

New Jersey Is Using Weatherization Funds for Start-up Activities

DOE approved New Jersey's state plan on July 10, 2009, and provided 50 percent of the weatherization funds allocated to the state to New Jersey's Department of Community Affairs (NJDCA), which administers the weatherization program.⁴² According to the NJDCA officials, they had anticipated issuing to each of the subgrantees—22 Community Action Agencies (CAAs), which conduct weatherization work, approximately 35 percent of the 50 percent of funds that DOE released to New Jersey by August 31, 2009.⁴³ However, the officials commented that as of September 9, 2009, NJDCA had issued the full 35 percent of the weatherization funds to only six of its 22 CAAs. They explained that NJDCA and the remaining 16 CAAs were still in various stages of the grant agreement process, primarily due to technical amendments NJDCA had to make to the grant agreements.⁴⁴ Also, according to officials from NJDCA and the New Jersey Governor's Office, the process was further impacted because the New Jersey Attorney General's office is reviewing some of the grant agreements as an additional oversight measure.⁴⁵ NJDCA officials also noted that four CAAs had not received any funding as of September 9, 2009.⁴⁶ Of these four CAAs, three are receiving additional oversight by NJDCA and one is pending finalization of a memorandum of understanding (MOU). NJDCA officials further commented that the status of the grant agreement process progresses daily. They said they were hopeful that the grant agreements between NJDCA and the CAAs would be completed by September 30, 2009. See table 3 for the funds obligated and disbursed as of September 9, 2009.

⁴²DCA is a state agency that provides administrative guidance, financial support and technical assistance to local governments, community development organizations, businesses, and individuals to improve the quality of life in New Jersey.

⁴³The 22 entities include 21 CAAs and a local government organization.

⁴⁴According to the NJDCA officials, when DOE released an additional 40 percent of weatherization funding in July 2009, they had to change the CAAs' grant agreements to address these funds.

⁴⁵According to a NJDCA official, the New Jersey Attorney General's office is reviewing the grant agreements with a higher level of review than typical grant agreements as a proactive measure.

⁴⁶NJDCA defines these four entities as high risk due to performance issues or being a new NJDCA weatherization entity.

Table 3: Weatherization Funds Obligated and Disbursed in New Jersey as of September 9, 2009

Total amount of Recovery Act weatherization funds for New Jersey	\$118,821,296
Total funds obligated ^a	24,142,983
Total funds disbursed ^b	3,441,955

Source: New Jersey Department of Community Affairs.

^aFunds are deemed to be obligated once all approvals have been satisfied in NJDCA's grants administration system, at which point an award letter can be generated and only minor tasks need to be accomplished in order for funds to be available for disbursement.

^bFunds are deemed to be disbursed when there is a transfer of funds from NJDCA to the grantee.

Subsequently, NJDCA will release additional funds, on a reimbursable basis, after assessing a CAA's progress in successfully completing weatherization work. Such assessments will include reviewing reports such as those indicating the number of weatherization projects completed. NJDCA also plans to reward those CAAs that complete all the work in their grant agreement on a timely basis and meet quality standards, by providing them more funds to do additional weatherization work. NJDCA has allocated \$9 million for such incentives.

As stated in New Jersey's approved weatherization plan, NJ DCA will retain 28 percent of the Recovery Act funds that are allocated for training and technical assistance purposes. Also, NJDCA will use some of their Weatherization funds to hire four additional monitors to improve program oversight. According to a senior NJDCA official, NJDCA monitors inspect anywhere from 5 to 100 percent of weatherization projects completed by each CAA, depending on the performance record of a CAA. These staff inspect an average of 25 percent of the units. According to program officials, the department will not release payment to a CAA until a monitor signs off that the work inspected is complete and meets quality standards. Program officials said that although New Jersey has a hiring freeze, the state granted a waiver to NJDCA to hire these workers for the weatherization program. This will bring NJDCA's total number of monitors to nine, which officials said is necessary due to the increased workload.

According to NJDCA officials, as early as April 2009, many CAAs started using their initial allocation of weatherization funds for start-up training

and hiring activities.⁴⁷ For example, one CAA official reported that his organization used its initial Recovery Act funds to establish a separate office for the weatherization program, to physically separate it from the other approximately 40 community programs that it operates.⁴⁸

New Jersey Established Weatherization Wage Rates Prior to Labor's Determination

Recovery Act weatherization projects must comply with the prevailing wage as determined under the Davis-Bacon Act.⁴⁹ On August 17, 2009, Labor issued Davis-Bacon prevailing wage rates for New Jersey's 21 counties. Weatherization funds that states receive through their regular appropriations are not subject to Davis-Bacon requirements. As a result, Labor had not previously needed to establish wage rates for weatherization work. Due to the Recovery Act guidance and prior to Labor establishing these wage rates, New Jersey's State Plan and Grant Application to the US Department of Energy established a weatherization wage rate of \$17.40 per hour (plus benefits) that CAAs could use until the Labor wage rates became available. As noted in our July 2009 report,⁵⁰ NJDCA officials said they established the rate to avoid unnecessary delays in starting weatherization work.

According to a NJDCA official, although New Jersey had established a wage rate, some of the CAAs were concerned about encountering unforeseen repercussions for using a Davis-Bacon rate that Labor had not established. An official at one CAA we visited reiterated this concern, adding that his CAA had not received information on the New Jersey rate in writing. As a result, the official was reluctant to commence weatherization work using Recovery Act funds. Accordingly, the CAA used its initial Recovery Act weatherization funds for start-up activities such as hiring, training, and procuring vehicles.

NJDCA officials said the department was not aware of any CAAs that had begun actual weatherization work with the initial allocation of Recovery Act funds, mitigating the need for likely wage adjustments. In some instances, Labor's wage determinations (by county) were lower than New

⁴⁷ Approximately \$6.1 million for training and technical assistance purposes was available to CAAs and local government entities.

⁴⁸ This CAA is allocated a total of \$3 million of Recovery Act weatherization funds.

⁴⁹ Pub. L. No. 111-5, §1606, 123 Stat. 115, 303 (Feb. 17, 2009).

⁵⁰ [GAO-09-830SP](#).

Jersey's established rate of \$17.40 per hour (plus benefits) for all trades. For example, in Ocean County, the rate for weatherization workers installing windows and doors was set at \$14.09 per hour (plus \$4.08 per hour in benefits). Conversely, some of Labor's rates were higher than what New Jersey established. For example, in Somerset County, the HVAC's mechanic wage was \$24.45 per hour (plus 0.77 per hour in benefits). NJDCA officials commented that by establishing a rate of \$17.40 per hour (plus benefits) before Labor established its rates, New Jersey was essentially able to ensure that wages and benefits would not go below this floor rate, even if Labor set lower rates for counties.

NJDCA weatherization program officials told us they had not received a survey from Labor seeking input on wage rate determinations. However, they were aware that Labor had sought guidance from other sources in New Jersey, including CAAs, before making its wage determinations. As we reported in July 2009, NJDCA officials anticipated Labor setting a lower wage rate than what New Jersey established, primarily because New Jersey has generally high wages and is a strong union state.⁵¹

State Officials Are Relying on Existing Procedures to Monitor the Use of Recovery Act Weatherization Funds, but Acknowledge Increased Risk

NJDCA officials said they will rely on its existing systems and procedures to determine risk and monitor procurement and disbursement of funds.

To monitor risk associated with Recovery Act funds, DCA expects CAAs to maintain detailed records in the Hancock Energy Software Weatherization Assistance Program (HESWAP), an online reporting system that is NJDCA's primary accountability tool for tracking and managing the use of Recovery Act funds. While the agency has not performed a formal risk assessment of the CAAs, NJDCA officials said that this assessment is built into their approval and monitoring process. For example, they said monitors review 100 percent of household applications for weatherization, and NJDCA strictly enforces procurement procedures. Further, NJDCA assigns a risk level of high, medium, or low to CAAs based on their past performance and determines the level of funding each should receive based in part, on their risk level. For example, as of September 9, 2009, NJDCA officials designated three CAAs as "high risk," and thus, these CAAs would receive the lowest amount of weatherization Recovery Act funding—\$500,000 each. In addition, NJDCA officials said they analyze

⁵¹GAO-09-830SP.

relevant audit results, such as those obtained from Single Audit reviews, to assess CAAs' performance and determine appropriate funding levels.

According to NJDCA program officials, the weatherization program relies on a decentralized procurement system for the entire procurement process.⁵² NJDCA has delegated purchasing responsibilities to CAAs, although NJDCA officials said they were considering developing a centralized list of approved weatherization materials suppliers. Also, according to a NJDCA program official, contractors who attended a NJDCA weatherization conference expressed a high level of interest in joining a national buyers' group for weatherization activities in order to obtain materials at a more cost-effective rate. In order to monitor procurement activities, program officials said that NJDCA uses HESWAP as an internal control to monitor the work activities of CAAs. HESWAP tracks authorizations and project costs and creates payment invoices. According to a NJDCA official, the system is designed to disallow reimbursement for materials not on NJDCA's approved list.

Finally, NJDCA officials said they will monitor the disbursement of Recovery Act funds to CAAs through its System for Administering Grants Electronically (SAGE). SAGE assists their efforts to ensure that funds are disbursed properly because it enables them to manage executed grants. In addition, NJDCA officials said they would rely on HESWAP. NJDCA officials cited SAGE and HESWAP as important internal controls in monitoring grant expenditures.

New Jersey's Office of the State Auditor (OSA) has raised general concerns about risks associated with the expenditure of Recovery Act funds at the local level, though it has not yet specifically reviewed DCA's weatherization program.⁵³ As a result of these concerns, OSA sent a letter to the Governor and the Legislature recommending that oversight groups ensure transparency, accountability, and compliance with specific programmatic goals before disbursing substantial Recovery Act funds. OSA staff stated that deficiencies they identified in some programs that

⁵²However, according to NJDCA officials, CAA procurements must adhere to a centralized list of approved materials.

⁵³At the time of our review, state auditors were in the process of completing one segment of a two-part audit on a sample of programs that are receiving Recovery Act funds. The first part focused on monies going directly municipalities from the federal entity. The second part of the audit would involve Recovery Act funds that were passing through the state to program agencies. They began this portion of the work in August 2009.

were receiving Recovery Act funds have serious implications for other Recovery Act programs, such as weatherization assistance. They based their conclusions on their review of independent financial and Single Audits of a sample of New Jersey local entities for four Recovery Act programs that have been allocated a total of \$220.7 million in direct funding.⁵⁴ OSA found that these external audits revealed historical transparency and/or accountability risks and grant compliance issues at a number of these entities. For example, they discovered that one municipality that was allocated a combined total of \$2.7 million from three Recovery Act programs had ineffective financial controls. At the time of our review, OSA officials said they were preparing to undertake a similar audit of a sample of programs, including weatherization, receiving Recovery Act funding through the state's accounting system.

Another potential risk is that NJDCA is allocating the largest amount of Recovery Act funds—\$30 million for weatherization projects—to the New Jersey Housing Mortgage & Finance Agency (NJHMFA), primarily to weatherize multifamily units. NJHMFA is established under, but is not a part of, the New Jersey Department of Community Affairs. It is constituted as an instrument of the state, exercising public and essential governmental functions, and for the purposes of weatherization, considered a local government affiliate. According to its 2008 financial statement, NJHMFA has extensive experience in construction and property management, financing, and energy-efficient design for multifamily dwellings.⁵⁵ However, NJHMFA does not have prior experience in weatherizing homes. According to NJHMFA officials, NJDCA solicited the NJHMFA to participate in the Recovery Act weatherization program, although the agency has not performed weatherization work in the past. NJDCA officials explained that most of the regular weatherization appropriations go toward weatherizing single-family dwellings. With the availability of the Recovery Act funds, NJDCA wanted to ensure that tenants who live in multifamily units also benefit from these funds. To mitigate the fact that NJHMFA has not conducted weatherization work in the past, NJDCA said

⁵⁴The four programs are: the Community Development Block Grant, Homelessness Prevention/Rapid Re-housing Grant, Energy Efficiency and Conservation Block Grant, and Public Housing Capital Fund Grant.

⁵⁵NJHMFA's 2008 Annual Report states that the entity is dedicated to increasing the availability of and accessibility to safe, decent, and affordable housing for families. According to NJHMFA officials, the entity operates similar to a bank; has been in existence for 42 years; has completed 350 ongoing projects in New Jersey; and has modernized over 45,000 units, including 10,000 single family units.

that monitors will inspect 100 percent of the approximately 3,900 units that NJHMFA is expected to complete over a 3-year time frame. However, since this is a substantial number of units, the inspections may not be timely. Such inspection delays could result in payment delays and limit the ability to complete other work. As of September 9, 2009, NJDCA had not provided any weatherization funds to NJHMFA. NJDCA was still in the process of drafting a memorandum of understanding with NJHMFA to focus on weatherizing multifamily units in NJHMFA's portfolio.

Weatherization Program Not Included in 2007 and 2008 Single Audit Reports

The weatherization program was not included in the 2007 and 2008 Single Audit reports in because New Jersey's independent auditor did not identify this program as a major program based on risk criteria, including minimum dollar thresholds, set out in the Single Audit Act and OMB Circular No. A-133. According to NJDCA's internal auditor, weatherization is being included in the 2009 Single Audit, given the large influx of funds as a result of the Recovery Act.

The 2005 Single Audit report identified two findings in the weatherization program, and one was a material weakness related to reporting. Specifically, NJDCA did not establish a procedure to reconcile the expenditures charged to the programs⁵⁶ with the amounts reported on the Schedule of Expenditures of Federal Awards, which is generated by the New Jersey Department of Treasury. The independent auditor issued a qualified opinion⁵⁷ on New Jersey's compliance with the weatherization program for 2005 because of these findings.

The 2006 Single Audit report identified three findings in the program. Two were related to reporting and were material weaknesses, one of which was the same material weakness identified in 2005. The second material weakness was that DCA did not have adequate policies and procedures in place to ensure that the federal financial report was properly completed,

⁵⁶Specifically, these programs were the Weatherization Assistance for Low-Income Persons Program and Community Services Block Grant Pprogram.

⁵⁷A qualified opinion report is issued when the auditor encountered one of two types of situations which do not comply with the types of compliance requirements described in OMB Circular No. A-133 Compliance Supplement and the New Jersey State Grant Compliance Supplement that are applicable to each of its major federal and state programs. This type of opinion is very similar to an unqualified or "clean opinion," with a certain exception that the program did not comply with the requirements of laws, regulations, contracts, and grants applicable to each of its major federal and state programs.

supported by accurate documentation, and reviewed by a supervisor prior to its submission. The independent auditor also issued a qualified opinion in 2006 on New Jersey's compliance with the weatherization program for the year ending June 30, 2006, because of these findings. The state implemented several corrective action plans to address the Single Audit findings, including the timely reconciliation of accounts and meeting reporting requirements.

Weatherization Program Officials Do Not Foresee Challenges in Meeting Federal Reporting Requirements

NJDCA Officials Say They Can Meet OMB Reporting Requirements

NJDCA is the prime recipient of weatherization funds and is therefore responsible for meeting Recovery Act reporting requirements. NJDCA officials said they did not have concerns about their ability to meet the various reporting requirements, including the Section 1512⁵⁸ requirements for reporting on the use of funds and job creation and retention.⁵⁹ According to NJDCA officials, they will be able to meet the reporting requirements primarily because HESWAP provides access to real-time information about each CAA's weatherization projects, including costs, and SAGE provides information about grant management. Also, the CAAs are able to access this same information, which facilitates their reporting on a timely basis.⁶⁰ At the time of our review, DOE required quarterly reporting for the weatherization program. However, according to one of the NJDCA officials, DOE indicated at a conference in July that it intended to change this requirement to monthly reporting. NJDCA officials said they did not anticipate such a change posing a challenge for them. NJDCA officials further stated that they have participated in Webinars to obtain clarification on guidance. They said they were beginning to prepare for the

⁵⁸Pub. L. No. 111-5, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

⁵⁹As of late August, the Director of the weatherization program stated that some additional guidance from OMB was still pending on minor issues involving counting jobs created.

⁶⁰However, program officials acknowledged that NJDCA must allow for the monitoring, review, and approval of an inspected unit. Once these activities are complete, the information becomes real-time in HESWAP and can then be submitted to DOE as a completed project.

required October 10 report to OMB, noting that CAAs are encouraged to provide their reports to NJDCA by September 15.

NJDCA officials said they had not delegated any reporting requirements responsibilities to the CAAs as OMB allows. However, officials from the New Jersey Governor's Office stated that the New Jersey Recovery Accountability Task Force had sent written guidance to state and local entities concerning reporting requirements.

Program Officials Have Not Begun to Measure Impact of Recovery Act Funds on Energy Savings

A NJDCA official said they have not yet attempted to measure the impact of Recovery Act weatherization funds on energy savings, primarily because they have not yet received guidance from DOE on how to do so. This official stated that using DOE's historical methodology to calculate energy savings is logical. It is a formula-based approach that is a part of the energy audit system that DOE uses to calculate a savings-to-investment ratio. He further commented that DOE's traditional approach has provided a clear indication of savings and efficiencies for each measure used, and therefore would be appropriate to measure the impact of Recovery Act funds on energy savings. This NJDCA official said that for its regular weatherization appropriations funding, they have relied on a list of "Priority Measures" that DOE approved. These measures include assessing items such as health and safety testing, attic insulation, and window and door replacement.

Update on Amount of Public Housing Capital Funds Obligated by Public Housing Agencies in New Jersey

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; develop, finance, and modernize public housing developments; and improve management.⁶¹ The Recovery Act requires the U.S. Department of Housing and Urban Development (HUD) to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date on which they are made available to public housing agencies, expend at least 60 percent of funds within 2 years, and expend 100 percent of the funds within 3 years. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date on which the funds

⁶¹Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

are made available, as well as projects that rehabilitate vacant units, or those already under way or included in their current required 5-year capital fund plans.

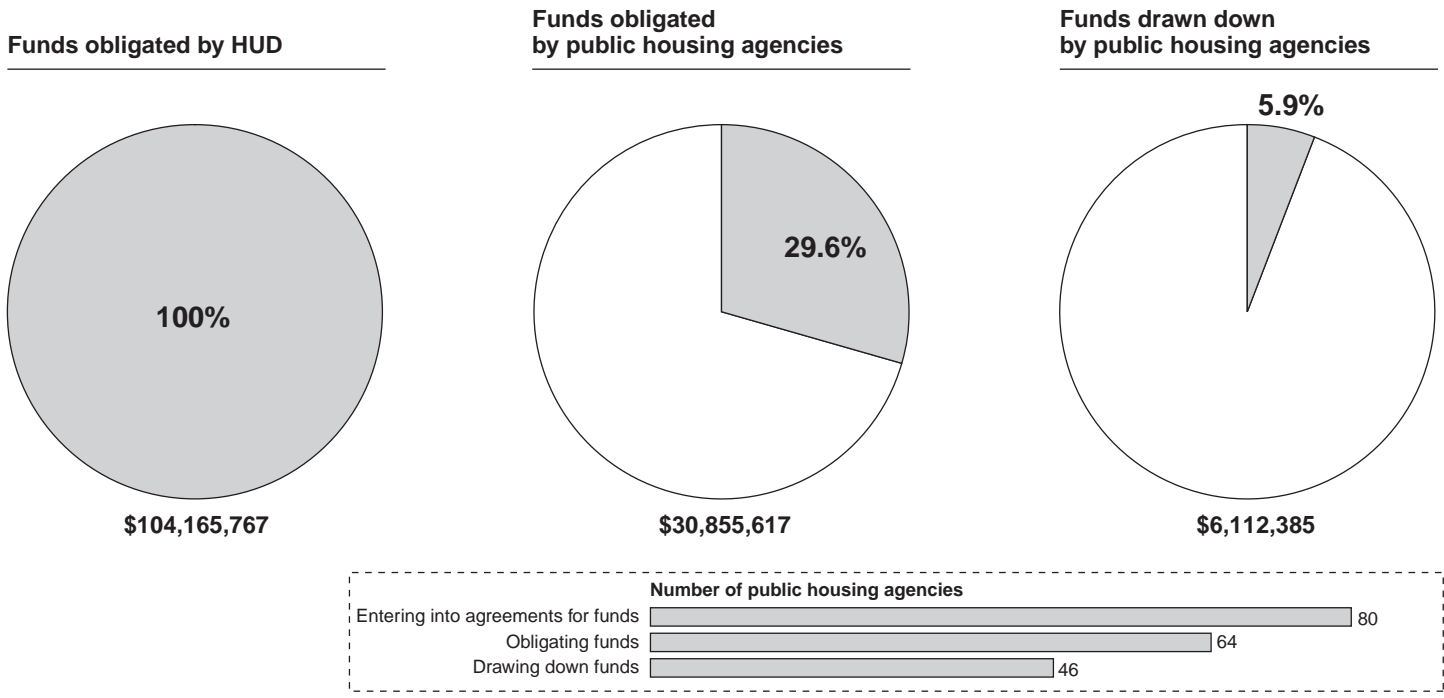
HUD is also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published May 7, 2009, and revised June 3, 2009, HUD outlined four categories of funding for which public housing agencies could apply:

- creation of energy-efficient communities (\$600 million);
- gap financing for projects that are stalled due to financing issues (\$200 million);
- public housing transformation (\$100 million); and
- improvements addressing the needs of the elderly or persons with disabilities (\$95 million).

For the creation of energy-efficient communities, applications (which were due July 21, 2009) were to be rated and ranked according to criteria outlined in the Notice of Funding Availability. The last three categories will be threshold-based, meaning applications that meet all the threshold requirements will be funded in order of receipt. If funds are available after all applications meeting the thresholds have been funded, HUD may begin removing thresholds after August 1, 2009, in order to fund additional applications in the order of receipt until all funds have been awarded. Applications in these three categories were accepted until August 18, 2009.

New Jersey has 80 public housing agencies to which HUD allocated Recovery Act formula grants. In total, these public housing agencies received \$104 million in Public Housing Capital Fund formula grants (see fig. 4). As of September 5, 2009, 64 of these public housing agencies have obligated \$31 million and 46 of these public housing agencies have drawn down \$6.1 million. GAO visited four public housing agencies in New Jersey for our July 2009 report. These are the Newark Housing Authority, the Plainfield Housing Authority, the Rahway Housing Authority, and the Trenton Housing Authority. We will provide updated information on these housing agencies in a future report.

Figure 4: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in New Jersey as of September 5, 2009



Source: GAO analysis of HUD data.

New Jersey's Comments on This Summary

We provided the Governor of New Jersey with a draft of this appendix on September 3, 2009. The Governor's Chief of Staff, who serves as the co-chair for the Governor's Recovery Accountability Task Force, responded for the Governor on September 8, 2009. The official provided technical suggestions that were incorporated, as appropriate.

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Appendix XIII: New York

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act) ¹ spending in New York. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

New York, the nation's third most populous state and home of the nation's largest city and most important financial center, continues to be hit hard by the current recession. It expects to receive about \$26.7 billion in Recovery Act funds plus possible additional discretionary program funds through the end of 2011. About \$11 billion will be for Medicaid; \$5 billion will be for education; and another \$2.4 billion for highway and transit projects.

GAO's work in New York for this third bimonthly review focused on the efforts of the state to stabilize its budget and meet the Recovery Act's first reporting requirements for recipients of Recovery Act funds. We also focused on three Recovery Act programs—the Transit Capital Assistance Program, the Weatherization Assistance Program, and the Workforce Investment Act Youth Program (WIA)—and updated funding information on the highway construction and public housing programs. We selected these programs for different reasons:

- The Transit Capital Assistance funds had a September 1, 2009 deadline for obligating a portion of the funds and, further, provided an opportunity to review transit agencies receiving Recovery Act funds, including the Metropolitan Transportation Authority (MTA), which manages the nation's largest transit system.
- The Weatherization Assistance Program in New York received an almost 400 percent increase in funding as a result of the Recovery Act. The program began on June 26, 2009, providing us the opportunity to look at how state and local agencies are planning to oversee and implement financial controls, track funding, and report results.
- The WIA Youth program in New York also experienced significant growth due to Recovery Act funds and many summer employment activities funded by the Recovery Act were in full operation at the time of our review.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

Within these programs, we focused on how funds were being used, how internal controls and safeguards were being implemented, and how results were being assessed. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help New York and local governments stabilize their budgets and stimulate infrastructure development and expand existing programs—thereby providing needed services and potential jobs. The following provides highlights of our review of these programs:

Budget Stabilization

- New York State addressed a significant 2-year budget gap of \$20.1 billion when it enacted its fiscal year 2009-2010 Budget Financial Plan on April 28, 2009,² with the help of approximately \$6.2 billion in Recovery Act funds and other measures.
- Continued declining revenues and the current economic environment resulted in a forecasted \$2.1 billion budget gap for the state at the end of its first quarter for fiscal year 2009-2010.
- The state's proposal to address this budget gap is expected to be deliberated in early fall 2009.

Highway Infrastructure Investment Funds

- The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$1.12 billion in Recovery Act funds to the New York State Department of Transportation (NYSDOT) in March 2009.
- As of September 1, 2009, the federal government had obligated about \$783 million to New York, and about \$23 million had been reimbursed by the federal government.
- According to NYSDOT, it has used Recovery Act funds to award contracts for about 194 projects, 190 of which have begun construction. Since June, NYSDOT has made progress in the number of contracts awarded and the proportion of projects that are located in economically distressed areas.

²The 2-year budget gap of \$20.1 billion was for fiscal years 2008-2009 and 2009-2010.

Transit Capital Assistance Program

- The U.S. Department of Transportation's Federal Transit Administration (FTA) apportioned over \$1.3 billion in Recovery Act funds to the state of New York and urbanized areas (UZA) that include localities in New York. As of September 1, 2009, FTA had obligated \$1.1 billion.
- FTA was slow to obligate these funds, because of its lengthy grant review processes, but as of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for New York and urbanized areas located in the state.
- The Metropolitan Transportation Authority (MTA)—the largest transit agency in the country and recipient of the most Recovery Act Transit Capital Assistance Program funds in New York—used preaward authority to begin Recovery Act projects in advance of FTA's obligation of the funds.³ MTA will receive its Transit Capital Assistance Program funding through two grants worth over \$660.2 million.⁴ MTA plans to use these funds to pay for a series of maintenance and capital projects throughout the MTA transit system.

Weatherization Assistance Program

- On June 26, 2009, the U.S. Department of Energy (DOE) approved New York State's plan for the use of Recovery Act funds in the Weatherization Assistance Program authorizing expenditure of 50 percent (\$197.3 million) of its total allocation for this program (\$394.7 million).
- According to officials, as of August 31, 2009, no funds have been disbursed. The state's Division of Housing and Community Renewal which reviews the contract applications submitted by the 64 subgrantees that implement the program for the state has approved nine contract applications obligating \$27.5 million. The division anticipates that the remaining contract applications will be approved by October 15, 2009. However, officials told us that the need to address Davis-Bacon requirements, which were not imposed on the program before the Recovery Act, had complicated the contract-review process

³FTA operates on a reimbursement basis, which means the project sponsor must have incurred a cost before they can draw funds.

⁴MTA expects to receive over \$1 billion in Recovery Act funds, including funds through FTA's Capital Assistance Grants, the Fixed Guideway Infrastructure Investment Program, and the Capital Investment Grant Program.

and created uncertainty over labor costs until prevailing wage rates were determined by September 3, 2009.

Workforce Investment Act Youth Program (WIA)

- The U.S. Department of Labor (Labor) allotted about \$71.5 million to New York in WIA Recovery Act funds.
- The state has allocated \$60.8 million to the state's 33 local workforce areas and, as of August 31, 2009, local areas had expended an estimated \$34.6 million.
- New York summer youth employment programs exceeded their goal by enrolling over 24,000 youth in summer jobs.
- We visited the government entity managing the WIA Youth program in Oneida County. It employed various strategies to help overcome eligibility challenges and to retain older youth at the end of the summer. For example, Oneida County hired four employees from May to December 2009 that assisted youth in the eligibility process.

Public Housing Capital Fund

- New York State has 84 public housing agencies that have received Recovery Act formula grant awards through the Public Housing Capital Fund, totaling \$502.3 million.
- As of September 5, 2009, 59 of the state's 84 public housing agencies have obligated \$154.4 million, while 43 have expended \$2.9 million.

Recovery Act Reporting

- New York State has a major planning effort in place to meet the Recovery Act's first recipient reporting deadline of October 10, 2009.⁵ However, some concerns remain about the ability of recipients in the state that received Recovery Act funds to submit complete reports by the October 10, 2009 reporting deadline, which is 10 days after the end of the quarter; ensure that all subrecipients' data will be included; and report on specific performance measures.
- New York State has contracted with a consultant to assist the state in meeting its first-round reporting requirements in October.

⁵Section 1512 of the Recovery Act requires that all recipients prepare quarterly reports, which includes information such as who is receiving Recovery Act dollars and the amounts, projects or activities that are being funded, the completion status of project activities, and an estimate of the number of jobs created and the number of jobs retained by projects and activities.

- State officials said that state agencies vary in their thoroughness of planning and capability to meet Recovery Act reporting requirements.

Although Recovery Act Funds Helped New York Close a Budget Gap for Fiscal Year 2009-2010, New York Now Estimates a Shortfall Due to Decreased Tax Receipts

As noted in our July 2009 report, New York closed budget gaps of \$2.2 billion for fiscal year 2008-2009 and \$17.9 billion for fiscal year 2009-2010.⁶ To help close the combined budget gap of \$20.1 billion over these two fiscal years, New York used about \$5 billion in funds made available as a result of the increased Medicaid Federal Medical Assistance Percentage (FMAP).⁷ In addition, the state plans to use approximately \$1.2 billion of Recovery Act State Fiscal Stabilization Fund (SFSF) funds to further alleviate this gap.

New York State issued its 2009-2010 Financial Plan First Quarterly Update on July 30, 2009. The state now estimates a General Fund budget gap of \$2.1 billion in the current fiscal year and projects budget shortfalls growing to \$18.2 billion by fiscal year 2012-2013. Based on New York's first quarterly update, approximately 93 percent of the state's current year gap is due to a forecast for a reduction in state tax receipts. The remaining shortfall is due to General Fund disbursement revisions for several areas, such as a decrease in projected lottery receipts and escrow payments from other funds that offset the General Fund costs. The state expects that out-year budget gaps will be the result of both decreased receipts and increased disbursements. Table 1 shows the state's revised gaps between its 2009-2010 Enacted Budget Financial Plan and its 2009-2010 Financial Plan First Quarterly Update.⁸

⁶New York State operates on an April 1 through March 31 fiscal year.

⁷FMAP is discussed in detail in the main report; see [GAO-09-1016](#).

⁸2009-2010 Enacted Budget Financial Plan issued on April 28, 2009.

Table 1: Comparison of New York State’s 2009-2010 Enacted Budget Financial Plan and Its 2009-2010 Financial Plan First Quarterly Update

Dollars in millions

Fiscal year	Enacted budget surplus/(gap) estimate	First quarter revisions	First quarterly update surplus/(gap) estimate
2009-2010	\$0	\$(2,123)	\$(2,123)
2010-2011	(2,166)	(2,457)	(4,623)
2011-2012	(8,757)	(4,519)	(13,276)
2012-2013	(13,706)	(4,457)	(18,163)
Cumulative total	\$(24,629)	\$(13,556)	\$(38,185)

Source: New York State’s 2009-2010 Financial Plan First Quarterly Update, July 30, 2009.

New York continues to plan for and use Recovery Act funds for its current fiscal year. Specifically, budget officials said that, to date, there have been no changes in the state’s planned use of \$3.7 billion in funds made available as a result of the increased FMAP and \$1.2 billion in SFSF funds for budget stabilization during the state’s current fiscal year. To address the current-year deficit, the Governor will work with the legislature to develop an Economic and Fiscal Recovery Plan in early fall 2009. According to these officials, the plan will explore all avenues of state spending and will, through the Governor’s Office of Taxpayer Accountability, identify areas for savings by examining opportunities to reduce waste, fraud, and abuse in state government. In anticipation of these actions and the allocation of Recovery Act funds, budget officials do not expect the state to use its rainy-day or reserve funds.⁹

State budget officials have taken two main preliminary steps to plan for the eventual phase out of Recovery Act funds. Specifically, the state has, wherever possible (1) applied the Recovery Act funds to nonrecurring items and program restorations and (2) clearly identified the restorations that are made possible with Recovery Act funds. State officials expect to consider additional actions for mitigating the phasing out of funds as they develop the 2010-2011 Budget Financial Plan.

⁹New York has two rainy-day funds—its Tax Stabilization Reserve and Rainy Day Reserve Funds, which according to state officials, must be balanced at approximately \$1 billion and \$175 million, respectively, at the end of each fiscal year. These reserve funds may be utilized for cash flow purposes throughout the year; however, all funds must be restored by the end of the fiscal year.

In response to the Office of Management and Budget's (OMB) May 11, 2009, memorandum,¹⁰ New York budget officials stated that OMB's guidance has had little impact on the state's effort to recoup Recovery Act centralized implementation and oversight costs. State officials based this viewpoint on further discussion with federal agencies and other state budget officials. The state understands the OMB guidance as only allowing up to 0.5 percent reimbursement of total Recovery Act funds for central administrative costs. Budget officials added that their understanding is that this 0.5 percent can only be applied against the subset of Recovery Act programs that specifically allow reimbursement for administrative costs. In addition, New York believes that any effort to secure reimbursement for centralized implementation and oversight costs would reduce funding available to state agencies for assisting in meeting their agency-specific administrative and implementation costs. Finally, budget officials believe that the Statewide Cost Allocation Plan (SWCAP)¹¹ process being used for recouping Recovery Act administrative costs is cumbersome and lengthy. Due to these reasons, the state has not decided whether to move forward with recouping these centralized costs.

New York Has Made Progress in Awarding Highway Contracts, with Over 40 Percent of Planned Recovery Act Projects Now under Construction

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms, and states must follow the existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment

¹⁰OMB Memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Activities*, dated May 11, 2009.

¹¹SWCAP is a process in which states can recoup administrative costs on an annual basis by submitting cost detail to the Department of Health and Human Services (HHS) for review and approval.

projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. One of the act's requirements is that states must certify that they will maintain the level of spending for the types of transportation projects funded by the Recovery Act that they planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.¹²

As we previously reported in July 2009, \$1.12 billion was apportioned to New York in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, about \$783 million had been obligated¹³ and about \$23 million, or 3 percent of obligations, had been reimbursed by FHWA.¹⁴ This does not include obligations associated with \$175.5 million of apportioned funds that were transferred from the Federal Highway Administration (FHWA) to the Federal Transit Administration (FTA) for transit projects.¹⁵ Almost all of these funds (\$175 million) are for a project to rehabilitate seven ramps carrying bus and passenger traffic in and out of the St. George Ferry facility on Staten Island. The transfer of funds to this project was initiated by Governor Paterson. The New York City Department of Transportation and FTA will be responsible for this project and the associated Recovery Act reporting. This project is the single largest use of Recovery Act highway funds for an individual project in New York State, and accounts for about 16 percent of New York's total apportionment. New York has transferred more of its apportioned highway funds to transit projects than all other states plus the District of

¹²Pub. L. No. 111-5, § 1201, 123 Stat. 115, 212 (Feb. 17, 2009).

¹³For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

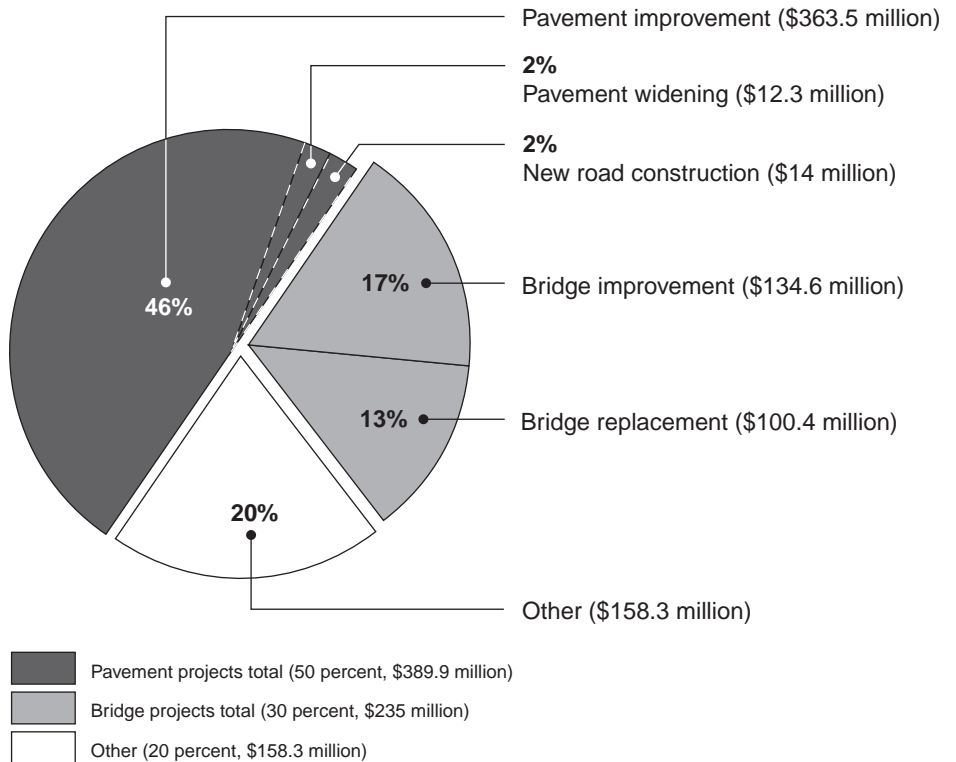
¹⁴States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

¹⁵Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA. The about \$175.5 million includes \$466,000 in apportioned funds that were transferred from FHWA to FTA for vehicle fleet replacements (e.g., not buses) in Rochester by the Rochester-Genesee Regional Transportation Authority.

Columbia combined. The \$175.5 million New York has transferred to transit projects accounts for about 61 percent of total funds transferred to FTA by all states nationwide.

Approximately 46 percent of Recovery Act highway obligations for New York have been for pavement improvement projects with only a small percentage having been obligated for pavement widening and new road construction. Specifically, \$364 million of the \$783 billion obligated to New York as of September 1, 2009, is being used for pavement improvement projects such as highway resurfacing and reconstruction, including \$143 million for resurfacing roads. In addition, as of September 1, 2009, almost 30 percent of the funds obligated in New York have been for bridge replacement and bridge improvement projects, which is much higher than the national obligation average of 10 percent. Figure 1 shows obligations by the types of road and bridge improvements being made.

Figure 1: Highway Obligations for New York by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

According to NYSDOT, as of September 1, 2009, FHWA had obligated funding for a total of about 358 projects. According to officials, contracts have been awarded for about 194 of the authorized projects, or 43 percent of the total 450 projects NYSDOT plans to complete using Recovery Act funds. These awarded contracts total \$412 million, or 37 percent of New York's total allocation. Of the projects with awarded contracts, 190 of them, or 42 percent of all planned projects, were under construction. In our July 2009 report, we reported that as of June 17, 2009, 34 contracts had been awarded. The awarding of 160 contracts in 2 months has taxed NYSDOT's limited procurement staff as well as staff in planning, design, construction, and information technology. The Director of the NYSDOT Contracts Management Bureau noted that they have hired no new

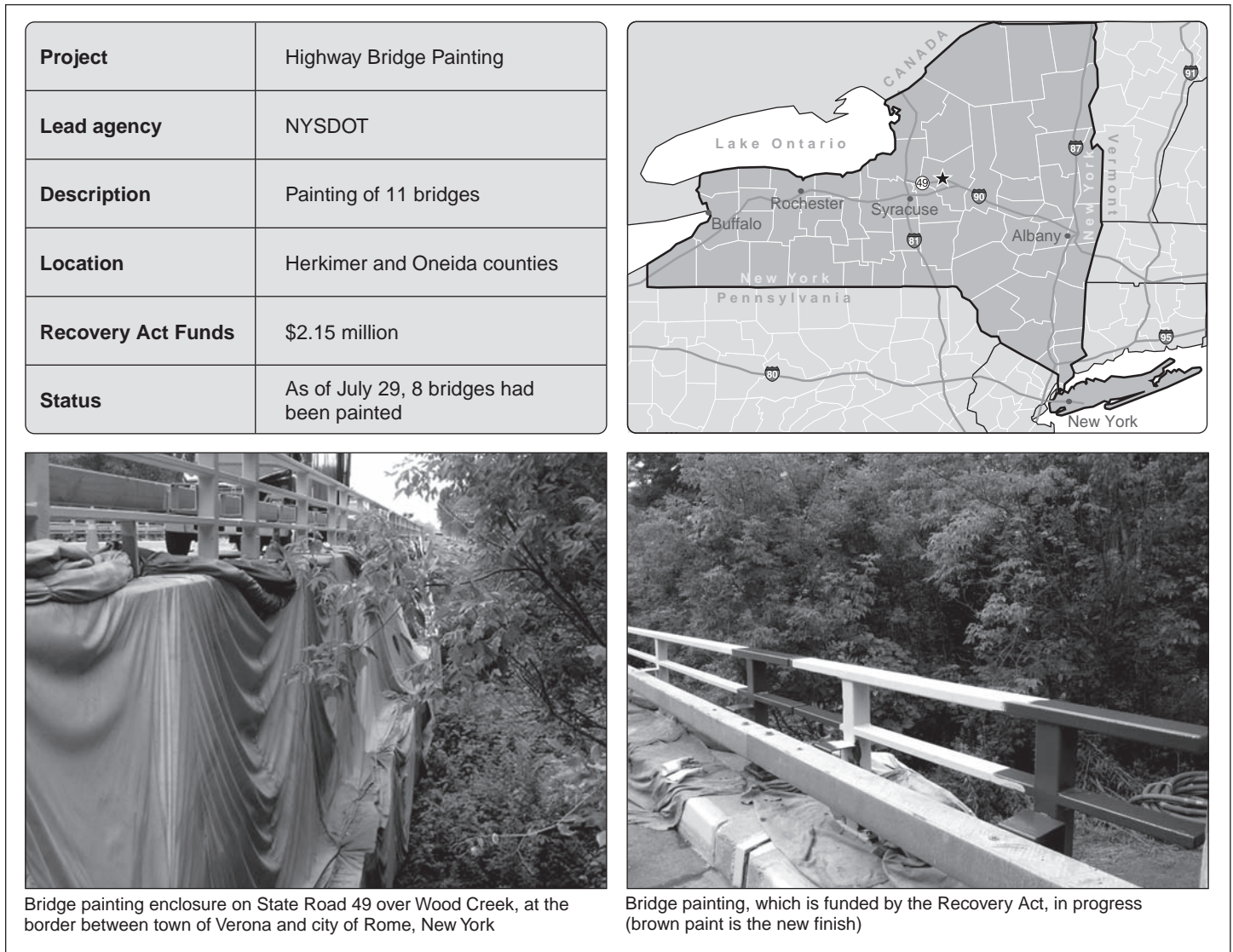
procurement staff and that current staff are working overtime in order to award the large number of contracts.

NYSDOT officials reported that Recovery Act projects have often received bids that are lower than the planned costs of the project, resulting in contract prices as much as 10 to 12 percent lower than the engineering cost estimates. This frees up funds for other projects on the long backlog of New York transportation projects. A NYSDOT official said the agency had anticipated that the construction market would be saturated by now and that bid prices would begin rising. That has not happened yet, however, and it reports that bids continue to come in lower than the planned costs of the projects.

In July, we again visited the \$14.9 million Delaware Avenue reconstruction project in Albany, which we first visited in June. This project is being managed by the City of Albany and was the first construction contract funded by the Recovery Act awarded in the state. This project started in April 2009, involves the complete reconstruction of a 1.6-mile stretch of urban roadway, and employs about 50 people. Project officials report that the project is currently on budget, about 29 percent completed, and expected to be completed by October 2010. Although the project is being funded entirely through the Recovery Act, the City of Albany is currently paying the contractor and billing NYSDOT for reimbursement.

We also visited a bridge included under a NYSDOT bridge painting project that involves work in Herkimer and Oneida counties. This contract was awarded on April 15, 2009, for \$2.15 million. As we reported previously, the original scope of this project was 8 bridges, but, according to officials, NYSDOT was able to add 3 bridges to this contract as a result of the Recovery Act funds. When we visited the project worksite at the State Road 49 Bridge over Wood Creek near Rome on July 29 (see fig. 2), NYSDOT inspectors reported that the contractor had 3 bridges remaining to be painted before the contract completion date of November 30, 2009. NYSDOT officials reported that the same crew of around 17 employees has worked on each bridge, and that the additional 3 bridges allowed the crew to be employed later into the season. The contractor for this project is based in western New York and completes bridge and industrial painting projects in Pennsylvania and Massachusetts.

Figure 2: Profile of a Highway Bridge Painting Project



Sources: GAO (photographs); and Map Resources (map).

As we reported previously, the Recovery Act requires states to give priority to projects located in economically distressed areas, as defined by the Public Works and Economic Development Act of 1965, as amended.¹⁶

¹⁶ 42 U.S.C. § 3161.

As of September 1, 2009, 58 percent of New York's certified projects were in distressed areas. These projects currently account for 33 percent of the total New York state Recovery Act funds, up from about 25 percent in June.

NYSDOT Officials Believe That They Will Meet Recovery Act Reporting Requirements

NYSDOT officials reported that they are working to address OMB's June 22 guidance and are confident they will be able to meet the first OMB reporting deadline of October 10. With the help of the consultant hired by the state to assist state agencies in complying with Recovery Act reporting requirements, NYSDOT has determined that approximately 80 to 90 percent of the data elements required by OMB are in its existing database. NYSDOT is using OMB's data dictionary to program its database with the remaining data elements. NYSDOT officials reported that to meet the October 10 reporting deadline, they will gather information from both the state- and local-let projects and will report directly to OMB, in accordance with the current guidance from the New York Governor's Office. For federal employment reporting purposes, all Recovery Act-funded highway projects complete FHWA Form 1589 on a monthly basis and record the total number of actual employees, number of hours, and total payroll for the month. The information collected by FHWA includes only employment information for jobs funded directly by the Recovery Act.

Both of the Recovery Act highway projects we visited currently report employment information monthly to NYSDOT but had not yet received specific instruction on how to submit reporting information in accordance with OMB's latest reporting guidance. For example, the Delaware Avenue project's main contractor and consultant both fill out the FHWA Form 1589 on a monthly basis on behalf of themselves and their 10 subcontractors. This form reports the number of employees on the project, hours of work, and total payroll for the month. To date, Delaware Avenue project officials have not received guidance from NYSDOT regarding how it should report results in accordance with the June 22 OMB Section 1512 reporting guidance, but are confident they will be able to meet any new reporting requirements.

The NYSDOT Recovery Act Web site also reports on its certified highway projects using other performance measures, such as miles of highway resurfaced and number of bridges to be repaired. According to NYSDOT officials, these performance measures were compiled using data from the agency's management information system. See table 2 for a list of these performance measures as of September 1, 2009.

Table 2: NYSDOT Planned Performance Measures by Project Type, for All Projects Certified as of September 1, 2009

Project type	NYSDOT planned performance results for all Recovery Act projects certified
Safety	<ul style="list-style-type: none"> • 1,000 traffic signals • 11,208 large sign panels • 34 miles of guiderail
Bridge repair	<ul style="list-style-type: none"> • 269 bridges repaired • 234 bridges painted • 437 bridges cleaned
Bridge replacement and rehabilitation	<ul style="list-style-type: none"> • 33 bridges replaced • 34 bridges rehabilitated
Mobility, reliability, smart growth	<ul style="list-style-type: none"> • 1,131 new or improved street crossings • 97 miles of new or replaced sidewalks • 34 miles of new or replaced bike lanes
Highway reconstruction and rehabilitation	<ul style="list-style-type: none"> • 372 lane-miles reconstructed • 220 lane-miles repaved • 22 large culverts replaced
Highway repair	<ul style="list-style-type: none"> • 1,575 lane-miles resurfaced • 299 lane-miles surface treated • 2,011 lane-miles of cracks and joints sealed • 188 large culverts repaired

Source: NYSDOT data and GAO analysis.

NYSDOT Has Developed a Recovery Act Oversight Web site to Improve Communication and Transparency but Has Not Addressed a Potential Conflict of Interest Issue

We reported on NYSDOT’s internal controls over Recovery Act funds in July 2009. In this report, we highlight NYSDOT’s efforts to develop and maintain a Web site that provides current information on Recovery Act projects and report on a potential conflict of interest issue that was first identified in an Office of the State Comptroller (OSC) audit report.

The NYSDOT Recovery Act Web site, www.nysdot.gov/recovery, contains a wealth of information on the state’s highway infrastructure Recovery Act activity, such as the total value, contractor, and status of projects that are searchable by location, congressional district, and a variety of other characteristics. NYSDOT officials reported that they view this Web site as setting a new standard in terms of making Recovery Act status information available to the public. NYSDOT plans to maintain the Web site after the Recovery Act expires in September 2010 for its traditional program and project activity for many programs, such as transit, aviation, and rail.

The potential conflict of interest issue was reported on by the OSC in January 2009. This issue involves the Director of NYSDOT's Audit and Civil Rights Division who is also the department's Internal Control Officer. As Director of the Audit and Civil Rights Division, this individual's responsibilities include oversight of the Internal Audit Bureau, which is charged under state law with reviewing agency operations to assure compliance with management policies and the effectiveness of internal controls. The Director was also designated as the NYSDOT Internal Control Officer, who is charged under state law with implementation and review of NYSDOT's internal control responsibilities (the Enterprise Risk Management Bureau).¹⁷ In addition, the Director was appointed to lead the Governor's Economic Recovery and Reinvestment Cabinet Internal Controls and Fraud Prevention Working Group. The working group is responsible for working with state agencies to provide additional guidance on internal control and fraud prevention to ensure compliance with the Recovery Act. In the January 2009 report on the quality of NYSDOT's internal control certifications, OSC recommended that, to effectively maintain independence by avoiding a conflict of interest, NYSDOT should separate the internal audit function and the internal control officer function. The NYSDOT Executive Deputy Commissioner disagreed with this recommendation.¹⁸ We agree with the OSC recommendation and urge NYSDOT to reconsider its position.

The New York State Governmental Accountability, Audit, and Internal Control Act of 1987¹⁹ (Internal Control Act) requires the head of each agency to designate an internal control officer who reports to the head of the agency and who is responsible for the "implementation and review of the internal control responsibilities" assigned to the agency head under the act. Agency heads are responsible for establishing systems of internal control and programs of internal control review, including periodic assessments of the adequacy of their agency's ongoing internal controls. The act also states that the internal audit function, when established in an agency, is to be headed by an internal audit director, who is required to operate in accordance with generally accepted professional standards for

¹⁷The Audit and Civil Rights Division comprises the Office of Civil Rights, Internal Audit Bureau, Investigations Bureau, Enterprise Risk Management Bureau (Internal Control Office), and the Contract Audit Bureau.

¹⁸On May 8, 2009, the Governor appointed the Executive Deputy Commissioner as Acting Commissioner. The Commissioner is the head of the agency.

¹⁹N.Y. Exec. § 950-953.

internal auditing. These professional standards have been identified as the standards set forth by the Institute of Internal Auditors (IIA) in the state's budget guidance. IIA's standards state that "internal auditors must have an impartial, unbiased attitude and avoid any conflict of interest."²⁰ The mandatory interpretation of this standard states that, "conflict of interest is a situation in which an internal auditor, who is in a position of trust, has a competing professional or personal interest. Such competing interests can make it difficult to fulfill his or her duties impartially. A conflict of interest can create an appearance of impropriety that can undermine confidence in the internal auditor, the internal audit activity, and the profession."²¹ A conflict of interest could impair an individual's ability to perform his or her duties and responsibilities objectively."

A practice advisory to the IIA's standards states that "internal auditors are not to accept responsibility for non-audit functions or duties that are subject to periodic internal audit assessments. If they have this responsibility, then they are not functioning as internal auditors."²² In addition, the practice advisory states that "when the internal audit activity, chief audit executive (CAE), or individual internal auditor is responsible for, or management is considering assigning, an operational responsibility that the internal audit activity might audit, the internal auditor's independence and objectivity may be impaired." The practice advisory lists the following among the factors that the CAE needs to consider in assessing the impact on independence and objectivity: audit coverage of the activities or responsibilities undertaken by the internal auditor, significance of the operational function to the organization, and adequacy of separation of duties.

OSC also based its recommendation on its Standards for Internal Control in New York State Government and on New York State's Division of the Budget's Governmental Internal Control and Internal Audit Requirements, known also as B-350. According to OSC's standards, "the internal control officer helps establish specific procedures and requirements. The effectiveness of these procedures and requirements must be audited by

²⁰IIA, *International Standards for the Professional Practice of Internal Auditing*, 1120, Individual Objectivity.

²¹IIA defines conflict of interest as "any relationship that is, or appears to be, not in the best interest of the organization."

²²IIA Practice Advisory 1130.A2-1, Internal Audit's Responsibility for Other (Non-audit) Functions.

someone who was not involved in the process of putting them into place. In contrast, the organization's internal auditor is responsible for evaluating the effectiveness of the system of internal control. This individual must be independent of the activities that are audited." Thus, this standard states that "for this reason, in most instances, the internal auditor cannot properly perform the role of internal control officer." B-350 states that "the IA [internal audit] function should be independent of the internal control officer, but should work closely with the internal control officer. Limitations should be established on internal control activities where those duties overlap. Agencies should identify impairments to the independence of the director of internal audit that may be created where the director of internal audit is performing the internal control officer function. Furthermore, internal audit units should not assume operating responsibilities, perform management functions, make management decisions, or assume other monitoring roles (e.g., Information Security Officer)."

In responding to OSC's recommendation, the NYSDOT Executive Deputy Commissioner stated that the independence of the internal audit function has been preserved by keeping it (the Internal Audit Bureau) organizationally separate from the internal control responsibilities (the Enterprise Risk Management Bureau). In addition, the NYSDOT official who is both the director of audits and the internal control officer told us that the department evaluated this organization issue before and after she assumed these responsibilities and concluded both times that there is no prohibition preventing her from holding both positions in the state guidance and law. Further, she said that NYSDOT has made full disclosure of this situation and that, in the case of any actual or appearance of a conflict of interest, she would be recused from making a decision. OSC officials told us in July 2009, however, that there continues to be an inherent conflict of interest in being able to effectively maintain independence.

As noted above, we support OSC's recommendation. While the NYSDOT internal audit bureau and the internal control units are separate within the Audit and Civil Rights Division, they are both headed by the Director of the Division who can override any decisions made by staff in charge of those units. The importance of auditor objectivity related to internal control is highlighted in the IIA guidance, which indicates that the auditor's objectivity is considered to be impaired if the auditor is involved with the implementation of internal control systems. Any work performed by an audit organization, regardless of whether safeguards were placed between units, still reflects the professional reputation of the entire

organization. Having responsibility for both managing and auditing an activity creates an inherent conflict of interest that potentially weakens the integrity of the organization's oversight.

NYSDOT officials provided comments on our draft appendix and disagreed with our concurrence with OSC's recommendation. Their main arguments against our concurrence included the following:

- The Director is responsible for implementing and reviewing the internal control responsibilities established by the Internal Control Act, not implementing the controls themselves. Further, in NYSDOT, the Internal Control Officer (the Enterprise Risk Management Bureau) does not establish specific procedures and requirements for the Department – issuing procedures is a responsibility of agency managers. The Director assists managers by facilitating the identification and evaluation of risks and coaching management in responding to risks which, according to the IIA, are totally appropriate roles for the CAE to perform. NYSDOT has established an integrated approach to risk management whereby the Internal Control Officer is a leader and facilitator, serving as a coordinator – not a manager – of risks. Throughout the NYSDOT each manager has responsibility for identifying, assessing, and appropriately responding to (e.g. controlling) risks within his or her own area.
- Other than simply stating that the internal audit function and the internal control officer function should be separated, OSC did not evaluate whether any impairments actually existed at NYSDOT. Furthermore, this relationship was fully disclosed in NYSDOT's annual internal control certification and summary report.

We also discussed this matter further with NYSDOT officials, who told us that the Audit and Civil Rights Division interprets the Internal Control Act in a manner consistent with IIA standards. In particular, NYSDOT officials stated that they have interpreted the act to require that their Enterprise Risk Management Bureau provide only guidance and advice to program managers on internal controls and that the program managers are primarily responsible for implementing internal control programs, conducting reviews to assure adherence to controls, and analyzing and improving control systems, including providing assurance certifications that the Enterprise Risk Management Bureau does not review. In addition, the officials said that the Enterprise Risk Management Bureau's role as an advisor on internal control issues is consistent with IIA standards.

We agree in theory that if the Director merely advises the program managers on internal controls there is not a conflict of interest with her internal audit role. However, the Director has the legal authority to do more than advise. We note that according to B-350, the internal control officer should be an individual with sufficient authority to act on behalf of the agency head to implement and review the agency's internal control program. We believe that because the NYSDOT internal control officer has the legal authority to implement the internal control program on behalf of the Commissioner, even if that authority is not fully exercised under the Audit and Civil Rights Division's interpretation of the underlying statute, there is the appearance of a conflict of interest. Further, the NYSDOT officials told us that the Internal Audit Bureau does not audit the internal control programs that program managers are responsible for implementing. However, we found that the Internal Audit Bureau reviews program internal controls as part of other audits. Also, if the Internal Audit Bureau avoids auditing matters on which the Enterprise Risk Management Bureau personnel provided guidance and advice, there is a clear impairment to the internal auditor's objectivity. Finally, we note that OSC did not assert that impairments took place. OSC simply states that the organization has an inherent conflict of interest with this structure. GAO agrees that this structure creates an inherent conflict of interest that potentially weakens the integrity of the organization's oversight. Therefore, we continue to support OSC's recommendation.

FTA Concluded That the 50 Percent Obligation Requirement Was Met for New York and Urbanized Areas in the State, but Program Impact Has Been Limited by Slow Federal Grant Approval Process

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program.²³ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.²⁴ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program’s existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.²⁵ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.²⁶

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies)

²³The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

²⁴Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

²⁵The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, § 1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

²⁶The federal share under the existing formula grant program is generally 80 percent.

submit to FTA for Recovery Act funding.²⁷ FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant application. Project sponsors must follow the requirements of the existing programs, which include ensuring the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act (ADA), pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure disadvantaged business are not discriminated against in the awarding of contracts.

Funds appropriated through the Transit Capital Assistance Program must be used in accordance with Recovery Act requirements, including the following:

- Fifty percent of Recovery Act funds apportioned to urbanized areas or states are to be obligated within 180 days of apportionment (before Sept. 1, 2009) and the remaining apportioned funds are to be obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other urbanized areas or states any amount that is not obligated within these time frames.²⁸
- State governors must certify that the state will maintain the level of state spending for the types of transportation projects, including transit projects, funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.²⁹ This requirement applies only to state

²⁷Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and metropolitan planning organizations designated for the area. Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's TIP and the approved State Transportation Improvement Program (STIP).

²⁸Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

²⁹Pub. L. No. 111-5, § 1201(a), 123 Stat. 115, 212 (Feb. 17, 2009).

funding for transportation projects. The Department of Transportation will treat this maintenance-of-effort requirement through one consolidated certification from the governor, which must identify state funding for all transportation projects.

- Project sponsors must submit periodic reports, as required under the maintenance-of-effort for transportation projects section (§1201(c) of the Recovery Act) on the amount of federal funds appropriated, allocated obligated and outlayed; the number of projects put out to bid, awarded, or work has begun or completed; project status; and the number of jobs created or sustained. In addition, grantees must report detailed information on any subcontractors or subgrants awarded by the grantee.

Of the over \$1.3 billion of Recovery Act Transit Capital Assistance funding that was apportioned to the state of New York or to urbanized areas (UZA) that include localities in New York, 98 percent was apportioned through the urbanized area formula program. Under the Recovery Act, New York's only large UZA (called the New York—Newark, NY—New Jersey—Connecticut UZA) was apportioned nearly \$1.2 billion in Transit Capital Assistance funding. An additional \$123.9 million was apportioned to medium-sized UZAs with populations ranging from 200,000 to 999,999, and nearly \$13.7 million was apportioned to the state of New York for small UZAs with populations of 50,000 to 199,999. In addition, the state was apportioned \$26.25 million for transit projects in nonurbanized areas. The majority of Transit Capital Assistance funds are administered by transit agencies who are designated recipients of this funding. In New York, some of the UZAs cross state borders into Connecticut, New Jersey, and Pennsylvania.³⁰ These states have long-standing formulas that they use to divide the apportionments. For UZAs that contain multiple transit agencies within the state, the MPOs work with the transit agencies to develop a split agreement which spells out how the apportionment will be divided among the various transit agencies in the UZA. NYSDOT administers a small portion of the federal transit aid for projects in smaller communities and rural areas of the state.

³⁰The jurisdiction of some urbanized areas within a state may cross into at least one other state. Therefore, some urbanized areas are included in multiple state totals.

FTA Concluded That the 50 Percent Obligation Requirement Was Met

In March 2009, FTA apportioned over \$1.3 billion in Transit Capital Assistance Recovery Act funds to the state of New York and urbanized areas in the state for transit projects. As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for New York and urbanized areas located in the state.³¹

New York Transit Agencies Are Using Transit Capital Assistance Apportionments for Fleet Improvements and Capital Construction

New York transit agencies submitted grant applications to FTA to use Recovery Act Transit Capital Assistance funds to finance a variety of fleet enhancement and capital projects that would otherwise not have been funded this year. These include rehabilitating or reconstructing existing rail and bus buildings, improving rail yards, replacing aging bus fleets with clean natural gas buses, and purchasing hybrid buses. MTA sought Recovery Act Transit Capital Assistance funding for a number of station, infrastructure, and equipment capital rehabilitation projects bundled under one grant application worth \$393.3 million and funding for a large station reconstruction project under another grant application worth \$266.9 million—for a total of \$660.2 million.³² MTA's smaller Recovery Act Transit Capital Assistance projects include rehabilitating or reconstructing existing rail and bus buildings, creating new locker/rest facilities for transit agency personnel, and installing improved audio systems for the hearing impaired. The large capital project is for improvements at the Fulton Street Transit Center that will ultimately facilitate access and provide intermodal connectivity, among other things. Although MTA's first grant was not awarded until August 13, 2009, according to officials, MTA used preaward authority to begin Recovery Act projects in advance of FTA's obligation of the funds. According to officials, as of August 31, 2009, MTA has entered into contracts with a total value of \$598.8 million for projects funded with Transit Capital Assistance Program funds and expects to have most projects completed by the end of August 2013.

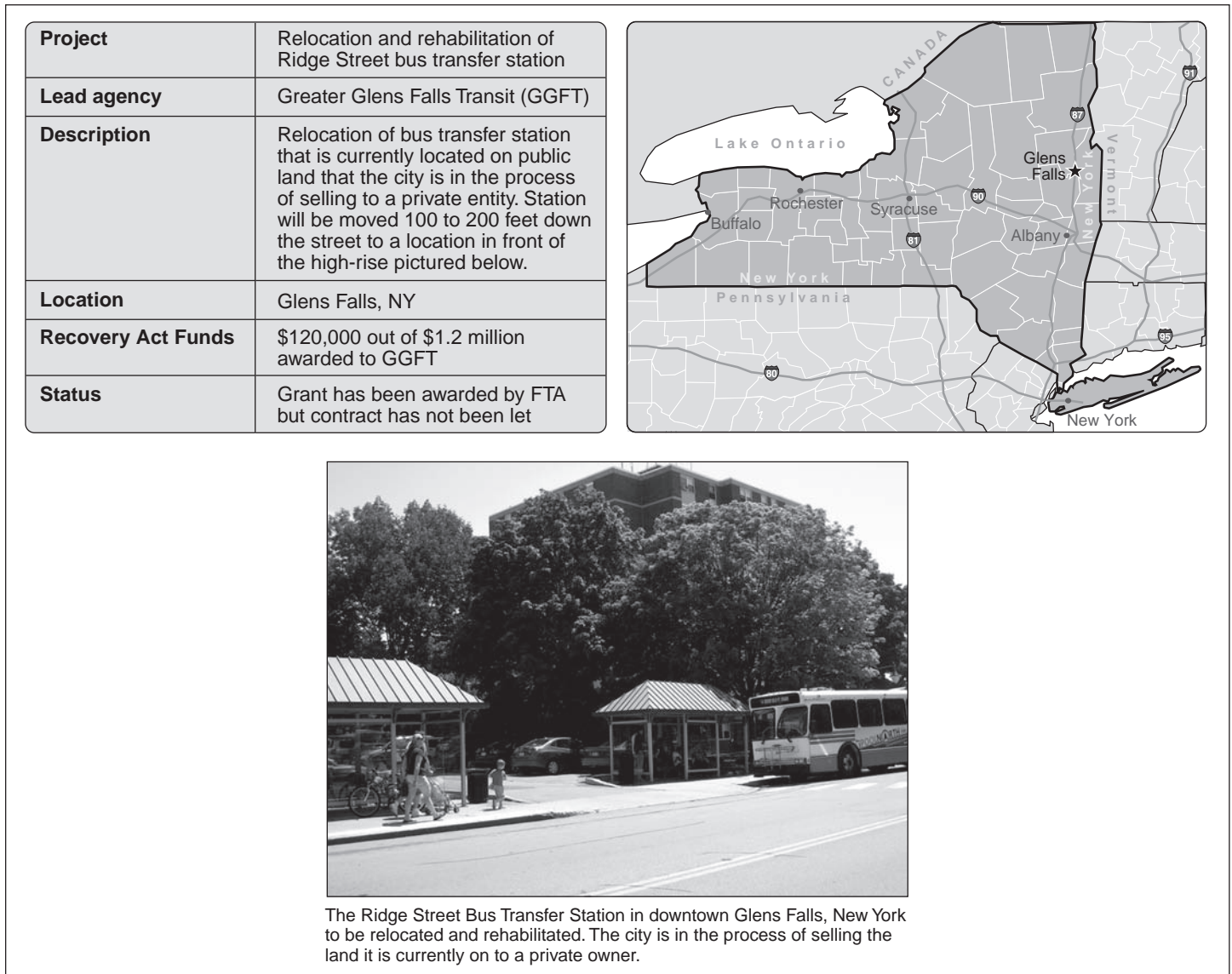
We also visited Greater Glens Falls Transit (GGFT), because it was both a smaller transit agency and among the first agencies in New York to have its Transit Capital Assistance Program grant approved by FTA. GGFT is

³¹For the Transit Capital Assistance Program, DOT has interpreted the term obligation of funds to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a grant agreement.

³²Combining several projects into one application can expedite the approval process and provide flexibility to grant recipients to move excess funds from one project to another with FTA approval.

part of a UZA with a population of 50,000 to 199,000 and serves 11 municipalities in upstate New York. It received a grant for projects worth \$1.2 million to purchase a hybrid expansion vehicle and for various capital projects, including repairing an in-ground lift, upgrading the computer and the public information systems, and relocating and rehabilitating the Ridge Street bus transfer station in downtown Glens Falls. For a photo of the existing transfer station and additional description of this project, see figure 3.

Figure 3: GGFT Ridge Street Bus Transfer Station Project



Sources: GAO (photographs); and Map Resources (map).

As of August 31, 2009, a GGFT official reported that they had awarded contracts for projects with a total value of \$623,767 that included contracts for a hybrid bus, a service truck, and preventive maintenance. GGFT expects the Recovery Act projects to be completed by the end of 2010. See table 3 for a summary of all GGFT Transit Capital Assistance Recovery Act projects.

Table 3: GGFT Transit Capital Assistance Projects

Project name	Project description	Estimated cost
Buy 30-foot bus for expansion	Buy 30-foot hybrid bus to provide needed additional capacity and help demonstrate the benefits of hybrid propulsion technology in a small fleet/small urban environment.	\$575,000
Preventive maintenance	Cover capital preventive maintenance expenses for calendar years 2009 and 2010.	200,000
Rehabilitate/renovate bus passenger shelters	Redesign and relocate two passenger shelters and information kiosk located on Ridge St. in downtown Glens Falls. Also add 2 shelters in other areas. Replace electronic display, and install additional lighting and benches where needed at high use stops.	170,000
Acquire shop equipment	Rehabilitate/replace existing GGFT in-ground vehicle lift and purchase new shop equipment.	150,000
Acquire miscellaneous support equipment	GGFT's current telephone, tele-information system, and computer systems are outdated and need to be replaced. Existing telephone information system is inadequate to customer and service demands.	100,000
Acquire support vehicles	Replace 2000 pick-up truck and acquire new plow and salt spreader for maintenance of transit facility in winter months.	30,000
Project administration	Funds used to administer the projects.	17,494
Total		\$1,242,494

Source: GAO analysis based on GGFT data.

According to NYSDOT, almost 93 percent of the non-MTA Recovery Act Transit Capital Assistance program funding obligated by FTA for the urbanized and nonurbanized areas in New York have been for bus purchases. Specifically, \$134 million of the \$144 million FTA obligated for New York for non-MTA transit agencies as of September 1, 2009, is being used for projects such as buses, including \$15.7 million for replacement buses for the Capital District Transportation Authority (CDTA).

NYSDOT and transit agency officials we spoke with told us that they used several key criteria for selecting transit projects to be funded under the Recovery Act. At the state level, NYSDOT sought new projects that were "shovel-ready" or existing projects that were out of funding or could be accelerated with Recovery Act funding. Transit agencies used a variety of criteria, including evaluating projects to see whether they were needed to keep the system in a state of good repair; may save or reduce the amount of local tax dollars spent on public transit services, thereby reducing the need for local tax increases; or may add or sustain jobs. According to NYSDOT, many state and local transit officials told the agency that they selected a large percentage of projects for bus replacement to improve reliability and lower maintenance costs. Transit agencies, in conjunction

with the MPO in the region, complied with the public review and outreach requirements by posting projects for public comment and holding public hearings.

Transit Agencies Will Use Existing Internal Control Mechanisms with Some Planned Improvements to Oversee Recovery Act Grants

Because transit authorities throughout the state rely on FTA grants, they must comply with existing FTA oversight requirements pertaining to the use of these funds. FTA evaluates grantees' adherence to grant administration requirements through a comprehensive oversight program. FTA's two major oversight mechanisms are Triennial Reviews of grantees receiving Section 5307 urbanized area formula grants and State Management Reviews of grantees receiving Section 5311 nonurbanized area formula grants. The Triennial Review includes a review of the grantee's compliance in 23 areas that include financial management, technical, and reporting requirements. Thus, NYSDOT, MTA, and GGFT are using existing systems that have been reviewed by FTA and enhanced, if necessary, per FTA requirements to track Recovery Act Transit Capital Assistance grants and oversee the related contracts. They have also made or plan to make some enhancements to these processes as a result of past reviews or audits or a desire to provide increased oversight over Recovery Act funds.

Since MTA is responsible for overseeing the most Recovery Act Transit Capital Assistance funds of any transit agency in the state of New York, we focused on its processes. MTA is required to comply with the New York State Governmental Accountability, Audit, and Internal Control Act. In accordance with that act, MTA annually prepares an internal control certification and summary, which, among other things, describes MTA's internal control program including the identification of high-risk activities and control weaknesses. The summary also describes the corrective actions MTA has undertaken to resolve those identified weaknesses. The risk-based approach takes into account recommendations from prior audit findings, MTA management reviews, and internal control testing. MTA facilitates monitoring by using a central database to track all audit recommendations and the status of corrective actions.

MTA's 2008 to 2009 internal control summary identified some significant deficiencies with regard to internal controls, including the lack of a robust Disadvantaged Minority/Women's Business Enterprise Program (DMWBE) contract tracking methodology in the Office of Civil Rights and an estimated 40 percent staffing shortage of New York City subway inspectors. MTA took corrective actions to resolve these deficiencies.

MTA has plans to increase monitoring for Recovery Act funded projects. MTA's internal audit department plans to audit all Recovery Act projects, when they would typically only audit a sample of the projects, and MTA officials believe they possess the necessary skills and resources to do so. In addition, MTA has an independent engineering consultant who will also monitor the projects. MTA officials said that it will perform more on-site visits to help ensure adequate monitoring of their Recovery Act projects. MTA is also coordinating with the MTA Office of the Inspector General (OIG), Department of Justice (DOJ), and DOT, to develop a special training program that will be targeted to key MTA staff. The training program is currently planned for September or October 2009 and will focus on complying with the Recovery Act and fraud awareness.

MTA also is subject to federal oversight. FTA holds quarterly capital program oversight meetings on every project with MTA, and MTA submits quarterly project reports to FTA. The DOT OIG conducts periodic reviews of MTA. According to an MTA OIG official, the DOT OIG is planning to increase its risk assessment and control environment reviews for Recovery Act oversight.

GGFT is also required to comply with the FTA review and reporting requirements and with the OMB Single Audit requirement. FTA's fiscal year 2007 Triennial Review of GGFT found deficiencies in three areas—Satisfactory Continuing Control,³³ Disadvantaged Business Enterprise

³³Satisfactory Continuing Control compliance requires grantees to maintain control over real property, facilities, and equipment and ensure they are used in transit service. GGFT was found to be deficient, because its contingency fleet plan included vehicles that had been sold.

(DBE),³⁴ and Drug and Alcohol.³⁵ Advisory comments were made in the Safety and Security area. FTA determined that GGFT took sufficient corrective actions to close the deficiencies. The 2007 Single Audit report for GGFT provided an unqualified opinion on its financial statements and on each major program, including the FTA Operating Assistance and FTA Capital Assistance programs. No significant deficiencies were identified related to the audit of major federal awards or audit of financial statements.

New York Transit Agencies Are Developing Plans to Implement Reporting Requirements and Will Rely on DOT to Calculate Indirect Jobs Creation

While transit agencies are generally prepared to meet the various reporting requirements using existing grant reporting mechanisms, the timing of FTA's Recovery Act reporting guidance and its slight difference from the federal Office of Management and Budget (OMB) requirements have created some problems. When we met with NYSDOT, GGFT, and the Adirondack/Glens Falls Transportation Council—which is the MPO for Glens Falls and is reporting for GGFT—the FTA guidance had not yet been posted, and both NYSDOT and Adirondack/Glens Falls Transportation Council were under the impression that FTA would follow the FHWA reporting guidance and had developed plans accordingly. This did not turn out to be the case. The main difference between their employment reporting requirements is that FTA requires recipients to report on a grant basis, while FHWA requires recipients to report on a project basis. In addition, FHWA requires reporting on more types of data. For example, FTA requires recipients to report the total number of hours associated with direct jobs attributed to the grant that will be paid by Recovery Act funds, whether worked by the recipient's staff, contractors, or

³⁴DBE compliance requires a grantee to comply with the DOT's policy that DBEs are ensured nondiscrimination in the award and administration of DOT-assisted contracts. Grantees also must create a level playing field on which DBEs can compete fairly for DOT-assisted contracts; ensure that only firms that fully meet eligibility standards are permitted to participate as DBEs; help remove barriers to the participation of DBEs; and assist the development of firms that can compete successfully in the marketplace outside the DBE program. GGFT was found to be deficient because procurement files for trolley buses reviewed during the site visit did not include the required Transit Vehicle Manufacturer DBE certification.

³⁵Drug and Alcohol compliance requires grantees to have a drug and alcohol testing program in place for all safety-sensitive employees. GGFT was found to be deficient because GGFT had hired 15 local school bus operators to operate trolley service during the summer and believed that the school bus operators' drug and alcohol testing program with the school district was sufficient. GGFT was not aware of the requirement to conduct a pre-employment test for these school bus drivers prior to allowing them to perform safety-sensitive work in accordance with FTA Drug and Alcohol regulations.

subcontractors. FHWA, on the other hand, requires recipients to report for each contractor or consultant on a project the number of project employees, the total number of hours those employees worked, and the total amount of wages paid.

For each Recovery Act project, MTA told us that its agencies will calculate employment data for their own staff and collect the required information from contractors. This is the first time MTA has asked contractors to count jobs. To do so, according to officials, MTA included language in Recovery Act contracts requiring contractors to report the number of full-time equivalent employees (FTEs) that are on a Recovery Act job to comply with OMB's requirements. However, MTA reported that the FTA guidance requires recipients to report work hours. On September 10, 2009, MTA reported that it was developing a reporting system to capture both in house and third party work hours for the purposes of federal reporting.

NYS DOT and GGFT also had questions concerning how to calculate direct jobs created from equipment purchases made with Recovery Act funding versus how to count jobs created from Recovery Act funded construction projects. MTA also had concerns about calculating FTEs from work hours. An MTA official said MTA will need to determine the "normal" hours worked in a year for each job title and divide the "normal" number of hours by four to determine the quarterly hours worked.

MTA expects to have some jobs data to report in October. However, NYS DOT reported that the impact of Recovery Act funds has been limited by the time it took to obligate the funds. As such, NYS DOT said that many transit agencies might not have contracts awarded by September 30, 2009, and, therefore, will not have associated jobs to report. Also, after the recipients get their money, it can take up to a year to get delivery of certain items, such as buses.

Transit agencies have limited plans to track performance measures other than those required for federal reporting. GGFT officials told us that they also planned to track local tax dollars saved as a performance measure, but that other metrics to measure improvements to the quality of service and maintenance of a state of good repair are more difficult to identify. MTA did not have plans to track additional performance measures beyond what was being required of them to report. However, MTA was open to considering reporting additional performance measures, such as the number of stations rehabilitated and customer satisfaction before and after the rehabilitation.

The Department of Energy Has Approved New York’s Weatherization Plan, but Implementation Has Been Delayed by Davis-Bacon Act Concerns

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, the territories and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires that all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined by the Davis-Bacon Act.³⁶ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work in each of the 50 states.³⁷ The department completed

³⁶The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act. *See* Pub. L. No. 111-5, § 1606, 123 Stat. 115, 303 (Feb. 17, 2009).

³⁷The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

establishing prevailing wage rates in all the 50 states and the District of Columbia by September 3, 2009.

DOE officials approved New York's weatherization plan on June 26, 2009, and provided an additional 40 percent of the state's allocation for the Weatherization Assistance Program funded by the Recovery Act. This brought the total funds provided New York to \$197.3 million. According to officials, in anticipation of DOE's approval, the New York State Division of Housing and Community Renewal (DHCR) sent out contract application packages to the 64 subgrantees that implement the program, so they could apply for funding under the Recovery Act. According to officials, as of August 31, 2009, nine contract applications with the subgrantees have been approved by the state, obligating \$27.5 million of Recovery Act funds, though none has been spent. Meanwhile, according to officials, several other contract applications have been received and are currently being reviewed. DHCR expects to have additional contract applications approved shortly and all of the contract applications approved by October 15, 2009.

A major issue, according to program officials, in the submission of contracts by the subgrantees to DHCR for approval has been the uncertainty regarding the impact of the Davis-Bacon Act on Recovery Act funding for the Weatherization Assistance Program. The Davis-Bacon Act requirements do not apply to the annual weatherization program funded by grant awards from DOE and the Low Income Home Energy Assistance Program. Until Labor posted prevailing wage rates on September 3rd, the subgrantees had to estimate what these rates would be in their preparation of their budgets for their proposed use of Recovery Act funds in the weatherization program. DHCR has allowed the subgrantees the option of submitting contracts now and amending them later when the wage rates were established or waiting until the rates were established before submitting their contracts for review and approval.

In preparation for establishing wage rates for New York, Labor sent wage surveys to each of the 64 subgrantees conducting weatherization work in the state. These surveys were due back on July 31, 2009. DHCR provided guidance to the subgrantees for completing this survey. According to DHCR, almost all of the subgrantees submitted the survey.

The impact of Davis-Bacon on the Weatherization Assistance Program in New York goes beyond the establishment of prevailing wage rates. Because the only weatherization activities subject to Davis Bacon are those funded by the Recovery Act, subgrantees have to determine a

strategy of how to incorporate it into their overall program. One strategy that subgrantees can use is to subcontract all weatherization work funded by the Recovery Act in order to limit the impact of Davis-Bacon to just those subcontractors. Other subgrantees that use their own employees to do most of their weatherization work are hoping that the wage rates established by Davis-Bacon will be similar to what they pay now. It would be difficult for them to pay different wages to their workers doing the same work based on whether or not the weatherization work was funded by the Recovery Act or some other source, according to program officials.

If the prevailing wage rates established are significantly higher than the rates currently being paid, DHCR officials are concerned that the number of units weatherized and workers hired to do the work may be fewer than what would have occurred if the Davis-Bacon Act had not been applied to weatherization projects funded by the Recovery Act. DHCR officials were hopeful that the wage rates established for many counties will be similar to those already paid by the subgrantees who, in many areas, are the predominant supplier of weatherization services. Thus, the impact of Davis-Bacon on the program would be minimal.

Further, the administrative tasks required under Davis-Bacon, such as wage verification, visits to job sites, and weekly payrolls, are new to the subgrantees and represent a cost not previously experienced by the program. DHCR coordinated training sessions on September 2nd in Syracuse and September 10th in New York City on the proper administration of Davis-Bacon requirements. All subgrantees were encouraged to attend one of these sessions that were presented by Labor.

According to DHCR officials, another potential programmatic impact of Davis-Bacon is that it might reduce the weatherization activities that are eligible for funding. To be eligible for funding under the Weatherization Assistance Program, an activity must generally achieve a Savings to Investment Ratio (SIR) of at least one. That is, one dollar invested, one dollar saved. DHCR officials are concerned that, if wage rates rise significantly due to Davis-Bacon, some activities such as window or door replacement may no longer be able to achieve the required SIR figure. This would preclude them from being completed as part of the weatherization program.

Though no Recovery Act funds have been spent to date, DHCR said that the subgrantees have been expanding their operational capabilities through such actions as hiring and training additional staff and purchasing vans and trucks. The subgrantees have been able to do this by using their

allocation of annual weatherization funding provided by DOE and the Low Income Home Energy Assistance Program in anticipation of Recovery Act funds being available shortly. Likewise, DHCR has been using two contractors to provide ongoing training sessions for subgrantees' workers. DHCR is using funds from its normal weatherization program to fund all of its activities to date, including those related to the Recovery Act weatherization program.

State Officials Plan to Use a Variety of Accountability Approaches to Monitor the Use of Recovery Act Weatherization Funds

DHCR officials stressed that an extensive fiscal and program monitoring system was in place for the weatherization program prior to the passage of the Recovery Act. Though the Recovery Act greatly increased the funding available for the program, the state plans to use its current program infrastructure to absorb this funding increase. It expects that its existing network of subgrantees will be able to expand the program to accommodate the increase in funding provided by the Recovery Act through the expansion of their in-house capabilities, employing additional subcontractors, or a combination of these two approaches. DHCR anticipates that some of the subgrantees will demonstrate a greater ability to expand production more than others. For that reason, DHCR set aside \$65 million from its allocation of Recovery Act funds to direct additional funding to those subgrantees most able to make use of it in weatherizing additional housing units.

DHCR uses a few mechanisms to perform oversight. DHCR conducts an annual review of each subgrantee and program inspectors and fiscal staff conduct 9 to 12 field visits to each agency. DHCR also reviews the Single Audits conducted of each subgrantee in the weatherization program and requires corrective action plans for any findings detected by these audits. These corrective action plans are monitored by DHCR to ensure that any issues are addressed. At the state level, there are no open findings from the state's Single Audit related to the Weatherization Assistance Program.

DHCR officials provide technical assistance to address any problems discovered based on their review of a subgrantee's performance. They do not characterize subgrantees as high risk or low risk. Based on their experience, DHCR officials said that the performance of subgrantees can change dramatically in a short period of time for various reasons, including the turnover of key personnel. Therefore, they maintain a high level of monitoring for all of the subgrantees in its weatherization program.

In addition to its normal monitoring process, DHCR has established a Weatherization Assistance Program database that allows DHCR to monitor monthly production goals against actual work completed. When a contract with a subgrantee funded by the Recovery Act is awarded, DHCR advances 25 percent of the contract award to the subgrantee. Further draw downs of Recovery Act funds will only be permitted based on the actual work completed. In addition, according to agency officials, the subgrantees are required by DHCR to ensure that Recovery Act funds be clearly separated from the regular weatherization funding that they receive. For example, subgrantees are required to have a separate bank account for Recovery Act funds. Further, all work done using Recovery Act funds must be clearly identified and separate from work funded from other sources. Recovery Act funds cannot be co-mingled with other funding.

DHCR has indicated that it intends to use its share of Recovery Act funds earmarked for administration to increase the resources available for on-site technical assistance provided to subgrantees, as well as increase the number of staff available for on-site monitoring of the program. Particular emphasis will be placed on both assisting and monitoring the implementation of Davis-Bacon by the subgrantees.

Finally, to facilitate procurement of bulk weatherization materials for the program, the New York State Weatherization Directors' Association annually solicits suppliers to establish a statewide price schedule for various weatherization materials. According to officials, this solicitation is conducted in accordance with state procurement guidelines and allows subgrantees to purchase weatherization materials in bulk at statewide negotiated prices. According to DHCR, the Buy American provision of the Recovery Act should not have a major impact on this procurement effort.

State Officials Are Preparing to Measure the Impact of Recovery Act Weatherization Funds and to Meet Its Reporting Requirements

DHCR intends to use DOE performance measures to determine the impact of Recovery Act weatherization funds in their state. For example, DHCR will use DOE methodology to measure the energy savings achieved by the use of Recovery Act funds in the weatherization program. With regard to job creation and retention, DHCR is waiting for guidance from DOE on how to measure and report these figures. It intends to follow that guidance in reporting on job creation and retention. Similarly, DHCR will comply with any other DOE guidance for measuring the impact of Recovery Act funds, as well as provide training to the subgrantees regarding compliance with any DOE requirements.

New York is considered the prime recipient, as defined by OMB, for weatherization funds provided by the Recovery Act, and DHCR is responsible for administering the weatherization program for the state. The 64 subgrantees that operate the weatherization program for DHCR are considered subrecipients. DHCR intends to collect all data required by DOE for reporting purposes from the 64 subgrantees and report these data for them. DHCR officials said that they already collect all of the information that they expect DOE to require except figures for job creation and retention. In addition, DHCR officials intend to perform quality reviews of the data submitted by the subgrantees to detect and correct any omissions or errors in the data being reported by the subrecipients. Once DOE has issued final guidance to DHCR on the reporting requirements under the Recovery Act, addressing such outstanding issues as job creation and retention, DHCR will issue guidance to its subgrantees.

New York Exceeded Its Goal for the Number of Youth Served in the WIA Program This Summer, Despite Facing Challenges

The Recovery Act provides an additional \$1.2 billion in funds for the Workforce Investment Act (WIA) Youth program, including summer employment. Administered by the Department of Labor (Labor), the WIA Youth program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,³⁸ the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act

³⁸H.R. Rep. No. 111-16, at 448 (2009).

funds.³⁹ Local areas may design summer employment opportunities to include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job (2) learn work readiness skills on the job, and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.⁴⁰ Labor’s guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor’s guidance. Each state’s plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor’s guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

New York was awarded about \$71.5 million in Recovery Act WIA Youth funds. The New York State Department of Labor (NYSDOL), the agency responsible for overseeing the state’s WIA Youth Program, allocated \$60.8

³⁹Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

⁴⁰Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

million (85 percent of the total WIA Youth Recovery Act funds) to 33 local workforce investment areas (LWIA) within the state. NYSDOL used \$3.35 million of their 15 percent WIA Youth state set-aside funds to fund the State Parks' Conservation Corps Initiative. According to a local official, the state encouraged LWIAs to try to spend all of their funding as soon as possible to stimulate the economy. State officials estimated that as of August 31, 2009, \$34.6 million was spent by the LWIAs. NYSDOL established a goal of serving about 23,600 youths in WIA Youth summer employment programs; it reported that it exceeded that goal and placed an estimated 24,208 youths in summer employment, as of August 15, 2009. According to Labor data as of July 31, 2009, a majority of these were youth 14 to 18 years old. Of all participants, 27 percent were out-of-school youth and less than one percent were veterans (see table 4). We visited Oneida County Workforce Development⁴¹—the government entity that implements the WIA Youth program in Oneida County—and two of their summer job sites and two employers.⁴² The county served approximately 230 youth as of August 31 and will place another 15 in jobs, almost reaching its target of 250 youth participants.

Table 4: Demographics of New York State WIA Summer Youth Employment Participants as of July 31, 2009

Category	Number of youth	Percent of all youth in summer employment
Youth 14 to 18 years old	15,114	71
Youth 19 to 21 years old	4,730	22
Youth 22 to 24 years old	1,531	7
Total	21,375	100

Source: Labor data based on data reported by the states.

⁴¹Oneida County Workforce Development is part of Working Solutions, the Workforce Investment Board that serves Herkimer, Madison, and Oneida Counties.

⁴²Scheduling conflicts with other federal and state auditors limited our ability to visit our second planned site visit, the New York City workforce development office.

Oneida County Found Solutions to Challenges It Faced in Quickly Expanding Its WIA Youth Program and Now Aims to Retain Older Youth in the Workforce

In our previous bimonthly report, local officials cited challenges regarding youth eligibility, adequate supervision, and transportation for youth. Oneida County staff found it more difficult this year to determine the eligibility of applicants for the WIA Youth program than in previous years because of the inclusion of older youth. Officials said that older youth that are not employed or in school often do not have documentation of their identity, such as a birth certificate or social security card, their household income, or their citizenship. Oneida County hired four employees from May to December 2009 to assist the applicants with documentation of their eligibility. Officials overcame such challenges as finding meaningful work opportunities with adequate supervision and transportation for youth to job sites by contacting local employers with existing relationships with Oneida County Workforce Development and placing youth in jobs within a mile of their homes. In addition, a local workforce official said that Oneida County has managed stand-alone summer youth employment programs funded by other sources in recent years and its familiarity with the process allowed it to expand the program quickly.

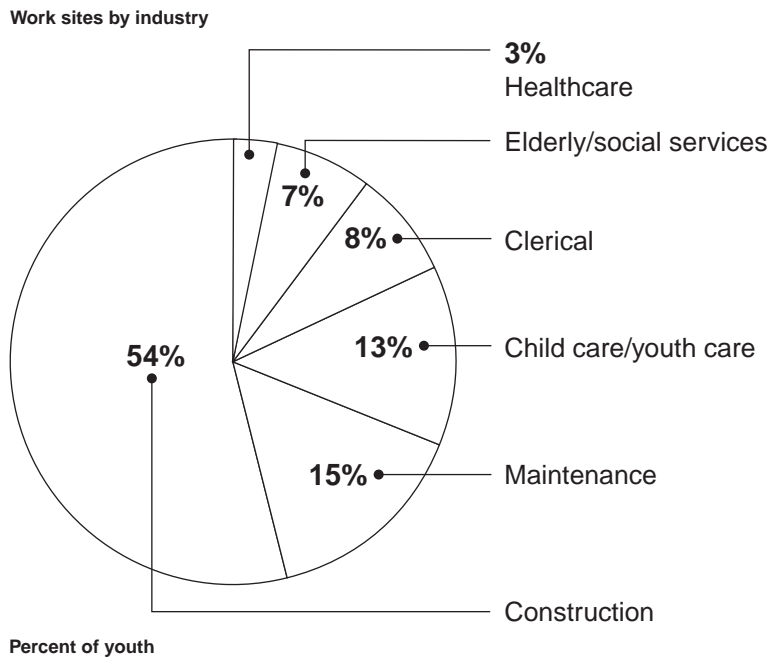
During our visit, Oneida County workforce officials said that their current challenge is retaining older youth, ages 19 to 24, in the workforce or in pursuing some form of education after the summer program ends. An official said connections that older youth made with the workforce development community could be lost if youth do not have existing education or work plans when the program ends. Oneida County will engage the older youth from their summer youth employment program year-round by providing continued job counseling and giving them priority to enter a year-round workforce program that will begin this year. Individual work sites also encouraged year-round involvement by allowing summer participants access to a computer lab all year, providing tours to a local community college and Job Corps facility, and providing military enlistment information. Next year, Oneida County plans to offer summer youth employment opportunities for older youth with other funding sources if additional Recovery Act funds are not awarded.

Oneida County Aimed to Place Youth in Jobs within High-Demand Trades

Oneida County Workforce Development placed approximately 230 youth in 38 summer employment work sites using WIA Recovery Act funds, as of August 31, 2009. Approximately 75 percent of the youth were employed at public sector work sites, with the remaining 25 percent of youth at nonprofit work sites. (For more information on work sites, see fig. 4.) Officials placed an estimated 70 percent of the youth in jobs that included occupational skills training, much of it focused on the construction trade due to the demand for those skills. For example, youth rehabilitated

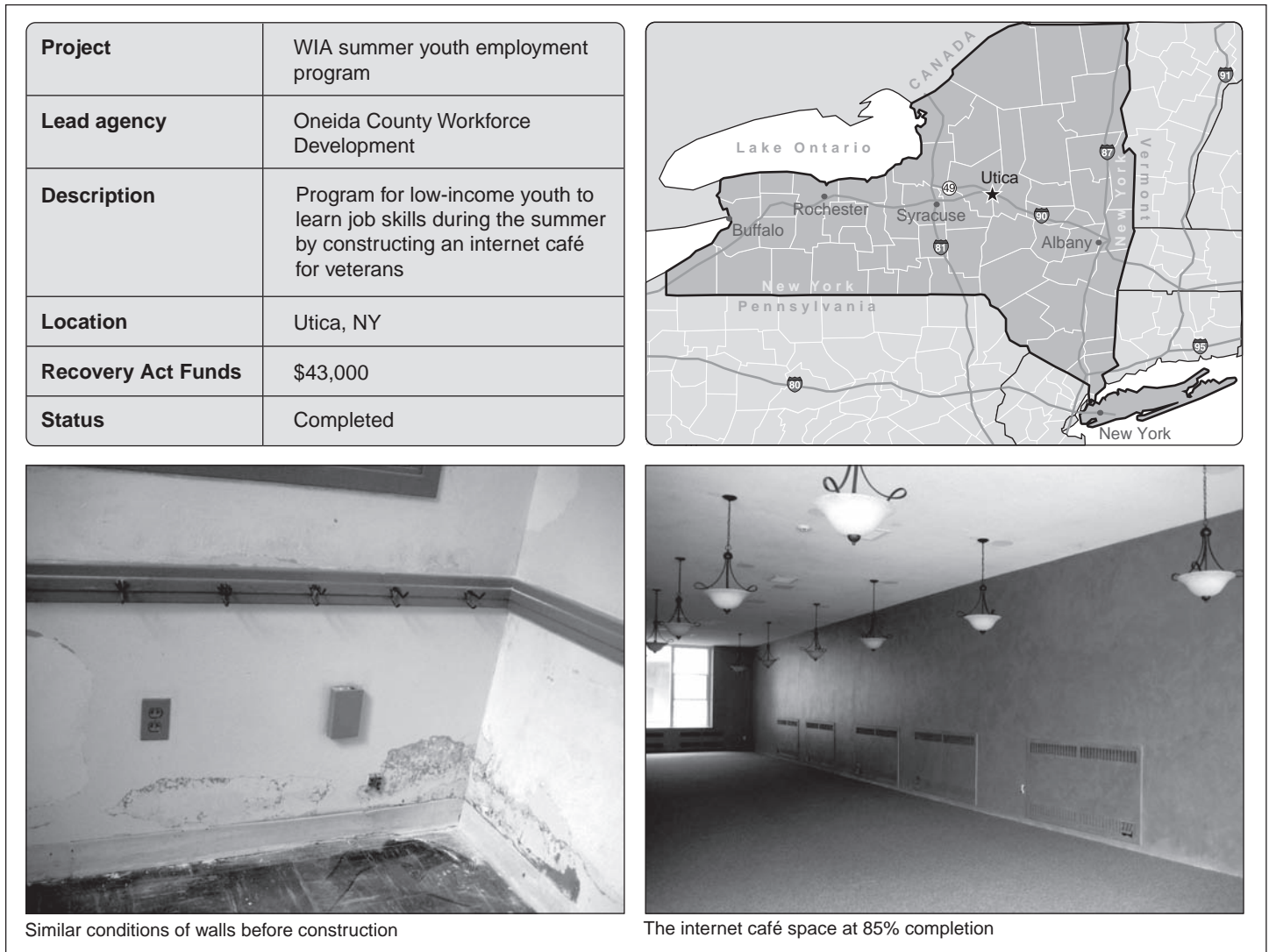
houses for the Utica Municipal Housing Authority. Officials said about 10 percent of the jobs were defined as “green” jobs and included some environmental and green technology. For example, at a work site we visited where youth constructed an Internet café for veterans, they learned about recycled construction materials and energy-efficient light bulbs (see fig. 5).

Figure 4: Percentage of Youth Working at Oneida County WIA Summer Youth Employment Work Sites as of August 31, 2009



Source: GAO analysis of Oneida County Workforce Development data.

Figure 5: Internet Café Constructed by WIA Summer Youth Participants



Sources: GAO (photographs); and Map Resources (map).

In addition, youth out of school could enroll in a General Education Diploma (GED) training course for 3 hours a day outside of their work hours and get paid for 2 of the 3 hours. Officials said that programs for 19 to 24-year-olds included more occupational training, while programs for 14 to 18-year-olds included more academic skills training due to, among other things, restrictions imposed by labor laws on working conditions for minors. Some youth were taught work-appropriate behavior and discussed their personal growth in the program with supervisors. The youth

constructing the Internet café were asked by their employer to sign a code of conduct that governed their behavior at the work site, requiring such things as respect to others, proper dress, and language. Another work site we visited employed mentally and physically handicapped youth between the ages of 17 and 19 at a community park. The youth were taught skills related to taking initiative, having ethics in the workplace, and using proper language.

Oneida County Uses Various Monitoring Techniques to Safeguard Its Summer Youth Employment Program and Measure Outcomes Related to Participation and Work Readiness

To increase monitoring of the Recovery Act-funded program, Oneida County hired four employees temporarily to manage the monitoring of this program from May to December 2009. They worked to ensure all eligibility documentation was obtained before youth were employed; regularly performed site visits to all work sites throughout the summer to visually inspect them for safety hazards and use of safety equipment; and checked that appropriate work activities and adequate supervision were provided. According to local officials, each employer entered into a contract with Oneida County Workforce Development, detailing the specific work experiences to be provided and including a statement that two staff members would always be on site. One vendor had a process to support correct attendance counts each day for youth employed in landscaping activities. In this case, youth signed in and signed out with a manager at one central location before and after going to their work site, which could change daily.

The county measures completion and drop-out rates, daily attendance, and work readiness determinations of youth before and after the program. As of August 31, the completion rate for Oneida County was 87.5 percent and the drop-out rate was 12.5 percent. Of those that completed the employment, 100 percent attained work readiness.

Table 5: Outcomes of Participants at Two Oneida County WIA Work Sites

	Site A: number (percent)	Site B: number (percent)
Completion		
Enrolled	30	20
Completed	26 (86.7)	18 (90)
Work readiness		
Achieved	26 (100)	18 (100)
Future plans		
Employed	5 (19)	5 (28)
Applied to community college	4 (15)	4 (22)
Have or plan to take GED test	4 (15)	8 (44)
Applying for job in trade	3 (12)	3 (17)
Applied for year-round youth employment program	0 (0)	14 (78)

Source: Utica Municipal Housing Authority and Mohawk Valley Community College.

In addition, each youth jointly completed an individual service plan with a job counselor that documents the youths' short-term and long-term goals, among other things. Some program managers revisited the individual service plan with the youth at the end of the program. Local officials said that the daily attendance of older youth, ages 19 to 24, was higher than they expected based on similar programs they had conducted in the past. One local work site official said some youth associate the program with President Obama and, as a result, feel an obligation to complete the program.

NYSDOL Plans to Conduct Initial Reviews of Each of the 33 LWIAs by November 2009 to Help Assure Compliance with Recovery Act Requirements

As the agency responsible for administering WIA for New York, NYSDOL has a monitoring system in place to oversee the WIA Youth program and the activities of the LWIAs. For example, NYSDOL auditors plan to visit each of the 33 LWIAs by November 2009. The state anticipates visiting 23 of the LWIAs by September 2009. These initial reviews will consist of verifying that each LWIA has a budget and spending plan in place for Recovery Act funds to help ensure that expenditures, accruals, and obligations are properly reported and documented. Each LWIA will be required to complete a questionnaire to assess their ability to comply with the requirements of the Recovery Act and to determine if additional technical assistance is required.

After these initial visits, NYSDOL intends to continue monitoring a sample of the LWIAs with an emphasis placed on those LWIAs determined to pose the highest risk. This monitoring, which will continue through the life of the Recovery Act, involves both a fiscal and programmatic review. Among the key programmatic elements reviewed are adherence to workforce safety guidelines, conformity with applicable federal and state laws in regards to both wage and work requirements, and the eligibility of participants. The review is also expected to determine whether local areas are using Recovery Act funds as a supplement to their regular funding and not supplanting those funds.

NYSDOL Is Preparing to Measure the Outcomes of Recovery Act Funding for the WIA Summer Youth Employment Program to Meet Its Reporting Requirements, but Does Not Anticipate Meeting the 10-Day Reporting Deadline

NYSDOL officials said that each of the LWIAs regularly reports to it and will continue to report on the achievement of work readiness by the participants in their summer youth employment program. LWIAs did request a waiver from Labor for reporting work readiness for ages 14 to 17 because they felt that the measure was less applicable to this age group, as their WIA experience tended to emphasize educational experiences. The waiver has not been approved yet, as of August 31. NYSDOL allows each LWIA to develop its own work readiness measure, but the state reviews it before it can be implemented. For long-range outcomes, NYSDOL will track outcomes for those youth that were enrolled in Recovery Act-funded WIA summer youth employment activities and later receive youth services supported by regular WIA funding.

For reporting purposes, NYSDOL officials said the agency is the prime recipient and each of its 33 LWIAs are subrecipients. NYSDOL officials said that they will gather the data from the LWIAs, consolidate it, and report it for them in order to comply with the Section 1512 reporting requirements of the Recovery Act. They already gather extensive data from the LWIAs through their Management Information System and they anticipate modifying it to obtain whatever data are needed to comply with anticipated requirements. NYSDOL noted that a major issue in complying with these requirements was the delay in obtaining guidance from Labor on what it will require. This guidance was not issued until August 14, 2009. This delay has hampered their effort to provide guidance to the LWIAs on what is expected from them. More detailed information on NYSDOL's planned monitoring of Recovery Act expenditures can be found in GAO's previous bimonthly report.

NYSDOL officials raised a concern about the 10-day reporting requirement deadline. They do not believe that any state with multiple work areas, such as New York with 33 LWIAs, will be able to comply with that requirement

unless estimates are used in place of actual numbers. If actual numbers are required, it will take 20 to 30 days after the end of the quarter to come up with reliable figures.

Public Housing Agencies Have Made Progress Utilizing Recovery Act Funds

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management.⁴³ The Recovery Act requires the U.S. Department of Housing and Urban Development (HUD) to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date on which they are made available to public housing agencies, expend at least 60 percent of funds within 2 years, and expend 100 percent of the funds within 3 years. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date on which the funds are made available, as well as projects that rehabilitate vacant units, or those already underway or included in their current required 5-year capital fund plans.

HUD is also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published May 7, 2009, and revised June 3, 2009, HUD outlined four categories of funding for which public housing agencies could apply:

- creation of energy-efficient communities (\$600 million);
- gap financing for projects that are stalled due to financing issues (\$200 million);
- public housing transformation (\$100 million); and
- improvements addressing the needs of the elderly or persons with disabilities (\$95 million).

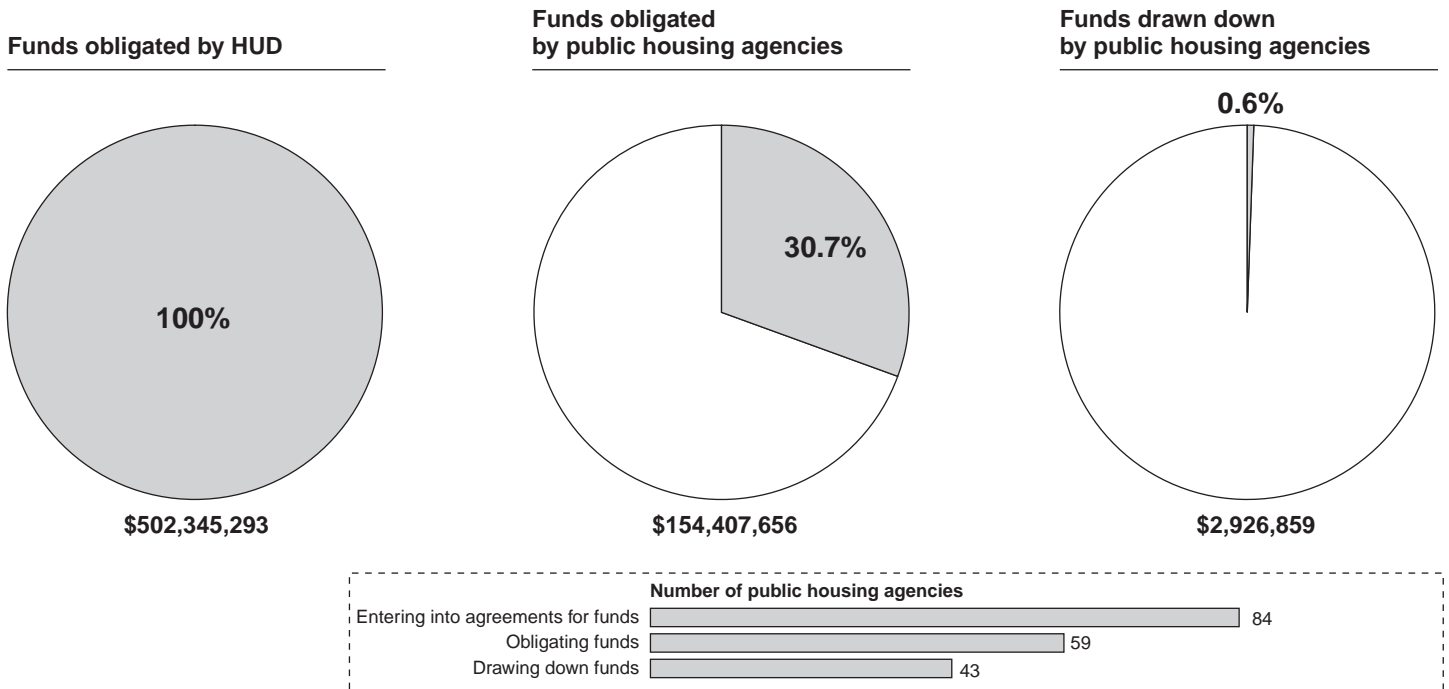
For the creation of energy-efficient communities, applications (which were due July 21, 2009) were to be rated and ranked according to criteria outlined in the Notice of Funding Availability. The last three categories

⁴³Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

will be threshold-based, meaning applications that meet all the threshold requirements will be funded in order of receipt. If funds are available after all applications meeting the thresholds have been funded, HUD may begin removing thresholds after August 1, 2009, in order to fund additional applications in the order of receipt until all funds have been awarded. Applications in these three categories were accepted until August 18, 2009.

New York State has 84 public housing agencies that have received Recovery Act formula grant awards through the Public Housing Capital Fund, totaling \$502.3 million. Though we visited three housing agencies for our previous report, we did not visit any housing agencies for this report cycle. However, we continued to monitor the use of Recovery Act funding by the 84 public housing agencies in New York State. As of September 5, 2009, 59 of the state's 84 public housing agencies have obligated \$154.4 million, while 43 have expended \$2.9 million, as illustrated by figure 6.

Figure 6: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in New York as of September 5, 2009



Source: GAO analysis of HUD data.

New York Is Focusing Guidance and Training Efforts on Meeting Reporting Requirements, but Concerns Remain

The New York Recovery Cabinet is taking several actions to help agencies comply with reporting requirements. For example, the Governor's Office has designated an individual to oversee Section 1512 Recovery Act recipient reporting requirements. In June 2009, this individual met with key officials in each agency, including finance, internal control, and program staff, to determine whether agency staff understood 1512 reporting requirements and were developing plans and procedures to help ensure that the requirements will be met in a timely manner. In addition, the New York State Division of the Budget contracted with a consultant to (1) assess the optimal approach (centralized, decentralized, or hybrid) to be used when reporting to the federal government; (2) assess state agencies' ability to meet Section 1512 reporting requirements; (3) provide assistance to agencies identified as high risks in complying with the reporting requirements, and (4) assess the state's ability to conduct centralized quality assurance procedures for accurate and complete reporting to the federal government. The Governor's Office identified 26 agencies or prime recipients, including MTA, that are responsible for complying with the reporting requirements.⁴⁴ To help ensure that the state meets its reporting requirements over the course of the Recovery Act, the state also issued a request for proposal for a Recovery Act consultant to serve on a longer-term basis in assisting state agencies.

The consultant has taken several actions to help New York meet its reporting requirements. The consultant prepared a survey that was sent to the 26 agencies, which are subject to the 1512 reporting requirements. The consultant was to analyze the results of the survey, work with the state to develop risk criteria, and assign a risk rating to each agency and program. This work was to be completed during the first week of July 2009.⁴⁵ Based on the state's estimate, 16 to 18 of the 26 agencies that are subject to Recovery Act reporting are considered high risk. For those agencies and programs assessed as high risk, the consultant is conducting follow-up workshops to (1) assess ability to report required data or data element

⁴⁴According to the Governor's Office, they have compiled an inventory of prime recipients that is maintained and updated as necessary by the Recovery Cabinet. Inventories of subrecipients are being maintained by the agency making the subaward or contract.

⁴⁵On August 18, 2009, we requested survey results, which include a list of agencies that are considered high risk. However, as of September 16, 2009, we still had not received the list.

capability,⁴⁶ (2) assist agencies in meeting reporting requirements, and (3) identify any gaps with the Recovery Act requirements. In addition, the state has used a consultant to provide training on reporting requirements to agencies and other recipients. For example, the consultant conducted an in-person training session on section 1512 reporting requirements for state personnel in June and a Webinar for non-state prime recipients or subrecipients (such as local governments, nonprofits, and contractors) on section 1512 reporting requirements in July.⁴⁷ Additional training via Web cast is scheduled for September 10th. The recovery czar said that 200 people attended the in-person training and 1,500 people attended the Webinar.

On August 6, 2009, the New York recovery czar issued guidance to state agencies about the collection of Recovery Act Section 1512 reporting data. New York has chosen the decentralized approach for reporting recipient information, so each state agency that is a prime recipient will report directly to www.federalreporting.gov. In addition, the guidance states that each agency will report both prime recipient and subrecipient data and that prime recipients will not delegate reporting responsibility to a subrecipient. For example, DHCR intends to collect all the data required by DOE for reporting purposes from the 64 subgrantees running the state's weatherization program and report it for them. In addition, prime recipients who receive funds directly from a federal agency, such as MTA, will also report directly to www.federalreporting.gov.

According to the Governor's Office, many of the state agencies have reporting plans in place, but they vary in their thoroughness of planning and capabilities. Officials in the Governor's Office said that they are less concerned about agencies such as NYSDOT and NYSDOL, which are very experienced with federal reporting requirements, than some of the programs or agencies, such as the weatherization program, that are relying on local community-based organizations to administer Recovery Act funds. Such local organizations may not have experience with federal reporting requirements.

⁴⁶The specific data elements to be reported by prime recipients or subrecipients includes award type, description, amount of Recovery Act funds expended to projects/activities, project status, number of jobs created and retained, and amount awarded to and received by subrecipients.

⁴⁷This Webcast is archived at www.recovery.ny.gov.

New York State is also taking measures to help ensure accurate and complete reporting of the state's data elements. For example, the consultant is assessing the state's 1512 data element capability and quality assurance capability. In addition, officials at the Governor's Office said that they will begin working on a formal process regarding data quality reviews and that it plans to involve the state's quality control office. According to the Governor's Office, on August 4, affected agencies were informed that they are required to incorporate quality control measures related to Section 1512 reporting in their internal control and audit plans. The Governor's Office said that those plans will be reviewed soon to determine whether agencies have complied with this requirement. It is also developing a standard checklist of items that should be reviewed in the 1512 data quality control process for distribution to the agencies and plans to designate an individual to provide central oversight of agency compliance with quality control standards.

According to the Governor's Office, subrecipients will provide information to state agencies, which will assess the quality of the data and identify any issues such as double counting. A state official said that some subrecipients may submit reports on paper, which will require agencies to perform data entry. The state official also said that agencies are prepared to make phone calls between September 30th and October 10th to get the reports from sub-recipients. According to Office of the State Comptroller (OSC) officials, New York State has good systems to capture financial data, but it does not have good systems to capture measurement or impact data, such as the number of jobs created. The financial information in the state's central accounting system will be used along with agency-specific reporting on individual projects/activities to meet Recovery Act quarterly reporting requirements. The state officials also said that the contract information for state agencies can be obtained in real-time from Open Book, which is managed by OSC.⁴⁸

The Governor's Office said that it is not certain about the extent of the program results it will report on October 10, 2009. In addition, an official from the Governor's Office said that some federal agencies are requiring recipients to track other performance measures. However, the official said that this can create confusion because OMB has separate requirements from the federal agency with whom a recipient normally interacts. For

⁴⁸Open Book does not include financial data for agencies, such as MTA, that receive funds directly from federal agencies.

example, while OMB requires recipients, such as MTA, to report the number of FTEs on a Recovery Act job, FTA guidance requires the same recipients to report work hours.

State Comments on This Summary

We provided the Governor of New York with a draft of this appendix on September 9, 2009. Representatives from the Governor's Office and the oversight agencies responded on or about September 11, 2009. In general, except for NYSDOT's disagreement with our concurrence with OSC's recommendation on the potential conflict of interest issue, they agreed with our draft and provided some clarifying information, which we incorporated. We addressed NYSDOT's comments in the respective section. The officials also provided technical suggestions that were incorporated, as appropriate.

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Appendix XIV: North Carolina

Overview

The following summarizes GAO's work for the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in North Carolina. The full report covering all of our work in 16 states and the District of Columbia is available at <http://www.gao.gov/recovery/>.

Our work in North Carolina focused on three programs funded under the Recovery Act—the State Fiscal Stabilization Fund (SFSF) administered by the U.S. Department of Education (Education), Highway Infrastructure Investment funds administered by the U.S. Department of Transportation's Federal Highway Administration (FHWA), and the Weatherization Assistance Program administered by the U.S. Department of Energy (DOE). Because SFSF is a new program and the state has disbursed funds to localities, we reviewed the SFSF to determine how the state was managing the allocation and distribution of funds. We also reviewed selected localities' planned expenditures and contracting procedures for education Recovery Act funds, including those that expanded existing funding under Title I, Part A of the Elementary and Secondary Education Act (ESEA) and Part B of the Individuals with Disabilities Education Act (IDEA). In addition, we reviewed contracts for highway projects using Highway Infrastructure Investment funds that have been underway in North Carolina for several months, including oversight of these contracts. As we have done in our previous reports, we reviewed the Weatherization Assistance Program because it is considered a high-risk area because it will receive significantly more funds than in prior years. For each program, we reviewed the planning and preparation efforts in place for the October 2009 Recovery Act recipient reporting requirement. In addition to these programs, we also reviewed challenges that rural small localities have faced in accessing Recovery Act funds because several state officials have told us that this is an area of risk in the state. We also reviewed and analyzed preliminary data collected by the North Carolina League of Municipalities (NCLM) on municipalities' efforts to pursue Recovery Act funds. We determined this information to be reliable for our purposes. Also, we updated information on North Carolina's budget situation and how the Recovery Act funds will be used to stabilize the budget.

Recovery Act funds are being directed to helping North Carolina stabilize its budget and support local governments, and to stimulate infrastructure

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

development and expand existing programs that will provide needed services and potential jobs.

Budget

- On August 7, 2009, the Governor of North Carolina signed the budget bill (SB 202) into law, after the state used continuing resolutions to keep the government operating from June 30—the end of the prior fiscal year—until the budget was signed.
- To close the state’s \$4.8 billion shortfall, the state is using \$1.4 billion of Recovery Act funds, making \$2 billion in cuts to the state budget, and closing the remaining gap with \$1.4 billion in tax and fee increases.
- Beginning in October 2008 and continuing through May 2009, the North Carolina Division of Medical Assistance (DMA) overbilled the federal Centers for Medicare & Medicaid Services (CMS) and received \$291 million for federal reimbursement for Qualified Public Hospital medical claims under Medicaid. The overbilling occurred because a DMA employee, who was new to this area of responsibility, erroneously requested federal reimbursement for this program rather than state funding. However, according to state officials, none of the \$291 million in overbillings involved Recovery Act funds. Nevertheless, this will impact the state’s 2010 budget. To begin repaying the overbillings, the North Carolina Department of Health and Human Services (NCDHHS) requested \$160 million less in federal reimbursement than actual Medicaid expenditures incurred by the state for the period covered by the July 31, 2009 reimbursement. The NCDHHS anticipates paying the balance in quarterly installments over the remainder of fiscal year 2010 by reducing the federal reimbursement for its actual expenditures.

U.S. Department of Education State Fiscal Stabilization Fund; ESEA Title I, Part A; and IDEA, Part B Funds

- Education had approved North Carolina’s application for the state’s SFSF award and released \$1 billion to the state as of August 19, 2009.
- The state approved 115 applications from local educational agencies (LEA) and 96 applications from charter schools,² which are also LEAs, for SFSF funds and released the funds in August 2009.

²A charter school LEA must receive SFSF funding on the same basis as other LEAs in the state. State law determines whether a charter school is an LEA or a school within an LEA.

- As of September 1, 2009, the state had allocated \$129 million in ESEA Title I, Part A and \$130 million in IDEA, Part B funds awarded under the Recovery Act to LEAs. The state reported that as of August 31, 2009, LEAs had expended about \$9.6 million and \$27 million, respectively, for these two programs.
- LEAs GAO visited reported using Recovery Act funds to save jobs of school personnel.
- State officials report that after receiving guidance from Education they are developing a comprehensive plan for monitoring SFSF use at the local level.

Highway Infrastructure Investment

- FHWA apportioned \$736 million in Recovery Act funds to North Carolina. As of September 1, 2009, the federal government had obligated \$452.9 million for North Carolina and \$38 million had been reimbursed by the federal government.
- As of September 1, 2009, the North Carolina Department of Transportation (NCDOT) had advertised for bids for 101 proposed contracts representing a total value of \$386 million in estimated Recovery Act funding. Of the 101 proposed contracts, 88 contracts had been awarded for \$348 million, and work has begun on 77 of these contracts representing a total value of about \$330 million. Many of these contracts involve road paving.
- Based on the high-profile nature of the Recovery Act, the FHWA—NC Division has increased oversight for Recovery Act highway projects.
- NCDOT is using its established process for awarding and overseeing contracts for Recovery Act highway projects.
- NCDOT anticipates meeting the October 2009 recipient reporting requirements for Section 1512 (c) of the Recovery Act.

Weatherization Assistance Program

- Of the \$132 million in Recovery Act weatherization funding North Carolina is expected to receive, DOE has provided \$66 million. State weatherization officials are in the process of disbursing approximately \$13 million of the Recovery Act weatherization funds to local weatherization agencies to fund start up activities such as buying equipment and vehicles and funding public awareness campaigns.

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- State weatherization officials do not have any concerns associated with incorporating the Recovery Act weatherization requirements, such as compliance with the Davis-Bacon Act, or with monitoring the use of funds.
 - State weatherization officials plan to follow both the normal and Recovery Act reporting requirements, which include programmatic quarterly reports, monthly financial status reports, and Office of Management and Budget (OMB) Section 1512 reporting requirements. Officials do not anticipate having any challenges with respect to complying with these reporting requirements in a timely manner.

Rural Issues

- North Carolina includes approximately 550 municipalities and 100 counties, many of which are small or rural. According to U.S. Department of Agriculture 2008 estimates, about one-third of the state's residents lived in nonmetropolitan counties, and these counties had higher poverty rates and lower income than the statewide averages.
- North Carolina municipalities rely on a variety of sources in obtaining information about the Recovery Act that include federal, state, and nonprofit sectors. Officials from North Carolina's Office of Economic Recovery and Investment (OERI) told us that they have held a series of informational workshops across the state since April 2009 designed to provide a question and answer forum for local officials and the general public. Still, officials in three of the municipalities we visited reported a variety of challenges identifying information about Recovery Act funding opportunities, such as navigating a "maze" of funding opportunities and having staff-capacity issues.
- Several North Carolina state officials told us that many of the state's small towns and cities have been historically understaffed and may lack the expertise to apply for and administer federal grants. Local officials we interviewed expressed concerns about their capacity to apply for and administer Recovery Act funding. For example, officials in two localities told us that they lack funds to meet the federal matching requirements or other up-front costs needed for some Recovery Act programs.

Recipient Reporting

- OERI has undertaken initiatives to help ensure state agency Section 1512 Recovery Act Recipient Reports are complete, accurate, and submitted on time.

- Based on the results of an assessment, the OERI official in charge of reporting issues told us that he has a high level of confidence that North Carolina state agencies will be ready to submit the required reports in October.
- As of September 4, 2009, none of the respondents to a state survey on subrecipient delegation and data quality requirements reported they were planning to delegate reporting responsibility to subrecipients.
- Some state officials indicated concerns with the methodology to be used for measuring jobs created or retained.

North Carolina Used Recovery Act Funds to Mitigate State's Budget Shortfall

On August 7, 2009, the Governor of North Carolina signed the biennial budget bill (SB 202) into law, after the state used continuing resolutions to keep the government operating from June 30—the end of the prior fiscal year. The biennial budget includes about \$19 billion in appropriations for fiscal year 2010 and \$19.5 billion in appropriations for fiscal year 2011. In developing the budget, the North Carolina Legislature faced a \$4.8 billion budget shortfall in fiscal year 2010. To close this shortfall, the state is using \$1.4 billion of Recovery Act funds, making \$2 billion in cuts to the state budget, and closing the remaining gap with \$1.4 billion in tax and fee increases, according to state officials. Although the legislature cut many state agency budgets, certain areas of the budget received proportionately smaller cuts. For example, state budget officials told us that the state Department of Public Instruction (DPI) took a relatively small funding cut relative to the size of the agency's budget. Although agencies will be operating at 95 percent of their budgets for several months, officials from the Office of State Budget and Management (OSBM) said they plan to ease restrictions on agencies' discretionary spending put in place for the 2009 state fiscal year. According to state officials, regarding tax increases, the budget included increased income and sales tax rates.

In order to better track the flow of Recovery Act funds in North Carolina, OSBM continues to develop an electronic data collection system. The new system will serve as the state's Recovery Act tracking tool and will pull data from several state accounting and procurement systems in order to present a more comprehensive accounting of Recovery Act funds. OSBM officials noted that it is their goal to have this system available by February 2010.

North Carolina Overbilled Medicaid, Which Will Reduce State Fiscal Year 2010 Federal Medicaid Reimbursements

According to officials with the North Carolina Department of Health and Human Services (NCDHHS) and the North Carolina Office of the State Auditor, beginning in October 2008 and continuing through May 2009, the North Carolina Division of Medical Assistance (DMA) overbilled the federal Centers for Medicare & Medicaid Services (CMS) and received \$291 million for federal reimbursement for Qualified Public Hospital medical claims under Medicaid. The overbilling occurred because a DMA employee, who was new to this area of responsibility, erroneously requested federal reimbursement for this program rather than state funding. According to the officials, none of the \$291 million in overbillings involved Recovery Act funds.

Although the overbillings did not involve Recovery Act funds, this will impact the state 2010 budget. After the Medicaid billing error was discovered, the Secretary of NCDHHS met with CMS officials on July 22, 2009, to self-report the overbillings and to discuss how to repay the \$291 million. CMS and NCDHHS officials agreed that North Carolina would make its first repayment of the funds in the amount of \$160 million on July 31, 2009. This repayment was done by requesting \$160 million less in federal reimbursement than actual expenditures incurred by the state for the period covered by the July 31, 2009 reimbursement. The NCDHHS anticipates paying the balance in quarterly installments over the remainder of state fiscal year 2010 by reducing the federal reimbursement for its actual expenditures.

Recovery Act Funds for Education

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHEs). The initial award of SFSF funding required each state to submit an application to the U.S. Department of Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are

referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

The Recovery Act provides \$10 billion to help local educational agencies (LEAs) educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.³ The U.S. Department of Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The U.S. Department of Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Part C funds programs that provide early intervention and

³ LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

related services for infants and toddlers with disabilities—or at risk of developing a disability—and their families. The U.S. Department of Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

State Fiscal Stabilization Funds Help North Carolina Address Large Budget Shortages

In its May 2009 SFSF application, North Carolina cited an “extreme and historic revenue shortfall” that resulted in the state ordering most of its agencies to return 11 percent of their state funding to the state. The state also reported it had adopted several budget restrictions, including freezing purchases of goods and services, limiting travel, and prohibiting the filling of most vacant positions. Also, the state cited an urgent need for funding to meet personnel costs, specifically requesting \$127 million in SFSF funds to cover May and June payroll for state IHEs. The state made required assurances, including that it would meet Recovery Act maintenance-of-effort requirements by maintaining state support for education at no less than fiscal year 2006 levels of \$7.0 billion for elementary and secondary education and \$2.6 billion for public IHEs. The state also indicated it would not use SFSF funds to restore state funding to elementary and secondary education in fiscal year 2009, but would use \$127 million cited above for IHEs in fiscal year 2009. For 2010, the state projected using \$721 million for elementary and secondary education, but that it would not use SFSF funds for IHEs. Education approved North Carolina’s application and, as of August 19, 2009, had released to the state \$1.0 billion of its \$1.4 billion total allocation.

An official from the state budget office told us the state is in the process of amending its SFSF application and now plans to use approximately \$3.9 million of its governments services fund award to support North Carolina Virtual Public School (NCVPS) program courses. NCVPS provides online courses to high school students throughout the state. The government services fund monies would support a portion of the instructional costs of providing the courses in Spring semester 2010.

North Carolina’s Department of Public Instruction (DPI) required LEAs to apply for education stabilization funds by June 30, 2009. A North Carolina education official told us they modeled the LEA application for SFSF funds after the applications from a number of states, including California. The application required LEAs to make several assurances concerning the use and reporting of SFSF funds. For example, LEAs must assure they will administer SFSF funds in accordance with federal laws, including specific provisions of the Recovery Act, federal regulations, and state requirements

for school facility construction. Although North Carolina was required to assure that it would make progress toward educational reforms as a condition of receiving SFSF funds, the state did not require LEAs to certify that they would make such progress. While the state cannot tell LEAs how they must use SFSF funds, Education's guidance for the program specifically notes that a governor "may require an LEA to describe in its local application how the LEA will assist the state in advancing essential reforms in the four areas for which the state provides assurances in its application for Stabilization funds."⁴ According to a state Department of Public Instruction official, the department did not require the education reform assurances in the LEA applications, but they directed LEAs to Education's guidance on the SFSF program. Further, the state official with responsibility for overseeing SFSF emphasized that they were committed to making progress toward education reforms, and said that they have accountability measures in place to monitor progress.

DPI officials report that all 115 of North Carolina's LEAs, and the state's 96 charter schools, which are also LEAs, applied for education stabilization funds. State officials said they reviewed and approved applications as they were received, and as of August 25, 2009, all applications had been approved. DPI notified North Carolina's LEAs of their allocation amounts and made the funds available to LEAs on August 19, 2009. As of that date, the state had allocated \$380 million of education stabilization funds to LEAs. In addition to education stabilization funds, North Carolina had allocated, as of September 1, 2009, \$129 million in ESEA Title I, Part A funds and \$130 million in IDEA Part B funds. As of August 31, 2009, the state reported that LEAs have expended \$14.3 million in SFSF funding, \$9.6 million in ESEA Title I, Part A funds, and \$27 million in IDEA, Part B funds.

⁴The four areas of education reform from the Recovery Act as described by Education are: (1) making improvements in teacher effectiveness and addressing inequities in the distribution of highly qualified teachers, (2) making progress toward rigorous college and career-ready standards and assessments that are valid and reliable for all students, (3) providing targeted, intensive support and effective interventions to turn around schools identified for corrective action or restructuring, and (4) establishing a pre-K-through-college data system to track student progress and foster improvement.

North Carolina Developing Plans to Monitor Local Use of Education Stabilization Funds

State officials told us they have not yet developed specific plans to monitor local use of SFSF funds, but are now doing so in response to guidance Education issued on August 27, 2009. Specifically, the guidance—issued as a letter to state officials via Education’s listserv for SFSF grantees—references statutory and regulatory requirements with which SFSF grant recipients must comply and advises recipients that they must have a comprehensive SFSF monitoring plan in place that includes a monitoring schedule, monitoring policies and procedures, data-collection instruments, monitoring reports and feedback to subrecipients, and processes for verification of implementation of corrective actions at the subrecipient level.

DPI officials told us they planned to rely on existing procedures for monitoring LEAs’ uses of funds. The existing procedures, according to the DPI official responsible for overseeing SFSF, include reviews of LEAs budgets and expenditures to ensure that expenditures comply with state-approved budgets. The official also said they trained certified public accounting firms in monitoring the spending of federal funds, and then review the firms’ annual financial statement audits of LEAs.

Also, a DPI official told us they are modifying the state’s data collection system to capture additional data elements required to meet recipient reporting requirements of the Recovery Act. Specifically, the state official reported that they currently capture a majority of required data elements, but that they would need to put procedures in place to capture elements they do not collect, such as jobs created. The state official said that the information that DPI reported for the October quarterly report required under the Recovery Act would only capture expenditures by LEAs through the end of August. The official also said that they would not be able to report data through the end of September because that would not give them sufficient time to ensure the accuracy and completeness of the data.

Rural LEAs Visited

GAO visited two LEAs in North Carolina to better understand the issues facing rural LEAs and to review contracting practices when Recovery Act funds are used. We chose Lincoln County Schools and Perquimans County Schools because they are located in rural counties and information we obtained from the state DPI indicated both counties had used Recovery Act funds to contract for services. Lincoln County Schools had a total school year 2007-2008 budget of about \$100 million. The LEA’s 24 schools served 12,193 students and employed 1,810 persons in school year 2007-2008. Perquimans County serves 1,800 students through four schools and employs about 150 licensed personnel. The Perquimans school

superintendent told us that the LEA's student population has been decreasing annually, which, in turn, has led to a decrease in funds from state and federal sources. Officials in both LEAs told us they were facing budget shortages.

Rural LEAs Reported Recovery Act Funds Help Address State Budget Cuts and Will Be Used to Save Jobs

Officials in both LEAs told us they are using Recovery Act funds to offset budget reductions. Lincoln County's school superintendent told us the LEA had two overarching goals for its use of Recovery Act funds: first, to save jobs, and second, to preserve the integrity of classroom instruction by minimizing class-size increases. Lincoln officials also expressed concern that budget cuts will prevent the LEA from continuing some of the educational reforms it had already put in place.

Lincoln County school officials reported they were able to use Recovery Act ESEA Title I funds to save teaching jobs, and SFSF funds to save support positions. A Lincoln official told us they plan to use the LEA's \$2.8 million in SFSF funds primarily to save 119 custodial and clerical positions, which were cut as a result of state budget cuts. He also told us they will use Title I funds to save the jobs of 24 teacher assistants and that IDEA funds will help save the jobs of 9 teachers and 11 teacher assistants. Under both IDEA and Title I, a Lincoln official said the district took steps when retaining positions to ensure they did not violate federal "supplement, not supplant" requirements. The supplement, not supplant requirements of ESEA and IDEA generally require that federal funds must only supplement the funds that would, in the absence of federal funds, be made available from non-federal sources (for Title I) or state, local or other federal funds (for IDEA).

While federal funds have helped to save jobs, Lincoln officials still anticipate decreasing teaching positions, and, as a result, class sizes will increase. While committed to maintaining class size at current levels in kindergarten through grade 3, officials said they anticipate increasing class size by one student in grades 4 through 12, but may have to increase class size by two students in high schools. Also, officials said that they will reduce the number of hours some clerical staff work and leave some vacant positions unfilled. Officials said that Recovery Act IDEA funds would allow them to expand services for exceptional children. For example, Lincoln has hired two "interventionists" who will work with regular classroom teachers modeling effective instructional interventions in reading and mathematics. These two positions are funded for the two years the LEA will receive Recovery Act funds. Lincoln officials also said that additional IDEA funds will help address the needs resulting from an

increase in the population of exceptional children they serve, particularly children with hearing impairments and autism.

The Perquimans County School district is facing a similar fiscal situation to that of Lincoln County and has also prioritized saving jobs. The school superintendent said the LEA relies heavily on state funding, but the state budget lowered funding for the LEA every year. He also said the LEA began planning for budget cuts last year and has been successful in bringing in additional funding from grants for which it applied. The school superintendent told us Recovery Act funding will get the LEA through this school year, but once Recovery Act funds are expended, the LEA is likely to face a “funding cliff” that will result in the LEA being in the same fiscal position it is now. Perquimans officials said they had ideas for innovative practices they would have liked to implement with education stabilization funds, but with the continued deterioration of the state funding to education, the LEA must use all funds available to it to save jobs. Perquimans officials said they will use the Title I funds to save jobs in extended day and preschool programs as well as IDEA funds to save jobs. One Perquimans official told us they are working with a state university to provide telespeech services for 23 students and plan to use Recovery Act IDEA funds to pay for these services. That official told us this effort has the potential of saving the LEA money.

Both LEAs reported they have received guidance from the state on the use of education stabilization funds. Perquimans officials told us most of the information they have received on Recovery Act education programs came from the state, but they sometimes have sought information directly from Education or other federal sources. Likewise, a Lincoln County official said they had received preliminary guidance from state officials and that the state’s guidance to LEAs has improved as Education has released more guidance. Lincoln County officials also told us they shared all guidance they have received with teachers and other employees.

LEAs Cite Challenges in Procurement

Officials in both LEAs told us they face challenges in finding qualified contractors. Perquimans officials said their LEA relies heavily on contractors to provide needed services for exceptional students because it is difficult to find the specialized staff exceptional children need, and in some cases, they need to solicit contractors from as far away as Virginia. Perquimans officials told us they had received some guidance from DPI on contracting with Recovery Act funds, and reported using Recovery Act funds to pay for contracted services. Due to the shortage of qualified contractors locally, Perquimans officials reported they plan on issuing a

sole-source contract for these services. A Perquimans official reported to us that they often need to research and solicit contractors individually in order to find a qualified person to meet their needs. The same Perquimans official said that they often contact surrounding LEAs to identify qualified contractors with which those districts have worked. One official also reported that contracts usually set a maximum payment to contractors based on a set wage rate and estimated number of hours to be spent on contract activities. They told us that contracts are generally for one school year. Lincoln officials also said they often consult with other LEAs that have needs similar to their own in order to identify qualified contractors. A Lincoln official also reported that the typical period of contract performance is for the duration of the school year and generally contracts are fixed price, based on a per student cost. However, Lincoln officials told us they do not anticipate using Recovery Act funds for contracting.⁵ Nonetheless, according to a Lincoln official responsible for contracting, their procurement policies and procedures are based on those of DPI and require a formal process for all contract solicitations over \$90,000. The official stated for contract solicitations with an estimated value between \$30,000 and \$90,000 the LEA would use a less-formal process that includes a letter of interest to potential bidders and the solicitation of at least three bids. The procurement official stated that all procurements over \$100,000 must be approved by the local Board of Education.

Transportation: Highway Infrastructure Investments

The Recovery Act provides funding to states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon Act requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the

⁵We selected Lincoln County for review based on information from DPI that indicated that Lincoln County had contracted for IDEA services with Recovery Act funds. However, during our site visit, Lincoln County officials informed us that what had been reported as contracted services was actually a reclassification of costs from the LEA's state funding account to the federal Recovery Act account due to reversions in state aid.

awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

The Federal Highway Administration—North Carolina (FHWA—NC) Division is one of the 52 operating federal-aid Division Offices of the federal Highway Administration (FHWA) and is located in Raleigh, North Carolina. The FHWA—NC Division is responsible for administering the federal-aid highway program to help maintain the integrity and safety of North Carolina’s roads and bridges. The staff has technical expertise and other resources, and provides oversight and coordination of the federal-aid program in North Carolina. The North Carolina Department of Transportation (NCDOT) is the primary recipient of all federal-aid highway funds in North Carolina. The NCDOT is responsible for building, repairing, and operating highways, bridges, and other modes of transportation, including ferries, in North Carolina.

Overview

The U.S. Department of Transportation’s FHWA apportioned \$736 million to North Carolina in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$452.9 million⁶ has been obligated for mainly pavement improvement projects. Also, funds have been obligated for 101 contracts either begun or advertised for bids. Based on the high-profile nature of the Recovery Act, the FHWA—NC Division has increased oversight for Recovery Act highway projects. According to agency officials, the NCDOT is using its established process for awarding and overseeing contracts for Recovery Act highway projects. Moreover, the NCDOT anticipates meeting the October 2009 recipient reporting requirements for Section 1512 (c) of the Recovery Act.

⁶This does not include obligations associated with \$4.9 million of apportioned funds that were transferred from the FHWA to the Federal Transit Administration (FTA) for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

Recovery Act Funds Have Been Obligated for NCDOT and Expended Mainly for Pavement Improvements Projects

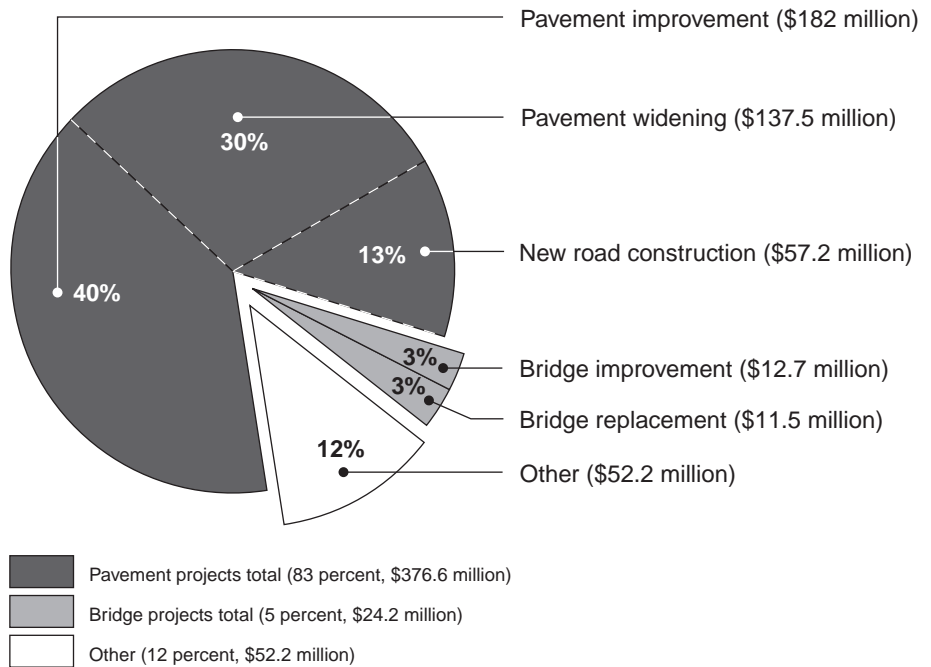
As we reported in July 2009, \$736 million was apportioned to North Carolina in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$452.9 million had been obligated.⁷ As of September 1, 2009, \$38 million had been reimbursed by FHWA.⁸

Almost 83 percent of Recovery Act highway obligations for North Carolina have been for pavement projects. Specifically, \$376.6 million of the \$ 452.9 million obligated as of September 1, 2009, is being used for pavement projects. As reported in our April 2009 report, NCDOT officials told us that they identified these projects based on Recovery Act direction that priority is to be given to projects that are anticipated to be completed within a 3-year time frame, and that are located in economically distressed areas. Figure 1 shows obligations by the types of road and bridge improvements being made.

⁷For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

⁸States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Figure 1: Highway Obligations for North Carolina by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

According to the NCDOT, as of September 1, 2009, the Department had publicized contract opportunities for 101 proposed contracts representing a total value of \$386 million in estimated Recovery Act funding. According to officials, of the 101 proposed contracts, 88 contracts had been awarded for \$348 million, and work has begun on 77 of these contracts representing a total value of about \$330 million. According to an NCDOT official, approximately 40 of the 101 proposed contracts that had been solicited, representing \$82 million, are anticipated to be complete by December 1, 2009.

FHWA—NC Division Oversight Increased for Recovery Act Projects

According to the FHWA—NC Division officials, the division will provide oversight of all Recovery Act highway projects based on the high-profile nature of the Recovery Act and its Risk Management Plan for the Recovery Act. These officials stated that prior to the Recovery Act, the FHWA—NC

Division typically provided full oversight of federal-aid projects only when the projects were on the National Highway System (NHS)⁹ or if the project would be added to the Interstate Highway System. FHWA—NC Division’s full oversight of projects includes coordination, review, and approval of several steps in the planning and project-development phase and in the design and construction phase. Normally, for those federal-aid projects not subject to the FHWA—NC Division’s full oversight, the division, after approval of the environmental decision document, delegated authority to the NCDOT for the remaining design and construction steps without project review by the FHWA—NC Division.

The FHWA—NC Division increased its oversight for Recovery Act projects based on a Risk Management Plan, completed on March 27, 2009, for such projects. The Risk Management Plan identified six major risk areas that needed to be managed for the successful implementation of Recovery Act projects:

- quality of plans, specifications, and the engineering cost estimate;
- conformance to federal-aid regulations by projects administered by local governmental agencies;
- adherence to civil rights provisions;
- construction monitoring and quality assurance in materials;
- fiscal oversight and eligibility of costs; and
- achievement of Recovery Act program goals.

The FHWA—NC Division will provide oversight of all Recovery Act projects. For all Recovery Act projects that affect the NHS, the FHWA—NC Division will continue its traditional full oversight of these projects. For all other Recovery Act projects, the FHWA—NC Division will provide more limited oversight. This oversight will include reviewing each project in regard to the first five risk areas cited above and monitoring NCDOT reporting of Recovery Act data for the program goal achievement risk area. Also, the FHWA—NC Division will check whether (1) the project is

⁹The NHS includes the Interstate Highway System as well as other roads important to the nation’s economy, defense, and mobility. The NHS was developed by the Department of Transportation (DOT) in cooperation with the states, local officials, and metropolitan planning organizations (MPO). According to an FHWA—NC Division official, the NHS for North Carolina includes about 1,000 miles of interstate and about 5,400 miles of other designated highways.

on the State Transportation Improvement Plan,¹⁰ (2) environmental and right-of-way documentation is included, and (3) plans, specifications, and the engineering cost estimate are included. Additionally, the FHWA—NC Division conducts project preconstruction scoping reviews during the design stage on several Recovery Act projects. During construction of the Recovery Act projects, the FHWA—NC Division plans to conduct at least one construction inspection on each Recovery Act project.

Established NCDOT Process for Awarding and Overseeing Contracts for Highway Projects Will Remain the Same under the Recovery Act

According to NCDOT, its process for awarding and overseeing contracts for highway projects funded under the Recovery Act has not changed except for processes to collect data for the new reporting requirements under the Recovery Act. According to NCDOT officials, the NCDOT uses the same overall process for awarding contracts involving Recovery Act projects as it does for other federal-aid highway projects. Contracts valued over \$1.2 million are awarded by the NCDOT headquarters in Raleigh, North Carolina and contracts valued at or below \$1.2 million may be awarded by NCDOT's 14 divisions¹¹ or the NCDOT headquarters.

According to NCDOT officials, prior to July 1, 2009, contractors bidding on projects through the 14 highway divisions that were at or below \$1.2 million were not required to be prequalified. However, after July 1, 2009, all contractors, regardless of the contract amount, are required to be prequalified as responsible contractors by NCDOT to be eligible for contract award. According to NCDOT officials, this change did not occur as a result of the Recovery Act but was a process improvement to make the prequalification requirements the same for all contractors. NCDOT officials told us that their prequalification process includes a review of the company's financial position, the number and skill sets of its labor force, its equipment, and its safety record. Specifically, officials told us that NCDOT examines the company's prior year's audited financial statements and documentation on (1) a surety company's willingness to issue performance and payment bonds for its work, (2) the company's safety citations including those for any safety-related injuries, (3) the company's labor workforce including its skill certifications, (4) the condition and

¹⁰ The State Transportation Improvement Plan is a 7-year outline of the state's transportation priorities and needs identified through the development of the comprehensive transportation plan prioritized by each local planning organization and presented to the North Carolina Board of Transportation for programming.

¹¹ NCDOT has 14 highway divisions and each division represents a number of counties.

maintenance of its equipment, and (5) the capacity of the company to perform the type of work required. Also, included in the prequalification process is an examination of the contractor's Non-Collusion Affidavit¹² and Debarment Certification¹³ covering the prior 3 years (from the date of the contractor's application for prequalification) which are submitted with the contractor's application for prequalification. NCDOT's prequalification of a contractor generally covers a three-year period, with annual updates for any changes in officers or safety record and annual affidavits regarding noncollusion. According to NCDOT officials, a contractor involved in nonperformance of a contract will be removed from NCDOT's list of prequalified contractors and not allowed to bid on future contracts.

According to officials, after authorization of the project by the FHWA—NC Division, NCDOT, using its normal process for federal-aid projects, solicits bids by mailings to established contractors, placing legal notices in newspapers with statewide circulation, and posting the invitation for bids on NCDOT's official Website. Further, any bids received that are 10 percent above or 15 percent below the NCDOT engineering project cost estimate are specifically reviewed by the bid review committee to examine whether the bid proposal includes omissions or errors in material quantities. Also, a FHWA—NC Division official said that a FHWA—NC Division representative attends the deliberations of the NCDOT bid review committees as a nonvoting member for federal-aid projects (including Recovery Act projects) over \$1.2 million. FHWA—NC Division officials said that the nonvoting observer role of its representative in these deliberations is designed to avoid problems in awarding the contract. For NCDOT Highway Division-awarded contracts (valued at \$1.2 million or less), the FHWA—NC Division conducts a postaward review of selected contracts to assess whether the NCDOT Highway Division has followed NCDOT policies and procedures.

¹² The Non-Collusion Affidavit states "The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent, or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor."

¹³ According to a March 16, 2009, invitation to bid on a contract, Debarment Certification essentially requires the bidder to certify that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency as well as other certifications regarding criminal convictions and judgments.

To protect North Carolina and the federal government against prime contractor nonperformance, NCDOT officials said that contract performance and payment bonds¹⁴ covering 100 percent of the project's contract amount are required for all highway projects (including Recovery Act projects) valued over \$300,000. An official with a bonding company told us that his company exercises much due diligence in examining companies before deciding to issue performance and payment bonds for a contractor. This official further explained that his bonding company investigates the financial position of the company, the integrity and honesty of the officers, and capacity of the contractor to perform the work before issuing performance and payment bonds.

According to NCDOT officials, Recovery Act highway projects receive the same level of monitoring and inspection received by other federal-aid highway projects to ensure that quality goods and services are received. Each project is assigned a resident engineer as well as other on-site personnel who monitor and inspect the contractor's performance under the contract.

We selected two Recovery Act highway improvement project contracts to discuss in greater depth with NCDOT officials. One contract was centrally awarded by NCDOT but is administered by NCDOT Highway Division 4. The other contract was awarded and administrated by NCDOT Highway Division 1.

NCDOT Centrally-Awarded Contract

According to state officials, the NCDOT centrally awarded this contract to conduct work utilizing Recovery Act Highway Infrastructure Investment funds. This contract was awarded on April 29, 2009, for a total value of \$14.3 million with a project start date of June 1, 2009, and a projected completion date of December 31, 2011. The contract was awarded to construct a 2.3 mile extension of Booker Dairy Road in Smithfield, North Carolina, from State Road 1003 to U.S. 70. This road, which is not located in an economically distressed area, is considered a major urban thoroughfare and will provide an alternate east-west route improving access to residential, commercial, industrial, and recreational areas.

¹⁴ According to an NCDOT publication, a contract performance bond is a bond furnished by the contractor and its corporate surety guaranteeing the performance of the contract. A contract payment bond is a bond furnished by the contractor and its corporate surety securing the payment of those furnishing labor, materials, and supplies for the construction of the project.

According to NCDOT officials, the fixed unit price contract was awarded competitively, with nine contractors submitting bids. The successful contractor's price was 20.6 percent lower than the NCDOT official engineering estimate.

NCDOT Highway Division-Awarded Contract

The NCDOT Highway Division 1 awarded this contract to conduct work utilizing Recovery Act Highway Infrastructure Investment funds. This contract was awarded on April 23, 2009, at a total value of \$494,000 with a project start date of May 11, 2009, and a projected completion date of October 30, 2009. The contract was awarded to resurface a 4.1 mile section of U.S. 13 from Modlin Hatchery Road (State Road 1130) to N.C. 461 in Hertford County, North Carolina. This project, which is located in an economically distressed area, is intended to improve the ride quality of this stretch of U.S. 13 and extend the life of the pavement. According to NCDOT officials, the fixed unit price contract was awarded competitively, with three contractors submitting bids. The successful contractor's price was 24 percent lower than the NCDOT official engineering estimate.

According to NCDOT officials, both selected contracts require the prime contractors to assist the state in complying with Recovery Act monthly reporting requirements under Section 1512 (c) of the Recovery Act for both the prime contractor's Recovery Act work and for its subcontractors. According to NCDOT officials, contractors for both selected contracts will receive the same level of monitoring and inspection of the contractors' work that the NCDOT provides to contractors for other federal-aid highway projects. This monitoring includes a resident engineer and on-site personnel to provide day-to-day monitoring of construction, as well as other engineers to oversee roadway and structures construction, to make sure that the work is done according to the contract specifications.

As described above, several mechanisms used by the FHWA—NC Division and the NCDOT in contracting for Recovery Act projects could mitigate some of the risks associated with contracting, if they are implemented as intended. These quality-assurance mechanisms, based on our discussions with FHWA—NC Division and NCDOT officials, include

- increased review and inspection of Recovery Act projects by the FHWA—NC Division,
- the FHWA—NC Division's nonvoting participation in the deliberations of the NCDOT bid review committees prior to contract awards,

- NCDOT's current requirement that every NCDOT contractor be prequalified by NCDOT to help ensure that contracts are awarded only to responsible contractors,
- a requirement that all contractors selected for award of contracts valued over \$300,000 post contract performance and payment bonds covering the full cost of the contract in the event of contractor nonperformance,
- a requirement that contractors provide noncollusion and debarment affidavits before they are awarded contracts, and
- use of an established process of review and inspection of construction by skilled NCDOT personnel to ensure that work meets contract specifications and requirements.

NCDOT Anticipates Meeting Recovery Act Recipient Reporting Requirements

The NCDOT official serving as the focal point for collecting and submitting the recipient reports to the Office of Management and Budget (OMB), told us that NCDOT will be prepared to meet the requirements for recipient reporting to OMB in October 2009. As defined under OMB's guidance in memorandum M-09-21¹⁵ for the Recovery Act, according to a NCDOT official, the NCDOT is classified as a prime recipient, and the prime contractor for a Recovery Act-funded highway project is classified as a vendor. According to a NCDOT official, the prime contractor is responsible for reporting information to NCDOT required by Section 1512(c)¹⁶ of the Recovery Act for all of its subcontractors. As we previously reported in July 2009, the North Carolina Office of Economic Recovery and Investment requested prime recipients to address their readiness to meet the Recovery Act reporting requirements in October 2009 by conducting a trial run. According to the NCDOT official serving as the focal point for this reporting, NCDOT's trial run went well.

To address the reporting requirement under the Recovery Act, NCDOT has designated the Director of its Programs Management Office as the focal point for receiving recipient reports from its 14 highway divisions, according to a NCDOT official. Also, each division is responsible for

¹⁵ OMB Memorandum, M-09-21, *Implementing Guidance for Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 2009).

¹⁶ OMB Memorandum, M-09-21, at p.6, guidance implementing Section 1512 (c) of the Recovery Act requires recipient reports to include, among other things: (1) total amount of funds received and of that total, the amount spent on projects and activities; (2) a list of those projects and activities funded by name to include descriptions, completion status, and estimates on jobs created or retained, and (3) details on sub-awards and other payments.

obtaining required reports from the prime contractors within the division's area of responsibility. According to the NCDOT Director of Programs Management, the NCDOT requires all first-time prime contractors for Recovery Act projects to attend a training session shortly after award of the contract at which NCDOT provides an introduction to the Recovery Act and the act's reporting and record-keeping requirements under Section 1512(c). This official also told us that some contractors are surprised upon learning of the extensive Recovery Act reporting requirements. In addition, NCDOT Highway Division officials said that division personnel discuss the contract reporting requirements for Recovery Act projects during the preconstruction meetings with prime contractors (even if the current contract is not their first involving a Recovery Act project). Division officials told us that they review the overall reasonableness of Section 1512(c) recipient reports submitted by the prime contractors based on their on-site observations of how many contractor personnel are on the job. In August 2009, FHWA—NC Division officials told us they are not, at this time, planning to review the accuracy of NCDOT's recipient reporting under Section 1512(c) of the Recovery Act.

U.S. Department of Energy Recovery Act Weatherization Assistance Program

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation, sealing leaks, and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, DOE's Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The \$5 billion provided to the Weatherization Assistance Program in the Recovery Act represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE had provided to the states \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including

fringe benefits, as determined under the Davis-Bacon Act.¹⁷ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established prevailing wage rates for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor's wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of "interested parties" about labor rates for weatherization work.¹⁸ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Incorporating Recovery Act Requirements into North Carolina's Existing Weatherization Procurement Process Is Not Expected to Cause Any Difficulties

DOE approved North Carolina's weatherization plan on June 18, 2009, and provided North Carolina 50 percent (approximately \$66 million) of its 3-year Recovery Act weatherization allocation. As of August 25, 2009, North Carolina had distributed approximately \$13 million to local weatherization agencies. The Office of Economic Opportunity (OEO) within NCDHHS is responsible for administering the weatherization program, and the program is administered locally through subgrantees, generally community action agencies, which serve all 100 of the state's counties. However, according to state weatherization officials, the state will be transferring the weatherization program from OEO to the State Energy Office within North Carolina's Department of Commerce so that the program is located with all of the other state energy programs. According to state weatherization officials, the first 10 percent of the Recovery Act weatherization funding is being disbursed to local weatherization agencies to fund start-up activities such as buying equipment and vehicles and funding public awareness campaigns. State weatherization officials are planning to disburse an additional 40 percent of the Recovery Act weatherization funds to the local weatherization agencies in September 2009. State weatherization officials plan to use Recovery Act funds to weatherize approximately 24,224 units.

¹⁷Program funds made available through annual appropriations are not subject to the Davis-Bacon Act.

¹⁸ The five types of "interested parties" are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

While wages paid to weatherization laborers and mechanics were not previously subject to the Davis-Bacon Act, weatherization expenditures made using Recovery Act funds must comply with the prevailing wage requirements as determined under the act. To help determine the prevailing wage for the Davis-Bacon Act, a Labor survey was sent out to each state; however, North Carolina state weatherization officials said they never received this survey and several local weatherization agencies had reported not receiving it as well. State weatherization officials said they obtained the survey and survey instructions from Labor's Web site and provided this information to the local weatherization agencies for them to directly submit their responses to Labor. Even though the survey was not received directly from Labor, state weatherization officials do not have any concerns about the effect of the Davis-Bacon Act on the use of Recovery Act weatherization funds. They said they obtained the information pertaining to Davis-Bacon Act requirements they needed by attending the National Weatherization Conference where Labor held several training sessions on the Davis-Bacon Act. State weatherization officials said that the prevailing wages established by Labor were similar to wages that were already being paid by local weatherization agencies. State weatherization officials plan to continue issuing contracts to spend Recovery Act funding that will include the wage-rate provision.

In addition to receiving training on the Davis-Bacon Act, state weatherization officials also received training at the National Weatherization Conference on the contract award requirements applicable to weatherization projects funded by the Recovery Act. State weatherization officials plan to follow their existing procurement process, which includes following the Recovery Act requirements for awarding contracts, and issue guidance on the process to the local weatherization agencies. According to state documents, weatherization contracts will contain a list of Recovery Act requirements that must be followed, including registering on the Central Contractor Registration (CCR) system; obtaining a Data Universal Numbering System (DUNS) number; supporting section 1512 reporting requirements; and using iron, steel, and manufactured goods that are produced in the United States in certain circumstances. State weatherization officials said they review local weatherization agencies' procurement processes to make sure they are following proper procedures. Based on their recent review of the local weatherization agencies' procurement processes, state weatherization officials do not have any concerns about these processes.

According to state weatherization officials, the weatherization program does not have centralized procurement or established prices and suppliers

of weatherizing materials; procurement is delegated to the local weatherization agencies that are required to develop a fair-market price list. Annually, the state weatherization office monitors each local weatherization agency's fair-market price list and issues guidance on price-list requirements; however, the guidance does not spell out the process for developing the fair-market price and it is left up to the local agency to determine how best to do this. State weatherization officials also said they sometimes provide assistance to local weatherization agencies to help them develop the fair-market price list, but officials said most local agencies do Internet price comparisons in order to develop the list.

**North Carolina
Weatherization Officials
Have a Variety of
Accountability Approaches
to Monitor the Use of
Recovery Act Funds**

State weatherization officials plan to use existing processes to monitor the disbursement of Recovery Act funds through monthly reviews of the local weatherization agencies' financial status reports and through programmatic and financial monitoring visits. They said that, for the monthly financial status report reviews, they receive signed hard copies of the financial status reports the weatherization agencies generate from the Accountable Results for Community Action system. These reports show the funding status and a list of homes that have been completely weatherized. According to state weatherization officials, the on-site monitoring is done annually as required by DOE. They explained that the on-site monitoring of each weatherization agency contains three parts: (1) a preassessment questionnaire is sent to the agency to gather initial administrative and programmatic information and is reviewed by the state weatherization officials to determine if there are any issues; (2) an entrance meeting is held at the start of the on-site visit, and officials conduct a file review, equipment verification, and an invoice review; and (3) state weatherization officials use a monitoring tool to conduct on-site field inspections of weatherized homes. State weatherization officials said DOE requires that at least 5 percent of weatherized homes be inspected. They also said that this usually equates to inspecting 6 to 8 weatherized homes per local weatherization agency annually. State weatherization officials told us that during these inspections they compare the information reported in the preassessment questionnaire with their on-site observations. If an issue is identified, a meeting is held on site to describe the issues that were found, an assessment report of the visit is discussed, and corrective actions are prescribed. After the on-site visit, a formal report is issued to the local weatherization agency. Local weatherization agencies must provide a plan to meet the prescribed corrective actions along with proof that the actions were taken before the state weatherization office will close out a finding. However, state weatherization officials said most weatherization agencies will have taken

the necessary corrective action during the on-site visit or immediately thereafter. State weatherization officials said that if a weatherization agency is having problems they may make additional site visits during the year to get the agency back on track.

State weatherization officials acknowledged that the Recovery Act funding for the weatherization program will significantly increase the local weatherization agencies' workload. They said that in order to meet the on-site monitoring requirements, they plan to hire an external group to assist with these activities. With the increased workload due to the Recovery Act funds, state weatherization officials anticipate having to conduct 3 to 4 on-site visits a year to each local weatherization agency rather than 1 on-site visit a year in order to continue meeting DOE's annual 5 percent inspection requirement and to meet North Carolina's newly established policy that requires an average of 20 percent of weatherized homes be inspected.

In addition to these accountability approaches, state weatherization officials have an existing risk-assessment process they use to review local weatherization agencies' staff, goals, funding, and annual audits. Based on the annual assessment, each weatherization agency is assigned either a high or low level of risk. However, this year's annual risk-assessment review will include a medium risk classification which will help identify local weatherization agencies that may need additional help so that they do not become high risk in the future. If a local weatherization agency is identified as a high risk, state weatherization officials may increase the amount of monitoring for that agency in order to address any issues the agency is having. Based on last year's risk assessment, officials said of the 30 local weatherization agencies, there were two agencies that were identified as a high risk. According to state weatherization officials, these local weatherization agencies will not receive any Recovery Act funding based on prior findings of noncompliance with laws and regulations. For example, instances were found in which internal control policies and procedures were not applied consistently, the agency charged unallowable expenditures, and the agency's Board of Directors failed to provide consistent oversight of operations. In addition to the state weatherization office's annual risk-assessment process, OERI has hired independent auditors to perform capacity audits; which include pre- and post performance audit inspections, on all local weatherization agencies that are participating in the weatherization program. Specifically, OERI plans to have these auditors assess the capabilities of local agencies before or shortly after Recovery Act funding is awarded and to monitor the

performance of agencies awarded grants during the course of the grant projects.

**North Carolina
Weatherization Officials
Plan to Follow Recovery
Act Reporting
Requirements; However,
Additional Guidance Is
Needed**

According to state weatherization officials, both the normal and Recovery Act reporting requirements, which include programmatic quarterly reports, monthly financial status reports, and section 1512 reporting requirements, will be followed. State weatherization officials do not anticipate having any challenges with respect to complying with these reporting requirements in a timely manner. In order to meet the section 1512 reporting deadlines, the state weatherization office, which is the prime recipient,¹⁹ plans to create templates based on the reporting requirements to collect information from local weatherization agencies and then have them ready for OERI and OMB by the 10th day of the following month for quarterly reporting. The state weatherization agency has issued guidance in order to assist local subrecipients in understanding reporting requirements and to collect their financial information in a timely manner.

OMB provided guidance on measuring jobs saved and jobs created, which state weatherization officials plan to use for calculating and reporting this information. State weatherization officials said that they understand the general framework of OMB's guidance, but the information for calculating jobs saved and jobs created is unclear. For example, state officials consider OMB's guidance to lack information on who should be included in the calculation as a vendor. Specifically, state weatherization officials are not sure if a subcontractor should be counted as a vendor. State weatherization officials have asked DOE for help, and DOE stated that technical briefs would be sent out to address these issues.

¹⁹The prime recipients are nonfederal entities other than individuals that receive Recovery Act funding as federal awards in the form of grants, loans, or cooperative agreements directly from the federal government.

North Carolina's Small Rural Localities Face Challenges Accessing Recovery Act Funds

According to the North Carolina League of Municipalities (NCLM), North Carolina's cities, towns, and villages are incorporated municipalities that have been granted a charter by the North Carolina General Assembly authorizing the establishment of a government and outlining its powers, authorities, and responsibilities. Municipalities provide a variety of services, including access to water and sewer systems and police and fire protection, according to NCLM. Under North Carolina law, all municipalities must balance their budgets.²⁰ Within North Carolina's Treasury Department, the Local Government Commission (LGC) has responsibility for monitoring fiscal, accounting, and debt-management practices of local governments, as well as for providing assistance and guidance on these matters.

North Carolina includes approximately 550 municipalities and 100 counties, many of which are small or rural. Specifically, according to 2008 Census estimates, 430 municipalities had a population of under 5,000 people. In addition, based on 2000 Census data, 60 of North Carolina's counties were considered rural, and 21 of these counties were completely rural, or had an urban population of less than 2,500.²¹ According to 2008 U.S. Department of Agriculture estimates, about one-third of the state's residents lived in nonmetropolitan counties in 2008, and these counties had higher poverty rates and lower income than the statewide averages in 2007.

While there are several sources of information and assistance available, state officials, rural community leaders, and others have told us about challenges rural areas have in accessing and administering Recovery Act funding programs. According to state officials, rural areas face a number of challenges affecting their financial and administrative capacity, including diminishing budgets, staffing shortages, and a lack of expertise and skill sets in key areas. For example, the State Auditor identified small rural localities as risk areas with respect to Recovery Act funds, due to staffing shortages coupled with the additional reporting requirements of the Recovery Act. Local officials we interviewed also cited some of these

²⁰Each local government and public authority in North Carolina must operate under an annual balanced budget ordinance adopted and administered according to North Carolina law. A budget ordinance is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. N.C. Gen. Stat. § 159-8(a).

²¹Using Census data, OMB defines urban and rural counties based on population size and the extent to which outlying counties are economically tied to core counties as measured by work commuting.

challenges and expressed concerns about their capacity to apply for and administer Recovery Act funds.

Based on our prior Recovery Act work in North Carolina and the state's significant rural sector, we decided to focus part of this report on the experiences of selected rural towns in North Carolina in accessing and administering Recovery Act programs. Specifically, we selected the towns of Bethel, Williamston, Woodfin, and the City of Hendersonville based on their size and geographic dispersion. The populations in these towns ranged from 1,743 to 12,005 according to the Census 2008 population survey. We interviewed officials in these towns to obtain their perspectives on the Recovery Act. We also interviewed officials from the U.S. Department of Agriculture's North Carolina Rural Development office, OERI, NCLM, and the North Carolina Rural Economic Development Center (Rural Center). During our interview with Rural Center officials, we also met officials from the municipalities of Elkin and Pinetops.

Opportunities Exist for Municipalities to Benefit from Various Recovery Act Programs

Under the Recovery Act, North Carolina localities can apply for funding for a variety of federal programs either from state agencies or directly from federal agencies. The Recovery Act contains many programs that provide funding opportunities to municipalities, including the Clean Water State Revolving Fund (CWSRF), the Drinking Water State Revolving Fund (DWSRF), the Community Oriented Policing Services (COPS) program, the Edward Byrne Memorial Justice Assistance Grant (JAG) program, the Federal-Aid Highway Surface Transportation program, the Broadband Initiatives Program, the Broadband Technology Opportunities Program (BTOP), and the Rural Community Facilities Loans and Grants program. (See table 1 for information on available funds and awards made under these programs.) Several of these programs are targeted specifically at small or rural communities. To increase the speed with which Recovery Act funds are spent, the act added requirements or priorities to several programs to focus on projects that could be completed quickly.

Table 1: Selected Recovery Act Funding Opportunities for North Carolina Municipalities

Dollars in millions

Program	Funds available to localities from North Carolina agencies ^a	Funds awarded by North Carolina agencies to localities	Competitive funds available to localities directly from federal agencies, (national totals)	Formula funds available to North Carolina localities directly from federal agencies	Funds awarded by federal agencies directly to North Carolina localities
Clean Water State Revolving Fund ^b	\$71	\$67	n.a.	n.a.	n.a.
Drinking Water State Revolving Fund ^b	\$66	\$64	n.a.	n.a.	n.a.
COPS Hiring Recovery Program	n.a.	n.a.	\$1,000	n.a.	\$31
Edward Byrne Formula and Competitive Grants	\$34.5 ^c	No awards made ^c	\$225	\$21.9	\$21.2
Federal-Aid Highway Surface Transportation	\$736 ^d	n.a.	n.a.	n.a.	n.a.
Broadband Initiatives Program	n.a.	n.a.	\$2.5	n.a.	No awards made ^e
Broadband Technology Opportunities Program	n.a.	n.a.	\$4.7	n.a.	No awards made ^e
Community Facilities Loans and Grants Program	n.a.	n.a.	\$1,161 ^f	n.a.	\$11.7 ^f
Total	\$907.5	\$131	\$2,393.2	\$21.9	\$63.9

Source: Federal and state agencies

n.a.: Not applicable

^aThis column captures funds apportioned, allotted, allocated, awarded or otherwise made available by federal agencies to North Carolina state agencies to be awarded or allocated to North Carolina localities.

^bFunding under these two programs is split evenly between principal forgiveness and interest-free loans.

^c\$34.5 million was awarded to the state, of which about \$13.2 million must be passed on to localities. No awards had been made to localities as of August 11, 2009.

^dWhile these funds will be administered by NCDOT, the projects will impact some rural areas.

^eApplications for first of three rounds of grants were due by August 24, 2009.

^fNationally \$1.1 billion is available in loans and \$61 million is available in grants. In North Carolina, 11.7 million has been awarded to localities, of which about \$9.8 million was in loans and \$1.8 million was in grants. Totals do not add up to \$11.7 million due to rounding.

Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Capitalization Grants

The total funding available for water and drinking water grants and loans in North Carolina includes about \$71 million for the CWSRF and about \$66 million for the DWSRF. The CWSRF assists in the funding of the construction of publicly owned wastewater treatment facilities, the

implementation and management of non-point source pollution²² control programs, and the development and implementation of estuary conservation and management plans. Under the Recovery Act, states are to give priority to projects that are ready to proceed with construction within 12 months of enactment of the act. The North Carolina Department of Environment and Natural Resources (DENR) will administer this program for North Carolina. DENR will award half of the funds in the form of principal forgiveness,²³ and the other half in the form of interest-free loans, as required. There is a cap of \$3 million for each project award, and awards will not be increased for bids that come in higher than the project award amount. As of July 20, 2009, the state had announced awards totaling about \$67 million for projects in 48 localities.

The DWSRF assists public water systems in complying with the national primary drinking water regulations. Assistance cannot go to a public water system²⁴ that does not have the technical, managerial, and financial capability to ensure compliance with federal Safe Drinking Water Act (SDWA).²⁵ Eligible uses include replacement of aging infrastructure, planning studies, consolidation of water systems, and source water rehabilitation. Ineligible uses include dams or rehabilitation of dams, operation and maintenance costs, projects mainly for fire protection, or projects primarily to accommodate future growth. As with CWSRF, the main criteria for Recovery Act awards for DWSRF will be how quickly a project can issue a contract and proceed with construction. The Public Water Supply Section (PWSS) of DENR will administer this program. PWSS will award half of grant funds in the form of principal forgiveness, and the other half in the form of an interest-free loan, with up to a 20-year payback period, as required. There is a cap of \$3 million for each project

²²Non-point source pollution comes from diffuse sources. It is generally caused by rainfall or snowmelt moving over and through the ground. Non-point source pollutants could include excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas; oil or grease from urban runoff; sediment from improperly managed construction sites and forests; and bacteria and nutrients from livestock.

²³Principal forgiveness means that half of each loan will not need to be repaid. The other half of the money will need to be repaid at a zero percent interest rate. If a project's actual cost is lower than originally projected or the scope of the project is reduced, the same 50-50 split will be maintained.

²⁴A public water system can be any local unit responsible for the collection, treatment, storage, and distribution of drinkable water from a source to a consumer.

²⁵Pub. L. No. 93-523, 88 Stat. 1660 (1974) (codified as amended at 42 U.S.C. §§ 300f through 300j-25).

award, and awards will not be increased for bids that come in higher than the project award amount. As of July 20, 2009, the state has announced awards totaling about \$64 million to 63 localities.

COPS Hiring Recovery Program (CHRP)

The Recovery Act provides \$1 billion for the CHRP program, administered by the Office of Community Oriented Policing Services within the U.S. Department of Justice (Justice), to provide funds directly to law enforcement agencies to be used to hire and/or rehire career law enforcement officers. CHRP grants provide 100 percent funding for 3 years for approved entry-level salaries and benefits for newly-hired, full-time sworn officer positions or for rehired officers who have been laid off, or are scheduled to be laid off. On July 28, 2009, Justice announced that it had awarded \$1 billion in CHRP funds, including nearly \$31 million to 50 North Carolina local agencies to fund a total of 202 officers, including 183 new officers. In total, 216 North Carolina local agencies applied to Justice for CHRP funds.

Edward Byrne Formula and Competitive Grants

The Edward Byrne Memorial Justice Assistance Grant (JAG) program, administered by the Bureau of Justice Assistance within Justice, provides federal formula grants to state and local governments for law enforcement and other criminal-justice activities, such as crime prevention and domestic-violence programs, corrections, justice information-sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments under the JAG program. JAG funds are allocated to states on the basis of a formula that includes population size and violent-crime statistics, in combination with a minimum allocation to ensure that each state receives an appropriate share of funding. Using this formula, 60 percent of the allocation is awarded to state governments, which must in turn award a specified percentage to local governments, and the remaining 40 percent is awarded by Justice directly to local governments. The total JAG allocation for North Carolina state and local governments under the Recovery Act is about \$56.3 million, of which, the localities will receive about \$13.2 million from the state and about \$21.9 million from Justice. Applications from localities for funding were due to the state by June 17, 2009, but funds had not been awarded as of August 11, 2009. Applications from localities for JAG funding to be awarded directly by Justice were due to Justice by June 17, 2009, and as of September 8, 2009, Justice has awarded about \$21.2 million to North Carolina localities. In addition to the \$56.3 million in JAG grant funds, \$225 million in Recovery Act funds are also available nationally under the Edward Byrne Competitive Grant Program to state, local, and tribal governments, and to national, regional, and local nonprofit organizations awarded directly by Justice. These competitive grants are to

prevent crime, improve the administration of justice, provide services to victims of crime, support critical nurturing and mentoring of at-risk children and youth, and for other similar activities. Applications for the competitive Byrne grants were due by April 27, 2009, and Justice is in the process of awarding these grants and plans to finish awarding them by September 30, 2009. Based on information available as of September 4, 2009, no Byrne competitive grant awards have been announced for North Carolina.

Federal-Aid Highway Surface Transportation Program

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation program administered by the Federal Highway Administration (FHWA) in the U.S. Department of Transportation. North Carolina is expected to receive \$736 million under the Recovery Act for highway and bridge improvements. Under the Federal-Aid Highway Surface Transportation Program, funds are apportioned annually to each state department of transportation (or equivalent agency) to construct and maintain roadways and bridges on the federal-aid highway system. North Carolina Department of Transportation officials told us that they identified highway projects based on Recovery Act direction that priority is to be given to projects that are anticipated to be completed within a 3-year time frame and that are located in economically distressed areas. Also, the department collaborated with metropolitan and rural planning organizations²⁶ to select projects that are located across the state. Projects were also evaluated based on several criteria, including alignment with long-range investment plans and considerations about geographical diversity and economic impact.²⁷ As of September 1, 2009, the state had awarded \$348 million in highway contracts.

Broadband Access

The Recovery Act appropriated \$7.2 billion to expand broadband access in the United States. Specifically, the U.S. Department of Agriculture (Agriculture) Rural Utility Service (RUS) was appropriated \$2.5 billion to extend loans, grants, and loan/grant combinations to facilitate broadband development in rural areas.²⁸ The U.S. Department of Commerce

²⁶Metropolitan and rural planning organizations work cooperatively with North Carolina Department of Transportation to plan transportation systems in urban and rural areas.

²⁷Projects selected were evaluated based on several other criteria, including a state equity formula (North Carolina G.S. 136-17.2A) that creates a target value for programming future expenditures in various regions of the state.

²⁸See, Recovery Act div. A, tit. I, 123 Stat. at 118.

(Commerce) National Telecommunications Information Administration (NTIA) was appropriated \$4.7 billion to make available grants for deploying broadband infrastructure in unserved and underserved areas in the United States, enhancing broadband capabilities at public computing centers, and promoting sustainable broadband adoption projects.²⁹ NTIA and the RUS jointly issued a Notice of Funds Availability (NOFA) and solicitation of applications for the RUS's Broadband Initiative Program and NTIA's Broadband Technology Opportunities program. The agencies are planning three opportunities for eligible entities, including states, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof to apply for these grants. The deadline for the first round was extended from August 14, 2009, until August 24, 2009.³⁰ The current goal of the agencies is to issue a second NOFA before the end of 2009 and a third in the spring of 2010. No awards have been made under either program.

Community Facilities Loans and Grants Program

The Recovery Act also added more funding to the Community Facilities Loans and Grants program to build or improve essential public facilities in cities and towns with no more than 20,000 in population. Under the Recovery Act, \$1.1 billion in loans and \$61 million in grants is made available for this program. Some examples of eligible projects include health care facilities such as hospitals and clinics, nursing homes, daycare centers, public safety facilities and equipment such as fire trucks, community buildings, educational facilities such as libraries, and activity centers for disabled persons. Localities apply for the funds directly from the U.S. Department of Agriculture Rural Development Center. In total, \$11.7 million in loans and grants have been awarded by the U.S. Department of Agriculture to North Carolina localities for a variety of projects, including police and fire equipment.

²⁹See, Recovery Act div. A, tit. II, 123 Stat. at 128; § 6001(b), 123 Stat. at 512-513.

³⁰Applicants that had started the electronic application process prior to the original application deadline were given until August 20, 2009 to complete the electronic submission of its applications. 74 Fed. Reg. 41676 (2009). Applicants having difficulties uploading any of the attachments to its application were given the opportunity to submit the core application by August 20, 2009 and subsequently submit any attachments that were not successfully uploaded by August 24, 2009. 74 Fed. Reg. 42644, 42645 (2009).

Municipalities Rely on a Variety of State and Other Resources for Recovery Act Information

North Carolina municipalities rely on a variety of sources in obtaining information about the Recovery Act. According to a survey conducted by NCLM, municipalities sought guidance and technical support from various sources within the state, including OERI, the Rural Center, and NCLM. We also heard from localities we visited that they rely on the School of Government at the University of North Carolina—Chapel Hill and the North Carolina Regional Councils³¹ for technical support and guidance on Recovery Act issues.

Along with providing the oversight and monitoring of Recovery Act funds, part of OERI's mission is to develop a communications network to keep the public informed about the status and progress of the recovery effort and funding opportunities. OERI officials told us that they have held a series of informational workshops across the state since April 2009 designed to provide a question and answer forum for local officials and the general public. According to OERI officials, these meetings have been strategically scheduled in geographically diverse sections of the state, including rural areas, in an effort to reach a large portion of the state's population. To assist smaller towns and cities with identifying and applying for Recovery Act funds, OERI officials told us that they have hired a team of new staff to help local officials in 19 rural counties to apply for and manage grants. OERI officials selected the 19 counties based on rural areas with high unemployment rates.

In addition to OERI, there are a number of other organizations in North Carolina that provide assistance to rural communities. One such organization, the Rural Center, provides a variety of services to the state's rural areas. The Rural Center is a private, nonprofit organization, funded by both public and private sources, that serves the state's rural communities, with a special focus on individuals with low to moderate incomes and communities with limited resources. According to Rural Center officials, their office provides a variety of services, including policy research and development, legislative advocacy, topical workshops, technical assistance, leadership and workforce training, and municipal and community capacity building strategies. For example, in September 2009, the Rural Center, as part of its efforts to reach out to minority populations, provided a forum for a group of African-American-led community-development organizations to discuss the Recovery Act.

³¹North Carolina Regional Councils are multicounty planning and development agencies serving different areas of the state.

NCLM, another source of information for North Carolina's rural areas, is a nonpartisan association of municipalities in North Carolina that provides member services that strengthen and support municipal governments, including those in rural communities. According to an NCLM official, the organization has compiled and posted to its Web site guidance, including a listing of Recovery Act programs with funds still available, aimed at helping municipalities in their pursuit of federal Recovery Act funding. The official said that the guidance will be updated regularly. Further, NCLM also prepared guidance regarding how municipalities can increase their chances of obtaining federal funding. In June 2009, NCLM initiated a statewide survey of the 551 municipalities in an effort to obtain information about their experiences with the Recovery Act, and received a 91 percent response rate. According to NCLM officials, a main reason they conducted the survey was because the state did not have a centralized source of information on which local governments in the state were pursuing Recovery Act funding or what type of funding they were pursuing.

Also, University of North Carolina-Chapel Hill's School of Government, in an effort to help smaller cities, towns and counties to research, apply for, and acquire Recovery Act funds, created the Carolina Economic Recovery Corps (CERC). The CERC is made up of eight graduate students from UNC who spent 10 weeks over the summer working full time as interns with councils of governments (COG).³² Among other forms of support, the eight interns helped communities with Recovery Act compliance, grant writing, and reporting requirements.

Further, 17 North Carolina Regional Councils serve regions that share similar economic, physical, and social characteristics. Their function is to aid, assist, and improve the capabilities of local governments in administration, planning, fiscal management, and development, and all of them are involved in providing technical assistance to their members. In particular, the councils provide information on state and federal programs of concern to local governments.

³²Councils of governments are regional bodies that exist throughout the United States. Generally, councils of governments serve an area of several counties, and address issues such as regional and municipal planning, economic and community development, transportation, and emergency planning.

Two Municipalities That Received Recovery Act Funds Reported They Will Help Address Needs

Two of the municipalities we visited reported their applications for JAG Recovery Act funds had been approved and that these awards would help them address needs. For example, Williamston officials told us they had been approved for a \$35,157 JAG grant, which will be used to upgrade its communications system for its police department. According to Williamston officials, this system will enhance its communications ability to conform with state recommendations. Officials from the City of Hendersonville told us that their police department also received JAG funds. The Hendersonville Police Department received \$72,956 and reported they had drawn down approximately \$50,000 of the funds at the time of our interview. The city plans to use the funds on concealment devices for microphones and to support the work of its undercover investigations. Neither Bethel nor Woodfin officials had been awarded Recovery Act funds.

State Officials and Others Expressed Concerns over the Capacity of Small Towns to Access and Administer Recovery Act Funds

Several North Carolina state officials told us that many of the state's small towns and cities have been historically understaffed and may lack the expertise to apply for and administer federal grants. For example, one state official indicated that these challenges can sometimes serve as barriers to some small towns and cities in seeking federal recovery assistance. Additionally, officials at the Rural Center told us that many municipalities have expressed concerns about applying for Recovery Act funds. Specifically, they said that municipalities are wary of spending their limited funds to develop initiatives for competitive grants when it is not certain that they would receive an award. Rural Center officials said that the Recovery Act's "quick implementation" requirements for some programs can be a barrier for smaller municipalities because they lack resources to quickly develop proposals. Further, many other municipalities face capacity challenges as they lack a town manager or administrator. Specifically, according to Rural Center officials, more than 200 North Carolina municipalities do not have a town manager or administrator. As a result, many management responsibilities are assumed by a clerk or unpaid mayors and council members.

Many small municipalities do not plan to apply for Recovery Act funds, according to the results of the NCLM 2009 survey that obtained responses from North Carolina's municipalities on their plans to pursue Recovery Act funds. Specifically, 207 municipalities with a population of less than 5,000 people reported they were not planning to apply for Recovery Act funds. This represents 41 percent of the communities that responded to the survey, a figure that is significantly smaller than the 3 percent of larger municipalities that indicated they would not apply. According to our

analysis of the NCLM 2009 survey information, 13 municipalities with a population over 5,000 reported they were not planning to apply for these funds. Furthermore, of the 173 small municipalities with populations less than 5,000 that reported they plan to apply for Recovery Act funds, 94, or 54 percent, indicated that they need technical assistance with the applications.

Local officials we interviewed expressed concerns about their capacity to apply for and administer Recovery Act funding. For example, officials from the Town of Woodfin told us that their ability to identify and apply for Recovery Act funds was limited by their current level of staff. The town has three staff—the town administrator, a town clerk, and a code enforcement officer. The town administrator told us that he has multiple duties, such as planning director, finance officer, and head of town operations and that serving in these multiple roles constrains his ability to pursue available Recovery Act funds. Officials in two localities told us that they lack funds to meet the federal matching requirements or other up-front costs needed for some Recovery Act programs. Some local officials also told us that the shovel-ready requirements of some Recovery Act programs made it difficult for them to apply for funds because they would need to commit funds to develop projects that were shovel-ready.³³ The officials said that smaller municipalities are disadvantaged by this provision because larger municipalities tend to be in a better position to meet the quick-spending objective of the Recovery Act.

However, officials were mixed in their views about their ability to manage Recovery Act funds. Officials from both Bethel and Hendersonville felt that they would be able to comply with reporting and tracking requirements for Recovery Act funds. But, officials from Williamston expressed concerns over their ability to hire additional qualified staff, if necessary, to meet the reporting requirements under the Recovery Act.

Municipalities Reported Challenges Identifying Information about Recovery Act Programs

Officials in three of the municipalities we met with reported a variety of challenges identifying information about Recovery Act funding opportunities. In particular, officials in the two municipalities that had not received Recovery Act funding—Bethel and Woodfin—cited challenges in identifying information about funding possibilities. Bethel officials said

³³The term “shovel-ready” means the projects could be started and completed expeditiously, in accordance with applicable Recovery Act requirements.

that they attempted to identify funding opportunities by conducting research on the Internet and contacting state agencies and congressional offices. The City Manager characterized their efforts as attempting to “navigate a maze” of funding opportunities. As of August 11, 2009, Bethel has not identified any programs that it would be eligible for or for which it has the means to develop a proposal. For example, according to Bethel officials they were advised they were not eligible for JAG funding due to having a crime rate that is too low. Woodfin officials said that they had received a lot of information, but that this information was not well organized and that they were not aware of what funding opportunities still remain. One representative of a Regional Council told us that the Council has received a number of calls from localities that are under pressure to obtain Recovery Act funds but do not know how to access information about the programs.

Hendersonville officials told us that they began planning for the Recovery Act early and were able to identify and apply for several programs, including the JAG program, for which they received an award. However, they said that the information and guidance they received from state agencies for water and sewer programs and highway funding was not always clear or timely. For example, they told us that the state issued guidance on water and sewer projects after they had already submitted their application. Hendersonville officials said that it would have been helpful to have had more information when they applied for funding.

While local officials did mention difficulties obtaining information, they also noted some sources of information that were useful. For example, Hendersonville officials mentioned that they relied on several sources for information about the Recovery Act, including NCLM and OERI. Woodfin officials told us that they rely heavily on their contacts at the Land of Sky Regional Council for information pertaining to the Recovery Act.

OERI Is Taking Steps to Help Ensure the Complete, Accurate, and Timely Submission by State Agencies of Section 1512 Recovery Act Quarterly Recipient Reports to OMB

Beginning October 10, 2009, each state is required to submit a quarterly report to OMB to meet the reporting requirements of Section 1512 of the Recovery Act. Under Section 1512, recipients (also known as prime recipients) and subrecipients of Recovery Act funds are required to report a number of data elements, including jobs created with Recovery Act funds. In North Carolina, each state agency that receives Recovery Act funds is responsible for the completion and submission of Section 1512 Recovery Act quarterly recipient reports to OMB via a Web site—FederalReporting.gov. OMB's June 22, 2009, reporting guidance (M-09-21) gave prime recipients the option to delegate certain reporting elements to their subrecipients.

OERI has undertaken several initiatives to help ensure state agency Section 1512 Recovery Act recipient reports are complete, accurate, and submitted on time. For example, OERI conducted a prime-recipient readiness assessment to evaluate how prepared state agencies are to provide recipient reports. Based on the results of the readiness assessment, an OERI official in charge of reporting issues told us that he has a high level of confidence that North Carolina state agencies will be ready to submit the required reports in October.

On August 11, 2009, OERI sent the 16 state agencies that will be submitting the Recovery Act recipient reports a survey to determine, among other things, whether they (1) had delegated reporting responsibility to subrecipients, (2) had put controls in place to ensure accurate, complete, and timely reporting, and (3) had coordinated responsibilities within the agency to avoid double reporting. As of September 4, 2009, none of the 8 agencies that responded reported they were planning to delegate reporting responsibility to subrecipients. Most of the agencies reported they either had or planned to have internal control systems. However, based on state agencies' responses, it remains uncertain whether some of the state agencies considered their controls adequate, at that time, to ensure the submission of accurate, complete, and timely Recovery Act Section 1512 reports in October.

OERI also began, on August 27, 2009, to hold regularly planned roundtable discussions with state agency officials responsible for Recovery Act reporting. OERI plans to continue these roundtable discussions until the October 10 reporting deadline. According to an OERI representative, the roundtable discussions are being held to share information among recipients by having agencies (1) share any plans for delegating reporting responsibilities to subrecipients, (2) identify a single point of contact for each agency to avoid double reporting, (3) discuss the data systems each

agency will use for quarterly reporting to FederalReporting.gov, and (4) develop expectations for quality assurance common to all North Carolina state agencies that will be reporting.

At the August 27 session, some state officials reported concerns about the methodology to be used for measuring jobs created or retained. The OERI representative urged state agency officials to ask cognizant federal agencies for any specific guidance on measuring jobs created or retained that the federal agency may have issued in addition to OMB's reporting guidance. Also, agency officials at this session expressed concerns over the availability of data by the September 30, 2009, cutoff date for recipient reporting.

State Comments on This Summary

We provided the Governor of North Carolina with a draft of this appendix on September 14, 2009. The Director of OERI responded for the Governor on September 16, 2009. In general, the comments were either technical or were status updated. These were incorporated as appropriate.

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Staff Acknowledgments

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Appendix XV: Ohio

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Ohio. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

GAO's work in Ohio focused on the implementation of two programs: (1) the Weatherization Assistance Program and (2) the Workforce Investment Act (WIA) Youth Program. We selected these programs for different reasons. The Weatherization Assistance Program in Ohio began on July 1, 2009, which provided an opportunity to compare local agencies' implementation—including financial controls and oversight of contracts. The Recovery Act funded WIA Youth Program in Ohio is largely directed toward a summer employment program and was also in full operation. With these programs, we focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed and reported. In addition, GAO is providing an update on the status of expenditures of funds from the U.S. Department of Transportation's Highway Infrastructure Investment Program; three programs from the U.S. Department of Education: the Title I, Part A program, the IDEA Part B program, and the State Fiscal Stabilization Fund (SFSF); and the Public Housing Capital Fund. These programs, which were included in our July 2009 Recovery Act report, were selected to continue our ongoing longitudinal analysis of the use of Recovery Act funds.

Recovery Act Funds Helped Stabilize the State Budget, but Budgetary Uncertainty Remains

On July 17, 2009, the Governor of Ohio signed the biennial budget for state fiscal years 2010 and 2011. According to a senior state budget official, the main operating budget and the transportation operating budget, signed April 1, 2009 and effective July 1, 2009, appropriate approximately \$63.9 billion in state fiscal year 2010 and about \$60.2 billion in fiscal year 2011, including about \$7.6 billion from Recovery Act funds over the biennium. Of the Recovery Act resources, approximately \$2.4 billion is increased federal reimbursement for Medicaid. In addition, the state used its state rainy-day fund to close a \$1 billion shortfall in the fiscal year 2009 budget.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

According to a senior state budget official, the recession brought considerable uncertainty to the budget process in the state. In the last year, the state realized double-digit revenue losses compared with the previous year and, as a result, had to make adjustments to the budget when revenues did not come in as expected. In developing the enacted budget for this biennium, a senior state budget official said Ohio had to aggressively revise revenue estimates downward; revenue estimates are nearly 6.5 percent lower than the level originally proposed in February 2009 when the budget was first submitted. The budget office produces a monthly report that tracks actual revenues and expenditures to ensure they meet the targets set in the budget. The state met its revenue targets in the first month of the biennium (July 2009). The state budget director monitors budget performance closely and has the authority to make adjustments to the spending targets throughout the biennium if revenues do not meet the targets in the budget.

According to a senior budget official, the enacted budget relies on a new revenue source—proceeds from new video lottery terminals. The budget assumes these terminals will be in place by November 2009 and will bring in approximately \$851 million in new revenues over the biennium. These revenue estimates were vetted through a variety of state economists and have been compared to the revenue generated in other states with similar terminals. If the lottery revenues do not meet these targets, then the budget director, within the scope of her authority, could consider recommendations for further reductions in other expenditures.

As noted in our July 2009 Recovery Act report, Ohio plans to collect centralized administrative costs through a series of charge backs to the state agencies that are administering the Recovery Act programs. State budget officials said the amounts each agency would be asked to pay for centralized administrative costs would be in proportion to the Recovery Act funds each agency received. Senior state officials expect to collect about \$3 million for centralized administrative costs—far less than the \$40 million the state estimates it is eligible to collect based on Office of Management and Budget (OMB) guidance.² State officials said they limited the amount of administrative costs each agency could charge in order to maximize the impact of Recovery Act resources in the state.

²OMB Memorandum M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Activities* (May 11, 2009). This guidance allows states to collect no more than 0.5 percent of the total Recovery Act funds the state expects to receive.

Ohio Began Weatherizing Homes Soon after DOE Approved Its State Plan

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE had provided to the states almost \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.³ Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor established a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties”⁴ about labor rates for weatherization work. The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

³The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

⁴The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

Ohio Relies on Grantees to Implement the Weatherization Program

The Ohio Department of Development (ODOD) has obligated all of the approximately \$133.4 million that DOE provided to Ohio. Specifically, Ohio has obligated these funds to its provider network of 34 grantees.⁵ ODOD reserved 20 percent of these funds for contingencies but plans to use these funds to weatherize eligible homes. An ODOD official told us that as of September 15, 2009, 17 to 19 grantees reported that they had spent approximately \$5.4 million weatherizing 1,260 homes. According to the state weatherization plan—approved by DOE on June 18, 2009—ODOD is using its existing network of grantees located throughout the state to run its Home Weatherization Assistance Program. Grantees began weatherizing homes on July 1, 2009, with Recovery Act funds. Specifically, grantees have used Recovery Act funds to hire and train program staff and weatherization workers, certify contractors, perform energy audits on eligible homes, and weatherize qualified homes.

We visited two of Ohio's 34 grantees, the Community Action Partnership of the Greater Dayton Area (CAP-Dayton) in Dayton, Ohio and the Mid-Ohio Regional Planning Commission (MORPC) in Columbus, Ohio to gain information on program implementation as of August 31, 2009.

- CAP-Dayton had received about \$1.8 million or 10 percent, of its approximately \$18.1 million weatherization allocation from Ohio's total \$266.8 million allocation in Recovery Act funds for the Weatherization Assistance Program. CAP-Dayton expects to weatherize approximately 2,100 homes with its \$18.1 million using in-house crews and will contract out for more skilled work, such as plumbing and electrical work. To increase production from about 45 homes per month to about 100 homes per month, CAP-Dayton has hired six more crew leaders and 11 more technicians to augment its planned weatherization workforce of 82 in-house staff. During the 2-month period of July and August 2009, CAP-Dayton expended about \$801,100 of its allocation and weatherized 120 homes.
- MORPC has been allocated about \$4.5 million of Ohio's \$266.8 million allocation in Recovery Act funds for the Weatherization Assistance Program and plans to weatherize 538 homes with its portion of these funds. MORPC expects to add 14 staff to augment its inspectors, case managers, and quality assurance positions and has hired one additional outside contractor. Until August 2009, MORPC used four contractors.

⁵Three of these grantees use 24 local agencies—called delegates—to provide weatherization services.

To meet its new production goals, MORPC solicited applications for additional contractors. MORPC officials stated that while eight weatherization contractors submitted proposals, only one met the selection criteria — the contractor had to be appropriately licensed, provide satisfactory references, and have experience or skills in weatherization work. MORPC awarded the contract on August 1, 2009. MORPC now uses five contractors to provide weatherization services in the mid-Ohio region. During the two month period of July and August 2009, MORPC expended about \$251,240 of its allocation and weatherized 36 housing units.

Davis-Bacon Act Is Not a Factor Limiting the Use of Recovery Act Funds

Ohio began weatherizing homes before Labor had issued its guidance on Davis-Bacon wage rates for weatherization work. ODOD officials directed grantees to choose a wage rate of at least as much as an existing prevailing wage for a similar position and begin weatherizing homes. ODOD officials said that if these rates were lower than Labor's new prevailing wage rate for weatherization work, the wages would be retroactively adjusted. ODOD officials said that most of the 34 grantees that perform weatherization services already paid wages above then existing prevailing wage categories.

On September 3, 2009, Labor published a county-by-county weatherization wage determination for Ohio. The determination includes weatherization work performed by a weatherization worker, such as minor repairs, batt and blown insulation, window and door repair, and weather stripping, solar film installation, air sealing, caulking, and other minor or incidental structural repairs. The determination also identified specialty weatherization work including replacement of doors and windows, installation and repair of furnace and cooling systems, and work associated with furnace and cooling systems such as electrical, pipe, and duct work. A senior ODOD weatherization official told us, however, that this determination was incomplete. Specifically, wage determinations for six of Ohio's counties were not included and some wage determinations for specific classifications of two counties seem very high. ODOD has scheduled for Labor to provide prevailing wage training in early October 2009.

Although the Davis-Bacon wage rates themselves were not a concern for ODOD, officials said they will have to overcome some administrative challenges concerning payroll processing required under the Davis-Bacon Act. The act requires that employees are paid weekly; however, grantees in Ohio have biweekly payrolls and will have to change their payroll systems to implement the program with Recovery Act funds. An ODOD official

stated he was concerned that contractors may not participate in the program due to these paperwork requirements. At the two grantees we visited CAP-Dayton had advertised to hire a Davis-Bacon compliance officer and MORPC officials told us they were considering hiring a Davis-Bacon compliance officer.

Implementation of Weatherization Program Varies throughout Ohio

Since ODOD relies on a network of grantees to implement the program, there are variations in the way the program is implemented across the state. While some grantees may need to hire more staff and inspectors to weatherize homes in their area, others may rely on local contractors to do the work. Another difference between grantees' program implementation is how they acquire weatherization supplies. For example, CAP-Dayton contracts with material suppliers for bulk purchases of weatherization supplies. Whereas, MORPC does not purchase weatherization materials; instead, it requires its contractors to purchase the supplies they use. ODOD said it has developed a list of suppliers of weatherization materials that emphasizes the use of Ohio businesses, but it does not require its grantees to use suppliers from the list. The grantees can purchase their own materials in bulk or allow its contractors to purchase supplies, as long as the supplies meet state established standards.⁶ In instances where a grantee contracts out its weatherization services, the responsibility of purchasing supplies and materials is often given to the contractor.

We reviewed MORPC's solicitation for a new contractor to gain a better understanding of how it provides weatherization services and discussed it with local officials, who told us that the contract was not competitively bid. They explained that MORPC uses a set price list for supplies and materials and establishes the wages for the contractor's staff. The contractor has to agree to MORPC's price and wage conditions. Further, an official stated that the contract does not set total value; rather, its effective dates run from August 1, 2009, through March 31, 2011, and MORPC will allocate production among all its contractors until it meets its production goals.

⁶Ohio requires weatherization materials installed conform to the State of Ohio Weatherization Program Standards and Appendix A of 10 CFR Part 440.

Ohio Plans to Enhance Existing Monitoring to Accommodate Program Growth

Given the large increase in funding from the Recovery Act, ODOD plans to enhance its monitoring activities. Currently, to ensure that grantees are meeting program requirements, ODOD visits each grantee at least once every 2 years to conduct administrative monitoring during which files of at least 10 percent of total production are reviewed. In addition, technical program monitoring occurs at least once a year during which 5 percent of completed, weatherized units are inspected. Going forward, ODOD intends to conduct both administrative and technical monitoring on an annual basis. To further enhance its monitoring under the Recovery Act, ODOD plans to assess each grantee provider's performance and use of Recovery Act funds on a quarterly basis. If deficiencies are noted, ODOD indicated it will work with the grantee to meet program requirements. If ODOD finds that a particular grantee cannot resolve its deficiencies, ODOD will look for another grantee to provide services in that part of the state.

ODOD conducts on-site monitoring of a selected number of completed units to help ensure that weatherization program standards are met. DOE requires on-site inspections of at least 5 percent of production. The enhanced funding level will require many more inspections; ODOD officials said they plan to increase their staff from six to eight staff in order to meet the requirements. ODOD officials said that if its inspectors identify deficiencies, the contractors are required to return to the home to complete the work. ODOD also plans to conduct telephone satisfaction surveys to recipient households to monitor whether local programs are effective and customer friendly.

Grantees also monitor production. For example, CAP-Dayton officials told us that field supervisors oversee 100 percent of the housing units weatherized as work is being done. A final inspector reviews work crew's work before the project is closed. This inspection is done on every project. CAP-Dayton weatherization directors randomly inspect work sites. Finally, CAP-Dayton contacts every customer to obtain their satisfaction with the work done and follow up on 25 percent of the weatherized units to measure energy consumption. CAP-Dayton officials noted they will continue with these monitoring procedures for the Recovery Act projects. Similarly, an official at MORPC told us the weatherization program manager reviews and signs off on every application for weatherization service, quality assurance inspectors verify that weatherization work was properly done on 100 percent of the projects, and the program manager also checks completed units on a random basis. MORPC staff conduct a telephone survey of at least 25 percent of weatherization customers. MORPC officials also said they plan to continue these monitoring procedures on projects funded by the Recovery Act.

Because the weatherization program has been small in recent years, ODOD's monitoring activities have not been tested by an independent audit in more than 10 years. However, monitoring procedures and activities are subject to periodic review by the DOE. The lack of an independent review through the Single Audit process heightens the risks associated with the program. When considering risk during the Single Audit process, auditors consider such items as the recipient's current and prior audit experience with federal programs; the results of recent oversight visits by federal, state, or local agencies; and the inherent risk of the program. Ohio's Office of Internal Audit (OIA) recently conducted a risk assessment of ODOD in order to help optimize use of its audit resources. OIA plans to perform an interim review of the adequacy of the internal controls at ODOD and will conduct assurance testing of key controls as funds are disbursed to ODOD. Additionally, the Auditor of State anticipates auditing Ohio's Weatherization Assistance Program in 2010.

Ohio Will Use DOE Performance Measures to Assess Impact of Recovery Act Funds and Help Meet Section 1512 Reporting Requirements

ODOD officials plan to use DOE performance measures to determine the impact of Recovery Act weatherization funds and are reporting several metrics to DOE on a quarterly basis, including: financial data, units weatherized, jobs created, monitoring activities, training provided, and equipment purchased. Grantees are required to report production and financial information monthly. ODOD, on a monthly basis, plans to monitor grantees' productivity in relation to established production goals and the quality standards and to adjust program funding and identify grantee providers that may need additional guidance or oversight.

To help meet Section 1512⁷ reporting requirements, ODOD said it plans to report actual jobs created. ODOD will collect the data through surveys of its grantees, aggregate the data, and report the information to DOE and OMB. To allow adequate time to review the subrecipient data before ODOD has to submit the data to Ohio's Office of Budget and Management (OBM), ODOD plans to establish a reporting deadline for its grantees that is 10 days in advance of the reporting date. ODOD will check the data once

⁷Section 1512 of the Recovery Act requires direct recipients of Recovery Act funds to report not later than 10 days after the end of each calendar quarter beginning with the quarter ending September 30, 2009, including use of funds received from federal agencies, detailed project or activity information, and an estimate of the number of jobs created and the number of jobs retained for projects and activities. Pub. L. No. 111-5, 123 Stat. 115, 287 (Feb. 17, 2009)

they are received. If data appear questionable, officials will compare the electronically submitted information against hard-copy files. Although ODOD cannot verify the data before it submits it to OBM, ODOD plans to verify the data during its quarterly on-site visits.

In Ohio, all state agencies that receive Recovery Act funds are responsible for reporting Recovery Act Section 1512 data—including the number of jobs created and retained—to OMB. Ohio's OBM has issued guidance on estimating jobs created and retained. Additionally, guidance was provided to grantees at weatherization assistance program meetings hosted by ODOD on March 3 and 4, 2009. However, grantee officials told us that they had not received guidance on how to report on jobs created. CAP-Dayton, which primarily uses in-house crews to perform weatherization work, estimated that it will create 30 new jobs under Recovery Act funding. MORPC officials plan to measure full-time equivalent jobs and estimated that 14 jobs will be created within the agency. MORPC contracts out the majority of its weatherization services; MORPC surveyed its contractors and estimates that its contractors will create 8 new jobs. ODOD officials said they expect to issue additional Section 1512 reporting guidance in the near future. Because of the centralized reporting requirements issued by OBM, ODOD officials said they already possess most of the required identifying data. As a result, relatively few additional reporting requirements for subrecipients are anticipated.

Another challenge of measuring job creation will be separating job creation by funding source. Ohio's Recovery Act weatherization program receives funding from three different sources: DOE's Weatherization Assistance Program, Health and Human Service's (HHS) Low-Income Heat Assistance Program (LIHEAP), and Ohio's Electric Partnership Program (EPP). Officials at both CAP-Dayton and MORPC told us they will use DOE Recovery Act funds for in-house labor costs and will only report job creation under DOE Recovery Act weatherization funds. However, MORPC officials explained that contractors are able to use some LIHEAP funds to pay salaries. ODOD officials stated they do not yet have a method to report job creation by separate funding stream, but will seek guidance from DOE.

Ohio Expanded Summer Youth Employment Activities but Faced Challenges Reaching Intended Enrollments for Older Youth

The Recovery Act provides an additional \$1.2 billion in funds for the Workforce Investment Act (WIA) Youth Program, including summer employment. Administered by Labor, the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,⁸ the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth Program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.⁹ Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key goal of a summer employment program, according to Labor’s guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job; (2) learn work readiness skills on the job; and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.¹⁰ Labor’s guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic,

⁸H.R. Rep. No. 111-16, at 448 (2009).

⁹Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

¹⁰Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

accountability, and transparency provisions of the Recovery Act and Labor's guidance. Each state's plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth Program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor's guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

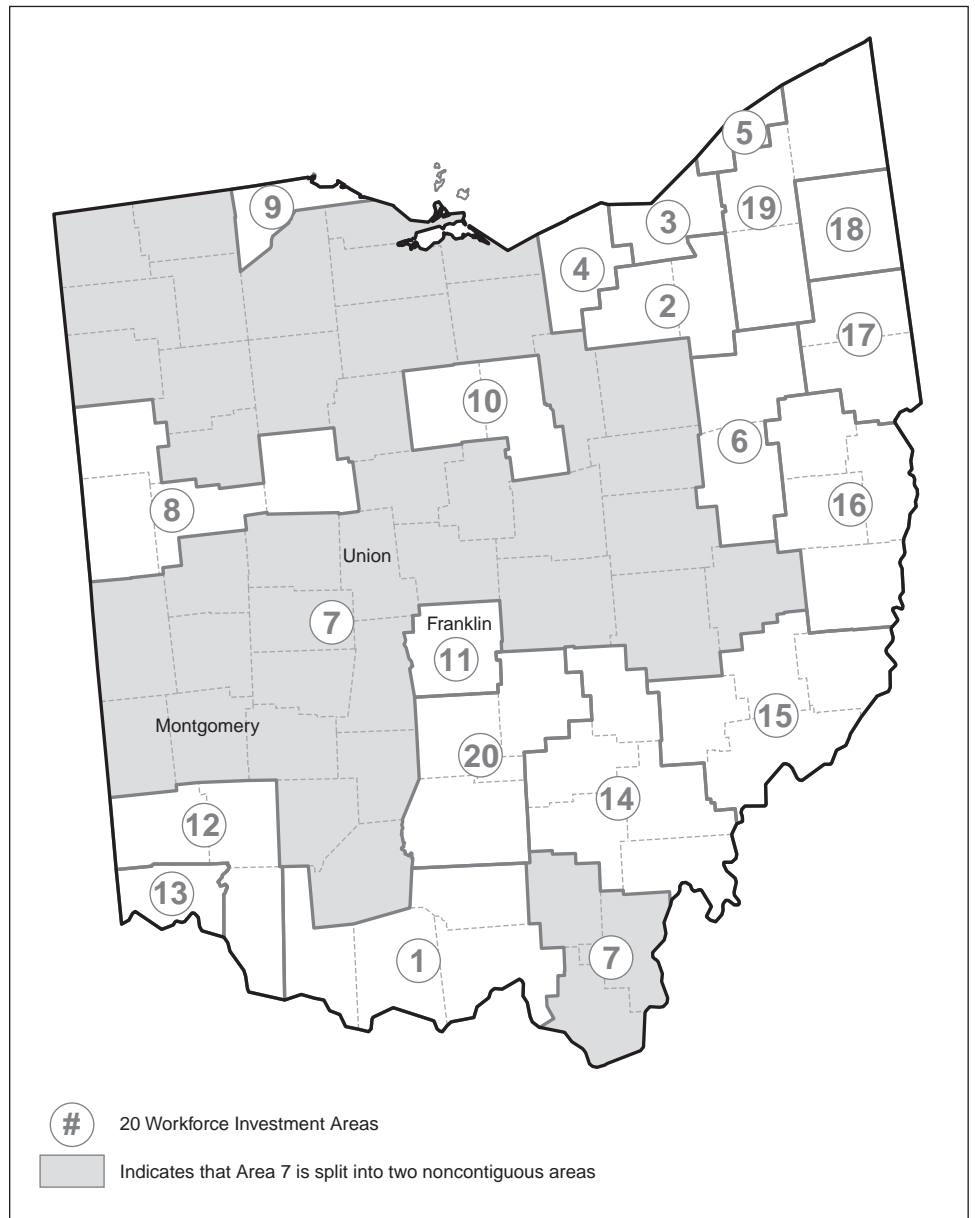
Ohio's Counties, in
Conjunction with Local
Workforce Investment
Boards, Design WIA
Summer Youth
Employment Activities

The Ohio Department of Job and Family Services (JFS) administers the state's workforce development system, including the WIA Youth Program, in addition to administering other federally funded social service programs. Ohio has 20 local Workforce Investment Boards (WIB), each including a varying number of counties. County commissioners are actively involved in decision making for the workforce system, and the design of summer youth employment activities differs from county to county, according to a senior JFS official. For our review of summer youth employment activities, we visited three counties: Franklin, Montgomery and Union, all of which we visited for our July 8, 2009, report.¹¹ We selected these counties to give us (1) a mix of population sizes and (2) a mix of experience operating summer youth programs. The counties are in two of Ohio's local area WIBs: Area 11, the Central Ohio Workforce Investment Corporation (COWIC),¹² which covers Franklin County and the city of Columbus; and Area 7, which covers 43 counties, including Union and Montgomery. (See fig.1.)

¹¹GAO, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*, [GAO-09-830SP](#) (Washington, D.C.: July 8, 2009). In the July report, we also visited Licking County, which is not covered in this report.

¹²COWIC is a nonprofit entity that is eligible to receive and administer funds granted under the Workforce Investment Act of 1998. Also known as the Local Workforce Board for Area 11 within the state of Ohio, it represents the city of Columbus and Franklin County, Ohio.

Figure 1: Map of Ohio's Workforce Investment Boards



Sources: GAO presentation of Ohio Department of Job and Family Services data; Map Resources (map).

Local Areas' Ability to Meet Ohio's Expenditure Rate Target Is Unclear

Ohio received \$56.2 million in Recovery Act funds for the WIA Youth Program and reserved 15 percent for statewide activities. As of August 15, 2009, JFS estimated it had expended \$13.5 million of its allotment. Though not required by the Recovery Act, JFS set an overall expenditure rate target for the Recovery Act youth funds, requiring local areas to expend at least 70 percent of the funds by October 31, 2009, and 90 percent by January 31, 2010. Local areas in Ohio that do not meet this target risk having those funds recaptured by the state, according to JFS. JFS reported that given current expenditures, it is unsure whether the local areas would meet its October expenditure target.

As Localities Implemented WIA Summer Youth Employment Activities, Meeting Enrollment Projections Proved Challenging

As we reported in July 2009, counties reported facing some challenges implementing their summer youth activities. For this report, we returned to three counties we visited in July. Local officials said they were able to overcome many of their initial concerns, but other concerns—such as recruiting and serving older youth, and increased workloads—remained.

The localities we visited each initially set a projected number of youth they could serve and had varying success reaching those projections. For our July 2009 report, JFS officials told us they expected 14,205 youth participants this summer. As of July 31, 2009, there were 12,530 youth participants statewide, with participation expected to increase as some local areas continued enrolling.¹³ Similarly, at the three counties we visited, the number of participants in the program at the time of our visit was below the counties' projected numbers. Table 1 summarizes the projected, eligible, and actual number of youth participants for the localities we visited.

¹³Data provided by Labor based on information reported by Ohio.

Table 1: Projected, Eligible, and Actual Numbers of Participants in Three WIA Summer Youth Employment Programs

	Projected number of youth participants from our last visit	Actual number of youth determined eligible who could begin activities ^a	Actual number of participants at the time of our latest visit
COWIC	2,500 ^b	Total: 2,121 Older ^c : 782	Total: 1,492 Older: 493 (as of Aug. 21, 2009)
Montgomery County	750	Total: 774 Older: 774	Total: 607 Older: 607 (as of Aug. 18, 2009)
Union County	30	Total: 24 Older: 6	Total: 18 Older: 5 (as of Aug. 14, 2009)

Sources: COWIC, Montgomery County JFS, and Union County JFS officials.

^aRepresents the final number of youth found eligible after intake periods ended.

^bCOWIC later revised the number of participants they could fund to 2,338 due to an increase in hourly wage for out-of-school youth.

^cOlder youth are ages 18 to 24.

Local officials said that older and out-of-school youth, including the newly eligible 22- to 24-year-olds, were especially challenging to recruit, enroll, and serve. Specifically, many 18- to 24-year-olds did not follow through with program requirements, such as providing eligibility documents. To help accommodate older youth, Montgomery County and COWIC had rolling admission.¹⁴ For older youth in COWIC’s area, wages were an issue. Officials at COWIC originally planned to serve about 1,250 out-of-school youth but only served 782. COWIC told us that older youth said they could find jobs on their own for minimum wage, so COWIC increased its hourly wage from \$7.30 to \$9 per hour, which helped increase participation. Once activities began, older youth did not always show up for work readiness or orientation sessions or to their job at the work sites, according to the local officials we visited. For some youth, this was due to competing responsibilities, such as child care. In Union County, the number of eligible applicants was low for all ages of youth. This, combined with

¹⁴Labor specifies the dates for WIA summer youth employment to be between May 1 and September 30, 2009. However, Ohio has a waiver from Labor that allows work experience to continue for youth 18 to 24 years old until March 30, 2010.

initial concerns about meeting the state expenditure rate target, allowed officials to offer 40 hours per week of work for most youth.¹⁵

In managing the program, local officials indicated it was a challenge to quickly screen the large number of applicants or to collect the documentation required for WIA eligibility. Compared with past summer programs, the counties we visited experienced increased workloads processing applications and documenting eligibility. To address the volume, COWIC had youth use an online portal to input application information with vendor staff. Montgomery County used an online form to prescreen potential applicants, and both counties hired additional staff to process applications and review eligibility documentation. COWIC used five staff members, including one hired for Recovery Act work, to review more than 2,300 applications processed by vendors. Montgomery County hired seven staff to review more than 1,000 applications. Union County processed only 43 applications; while its small staff did not have experience calculating WIA eligibility and the process was slow, the relatively small number of applications allowed them to process the applications themselves.

In the three counties we visited, local officials we spoke with put varying levels of effort into identifying and defining green opportunities. Despite Labor's encouragement for local areas to develop opportunities to introduce youth to green careers, Union County officials said finding green job placements was not a focus in their county. A Montgomery County official expressed frustration at the lack of definition for green jobs and said he was unsure how to define or identify green jobs. On the other hand, COWIC officials said they are working with industry leaders in the sector to identify green opportunities. In COWIC's request for proposals, it describes green initiatives as those that will help the conservation, recycling, or preservation of our environment. Along those lines, four COWIC youth were assigned to an internship in urban gardening, where they were to participate in the development of soil, compost, and planning, as well as learn about food business and soil conservation. However, some youth working in jobs classified under a "green initiative" were not necessarily working toward "green" educational or career paths. For example, two youth were assigned to the Ohio State University Center for Automotive Research, whose projects include alternative fuel vehicles.

¹⁵Hourly wages for youth in Union County ranged from \$7.30 to \$10 per hour and were based on wages that employers pay non-WIA-funded employees.

While they were exposed to green technology, their actual task was clearing brush and painting a fence at the center.

In implementing WIA summer youth employment activities, the local areas we visited did not have a problem recruiting employers to the program. In our visits, we found that the “work experience” component varied in the counties we visited, with some work sites having more educational elements than others. For example, 205 youth 14 to 17 years old in COWIC’s Camp IT are expected to strengthen computer skills; explore careers; engage in soft skill development, team building, and personal development; and access college and financial aid information. However other in-school youth placed in jobs by COWIC assisted in children’s summer camps, did clerical work or customer service. In Montgomery and Union Counties, work readiness sessions—lasting 1 hour in Montgomery County and 1 week in Union County—were the only classroom time for youth. The majority of youth in those counties did clerical or custodial work at employers in a variety of fields.

Work readiness measures were developed by individual counties in Ohio. In our July 2009 report, we noted that for officials in Montgomery County, developing work readiness measures was one of their greatest challenges. Montgomery County used work readiness measures developed by a vendor for their in-school youth program.¹⁶ Similarly, COWIC used different measures for in-school youth and out-of-school youth, as developed by vendors who have worked on previous COWIC programs.¹⁷ Union County used elements from a couple of sources, including a pre-employment test given by a local business.¹⁸

¹⁶Montgomery County’s work readiness test is a true/false test covering topics such as: money management, workplace communication, conflict management, coping skills, and time management.

¹⁷In addition to completing work readiness tests, all COWIC participants complete work readiness portfolios to document their learning during their internship.

¹⁸Union County’s work readiness test has questions on employment requirements, math computation, past employment experiences, and how to respond to workplace scenarios.

Ohio Is Enhancing Its Existing Monitoring Approach for the WIA Programs

As the prime recipient of WIA funds, JFS is responsible for monitoring the local area WIBs. JFS told us it plans on using its existing monitoring approach for the WIA Youth Program, with some enhancements. In April 2009, JFS issued guidance to local area WIB directors communicating its monitoring approach for WIA Recovery Act funding. According to this guidance, JFS will conduct multiple on-site visits, desk reviews, and teleconferences with the local area WIBs to assess the local area WIBs' readiness to implement services and activities using Recovery Act funds, as well as the sufficiency of its oversight procedures. JFS plans to provide the local area WIB with a written summary of the results of each visit or teleconference and will share these summaries with JFS staff so that they can address technical assistance needs, as appropriate. To enhance its monitoring capability, JFS plans on hiring additional staff to provide technical assistance, perform reviews of the fiscal data, and coordinate reviews of program data, as needed. To monitor activities provided with Recovery Act funds, JFS has also created supplemental questions specific to Recovery Act requirements.

In addition to reviewing the monitoring approach at the state level, we also assessed the monitoring approach of the counties and local WIBs we visited and noted both similarities and variations in their oversight practices. Similar practices local officials told us about were as follows:

- verifying eligibility by reviewing and signing off on each individual application;
- verifying the accuracy of a sample of manually entered application data (which was entered into the JFS reporting system, as electronic applications are not linked into the state reporting system);
- having supervisors sign youth timesheets and by reviewing them for accuracy;
- having employers file work-site agreements that detail the safety and supervision requirements for the programs; and
- using staff to make frequent on-site visits to monitor whether youth work sites were complying with program rules.

An example of a varying practice between the WIBs we visited is that COWIC officials told us it has an audit committee and had conducted recent risk assessments of its summer youth service providers. It used the results of these risk assessments to develop its fiscal monitoring schedule for conducting desk reviews. Area 7 told us it does not have an audit committee, and although it provided its monitoring schedule indicating site visits had begun, it had not conducted a recent risk assessment because it plans to visit every county.

In our July 2009 report, we noted that the Auditor of State had declared one of the local area WIBs to be “unauditable.” The Auditor of State declares an entity “unauditable” when the condition of the financial records is inadequate to complete the audit. The Area 7 WIB was the local area WIB declared “unauditable” by the Auditor of State. A senior JFS official responsible for overseeing the resolution of the audit issues told us that Area 7’s audit issues have been resolved, and on September 10, 2009, the Auditor of State released Area 7’s fiscal year 2008 single audit report.

JFS is responsible for the accuracy and completeness of all subrecipient reported information and plans to use a spreadsheet to collect subrecipient information. As subrecipients, local areas are responsible for reporting financial information to the state system through reporting mechanisms and processes determined by the state. JFS has issued initial guidance to its local area WIBs regarding its subrecipient reporting responsibilities. According to a JFS official, one of the challenges in meeting the October 10, 2009, reporting deadline is the requirement to include Recovery Act funding information through September 30, 2009. This is challenging because although local WIBs provide information to JFS by the end of the month, JFS has to review the information submitted, and this process normally takes about 10 days.

A WIA Summer Youth Contract Case Study

We selected one contract to review and discuss in greater depth with COWIC contracting officials. COWIC awarded this contract to a local vendor to provide services in support of its WIA summer work program for out-of-school youth. The contract was awarded on May 1, 2009, at a total value of \$160,068 with a project start date of May 1 and a projected completion date of September 30, 2009. The contract provides for the provision of services to 375 WIA eligible youth for their development as working professionals, which includes providing case management of individual participants, job readiness training, and internship job opportunities related to each participant’s career interests.

According to a senior contracting COWIC official, the contract awarded was one of six made by COWIC to public and private organizations to serve a total of approximately 970 out-of-school youth 18 to 24 years old during the summer of 2009. The official stated the contract was awarded competitively using procedures that included a request for proposal (RFP) open to any public or private organization capable of performing the work described. According to the senior official, 11 vendors submitted letters of intent (LOI) to bid, and from a review of those 11, it was determined that 9 vendors met the criteria established to submit a full proposal in response

to the RFP. The official stated these LOI reviews were used to ensure the capability of each contractor to perform the required services before actual contract award.

Officials told us that under COWIC Procurement Policy and Procedure, the agency's policy specifies that all procurement transactions shall be conducted in a manner to provide open and free competition in order to ensure objective contractor performance and eliminate unfair competitive advantage. This policy also states that contracts will be awarded to the offeror whose bid is responsive to the solicitation and is most advantageous to COWIC, price, quality, service, and other factors considered.

According to the senior contracting official, the work was awarded using a cost-reimbursable contract with a not-to-exceed amount. Payments to the vendor are based on actual expenditures, with all vendor invoices supported with detailed receipts. The official stated that COWIC has used this type of contract with service providers in the past and has achieved excellent outcomes. According to the contracting official, the agency has standard procedures for monitoring contractor performance with ongoing monitoring provided by COWIC compliance staff to assure quality and performance is being met. These procedures include conducting desk reviews of service provider information on program performance and compliance, service provider site visits to review records and interview contractor staff, and surveys to participating employers and youth to determine program compliance and assess service quality. A sample of work-site visits are also conducted by COWIC staff, and program reports are completed to document key quality and performance information. Other oversight activities include clarifying the performance outcomes with the vendor during contract negotiations and providing training for all selected vendors and their partners after contract award.

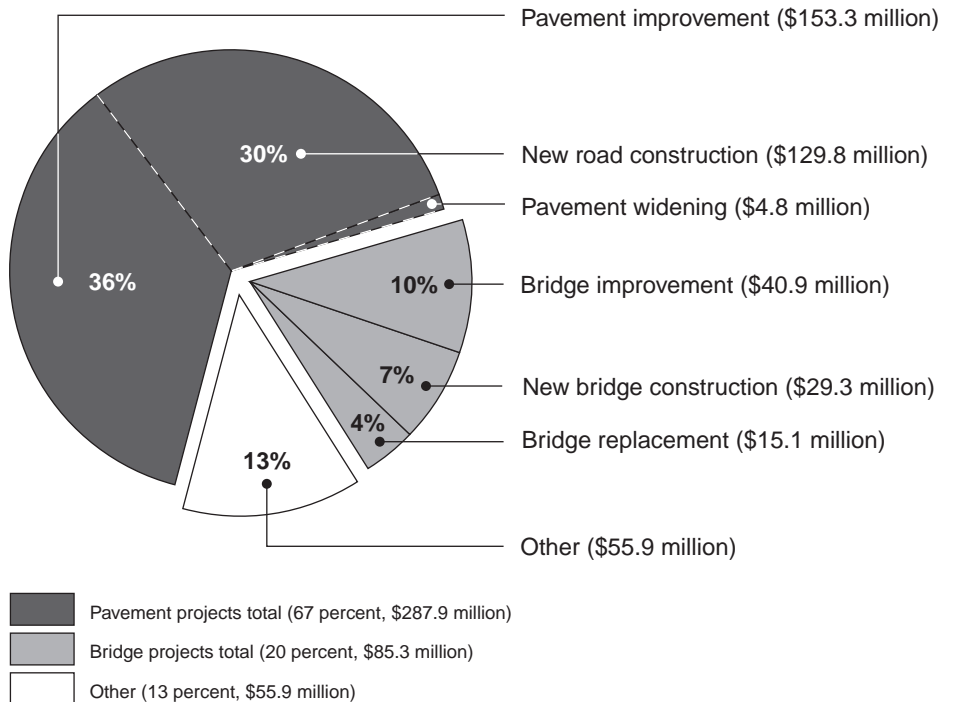
FHWA Is Obligating Highway Funds for Ohio for More Complex Projects and Has Increased Obligation Rates to Metropolitan Planning

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms, and states must follow the requirements of the existing program, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act it is 100 percent.

The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned about \$936 million in Recovery Act funds to Ohio. As of September 1, 2009, the federal government had obligated about \$429 million for 193 projects. This is about 46 percent of the \$936 million apportioned to Ohio in March 2009.¹⁹ Almost \$290 million or 70 percent of Recovery Act highway obligations for Ohio have been for highway pavement projects. More than \$190 million of these obligated funds are going for larger and more complex projects, such as the \$18 million Greater Cleveland and Greater Akron Regional Intelligent Transportation Systems for installing traffic cameras, dynamic message boards, vehicle detectors, and advisory radios along highways across seven Ohio counties. Figure 2 shows obligations by the types of road and bridge improvements being made.

¹⁹ All states have met the Recovery Act requirement that 50 percent of apportioned funds be obligated within 120 days of apportionment (before June 30, 2009). However, this requirement applies only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated, primarily based on population, for metropolitan, regional, and local use or to funds transferred to FTA. The number reported above reflects the percentage of all apportioned funds that have been obligated, including the suballocated amounts.

Figure 2: Highway Obligations for Ohio by Project Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

We selected two highway contracts²⁰ awarded by the Ohio Department of Transportation (ODOT) contracting officials to gain a better understanding of how projects were to be implemented. We reviewed the contracts and discussed them with ODOT officials, who told us that both projects were competitively bid and were awarded for a fixed price. Officials also stated that one contract was for 7.7 percent less than the state's estimated cost, and the other contract was for 15.1 percent more than the estimated cost. Also, in both cases, these officials indicated that ODOT had incorporated FHWA Recovery Act requirements into the contracts. As a result, the contractors are required to provide information necessary for ODOT to meet its Recovery Act reporting requirement.

²⁰The two contracts we reviewed included a project in Hancock County to pave deteriorated sections along Interstate 75 and a project in Cuyahoga County to repave the shoulders and widen the ramp between two major interstates.

Ohio Department of
Transportation Monitors
the Obligations and
Expending Rates of
Recovery Act
Transportation Funds for
Metropolitan Planning
Organizations

As of September 1, 2009, the federal government obligated \$49.6 million, or 31 percent, of the \$161.5 million of Recovery Act funds suballocated to Metropolitan Planning Organizations (MPO)²¹ throughout the state. These obligated funds went to 57 of the 153 approved MPO Recovery Act projects. ODOT officials said they were monitoring the MPOs' obligation rates closely and have procedures in place designed to ensure that all of the funds allocated for MPOs are promptly expended. For example, according to ODOT officials, ODOT requires the MPOs to submit contingency plans in case the actual contract amount is lower than the amount obligated for a project. MPO and ODOT district office officials meet regularly to discuss whether follow-up action is needed with local political entities that are sponsoring individual projects. In addition, ODOT central office convenes monthly video conferences with MPO and local ODOT district office officials to ensure that project phases are completed on schedule.

We visited the four largest of Ohio's eight MPOs;²² officials at all four MPOs expect there will be projects where contracts will be awarded at less than the original Recovery Act estimate. As of September 1, 2009, officials at one MPO identified four contracts that will be awarded about \$400,000 less than originally estimated. According to an MPO official, the contingency plan calls for removal of the unused funds from the original contract and obligating those funds for use on other road surfacing projects.

ODOT officials told us they expect all Recovery Act funds to be obligated on MPO approved projects by March 2, 2010. However, officials at the MPOs we visited were unsure of the process that should be followed to deobligate funds from projects and obligate those funds to other projects. In addition, they were unaware of the time frame available for completing the action. ODOT central office officials told us that all deobligated funds

²¹Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's TIP and the approved State Transportation Improvement Program (STIP).

²²MPOs visited were the Ohio-Kentucky-Indiana Regional Council of Governments, Northeast Ohio Areawide Coordinating Agency, Mid-Ohio Regional Planning Commission, and the Miami Valley Regional Planning Commission. These four MPOs were allocated the largest amount of Recovery Act funds in the state.

from contracts that were awarded at less than the original estimate need to be obligated on new projects by September 30, 2010. ODOT officials said they plan to revisit the procedures for obligating the unused Recovery Act funds with the MPOs to make sure they understand the process; ODOT officials also stated they may provide written guidance on the process.

Ohio Has Obligated Its Recovery Act Funds for State Fiscal Stabilization Fund and Education, but Few Funds Have Been Expended

State Fiscal Stabilization Fund

The Recovery Act created the State Fiscal Stabilization Fund (SFSF) in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public institutions of higher education (IHE). The initial award of SFSF funding required each state to submit an application to Education that provided several assurances, including that the state will meet maintenance-of-effort requirements (or will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or fiscal year 2009 levels for state support to school districts or public IHEs. When distributing these funds

to school districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use education stabilization funds, but states have some ability to direct IHEs in how to use these funds.

ESEA Title I

The Recovery Act provides \$10 billion to help local educational agencies (LEA) educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of the funds by September 30, 2010.²³ Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers.

IDEA

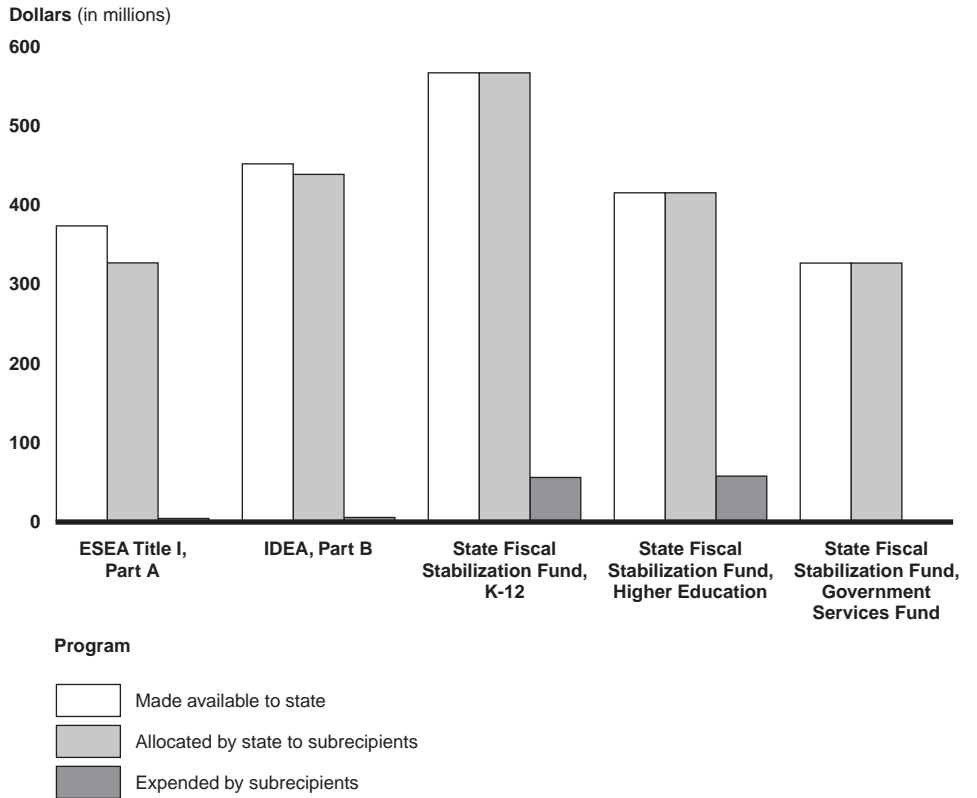
The Recovery Act provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure preschool and school-aged children with disabilities access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (section 619). Part C funds programs that provide early intervention and related services for infants and toddlers with disabilities—or at risk of developing a disability—and their families. Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009.

Ohio has allocated almost all Recovery Act funds made available for ESEA Title I, IDEA, and SFSF, but limited funds have been expended. The Ohio Department of Education (ODE) administers all Recovery Act funds for

²³LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver, and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

education, including SFSF money, and will distribute those funds to recipients as those entities request drawdowns. (See fig. 3.)

Figure 3: Expenditures of Recovery Act Funding for Selected Education-Related Programs as of September 15, 2009



Source: GAO analysis of data from the U.S. Department of Education and the Ohio Department of Education.

Note: The U.S. Department of Education does not separately allocate SFSF funds to states for K-12 and higher education, but this graph reflects the division of funds appropriated by the Ohio legislature.

While the final third of education stabilization funds have not yet been made available to the state, the state’s biennial budget appropriates all the funds to be provided by the Recovery Act. In addition, the budget allocated all of the state’s government services funds—a portion of the SFSF—to the Department of Rehabilitation and Corrections (ODRC). Specifically, the budget allocated the following over fiscal years 2010 and 2011:

- about \$845 million in SFSF to LEAs as a portion of the state’s foundation funding that the state sends in grants to LEAs each year by

formula. This year, the state changed the formula it will use to distribute this funding, known as foundation funding.²⁴

- nearly \$619 million in SFSF for higher education. These funds are being distributed to all 37 of Ohio's public institutions of higher education as part of the state's share of instruction (SSI). A state official said that, like the K-12 formula, the formulas used to determine SSI distributions also changed this year: They will include factors related to course completion and degree attainment, which are expected to be phased into the formulas over the next two biennia. Overall, the total SSI provided to IHEs increased by about 6 percent from fiscal year 2009 to fiscal year 2010. Based on preliminary calculations of SSI distributions, all main campuses of 4-year universities received more funding through the SSI than in the previous year except Youngstown State University and Central State University (CSU), whose total allocation for SSI was projected to be reduced compared with the previous year. Officials from CSU said the new formula factors presented challenges for the school.
- nearly \$326 million in SFSF over 2 years to the ODRC for operating costs such as salaries and other expenses.

Ohio's Use of Public Housing Capital Fund Grants Is Increasing

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management.²⁵ The Recovery Act requires the U.S. Department of Housing and Urban Development (HUD) to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date on which they are

²⁴The budget adopted an "evidence-based model" for school funding in Ohio. The new model, which includes funding for universal all-day kindergarten, will be phased in over 10 years. The total amount of funding calculated under the model is termed the adequacy amount. The adequacy amount includes eight major components: (1) instructional services, (2) additional support, (3) administrative services, (4) operations and maintenance, (5) gifted instruction and enrichment, (6) technology resources, (7) professional development, and (8) instructional materials. Certain components of the model are adjusted to account for differences in the school district's educational attainment, wealth, and concentration of economically disadvantaged students.

²⁵Public housing agencies receive money directly from the federal government. Funds awarded to the public housing agencies do not pass through the state budget.

made available to public housing agencies, expend at least 60 percent of funds within 2 years, and expend 100 percent of the funds within 3 years. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date on which the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in their current required 5-year capital fund plans.

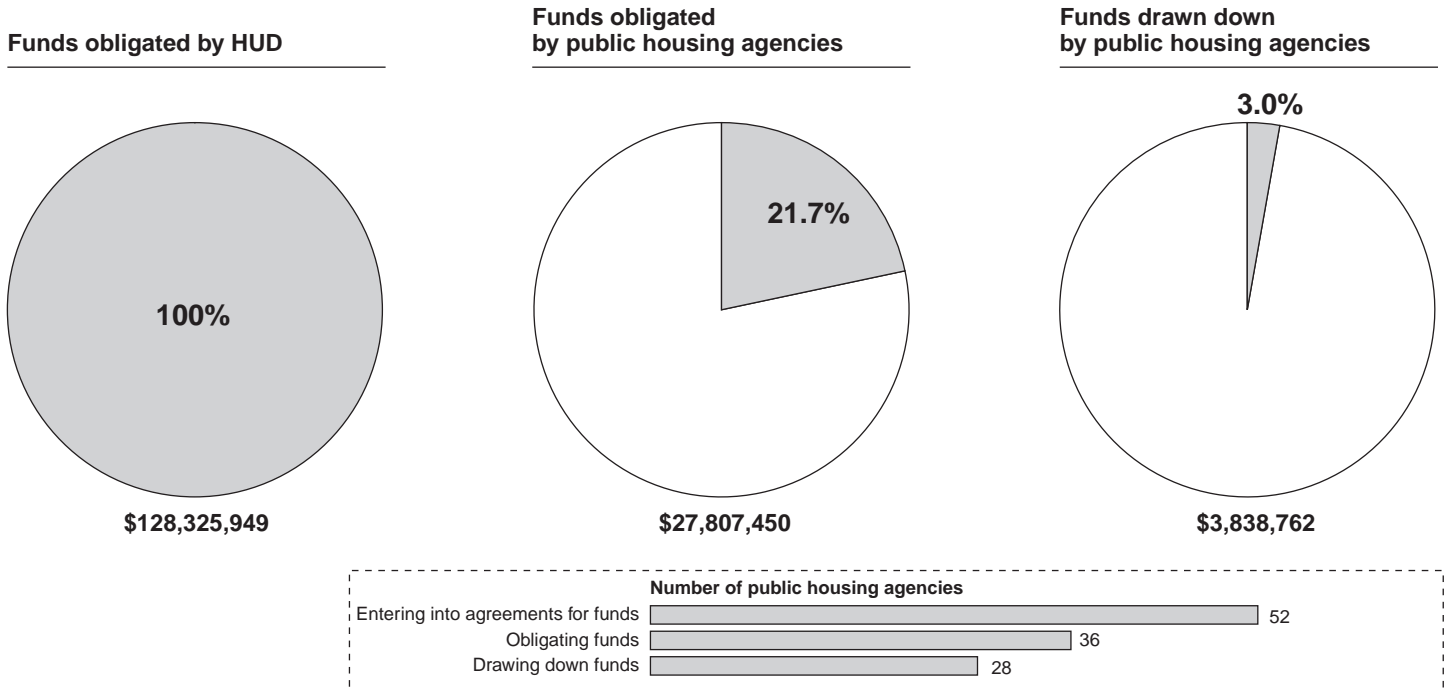
HUD is also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published May 7, 2009, and revised June 3, 2009, HUD outlined four categories of funding for which public housing agencies could apply:

- creation of energy-efficient communities (\$600 million),
- gap financing for projects that are stalled due to financing issues (\$200 million),
- public housing transformation (\$100 million), and
- improvements addressing the needs of the elderly or persons with disabilities (\$95 million).

For the creation of energy-efficient communities, applications (which were due July 21, 2009) were to be rated and ranked according to criteria outlined in the Notice of Funding Availability. The last three categories will be threshold-based, meaning applications that meet all the threshold requirements will be funded in order of receipt. If funds are available after all applications meeting the thresholds have been funded, HUD may begin removing thresholds after August 1, 2009, in order to fund additional applications in the order of receipt until all funds have been awarded. Applications in these three categories were accepted until August 18, 2009.

Ohio has 52 public housing agencies that have received Recovery Act formula grant funds. In total, these agencies received about \$128.3 million in Public Housing Capital Fund grant awards. We reported in July 2009 that Ohio's public housing agencies had obligated approximately \$8.1 million or about 6.3 percent of the total grant award allocation and had expended \$794,847 or about 0.6 percent. As of September 5, 2009, the Ohio public housing agencies have increased the pace at which they are obligating and expending Recovery Act funds. Figure 4 shows the funds allocated by HUD that have been obligated and drawn down by Ohio public housing agencies as of September 5, 2009.

Figure 4: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Ohio, as of September 5, 2009



Source: GAO analysis of HUD data.

As of September 5, 2009, 36 of 52 agencies in Ohio had obligated funds—an increase of 9 since June 20, 2009—and 28 have drawn down funds—an increase of 18 agencies. During the same time period, obligations have increased to about \$27.8 million, or 21.7 percent of the grant allocations, and draw downs have increased to over \$3.8 million, or about 3.0 percent.

Ohio to Use a Centralized System for Recipient Reporting

In Ohio, OBM is responsible for completion and submission of the quarterly Section 1512 Recovery Act reports to the FederalReporting.gov Web site. As a direct or prime recipient, state agencies contract with subrecipients, monitor these subrecipients, and report Recovery Act 1512 data from subrecipients to OBM for processing and reporting. OBM will monitor and report on Recovery Act funding that is managed by state agencies or passed through to local government entities on a subrecipient basis. OBM will neither monitor nor report funding and programmatic information on Recovery Act dollars that local entities may receive as prime recipients directly from federal grant programs. Prime recipients are

responsible for reporting information required by Section 1512 directly to FederalReporting.gov.

To ensure the accuracy and completeness of Recovery Act reports to federal agencies, OBM has designed a new information system—called the Ohio American Recovery and Reinvestment Act Hub (Hub)—to centrally collect and report on both financial and program data. Revenue and expenditure data is directly input to the Hub through an interface with the Ohio Administrative Knowledge System (OAKS). Programmatic information, however, is being entered into the Hub by each of the state agencies. State agencies that administer Recovery Act-funded programs are also responsible for submitting subrecipient and vendor information to the Hub. Each state agency that is a Recovery Act funding recipient is working with the OBM’s Office of Internal Audit to complete detailed process maps and risk assessments. This process began in March 2009 and is expected to continue for the duration of the Recovery Act programs.

OBM Has Identified Risks and Controls within the Hub

OBM identified four risk areas and established controls designed to avoid two key data problems—material omissions and significant reporting errors. Material omissions are when required data are not reported or reported information is not responsive to the data requested. Significant reporting errors occur when data is not reported accurately.

OBM reviewed the process activities for Ohio’s centralized reporting system—the Hub—for the program initiation and quarterly reporting process and identified four risk areas:

- commingling of Recovery Act funds with non-Recovery Act funds;
- insufficient or lack of internal controls in place to comply with Recovery Act program requirements and goals or to minimize the fraud, waste, and abuse;
- incomplete and inaccurate data; and
- untimely submission of Recovery Act data to federal agencies.

OBM established six key controls designed to prevent or mitigate the risk areas. These controls include

- assigning a unique OAKS number to each program for both revenue and expenditures,
- providing independent review of the Recovery Act process diagrams for each agency,
- delivering and monitoring data and validation reports to determine which programs are validating data to ensure compliance,

-
- reviewing OAKS data at month and quarter ends to ensure accuracy and completeness,
 - performing completeness checks on data pulled from the Hub and data uploaded into FederalReporting.gov, and
 - evaluating the Recovery Act internal controls of each agency.

Because the Hub is a new application, implementation issues could result. Recognizing this, in early August 2009, OBM performed an initial test run of the Hub. This “dry run” had two purposes. First, it allowed state agencies to become accustomed to the reporting timelines and the internal work procedures needed to meet the timelines. Second, it provided OBM with an opportunity to test its information system and ensure it could pull together accurate central reports in a timely and effective manner.

Initial Tests of the Hub Are Promising, but Challenges Exist

In mid-August 2009, OBM completed initial Hub testing. According to OBM, the test was designed as a basic system test. Specifically, the test was designed to help ensure that state agencies report all data elements required by Section 1512, that data were added to the appropriate reports by program and in summary, and that financial data from OAKS were fed properly into the Hub and were associated with the appropriate program. Additionally, the test provided an impetus for agencies to provide their program data, establish proper security for their users, and use the validation function for an individual to attest to the accuracy of program data.

OBM reported that the test was successful. Specifically, an OBM official noted that (1) reports available to all Hub users contained the required data, (2) financial data from OAKS were associated with the proper Catalog of Federal Domestic Assistance number and appeared correctly in reports, and (3) the validation and attest feature worked. Further, the test prompted the agencies to become more familiar with the Hub and spurred them to load their programmatic data. OBM plans another Hub test in early September 2009. This second test is to include available vendor and subrecipient data elements and will again test a reporting period conclusion.

While initial tests of the Hub were successful, OBM faces additional challenges before the system is fully operational and fully tested. First, the “dry run” tested data of only 14 of the more than 20 Recovery Act programs. Second, all controls and validation procedures may not be complete by the first quarterly reporting date of October 10, 2009. Third, notwithstanding the controls put into place and OBM’s “dry run” test, the

Hub could still contain erroneous data because each state agency has its own validation policy and is responsible for validating the accuracy and completeness of subrecipient data, as well as its own data. OBM officials told us they plan to review state agencies' controls and make sure that agencies' data have been independently reviewed.

State Comments on This Summary

We provided the Governor of Ohio with a draft of this appendix on September 4, 2009, and representatives of the Governor's office responded on September 09, 2009.

In general, they agreed with our draft and provided some clarifying information, which we incorporated. The officials also provided technical suggestions that were incorporated, as appropriate.

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Staff Acknowledgments

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Appendix XVI: Pennsylvania

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)¹ spending in Pennsylvania. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

We reviewed four programs in Pennsylvania funded under the Recovery Act—Highway Infrastructure Investment funds, Transit Capital Assistance Program funds, Weatherization Assistance Program, and the Workforce Investment Act (WIA) Youth Program summer employment activities. We selected these programs for different reasons. Contracts for highway projects using Highway Infrastructure Investment funds have been under way in Pennsylvania for several months, and provided an opportunity to review financial controls, including the oversight of contracts. The Transit Capital Assistance Program funds had a September 1, 2009, deadline for obligating a portion of the funds, and further, provided an opportunity to review nonstate entities that receive Recovery Act funds. The Weatherization Assistance Program received a significant funding increase and is considered a high-risk program by Pennsylvania's Bureau of Audits. We selected the WIA Youth Program in Pennsylvania because many of the local workforce areas were setting up summer youth employment activities for 2009. With these programs, we focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed. We reviewed contracting procedures and examined two specific contracts under both the Recovery Act Highway Infrastructure Investment funds and the WIA Youth Program. In addition to these four programs, we also updated funding information on three Recovery Act education programs—the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF); Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended; and the Individuals with Disabilities Education Act (IDEA), Parts B and C—which were awaiting spending authority under Pennsylvania's state budget. We also updated the funding information for the Public Housing Capital fund to provide perspective on nonstate entities receiving Recovery Act funds. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Pennsylvania and local governments stabilize their budgets and to stimulate infrastructure

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

development and expand existing programs—thereby providing needed services and potential jobs. We also reviewed the Pennsylvania Accountability Office’s plans for reporting and assessing the effects of spending. The following provides highlights of our review:

Updated Funding Information on Three Education Programs

- For its SFSF, Education directed Pennsylvania to resubmit its application before receiving the first portion of its \$1.9 billion allocation. In addition, because the Governor and General Assembly disagree about how to use the SFSF funds, local school districts will remain uncertain about this funding until Pennsylvania adopts a final budget for the fiscal year that began July 1, 2009.
- For Title I, Part A, of ESEA, Education has awarded Pennsylvania about \$400.6 million in Recovery Act funds. Based on information available as of September 3, 2009, Pennsylvania has allocated \$368 million to local education agencies (LEA), but the stopgap budget—adopted on August 5, 2009—provided authority to spend only \$199.4 million. These funds are to be used to help educate disadvantaged youth.
- For IDEA, Parts B and C, Education has awarded Pennsylvania about \$456 million in Recovery Act funds. Pennsylvania had allocated \$267 million to LEAs; however, the stopgap budget provided only \$228.5 million in spending authority. These funds are to be used to support special education and related services for infants, toddlers, children, and youth with disabilities.

Highway Infrastructure Investment Funds

- The U.S. Department of Transportation’s (DOT) Federal Highway Administration (FHWA) apportioned \$1.026 billion in Recovery Act funds to Pennsylvania, of which 30 percent was required to be suballocated primarily based on population for metropolitan, regional, and local use. As of September 1, 2009, the federal government had obligated \$874.9 million, and \$50.5 million has been reimbursed by FHWA. As of August 31, 2009, Pennsylvania had awarded contracts for 219 projects, mainly for bridge improvements and roadway resurfacing.
- In July 2009, as a result of favorable bids on its original Recovery Act projects, Pennsylvania used about \$134.8 million of Recovery Act funds to add 52 projects for a total of 293 projects. Four existing projects using about \$69 million in Recovery Act funds were also modified. According to Pennsylvania, the additional projects and modifications were covered by the original apportionment.

- Two Recovery Act projects we reviewed in depth have started and are making progress. First, the bridge rehabilitation project in Bedford County began in July 2009 and was 40 percent complete by early September. This project is expected to be finished by November 2009. Second, the transportation enhancement project in Chester County to construct and upgrade over 1,000 access ramps for persons with disabilities began in May 2009 and was estimated to have about 29 percent of the design and 21 percent of the construction work complete by early September. This project is expected to be finished in May 2010.

Transit Capital Assistance Program Grants

- DOT's Federal Transit Administration (FTA) apportioned \$327.5 million in Recovery Act Transit Capital Assistance formula grant funds to urbanized and nonurbanized areas in Pennsylvania. As of September 1, 2009, \$257.5 million had been obligated for urbanized areas, and \$30.2 million had been obligated for nonurbanized areas.
- Three transit agencies we visited plan to use their Recovery Act funds for rehabilitating rail lines and stations in Philadelphia, completing a tunnel to extend rail service from downtown Pittsburgh to its North Shore area, and constructing a transit center in Butler, Pennsylvania, that would serve local bus lines. In Pittsburgh and Butler, Recovery Act funds helped sustain projects that otherwise would have been suspended or scaled down significantly. In Philadelphia, favorable bids on its original Recovery Act projects allowed for six additional Recovery Act projects.
- As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Pennsylvania and its urbanized areas.

Weatherization Assistance Program

- The U.S. Department of Energy (DOE) allocated about \$253 million in Recovery Act weatherization funding to Pennsylvania for a 3-year period. DOE provided Pennsylvania with its initial 10 percent allocation (about \$25 million) on March 27, 2009, and another 40 percent allocation (about \$101 million) when DOE approved Pennsylvania's weatherization plan on August 25, 2009.
- As of September 1, 2009, Pennsylvania had not obligated any of its weatherization funds but was working to issue contracts to 43 local weatherization agencies. Pennsylvania expects to begin work in November 2009 to weatherize 29,700 homes and create an estimated 940 jobs.

WIA Youth Program Summer Employment Activities

- The U.S. Department of Labor (Labor) allotted about \$40.6 million to Pennsylvania in WIA Youth Program Recovery Act funds. Pennsylvania has allocated \$34.6 million to local workforce boards, and as of September 1, 2009, the local workforce boards had expended \$11 million.
- Pennsylvania enrolled more than 8,800 youth, exceeding its enrollment goal of 8,700. The two workforce investment boards we visited provided employment activities that combined work readiness activities with academic learning components. For example, one university-affiliated contractor in Philadelphia ran an urban nutrition employment activity at local high school sites with an educational component that required participants to submit at least three applications to institutions of higher education (IHE).
- While Pennsylvania exceeded its enrollment plans, local workforce investment areas encountered challenges implementing the summer youth employment activities. For example, in Philadelphia, the contractor stated that the work start dates of approximately 25 percent of youth participants were delayed because of delays in the enrollment paperwork process.

Updated Funding Information on Public Housing Capital Funding

- The U.S. Department of Housing and Urban Development (HUD) has allocated about \$212 million in Recovery Act funding to 82 public housing agencies in Pennsylvania. Based on information available as of September 5, 2009, about \$65.0 million (31 percent) had been obligated by 68 of those agencies.

Reporting and Assessing the Effects of Spending

- Pennsylvania's Accountability Office plans to centralize submission of quarterly recipient reporting for Recovery Act funds received by Pennsylvania state agencies. State program agencies receiving Recovery Act funds—the direct recipients—are responsible for collecting and entering any additional data for their subrecipients and vendors into the centralized Recovery Act data warehouse. The Accountability Office is developing internal controls and a quality review process to help ensure that the data are complete and accurate before submission. Pennsylvania's Accountability Office expects to file at least 40 recipient reports for the October 10, 2009, deadline.
- Looking beyond the recipient reporting on jobs and project status, Pennsylvania's Accountability Office is developing a performance measure framework to track results of Pennsylvania's Recovery Act spending and report meaningful outcomes to the public. After the first

round of recipient reporting is complete in October, Pennsylvania's Accountability Office will continue work to finalize the performance measures and begin collecting data for publication on Pennsylvania's recovery Web site, www.recovery.pa.gov.

Pennsylvania Budget Impasse Continues to Delay Release of Some Recovery Act Funds

Pennsylvania ended its fiscal year 2008-09 with a projected budget gap of more than \$1.9 billion, and lower-than-expected revenue collections complicated efforts to balance the budget. The Pennsylvania Department of Revenue reported that the shortfall in general fund revenue for fiscal year 2008-09 was \$3.3 billion, or 11.3 percent less than estimated as of June 30, 2009. As we reported in July, Pennsylvania's Office of the Budget does not expect revenues to grow in fiscal year 2009-10, which may contribute to a budget gap—where anticipated expenditures are greater than anticipated revenues—in fiscal year 2009-10.² According to August 2009 revenue collection data reported by the Pennsylvania Department of Revenue, general fund revenues for the first 2 months of fiscal year 2009-10 were \$3.3 billion, or 0.7 percent less than estimated.

While Recovery Act funds are expected to help Pennsylvania narrow its budget gap and to minimize reductions in essential services and the need for state tax increases, the General Assembly and the Governor have not agreed on a final budget for fiscal year 2009-10, which began July 1, 2009. In June 2009, the Governor revised his proposed budget for fiscal year 2009-10, including \$26.4 billion in general fund spending. As we reported in July, the Governor also proposed temporarily increasing the state's personal income tax rate from 3.07 to 3.57. However, the state Senate passed an appropriations bill—Senate Bill 850³—that differed substantially from the Governor's proposed budget. The Governor's proposed budget and the Senate bill differed on issues such as targeted tax increases, the use of Pennsylvania's Rainy Day Fund,⁴ and education funding (discussed below). Without a budget in place on July 1, Pennsylvania's state government did not have spending authority. Although state offices

²Pennsylvania's state fiscal year begins on July 1 and ends on June 30.

³S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

⁴As of February 2009, Pennsylvania's Rainy Day Fund balance was \$753 million.

remained open, state employees faced delays in receiving their paychecks during the budget impasse.⁵

On August 5, 2009, the Governor signed Senate Bill 850 to provide a “stopgap” budget measure to pay state employees and fund health and public safety programs. According to the Governor’s letter to the state Senate, the Senate bill was not a constitutionally balanced budget and would have led to a \$1.7 billion shortfall.⁶ The Governor used line item veto authority to veto all but \$11 billion in appropriations mainly for state employees’ pay, as well as basic health and safety services. The \$12.9 billion in appropriations vetoed included state basic and higher education funding, subsidized day care, mental health and other health services, and county court reimbursement.⁷ The Governor said that he could not approve the Senate bill in its entirety because he viewed the funding for education and other programs as insufficient. As of September 12, 2009, the General Assembly had not passed and the Governor had not signed a final budget for fiscal year 2009-10, which began on July 1.

Pennsylvania has used some Recovery Act funds to help narrow its budget gap. The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free up state funds to address their projected budget shortfalls. Pennsylvania plans to use Recovery Act funds to a greater extent in fiscal year 2009-10 than they were used during fiscal year 2008-09. In fiscal year 2008-09, Pennsylvania used \$957 million in Recovery Act funds to help stabilize its budget.⁸

⁵In 2008, the Commonwealth Court of Pennsylvania held that the federal Fair Labor Standards Act (FLSA) does not preempt the provision of the state constitution requiring an appropriation by the state legislature before any money can be paid out of the state treasury. *Council v. Com.*, 954 A.2d 706 (Pa. Comm. Ct. 2008). The court found that FLSA “does not authorize an illegal raid on the State’s treasury to make payroll” and that the remedy for a violation of FLSA is the remedy created by Congress, liquidated damages. *Id.* at 718. However, Labor’s Employment Standards Administration, Wage and Hour Division, initiated an inquiry under the federal FLSA in response to state employee complaints.

⁶According to the Secretary of the Budget, Senate Bill 850 was based on an outdated estimate of the 2008-09 budget shortfall and assumed 1 percent growth in revenues.

⁷The stopgap budget included partial funding for mental health and Medical Assistance to meet requirements for Pennsylvania to be eligible for the increased Federal Medical Assistance Percentage funds under the Recovery Act.

⁸Recovery Act funds used to stabilize the state’s budget were the Federal Medical Assistance Percentage funds (discussed in detail in [GAO-09-1016](#)). Other funds available for states’ budget stabilization include SFSP moneys.

However, the extent to which Recovery Act funds will contribute to Pennsylvania’s fiscal stability is difficult to assess at this time because Pennsylvania has not appropriated all federal Recovery Act funds for state use. Under Pennsylvania law, federal funds must, in general, be appropriated by the General Assembly.⁹ According to analysis by Pennsylvania’s Office of the Budget, the August stopgap budget measure appropriated \$3.3 billion in Recovery Act funding. Table 1 shows the amounts appropriated for the Recovery Act programs we reviewed for this report. Highway infrastructure investment funds of \$1.026 billion did not require separate appropriation, according to state budget officials, and Pennsylvania has been spending those funds since last spring. Some Recovery Act programs, such as the competitive grants that Pennsylvania has applied for, were not included in the August stopgap budget measure and thus do not have spending authority in place to move forward as Pennsylvania receives the federal funds. Likewise, some Recovery Act programs received only partial appropriations, and as discussed further below, the Governor vetoed the SFSF appropriations.

Table 1: State Appropriations for Selected Recovery Act Programs in Pennsylvania’s August Stopgap Budget

Dollars in millions

Recovery Act program	Amount available under the Recovery Act	Amount appropriated in the state stopgap budget
Highway Infrastructure Investment funds	\$1,026.4	Not applicable ^a
Transit Capital Assistance grants for nonurbanized areas	30.2	\$30.0
Weatherization Assistance Program	252.8	200.5
WIA Youth Program ^b	40.6	37.0
Three education programs ^c	2,756.6	427.9
Total for selected programs	\$4,106.6	\$695.4

Source: GAO analysis of Pennsylvania Office of the Budget data.

^aFederal Highway Infrastructure funding does not require separate appropriation, according to the Pennsylvania Office of the Budget.

^bPennsylvania also appropriated \$15 million for statewide WIA activities and administration, \$16 million for WIA adult employment and training, and \$30 million for WIA dislocated worker activities.

^cIncludes SFSF and Recovery Act funds under ESEA Title I, Part A, and IDEA Parts B and C.

⁹72 Pa. Cons. Stat. § 4615.

Even as the Pennsylvania General Assembly and Governor debate how to incorporate Recovery Act funds into the fiscal year 2009-10 budget, budget officials are looking ahead for ways to balance future budgets when this temporary funding ends. As we reported in July, budget officials indicated that they are taking several steps to prepare for when Recovery Act funds are phased out, including using a multiyear budget planning process, emphasizing onetime uses of Recovery Act funds where possible, and requiring agencies to use limited-term positions when hiring using Recovery Act funds.¹⁰ State budget officials acknowledged that Pennsylvania will need to make additional cuts or consider revenue enhancements depending on how quickly the economy improves. According to Pennsylvania's Secretary of the Budget, if \$1.7 billion in onetime nonrecurring revenues, such as the Rainy Day Fund, are used to bridge the funding gap in fiscal year 2009-10, there would still be about a \$1.7 billion shortfall at the end of the fiscal year. Without the addition of any recurring revenues, the projected shortfall would grow to more than \$4 billion at the end of fiscal year 2010-11. As of August 2009, the three nationally recognized bond rating agencies have observed fiscal pressures, such as increased pension contributions beginning in 2013 and the need to replace the temporary Recovery Act funding, that could put downward pressure on Pennsylvania's bond rating. One rating agency said that Pennsylvania's rating outlook is negative if the budget continues to rely on nonrecurring revenue sources, such as the Rainy Day Fund and Recovery Act funding, and does not return to structural budget balance.

Pennsylvania Plans to Use Some Recovery Act Funds for Administrative Costs

Following OMB's guidance on central administrative costs, Pennsylvania plans to bill central oversight costs to each Recovery Act award based on the ratio of that award to total Recovery Act funds received by the state. Central administrative costs will consist of \$500,000 for the Accountability Office, \$1,750,000 for creating a reporting tool, and \$468,000 for Pennsylvania's Comptroller Office to perform risk assessments and audits of high-risk Recovery Act-funded programs. Under the proposed billing methodology, estimated costs will be billed to Recovery Act-funded programs at the beginning of the fiscal year, actual personnel and operating costs will be tracked during the fiscal year, and the estimated and actual costs will be reconciled at the end of the fiscal year. Any

¹⁰As of August 14, 2009, Pennsylvania had filled 166 positions specifically for Recovery Act programs, including 155 staff for food stamp eligibility and processing. Another 154 positions are approved, mostly to administer the workforce investment, unemployment compensation, and food stamp programs.

difference will be used to offset the costs charged to that award in the subsequent fiscal year.

Pennsylvania may consider exempting certain Recovery Act programs and funding, such as the increased Federal Medical Assistance Percentage, which do not require quarterly recipient reporting under Section 1512 of the Recovery Act, from the allocation base. Also, where a Recovery Act-funded program does not receive federal funding for administrative costs, Pennsylvania may charge that cost share to other available federal funding sources. Pennsylvania submitted its proposed billing methodology to the U.S. Department of Health and Human Service's Division of Cost Allocation for approval on August 28, 2009. According to the Secretary of the Budget, Pennsylvania received preliminary verbal approval for its proposed cost allocation plan on September 4, 2009.

Funding for Education Will Remain Uncertain until Pennsylvania Adopts Its Final Budget

As part of our review of Recovery Act education funding, we looked at three programs administered by Education: SFSF; Title I, Part A, of ESEA; and IDEA, Parts B and C. We obtained updated budget and spending data from Pennsylvania's Office of the Budget.

As we reported in July, Pennsylvania's current budget debate centers on the state basic education funding level, and according to state officials, local school districts are unable to spend Recovery Act funds until they are appropriated in the Pennsylvania budget.¹¹ For fiscal year 2009-10, the Governor's application for SFSF funds proposed to maintain state funding for elementary and secondary education at the fiscal year 2008-09 level of about \$5.2 billion and use \$418 million in education stabilization funds for elementary and secondary education. In contrast, Senate Bill 850 proposed to reduce appropriations for state basic education funding for school districts to the fiscal year 2005-06 level of about \$4.5 billion and use \$729 million of Recovery Act funds for basic education.¹² As we reported in July, school districts would have received the same funding for 2009-10 school year that they had during 2008-09 school year under Senate Bill 850,¹³ whereas school districts would have received an increase in funding

¹¹According to state education officials, local school districts may obligate ESEA Title I, Part A and IDEA Recovery Act funds as soon as their applications are received in an approvable form.

¹²S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

¹³S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

under the Governor's budget. In the stopgap budget measure signed on August 5, 2009, the Governor vetoed funding for state basic education—the largest state appropriation for local school districts. Without a final budget in place to provide spending authority, the Pennsylvania Department of Education did not make its monthly state basic education payments to school districts in July and August.¹⁴ School district officials we interviewed in the past reported that if the budget impasse continues into the fall, they would need to borrow funds to pay bills or shut down. The budget impasse has also affected funding for higher education. The Pennsylvania Higher Education Assistance Agency does not know the amount that will be available for state grant awards for college students and is unable to finalize and disburse college tuition grants for the 2009-10 academic year.

School Districts Remain Uncertain of State Fiscal Stabilization Funds Because of the State Budget Impasse

The Recovery Act created SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must be used to alleviate shortfalls in state support for education to school districts and public IHEs. The initial award of SFSF funding required each state to submit an application to Education that provides several assurances, including that the state will meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, such as increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. States must allocate 81.8 percent of their SFSF funds to support education (these funds are referred to as education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public IHEs. When distributing these funds to school

¹⁴School districts receive monthly subsidy payments from the state on the last Thursday of every month.

districts, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

As of September 1, 2009, Pennsylvania had not yet received approval for the initial allocation of \$1.3 billion of its total \$1.9 billion allocation of SFSF funds. Pennsylvania submitted an SFSF application on June 26, 2009. This application excluded four IHEs that per the Governor, are not under state control and, therefore, would not be eligible to receive SFSF money.¹⁵ However, under Pennsylvania's preliminary SFSF application in April 2009, these four institutions would have been awarded \$41.9 million. The SFSF guidance requires states to use SFSF money to restore state spending for public IHEs to the greater of fiscal year 2008 or 2009 levels of support. The guidance further notes that a state may not choose to restore support only for elementary and secondary education or only for public IHEs. Education has directed Pennsylvania to resubmit its SFSF application and include these four institutions as IHEs. Pennsylvania will resubmit its application once a final fiscal year 2009-10 budget is in place.

In the stopgap budget measure signed on August 5, 2009, the Governor vetoed the SFSF amounts included in Senate Bill 850, because the General Assembly and the Governor did not agree on how to distribute the funds. As we reported in July, Pennsylvania Department of Education officials were uncertain of the funding levels for SFSF Recovery Act funds given the budget uncertainty.

School Districts Received Partial Spending Authority for ESEA Title I, Part A Funds

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of ESEA. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by

¹⁵These four IHEs are Pennsylvania State University, University of Pittsburgh, Temple University, and Lincoln University.

September 30, 2010.¹⁶ Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

Education has awarded Pennsylvania its total allocation of about \$400.6 million in Recovery Act funds. Based on information available as of September 3, 2009, Pennsylvania has allocated \$368 million to LEAs. However, the stopgap budget measure signed on August 5, 2009, provided authority to spend only \$199.4 million. Pennsylvania received its ESEA Title I, Part A allocation and expended \$23 million as of September 3, 2009.

Recovery Act IDEA, Parts B and C, Funding Received Partial Appropriations

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of IDEA, the major federal statute that supports the provisions of early intervention and special education and related services for infants, toddlers, children, and youth with disabilities. Part B funds programs that ensure that preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grants—Part B grants to states (for school-age children) and Part B preschool grants (Section 619). Part C funds programs that provide early intervention and related services for infants and toddlers with disabilities—or at risk of developing a disability—and their families. Education made the first half of states' Recovery Act IDEA funding available to state agencies on April 1, 2009, and announced on September 4, 2009, that it had made the second half available.

For IDEA Parts B and C, Education has also awarded Pennsylvania its total allocation of \$456 million in Recovery Act funds. Pennsylvania had allocated \$267 million to LEAs, but the stopgap budget measure provided only \$228.5 million in spending authority. Pennsylvania received its IDEA allocation but no funds have been expended as of September 3, 2009.

¹⁶LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

FHWA Has Obligated for Pennsylvania 85 Percent of Recovery Act Funds Primarily for Roadway Resurfacing and Bridges

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program, and for other eligible surface transportation projects. The act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through existing federal-aid highway program mechanisms, and states must follow the requirements of the existing program, including planning, environmental review, contracting, and other requirements. However, the federal fund share of highway infrastructure investment projects under the Recovery Act is up to 100 percent, while the federal share under the existing Federal-Aid Highway Program is usually 80 percent.

As we previously reported, \$1.026 billion was apportioned to Pennsylvania for highway infrastructure and other eligible projects. As of September 1, 2009, \$874.9 million (85.2 percent) had been obligated. DOT has interpreted the “obligation of funds” to mean the federal government’s contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. As of September 1, 2009, \$50.5 million had been reimbursed by FHWA. States request reimbursement from FHWA as the states make payments to contractors working on approved projects. Pennsylvania initially planned to fund 241 projects from its apportionment.¹⁷

Pennsylvania has awarded highway and bridge contracts and started work. As of August 31, 2009, Pennsylvania had received bids for 245 projects and awarded contracts for 219 projects representing about \$604 million. Of these, 212 projects representing \$503 million were under way—that is, a Notice to Proceed had been issued, which authorizes a contractor to begin work. According to a Pennsylvania Department of Transportation (PennDOT) official, the contracts would be “let”—that is, bids opened or received—for the remaining projects by December 17, 2009. As we previously reported, PennDOT officials expect all work to be completed on Recovery Act projects within 3 years of the date the Recovery Act was enacted.

¹⁷According to a PennDOT official, one additional project was not certified. This project was included in a subsequent certification.

We reported in July 2009 that bids for Recovery Act highway and bridge projects were 14.6 percent less than original project cost estimates. According to data from PennDOT, as of August 31, 2009, the total amount across all bids received was 12 percent (or about \$104 million) less than original state estimates of total project costs. As a result of the favorable bidding climate, on July 23, 2009, the Governor of Pennsylvania certified to the U.S. Secretary of Transportation an additional 52 Recovery Act projects and the modification of 4 existing Recovery Act projects.¹⁸ The additional projects totaled \$134.8 million in Recovery Act funds and the modified projects about \$69.2 million. The certification letter stated that the addition of these projects did not change Pennsylvania's Recovery Act apportionment of \$1.026 billion for highway infrastructure and other eligible projects but rather were covered by the apportionment. With the addition of these projects, Pennsylvania now plans to fund 293 projects with its Recovery Act apportionment. PennDOT officials told us that they track bid savings in each area of Pennsylvania represented by a metropolitan or rural planning organization and that additional projects funded by these savings would be selected by these organizations. The additional projects will be located in 35 of Pennsylvania's 67 counties, including 19 economically distressed areas and 16 non-economically distressed areas. Recovery Act funds for the projects range from \$32.8 million for a highway reconstruction project in Allegheny County to about \$136,000 for a transportation enhancement project in Schuylkill County.¹⁹

Pennsylvania Has Primarily Used Recovery Act Funds for Pavement Improvements and Bridge Improvements

Pennsylvania selected highway and bridge projects that could be started quickly and focused on roadway pavement needs and bridge deficiencies. FHWA data show that as of September 1, 2009, most Recovery Act funds for Pennsylvania have been obligated for pavement improvements and bridges; lesser amounts have been obligated for other projects, including safety and traffic management and transportation enhancements (see fig. 1). Specifically, \$353.8 million of the \$874.9 million obligated was for pavement improvement projects and \$251.0 million was obligated for

¹⁸Federal regulations require states to maintain a process for reviewing project cost estimates. In addition, the state shall seek to revise the federal funds obligated for a project within 90 days after it has determined that the estimated federal share of project costs has decreased by \$250,000 or more. (23 C.F.R. Part 630.106.) The funds deobligated from this process may be used for other projects, once funds have been obligated by FHWA.

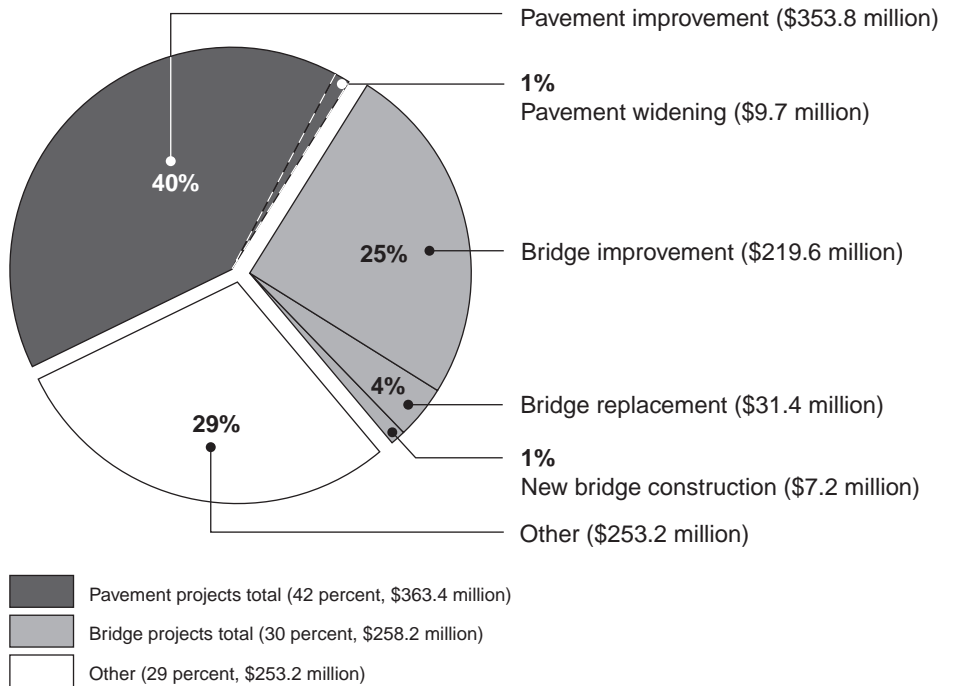
¹⁹This latter project, which is to construct access ramps for people with disabilities, has a total value of \$1.1 million of which about \$136,000 in Recovery Act funds will be used.

bridge improvements or replacements. The obligation of Pennsylvania's Recovery Act funds for pavement improvement projects is similar to the share of spending nationwide for this type of project—40 percent for Pennsylvania compared with 48 percent nationwide. One exception was pavement widening, for which FHWA has only obligated 1 percent of Pennsylvania's highway apportionment compared with 16 percent nationwide. In contrast, FHWA has obligated a larger share of Pennsylvania's Recovery Act funds to bridge projects—about 29 percent for Pennsylvania compared with 10 percent nationwide.²⁰ As we reported in July 2009, a significant percentage of the state's bridges (we reported about 26 percent in 2008) are structurally deficient—a reflection of the state's consistently poor bridge conditions.²¹ Pennsylvania's initial Recovery Act program planned to address 400 bridges, about 100 of which are structurally deficient.

²⁰Pennsylvania's spending for other types of projects (such as transportation enhancements) was similar to national averages.

²¹See GAO, *Highway Bridge Program: Clearer Program Goals and Performance Measures Needed for a More Focused and Sustainable Program*, [GAO-08-1043](#) (Washington, D.C.: Sept. 10, 2008), for more information.

Figure 1: Highway Obligations for Pennsylvania by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: Totals may not add due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Both Recovery Act projects we reviewed in our July 2009 report (a bridge project in Bedford County and a transportation enhancement project in Chester County) have begun. First, the bridge project in Bedford County—an economically distressed area—consists of removing an existing overlay from bridge beams on two structures and replacing it with a concrete deck and paving. This \$250,000 project began in May 2009 and is expected to be completed in November 2009. PennDOT officials estimated that as of early September, this project was 40 percent complete. Second, a \$4.4 million transportation enhancement project to construct and upgrade over 1,000 access ramps for people with disabilities in Chester County—a non-economically distressed area—began in April 2009 and is expected to be completed in May 2010. PennDOT officials estimated that as of early September, about 29 percent of the design work and 21 percent of the construction work for this project was complete. In its August 2009 report to FHWA (with data as of July 2009), PennDOT showed that 14 jobs had

been created or sustained for the Bedford project and 41 jobs were created or sustained for the Chester project.

Pennsylvania Uses Existing Procedures to Solicit Bids for Recovery Act Highway Contracts and Monitor Contractor Work

PennDOT officials said that they are using existing procedures to solicit bids for contracts for Recovery Act highway and bridge projects and that their contracting must comply with federal acquisition requirements. PennDOT officials told us that state law requires that contracts be competitively bid and that the lowest responsible bidder be selected unless there are extenuating circumstances. According to PennDOT officials, all Recovery Act highway contracts have been competitively bid, and bidding contractors were subject to prequalification. This includes determining both financial and nonfinancial responsibility and checking suspension and debarment lists. Officials stated that bidders that do not meet this criterion are not allowed to win bids, even if they are the lowest price bidders.

Of the two highway projects that we reviewed in depth, both the Bedford bridge project and the Chester transportation enhancement project were competitively bid, and PennDOT officials said that the bidders were prequalified. PennDOT officials told us that the contractors were selected based on the lowest responsible bids. These officials also said that most PennDOT contracts awarded—including those for the projects we reviewed—are contracts where a fixed price is assigned to individual items to be supplied by a contractor (unit price). According to PennDOT officials, the unit price is fixed but the quantities to be supplied can be adjusted up or down by 25 percent before negotiations are required. The 25 percent allowance recognizes that field conditions may change after a contract is awarded, but significant changes to a contract may require the use of a change order. PennDOT officials said that in general, federal highway contracts require the use of Davis-Bacon Act wages. The general exception is for rural connectors to federal-aid highways where state prevailing wages are paid; however, PennDOT officials said this exception does not apply to Recovery Act projects. According to PennDOT, both the Bedford and Chester projects used Davis-Bacon Act wages. Contractors were also notified of Recovery Act reporting requirements when bids were solicited for contracts.

PennDOT will also use its existing procedures to monitor Recovery Act contractor work and help ensure that quality goods and services are received. The procedures include the following:

- **Management oversight and controls.** PennDOT's district offices are heavily involved with highway projects, including assigning a PennDOT assistant construction engineer to each project to provide oversight of construction work. PennDOT is organized into 11 engineering districts. Both the Bedford and Chester projects had assistant construction engineers assigned, each with 30 years experience and each with various certifications in concrete and other construction activities from national associations. PennDOT's Bureau of Construction and Materials also plays a role in project management and oversight. PennDOT officials said that this bureau is responsible for the overall management and oversight of highway construction projects and ensures the quality of material used on construction projects through various materials tests and certifications. Finally, PennDOT officials said that the department uses an automated system to handle all aspects of contracting, including advertising and accepting bids and financial and nonfinancial contract management and reporting. A PennDOT official said that this system is a database that can be used to generate a number of reports on projects.
- **Inspectors to monitor contractor performance.** PennDOT assigns an inspector-in-charge to each construction project who provides day-to-day inspection of contractor work; such inspectors were assigned to the two Recovery Act projects we reviewed. PennDOT officials said that inspectors-in-charge maintain daily diaries of such things as work performed, on-site workers, and wages paid. PennDOT officials said that these diaries are used to determine how much contractors get paid and to spot-check various contractor reports, including the reasonableness of Recovery Act reports on jobs, work hours, and payroll. In some instances, PennDOT will also contract for consultants to assist with inspections. PennDOT officials said that the Chester project was using one or two contracted consultant inspectors and that they work for the PennDOT inspector-in-charge.²²

²²In December 2007, Pennsylvania's Department of the Auditor General reported on its investigation of PennDOT's procedures for evaluating, selecting, and monitoring contracts with private firms that provide inspection services. Among the findings were that PennDOT had failed to verify individual inspector qualifications and, in some instances, substitutes were used to do inspections rather than inspection staff listed on bid documents. According to the Auditor General's report, PennDOT took actions during 2007 to revise its procedures regarding contract consultant inspectors to address the issues in the report, including instituting procedures to ensure that inspector qualifications are verified by district offices. For more information see Commonwealth of Pennsylvania, Department of the Auditor General, *Special Investigation of the Pennsylvania Department of Transportation, Construction Inspection Consultants*, December 2007.

- **Reports, meetings, and monitoring of project metrics.** PennDOT officials said that there are weekly reports it prepares on project status and progress as well as weekly meetings with FHWA and contractors to discuss completed work and contractor problems. PennDOT district officials also said that there are various metrics being used to monitor the Bedford and Chester projects we reviewed; for example, PennDOT District 9 officials told us that they monitor various cost metrics for the Bedford project as well as compliance with disadvantaged business enterprise (DBE) goals.²³ PennDOT District 6 officials said that they monitor, among other things, the amount of work done compared with the dollars spent on the Chester project.

Recovery Act Highway Reporting Has Begun, and PennDOT Will Submit Section 1512 Recipient Reports through Pennsylvania's Accountability Office

The Recovery Act requires various reports regarding the use of funds provided. Section 1512²⁴ in particular requires that any entity that receives funds appropriated by the Recovery Act directly from the federal government (whether through grant, loan, or contract) is to provide regular recipient reports. The first Section 1512 report is due October 10, 2009. FHWA has also established reporting requirements, including monthly reports on project status and employment. A PennDOT official told us that Pennsylvania's Accountability Office will submit the recipient reports for PennDOT and all other state agencies by the 10th day after each reporting quarter; this centralized reporting is discussed further below. In addition, PennDOT plans to report directly to FHWA as part of the federal reporting requirement for Recovery Act funding. PennDOT noted that FHWA has built a database to collect Section 1512 information and FHWA will collect this information from states. However, states are still responsible for submitting their own Section 1512 reports.

As we reported in July 2009, PennDOT has begun reporting to FHWA on the number of people working on Recovery Act projects and hours worked. In March 2009, PennDOT established policies and procedures for prime contractors and consultants to report monthly, by project, the number of employees, number of work hours, and the amount of payroll.²⁵ PennDOT uses a Monthly Employment Report to collect the required data from its contractors and consultants. PennDOT officials told us that

²³In accordance with federal regulations, PennDOT maintains a DBE program that among other things, ensures that there is no discrimination in contracting opportunities for disadvantaged businesses, for example, firms owned by women and minorities.

²⁴Pub. L. No. 111-5, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

²⁵Reports are to include all subcontractors and subconsultants.

project inspectors in the district offices with daily contact with contractors review the reports for reasonableness, and PennDOT's Bureau of Construction and Materials compiles the reports for submission to FHWA.

Pennsylvania's Transit Capital Assistance Funds Are Being Obligated, and Transit Agencies Are Using Recovery Act Funds to Refurbish or Construct Facilities and Extend Service

The Recovery Act appropriated \$8.4 billion to fund public transit throughout the country through three existing FTA grant programs, including the Transit Capital Assistance Program.²⁶ The majority of the public transit funds—\$6.9 billion (82 percent)—was apportioned for the Transit Capital Assistance Program, with \$6.0 billion designated for the urbanized area formula grant program and \$766 million designated for the nonurbanized area formula grant program.²⁷ Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states under the nonurbanized area formula grant program using the program's existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Up to 10 percent of apportioned Recovery Act funds may also be used for operating expenses.²⁸ Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.²⁹

²⁶The other two public transit programs receiving Recovery Act funds are the Fixed Guideway Infrastructure Investment program and the Capital Investment Grant program, each of which was apportioned \$750 million. The Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program are formula grant programs, which allocate funds to states or their subdivisions by law. Grant recipients may then be reimbursed for expenditures for specific projects based on program eligibility guidelines. The Capital Investment Grant program is a discretionary grant program, which provides funds to recipients for projects based on eligibility and selection criteria.

²⁷Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

²⁸The 2009 Supplemental Appropriations Act authorizes the use of up to 10 percent of each apportionment for operating expenses. Pub. L. No. 111-32, § 1202, 123 Stat. 1859, 1908 (June 24, 2009). In contrast, under the existing program, operating assistance is generally not an eligible expense for transit agencies within urbanized areas with populations of 200,000 or more.

²⁹The federal share under the existing formula grant program is generally 80 percent.

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.³⁰ FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant applications. Project sponsors must follow the requirements of the existing programs, which include ensuring that the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act, pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure that disadvantaged businesses are not discriminated against in the awarding of contracts.

³⁰Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and MPOs designated for the area. MPOs are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation, that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues, including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's Transportation Improvement Program and the approved State Transportation Improvement Program.

Transit Agencies in Pennsylvania Plan to Use Funds for New and Ongoing Projects to Refurbish or Construct Facilities and Extend Service

In March 2009, \$327.5 million in Transit Capital Assistance Recovery Act funds were apportioned for transit projects to urbanized and nonurbanized areas in Pennsylvania. As of September 1, 2009, \$257.5 million had been obligated for urbanized areas, and \$30.2 million had been obligated for nonurbanized areas.³¹ Of the \$237.8 million in Recovery Act funds apportioned to the large urbanized areas of Philadelphia and Pittsburgh,³² \$206.4 million had been obligated as of September 1, 2009. The Southeastern Pennsylvania Transportation Authority (SEPTA) in Philadelphia was apportioned \$125.2 million³³ and the Port Authority of Allegheny County (Port Authority) in Pittsburgh was apportioned \$44.0 million.³⁴ As of September 1, 2009, \$112.8 million of SEPTA's apportionment and all of Port Authority's apportionment had been obligated by FTA. PennDOT was apportioned \$30.2 million for intercity bus projects and transit projects in nonurbanized areas, which was obligated by FTA in July 2009.³⁵

We met with PennDOT officials and visited three transit agencies—SEPTA in Philadelphia, Port Authority in Pittsburgh, and Butler Transit Authority in Butler, Pennsylvania. We selected SEPTA and Port Authority because they are in the only two urbanized areas in Pennsylvania with populations

³¹DOT has interpreted the term obligation of funds to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement and a project agreement is executed.

³²Philadelphia and Pittsburgh are Pennsylvania's only urbanized areas with population of 1 million or more. Transit Capital Assistance funds in the Philadelphia urbanized area were split between the Southeastern Pennsylvania Transportation Authority and five other state and regional transit entities in Pennsylvania, New Jersey, Maryland, and Delaware. Funds in the Pittsburgh urbanized area were split between the Port Authority of Allegheny County in Pittsburgh and five other regional transit agencies.

³³SEPTA's \$125.2 million in Transit Capital Assistance funding is from two allocations: \$121.4 million from urbanized area formula (§ 5307) funds and \$3.8 million in "Growing States" (§ 5340) funds. SEPTA was also awarded \$65.7 million in Fixed Guideway Modernization (§ 5309) Recovery Act funding by FTA, which combined with the Transit Capital Assistance funding totals \$190.9 million.

³⁴Port Authority's \$44.0 million in Transit Capital Assistance (§ 5307) funding is from two allocations: \$43.5 million in urbanized area formula funds and \$0.5 million in "Transportation Enhancement" funds. Port Authority was also awarded \$18.5 million in Fixed Guideway Modernization (§ 5309) Recovery Act funding by FTA, which combined with the Transit Capital Assistance funding totals \$62.5 million.

³⁵PennDOT's \$30.2 million grant was awarded by FTA as a Transit Capital Assistance § 5311 nonurbanized formula grant. PennDOT also received \$9.4 million in § 5307 Transit Capital Assistance funding and § 5309 Fixed Guideway Modernization funding for intercity rail.

of more than 1 million, and they received the largest Transit Capital Assistance Program apportionments in the state, with about 51.7 percent of Pennsylvania's total transit apportionment. We chose the Butler Transit Authority because its \$5.3 million allocation was one of the largest funding allocations among the transit agencies in nonurbanized areas receiving Recovery Act money through PennDOT. We also met with officials from the two MPOs related to the three transit agencies.

Transit agency, MPO, and PennDOT officials we spoke with told us that they selected projects for Recovery Act funding based on key criteria, including readiness for construction and potential for job creation or retention. In addition, SEPTA selected projects to serve a variety of locations and transportation modes, and also projects that would reduce long-term maintenance and operating costs.

SEPTA has a Transit Capital Assistance grant approved by FTA totaling \$112.8 million, with which SEPTA plans to fund all or part of 21 projects.³⁶ For the most part, SEPTA will use its Recovery Act funds for "state of good repair" projects,³⁷ including right-of-way and track maintenance, communication and signal replacement, and station work.³⁸ For example, Recovery Act funds are paying for the rehabilitation of the structure of the Tulpehocken Station building. (See fig. 2.) Another project is the rehabilitation of a rail bridge on SEPTA's Lansdale Regional Line. (See fig. 3.) Also included among SEPTA's Recovery Act projects is the purchase of 40 additional hybrid buses.

³⁶SEPTA officials reported that they have a total of 32 Recovery Act projects being funded by a combination of Transit Capital Assistance (§ 5307) funds and Fixed Guideway Modernization (§ 5309) funds. FTA has approved \$112.8 million of SEPTA's \$125.2 million Transit Capital Assistance (§ 5307 and § 5340) allocation; to use the remainder of its allocation, SEPTA plans to amend its grant to add one more project when its environmental assessment is complete.

³⁷SEPTA declares an asset or system as in a "state of good repair" when no backlog of needs exists and no component is beyond its useful life. State of good repair projects correct past deferred maintenance or replace capital assets that have exceeded their useful life.

³⁸In its rail modernization report to Congress in April 2009, FTA named SEPTA as one of seven transit agencies containing the nation's oldest transit infrastructure, some of which has exceeded its expected useful life.

Figure 2: Holes in the Roof of SEPTA's Tulpehocken Station That Will Be Repaired Using Recovery Act Transit Capital Assistance Funds



Source: Southeastern Pennsylvania Transportation Authority.

Figure 3: Rail Bridge on SEPTA's Lansdale Regional Rail Line That Will Be Rehabilitated Using Transit Capital Assistance Recovery Act Funding



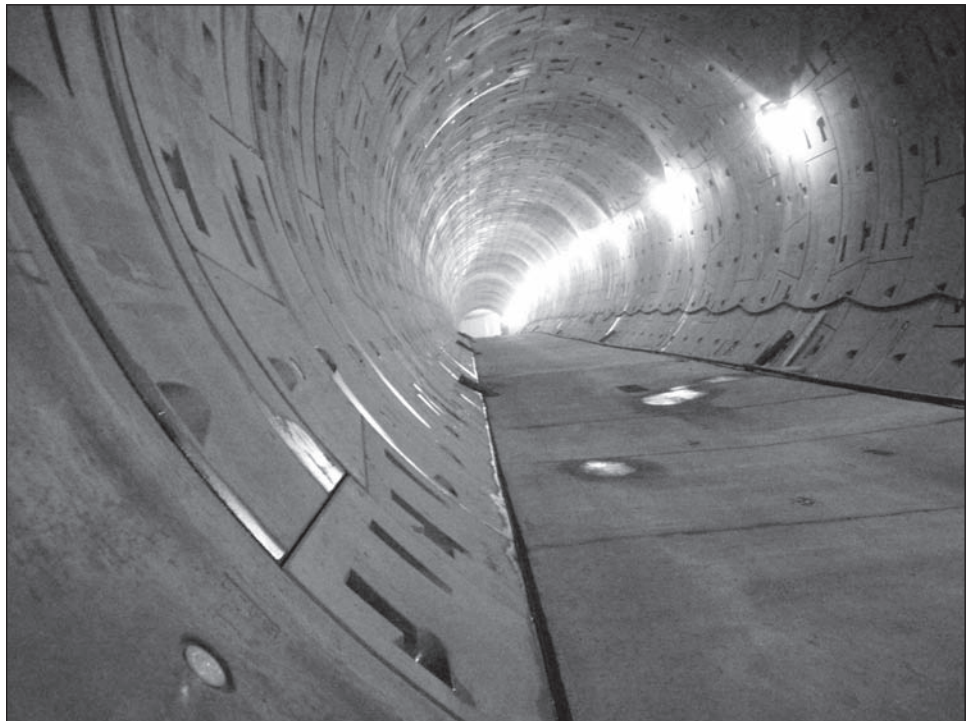
Source: Southeastern Pennsylvania Transportation Authority.

Port Authority will use all of its Transit Capital Assistance (Section 5307) Recovery Act allocation of \$44.0 million to continue work on its North Shore Connector.³⁹ The project will extend an existing light rail line from a downtown Pittsburgh station to two new stations on Pittsburgh's North Shore area through new twin tunnels below the Allegheny River. (See fig. 4.) According to Port Authority officials, Recovery Act money will pay for rail installation, station construction, elevators, and escalators. (See fig. 5.) The North Shore Connector project broke ground in October 2006 and as of August 20, 2009, the project had received \$389.7 million of federal, state, and local funding, with a Full Funding Agreement with FTA for \$435 million. However, according to Port Authority officials, due primarily

³⁹In addition to the \$44.0 million Transit Capital Assistance (§ 5307) Recovery Act grant, Port Authority will also use its \$18.5 million Fixed Guideway Modernization (§ 5309) Recovery Act grant to fund work on the North Shore Connector project.

to cost growth in construction materials and construction bid prices, the project's total estimated cost was revised to \$538.8 million in early 2009, with a budget gap of \$103.8 million. Without additional funds, Port Authority faced the decision either to defer construction until future funding could be identified or to cease construction altogether. With the Recovery Act grant money approved, Port Authority was able to continue the North Shore Connector project, and Port Authority officials stated that the Recovery Act funding helped retain approximately 600 direct jobs. As of September 2009, Port Authority officials expected the entire project, including all Recovery Act work, to be completed by March 2012. According to its estimates, Port Authority will need \$41.8 million to complete the project, which officials expect to receive through county, state, and federal funding streams in coming years.

Figure 4: Completed Tunnel beneath Allegheny River Awaiting Rail for Port Authority's North Shore Connector Project Which Will Funded by Recovery Act Money



Source: GAO.

Figure 5: Steel Girders for the Port Authority's North Shore Connector Project, Near New Allegheny Avenue Station, Which Will Be Funded by Recovery Act Money



Source: GAO.

For its nonurbanized Transit Capital Assistance grant of \$30.2 million, PennDOT selected projects in 15 transit agencies in nonurbanized areas for Recovery Act funding based on such criteria as projects' readiness and potential for creating jobs. One of these projects is the construction of a new intermodal transit center in Butler, Pennsylvania, which will serve city and county bus routes. The Butler Transit Authority received \$5.3 million of PennDOT's nonurbanized FTA Section 5311 grant to fund construction of its new center, which will include new administrative and maintenance facilities and was designed for expandability to meet future demand. PennDOT officials told us that without Recovery Act funding, Butler's project would not have been able to proceed without being scaled down significantly. As of September 2009, Butler Transit Authority was soliciting bids for the project, with work expected to start in November or December 2009 and to be completed late 2010.

FTA Concluded That the Recovery Act Requirement That 50 Percent of Funds Be Obligated by September 1, 2009, Has Been Met for Pennsylvania and its Urbanized Areas, and Bid Savings Have Allowed Additional Projects to Be Added to Some Grants

The Recovery Act requires that 50 percent of Recovery Act transit funds apportioned to urbanized areas or states be obligated within 180 days of apportionment (or before September 1, 2009) and the remainder within 1 year.⁴⁰ As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Pennsylvania and its urbanized areas. FTA awarded Recovery Act grants to SEPTA and Port Authority in May 2009, and to PennDOT for nonurbanized areas in July 2009.

Agencies receiving Recovery Act Transit Capital Assistance apportionments submitted applications to FTA for the funding by consolidating multiple projects into one grant application for each type of funding.⁴¹ According to FTA, if the list of projects or the specific amount budgeted for projects within an approved grant changes, a transit agency can submit a no-cost application to amend an approved grant, as long as the total amount remains unchanged. For example, SEPTA officials told us that bids for the original 26 projects in their initially approved grants were awarded at around 15 percent lower than estimates, for a savings of approximately \$20.2 million in Transit Capital Assistance funding. As a result, in late August 2009, FTA approved SEPTA's applications to add 6 additional projects to its grants to be funded by the \$20.2 million.⁴² The additional projects included such things as station building rehabilitation and electrical substation overhaul.

PennDOT, SEPTA, Port Authority, and Butler Transit Authority Will Use a Mix of Existing and Modified Procedures to Track Recovery Act Funds and Manage Projects

PennDOT, SEPTA, Port Authority, and Butler Transit Authority reported that they will track Recovery Act funds and manage Recovery Act projects by building upon existing internal procedures. Officials told us that their accounting systems have unique budget codes for each source of funding, and that these codes are being used to identify and track Recovery Act funds. For its nonurbanized grant from FTA, PennDOT is using its dotGrants system to track funds, and this system is tied into the state's accounting system. The invoicing and payment processes in dotGrants and the state's accounting system are used for PennDOT's non-Recovery Act work as well. According to PennDOT officials, the dotGrants system was

⁴⁰Pub. L. No. 111-5, 123 Stat. 115, 209 (Feb. 17, 2009).

⁴¹These types of funding include Transit Capital Assistance formula grants in urbanized areas (§ 5307) and nonurbanized areas (§ 5311), as well as Fixed Guideway Infrastructure Investment grants (§ 5309).

⁴²SEPTA submitted applications to amend two grants: its § 5307 Transit Capital Assistance urbanized formula grant and its § 5309 Fixed Guideway Modernization grant.

established in 2008 and was modified in 2009 to include Recovery Act identifiers.

Whereas the large transit agencies and PennDOT rely on their existing systems, smaller transit agencies may need to modify their control systems to track Recovery Act funds. For example, the Butler Transit Authority, which has a permanent staff of three, created a dedicated bank account to segregate its Recovery Act money, and started using dedicated subaccount numbers to identify the Recovery Act funds in its accounting system. Under its existing controls, the Butler Transit Authority board must approve payment of all invoices. The Butler Transit Authority will continue to rely on its contract accounting firm to advise the staff on best practices and review monthly statements. Butler Transit Authority officials told us that they were confident that these procedures will be sufficient to track funds accurately.

For project management, SEPTA and Port Authority officials told us that they plan to use existing procedures for their projects. SEPTA will use a variety of in-house and contractor personnel to track project progress. Port Authority's general construction management contractor will continue to provide on-site oversight for the North Shore Connector project, including the Recovery Act portions of the project. Additionally, FTA will continue to provide an external project management oversight consultant for the North Shore Connector project.

PennDOT officials said that they hired consultants specifically to assist in Recovery Act project management. One firm was hired to help transit agencies in urbanized and nonurbanized areas achieve environmental compliance for their proposed Recovery Act projects. The other firm was hired to provide more general project and construction management services, including support and advice for agencies in urbanized and nonurbanized areas receiving Recovery Act funds. A Butler Transit Authority official told us that he had been in contact with this PennDOT consultant. The PennDOT Bureau of Public Transportation helped scope the Butler Transit Authority Recovery Act project. In addition, PennDOT has recently added two headquarters personnel to assist with Recovery Act project inspections and oversight, since the Bureau of Public Transportation does not have a field staff structure for these duties. Butler Transit Authority also hired its own engineering firm for construction management of its Recovery Act project.

Reporting for Recovery Act Transit Projects Has Begun, but SEPTA, Port Authority, and PennDOT Are Still Preparing for the Section 1512 October Reporting Deadline

Recipients of Recovery Act funds for transit projects are submitting reports in varying time frames to FTA, the federal government through www.FederalReporting.gov, and the U.S. House of Representatives Committee on Transportation and Infrastructure (House Committee) on funds received, project status, and jobs created or sustained.⁴³ PennDOT officials told us that they plan to collect reports from all transit agencies statewide, including the transit agencies in nonurbanized areas receiving funds through PennDOT and the transit agencies in urbanized areas receiving Recovery Act funds directly from FTA. SEPTA and Port Authority officials stated that they had reported monthly to the House Committee through August 2009 and met the first required Section 1201(c) deadline to FTA on August 16, 2009.

As of September 2009, SEPTA and Port Authority were planning their strategies for meeting the October 10, 2009, Section 1512 deadline for reporting to the federal government. SEPTA and Port Authority officials told us that they attended FTA conference calls and Webinars. For some of the information related to jobs created, SEPTA and Port Authority officials told us that they will rely on information from their contractors and subcontractors. To manage the workload of reporting on its numerous Recovery Act projects, SEPTA plans to use a consultant to collect data from contractors. As of September 2009, Port Authority officials said that they did not plan to add staff to oversee their Recovery Act contracts. Instead, they will collect the data with the help of their construction management firm.

PennDOT officials told us that they plan to use their engineering consultant to assist with the collection of reporting data from the 15 nonurbanized area transit agency subrecipients receiving funding through PennDOT's FTA nonurbanized Recovery Act grant. PennDOT planned to distribute detailed reporting information and instructions to transit agencies in urbanized and nonurbanized areas in early September 2009. Additionally, PennDOT and its consultant planned to contact nonurbanized area subrecipient agencies, which will report directly to PennDOT for their Recovery Act funds, to assist them with data collection for the Section 1512 report. PennDOT will compile all Section 1512 report data elements for its nonurbanized area subrecipients and provide the

⁴³According to guidance from the House Committee on its Recovery Act reporting requests, transit agencies in the 256 large urban areas designated by FTA were the only transit agencies from which the committee has requested monthly reporting.

summary information to Pennsylvania's Accountability Office, which will report on behalf of all state agencies in Pennsylvania receiving Recovery Act funding.

SEPTA officials told us that Recovery Act reporting requirements were a source of confusion. Guidance issued by OMB in June 2009 about Recovery Act Section 1512 reporting prompted questions from SEPTA about who is required to report, through what mechanism, and to whom. In addition, language in the OMB guidance required that certain "subrecipients" submit the names and salaries of the five highest paid executives in their organizations, and it was unclear to SEPTA whether this referred to Recovery Act project subrecipients or subcontractors. As of September 1, 2009, SEPTA officials told us that they had resolved their questions using further guidance from the Recovery Act federal Web site.

Pennsylvania's Recovery Act Weatherization Plan Was Approved, and Work Will Begin after Local Agency Contracts Are in Place

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which DOE administers through each of the states, the District of Columbia, and seven territories and Indian tribes. The program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; or modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved the weatherization plans of all but two of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states almost \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon

Act.⁴⁴ Because the Davis-Bacon Act had not previously applied to weatherization, Labor had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work.⁴⁵ Labor completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

The Recovery Act provides \$252.8 million for Pennsylvania’s Weatherization Assistance Program. This represents a substantial increase above fiscal year 2008-09 funding levels. The Pennsylvania Department of Community and Economic Development (DCED)—the prime recipient of these funds—is responsible for program management, contract oversight, public reporting, and other administrative activities. DCED will disburse most of these funds to 43 subrecipient agencies. These agencies are responsible for employing people to weatherize homes in the commonwealth.

Pennsylvania Expects to Begin Recovery Act Spending on Weatherization in November 2009

As we reported in July, DOE provided the initial 10 percent allocation (about \$25.3 million) on March 27, 2009, but DCED was not authorized to obligate or spend these funds until the Pennsylvania General Assembly enacted the fiscal year 2009-10 budget. In the stopgap budget measure signed by the Governor of Pennsylvania on August 5, 2009, DCED received most of its appropriation authority for Recovery Act weatherization funding. On August 25, 2009, DOE approved Pennsylvania’s weatherization

⁴⁴The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

⁴⁵The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

plan and provided a 40 percent allocation of about \$101.1 million.⁴⁶ As of September 1, 2009, DCED has not obligated or expended any Recovery Act weatherization funds. That is, Pennsylvania's weatherization activities through August, 2009 (including development of the state weatherization plan and training plan), had been funded through its annual appropriation of Weatherization Assistance Program and Low Income Home Energy Assistance Program funds. The Weatherization Program Manager of DCED's Office of Community Services estimates that weatherization work will begin in November 2009.

Pennsylvania will use Recovery Act weatherization funds to help low-income households decrease energy consumption and costs and also to provide jobs. Pennsylvania plans to weatherize at least 29,700 housing units over the next 2 to 3 years, and create an estimated 940 jobs. The energy savings goal is to reduce energy usage by the equivalent of what it might take to power about 7,000 homes per year. Of the total \$252.8 million Pennsylvania will receive, \$224.5 million will be allocated to subrecipient agencies to weatherize homes, \$20 million will be administered by the Pennsylvania Department of Labor and Industry for training and technical assistance, and \$8.3 million will be retained by DCED to cover its costs of program management, oversight, reporting, and administration.

As of September 1, 2009, DCED was reviewing management plans submitted by the 43 weatherization agencies. These plans are to contain agency targets for the number of weatherized homes, energy reduction targets, and information on staffing and production timelines. Once approved by DCED, the plans will form the basis of contracts for the weatherization agencies. Labor established Pennsylvania's weatherization prevailing wage rates on September 3, 2009. DCED has since advised weatherization agencies that the agencies may have to amend their plans if prevailing wages differ from wages in their submitted plans.

⁴⁶DOE did not approve Pennsylvania's state weatherization plan when it was first submitted on May 12, 2009, in part because DCED did not follow the required public notice and a hearing process when adding the Pennsylvania Housing Finance Agency as the state's 43rd subrecipient agency. DCED held a public hearing on August 5 for the Pennsylvania Housing Finance Agency to apply as a subrecipient agency and to discuss other changes to the state plan, DCED submitted Pennsylvania's amended plan to DOE on August 10, and DOE approved the plan on August 25.

Pennsylvania Plans to Increase Controls over the Weatherization Program, Including Monitoring the Use of Funds

Within Pennsylvania, the DCED weatherization program has been considered a high-risk program in need of stronger oversight and monitoring. In 2007, Pennsylvania's Auditor General reported that the weatherization program had, among other things, weak internal controls, weaknesses in contracting, and inconsistent verification and inspection of subcontractor work.⁴⁷ In June 2009, the Pennsylvania Bureau of Audits completed a risk assessment of more than 90 programs for which Pennsylvania expects to receive Recovery Act funds and categorized the programs as high, medium, or low risk. Risk levels were determined based on a variety of sources, including prior reports by the Bureau of Audits and Auditor General, interviews with agency staff, expected Recovery Act funding levels, and potential agency strengths or weaknesses in administering this funding. DCED's weatherization program was one of the 15 programs categorized as high risk by the Bureau of Audits. The Executive Director of DCED's Office of Energy Conservation and Weatherization said that he is concerned that the weatherization agencies in Pennsylvania will be challenged by the large amount of weatherization work funded by the Recovery Act, but he is confident that they will get the job done.

DCED has worked to address program deficiencies and is aware that the large investment in weatherization provided by the Recovery Act will require greater capacity at all levels of the program's operation. In program year 2008-09, DCED revised its guidelines and procedures to provide local weatherization agencies with a clearer understanding of the process of on-site monitoring. DCED also requested that each weatherization agency describe in its management plan its capacity to meet enhanced production targets with appropriate quality control and financial safeguards. Agency management plans must contain a 3-year budget and production timeline that demonstrates each agency's capacity to expend at least half of its total Recovery Act funds by September 30, 2010, at least 80 percent of the funds by June 30, 2011, and 100 percent by

⁴⁷Pennsylvania Department of the Auditor General, *A Special Performance Audit of the Department of Community and Economic Development's Weatherization Assistance Program*, August 2007. Pennsylvania's Single Audit report for 2008 also found noncompliance and internal control deficiencies in DCED's program monitoring of Low Income Home Energy Assistance Program weatherization subrecipients. Although Recovery Act funds will be administered under DOE's Weatherization Assistance Program, and not under the U.S. Department of Health and Human Services (HHS), this finding is relevant because it relates directly to DCED's monitoring of weatherization subrecipients. The Chief Operating Officer for DCED said that HHS is reviewing DCED's corrective action plan to address the Single Audit findings.

March 31, 2012. DCED will evaluate whether local agencies' initial performance meets capacity targets by looking at the number of people hired and trained. DCED plans to use the Pennsylvania Housing Finance Agency to increase statewide capacity to weatherize multifamily rental housing units, and has reserved the right to add additional subrecipient agencies, if necessary, to meet the weatherization program's production goals. The Pennsylvania Department of Labor and Industry will establish training and certification standards to provide weatherization workers with an industry-recognized credential, and beginning in fiscal year 2009-10, training will be required for all weatherization auditors and installers.

The Executive Director of the DCED Office of Energy Conservation and Weatherization expressed concern that the Davis-Bacon Act requirement to pay workers on a weekly basis may increase the burden on weatherization agencies, requiring additional recordkeeping and tracking. Agencies must address how they will comply with Davis-Bacon requirements and enhanced internal control requirements for Recovery Act weatherization work in their management plans. For example, each agency will need to appoint a unit or staff member at the agency responsible for contract compliance, agency officers and directors are required to file financial disclosure statements, and agency management staff and purchasing personnel must file conflict of interest statements.

DCED plans to establish a monitoring, compliance, and reporting system and increase its full-time monitoring staff. According to Pennsylvania's weatherization plan, DCED monitors will inspect 10 percent of weatherization units in progress to check compliance with the energy audit and work priority requirements, and 10 percent of completed units to check the installation work. A financial monitoring team will spot-check agencies' financial records and will provide financial management and technical assistance to strengthen internal controls. DCED currently has three full-time monitors for the weatherization program and plans to hire eight more to help with the Recovery Act monitoring workload. Also, each weatherization agency must hire a designated quality control person not involved in the actual installation to inspect all completed units.

DCED plans to increase its financial controls over weatherization funds and is developing a central procurement system for weatherization materials. Agencies will be required to use Hancock Energy System software, which contains an inventory function that will allow agencies to monitor inventory down to the individual house level, and will allow DCED to monitor purchasing within each agency and across agencies. DCED reviews agency invoices for funds and uses an electronic invoice

and payment system to monitor the disbursement of funds. Further, weatherization agencies will be required to purchase materials and equipment through the Pennsylvania Department of General Services' (DGS) cooperative purchasing program—COSTARS. According to the state weatherization plan, if exceptional circumstances apply or if materials are not available through the COSTARS program, DCED will require agencies and their subcontractors to obtain at least three independent bids for the materials. The COSTARS purchasing program is intended to reduce the cost of materials so that more homes can be weatherized. In May 2009, DGS opened COSTARS-22 to procure weatherization materials only for work funded by the Recovery Act. As of August 2009, DGS said that it had awarded contracts to four suppliers and received a fifth bid from a prospective supplier; bids from prospective suppliers of weatherization materials will be accepted on a continual basis.

Pennsylvania Plans to Assess Energy Savings but May Have Little to Report in October 2009

DCED officials plan to commission an annual independent evaluation of the weatherization program to measure energy savings attributable to the weatherization work completed by each subcontractor. DCED plans to collect and maintain monthly energy use data directly from utility companies for at least 1 year after weatherization occurs and will report reductions in energy use as a measure of program success. Energy savings achieved by each agency will also be reported in relation to the cost of weatherization improvements per house. DCED also plans to evaluate agencies' performance based on their ability to achieve energy reduction and other targets specified in their management plans, and will base subsequent funding allocations on performance.

As a prime recipient of Recovery Act funds for weatherization, DCED must provide quarterly financial and progress reports to DOE pursuant to Section 1512 of the Recovery Act. The first of these recipient reports is due October 10, 2009. Subrecipient agencies will also be required to report to DCED on any other requirements mandated by federal or state government. DOE requires reporting on performance measures to determine the impact of Recovery Act weatherization funds in the state. For measures of job creation, agencies are required to report to DCED on jobs created and jobs retained at the state and local agency levels. DCED's Weatherization Program Manager was unclear about some of the recipient reporting requirements under Section 1512 of the Recovery Act, and said that agency management plans do not specifically include recipient reporting requirements but may need to be adjusted to include them. Pennsylvania's Accountability Office has since provided training to

DCED's Weatherization Office on 1512 reporting and is working to ensure full compliance with recipient and subrecipient reporting requirements. DOE has also since provided guidance to DCED and other prime recipients of the Recovery Act funds for weatherization to help them meet the Section 1512 reporting requirements.

Pennsylvania Used Recovery Act Funds to Provide Summer Youth Employment Activities and Exceeded Its Enrollment Plans

The Recovery Act provides an additional \$1.2 billion in funds for the WIA Youth Program, including summer employment. Administered by Labor, the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years of age, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,⁴⁸ the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth Program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.⁴⁹ Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as they also include a work experience component. A key goal of a summer employment program, according to Labor's guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job; (2) learn work readiness skills on the job; and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to

⁴⁸H.R. Rep. No. 111-16, at 448 (2009).

⁴⁹Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

develop work experiences that introduce youth to opportunities in “green” educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.⁵⁰ Labor’s guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor’s guidance. Each state’s plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth Program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor’s guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work readiness attainment rate and the summer employment completion rate. States must also meet quarterly performance and financial reporting requirements.

The Pennsylvania Department of Labor and Industry (L&I) administers Pennsylvania’s WIA Youth Program through local areas. Pennsylvania’s 67 counties are divided into 23 local workforce investment areas, each led by a workforce investment board whose purpose is to support the labor and job training demands of industries and help students, job seekers, and incumbent workers acquire skills and attain rewarding, family-sustaining jobs. Local workforce investment areas vary widely in the geographic area served, ranging from one that serves only the City of Pittsburgh to a regional area that serves nine counties. Programs and services may also vary within and among workforce investment areas. In 2008, 7 of Pennsylvania’s 23 local workforce investment areas—Allegheny, Central Counties, Northwest Counties, Philadelphia, Pittsburgh, Pocono Counties, and Westmoreland/Fayette—had extensive stand-alone summer youth

⁵⁰Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

employment programs, and 2,205 youth were served statewide.⁵¹ These stand-alone summer youth employment programs were funded from a variety of public (including workforce, Temporary Assistance for Needy Families (TANF), and community block grants), private, and nonprofit sources.

Pennsylvania Spent 27 Percent of Recovery Act Funds and Exceeded 2009 Enrollment Plans for the Recovery Act–Funded WIA Summer Youth Employment Activities

Pennsylvania was allotted about \$40.6 million in Recovery Act funds to support WIA Youth Program activities and services. In turn, \$34.6 million (85 percent) was allocated to the 23 local workforce investment areas, and L&I retained \$6 million (15 percent) for possible statewide activities, such as incentive grants to encourage best practices. As we reported in July, only 40 percent of the allocations were available for the local boards to spend before July 1, 2009. Since the enactment of Pennsylvania’s stopgap budget in August 2009, the local workforce investment areas’ full allocations were available for spending. As of September 1, 2009, L&I had expended \$11 million, or 27 percent, of Pennsylvania’s allotment. Pennsylvania uses a cost reimbursement structure to administer these funds and officials stated that they expect that additional funds will be drawn down over the coming months. Based on the local boards’ original Recovery Act plans, the 23 local workforce investment areas planned to spend 70 to 90 percent of their Recovery Act WIA Youth Program allocations by the end of September 2009.

Pennsylvania exceeded the number of youth that the local boards had planned to serve. Pennsylvania did not set an overall target number of youth to be served, but based on the local boards’ plans, approximately 8,700 youth were to be served. Data from Labor show that Pennsylvania served 5,102 participants, as of July 31, 2009.

According to data obtained from L&I, as of August 31, 2009 Pennsylvania enrolled 8,817 participants in Recovery Act–funded WIA summer youth employment activities (see table 2). Of those youth, 28 percent were out of school and 6 percent were between the ages of 22 and 24 years. According to L&I, four participants were veterans, as of July 31, 2009.

⁵¹The Central regional board includes Centre, Clinton, Columbia, Lycoming, Mifflin, Montour, Northumberland, Snyder, and Union counties. The Northwest regional board includes Clarion, Crawford, Erie, Forest, Venango, and Warren counties. The City of Philadelphia is a countywide city.

Table 2: Number of Recovery Act–Funded WIA Summer Youth Employment Activity Participants, by Workforce Investment Board, as of August 31, 2009

Workforce Investment Board	Participants		Actual participants by age group			In-school youth	Out-of-school youth
	Planned	Actual	14 to 18	19 to 21	22 to 24		
Allegheny	600	565	502	56	7	457	108
Berks	335	257	181	62	14	157	100
Bucks	121	123	76	33	14	64	59
Central	700	650	419	169	62	411	239
Chester	100	130	123	5	2	122	8
Delaware	100	44	9	26	9	0	44
Lackawanna	250	192	144	35	13	134	58
Lancaster	300	212	78	103	31	5	207
Lehigh Valley	200	417	302	82	33	304	113
Luzerne/ Schuylkill	300	350	268	58	24	281	69
Montgomery	150	153	127	22	4	89	64
North Central	314	268	174	71	23	146	122
Northern Tier	134	141	94	41	6	90	51
Northwest	350	405	328	70	7	315	90
Philadelphia	2,533	2,578	2,260	285	33	2,394	184
Pittsburgh	313	320	303	17	0	307	13
Pocono	320	340	277	50	13	277	63
South Central	500	487	315	133	39	266	221
Southern Alleghenies	430	428	308	85	35	244	184
Southwest Corner	76	173	75	73	25	105	68
Tri-County	96	139	49	59	31	35	104
West Central	200	127	31	50	46	15	112
Westmoreland/ Fayette	270	318	148	129	41	138	180
Total	8,692	8,817	6,591	1,714	512	6,356	2,461

Source: Pennsylvania Department of Labor and Industry, 2009.

Philadelphia and South Central Workforce Investment Boards Overcame Some Challenges, but Other Challenges Remain in Implementing Summer Youth Employment Activities in Pennsylvania

We visited two local workforce investment areas—the Philadelphia Workforce Investment Board and the South Central Workforce Investment Board—to determine the status of their Recovery Act–funded WIA summer employment activities. We also met with some of their service providers and visited some work sites. We selected the Philadelphia local board because it received the largest allocation of Recovery Act WIA Youth Program funding in Pennsylvania and it had a summer youth employment program in 2008. The Philadelphia local workforce board was allocated \$7.4 million, more than 20 percent of Pennsylvania’s allotment. We selected the South Central board—located in Harrisburg within Dauphin County and serving seven neighboring counties—because it did not have an extensive stand-alone summer youth employment program in 2008.⁵² The South Central board was allocated \$1.6 million. Using Recovery Act WIA Youth Program funds, the Philadelphia Workforce Investment Board planned to serve 2,533 youth participants and had enrolled 2,578 youth as of August 31, 2009; the South Central Workforce Investment Board planned to serve 500 youth and had enrolled 487 youth. Ten of the 23 workforce boards in Pennsylvania had not yet met their planned enrollment targets as of August 31, 2009. As of August 31, 2009, Philadelphia had enrolled 184 out-of-school youth and 33 youth ages 22 to 24. South Central had enrolled 221 out-of-school youth and 39 youth ages 22 to 24.

As discussed in our July report, local workforce officials explained that recruiting eligible youth to participate in the Recovery Act–funded WIA summer youth employment activities and verifying eligibility documentation was a challenge. For example, some youth did not have access to documentation, such as birth certificates and Social Security cards for each family member. Gathering 6 months of income documentation was also challenging. To help address these challenges, state officials, through a memorandum of understanding, released a list of youth eligible for TANF and food stamps to the local workforce boards. This information helped identify eligible youth for Recovery Act–funded WIA summer youth employment activities. One contractor we met with stated that some families were fearful about revealing income information and access to these lists meant that families did not have to provide such information. In Philadelphia, the contractor stated that the work start

⁵²The South Central regional board serves Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, and York counties.

dates of approximately 25 percent of youth participants were delayed because of delays in the enrollment paperwork process.

The employment activity start-up period was also noted as a challenge in our July report. Philadelphia had a summer youth employment program in 2008 but had to expand its program to serve 1,200 additional youth with Recovery Act funds. The South Central Workforce Investment Board did not have a separate stand-alone summer youth employment program in 2008 and had to build one this year. In dealing with the short employment activity start-up periods, the contractors we interviewed used existing relationships with employers to find work sites for the youth. One contractor placed Recovery Act-funded youth with employers who participated in the year-round WIA Youth Program.

Workforce investment boards and the contractors we met with stated that the definition of “green jobs” was not clear.⁵³ Officials at one workforce board stated that they defined anything that improved the health of the planet as “green,” and officials acknowledged that this broad definition could apply to almost every job. According to work site data from the Philadelphia workforce investment area, 19 percent (490 of 2,571) of its participants were placed in a “green” job and in the South Central workforce investment area, 7 percent (42 of 564) of its participants were placed in a “green” job. One South Central official added that the board’s count of “green” jobs would not include work sites that provided “green” education or awareness. For example, one construction work site included tours of recycling facilities, discussed how to make homes more energy efficient, and exposed youth to “green” careers, such as electricity consumption auditors, but this would not have been included in the board’s count of “green” jobs. Other employment activities had a clearer “green” link. In one Philadelphia employment activity, participants tested the permeability of soil samples from the site of a major oil spill in Alaska.

Other challenges listed in our July report may have persisted and challenged the implementation of Recovery Act-funded WIA summer youth employment activities. For example, weak economic conditions may have made it challenging to find youth placements as participants were not allowed to be placed in an area that had recently experienced

⁵³Officials made similar comments earlier, as reported in GAO, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses (Pennsylvania)*, GAO-09-830SP (Washington, D.C.: July 2009).

layoffs, and state officials acknowledged that this restriction had limited the number of placements in some areas. Also, officials reiterated that the lack of public transportation was an implementation challenge. Youth who participated in Recovery Act–funded WIA summer youth employment activities told us that getting to and from work sites was a significant challenge given the lack of public transportation in their region. For example, in the South Central workforce investment area, some job sites in York County were inaccessible by bus, and participants at those sites either had to walk or rely on friends or family for transportation.

**Local Workforce
Investment Boards Were
Given Flexibility to Design
and Administer the
Recovery Act–Funded
Summer Employment
Activities**

While the federal government provided guidance on a number of issues, local workforce boards had the flexibility to design and administer their Recovery Act–funded WIA summer youth employment activities. As shown in table 3, the two workforce boards we visited varied slightly in the opportunities they provided to participants. For example, Philadelphia offered three types of employment activities to participants:

- service learning (work teams to develop projects that provide active service to communities or individuals),
- internships (career exposure and connections to public and private sector employers), and
- work and learning experiences (mixture of academic skill building, college exposure, career exploration, and work readiness training).

Table 3: Overview of the Recovery Act–Funded WIA Summer Employment Activities for Two Pennsylvania Local Workforce Investment Boards, 2009

	Philadelphia Workforce Investment Board	South Central Workforce Investment Board
Areas served	Philadelphia	Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, and York counties
Employment activity design	Participants worked approximately 20 to 25 hours each week and were paid \$7.25 per hour	Participants worked approximately 25 to 30 hours each week and were paid between \$7 and \$7.25 per hour, depending on the current minimum wage
Length of employment activity	Most were for 6 weeks, but a few were compressed into 5 weeks	6 to 8 weeks
Types of employment activities	Service learning, internships, and work and learning experiences	Employment activities in the private, public, and nonprofit sectors
Examples of the range of employment activities	Administrative assistant, camp counselor, clerical aide, maintenance, teacher aide, sales associate, office assistant, and researcher	Child care, electrical maintenance, computer technology, community service, construction, and manufacturing
Work readiness measure	Measured through a pre- and post-test and employer pre- and post-evaluations	Contractors are required to measure at the beginning and end of an employment activity, but the decision on how to conduct this assessment was left up to the individual contractors; both contractors we interviewed are using a pre- and post-test

Source: GAO analysis of information from local workforce investment boards, 2009.

Both workforce investment boards we visited provided employment activities that combined work readiness activities with academic learning. For example, all participants in the Philadelphia Recovery Act–funded WIA summer youth employment activity were to complete an academic project that was aligned with state education goals. Certified teachers evaluated the projects and youth were eligible for academic credit. One university contractor stated that the employment activities focused not only on work readiness skills but also on promoting higher education. At one of the contractor’s work sites we visited, participants cleaned and painted a space to create an art gallery and created a blog detailing their employment activities learning about mixed media artwork. According to the contractor, by learning social media skills like blogging and online collaboration, the participants learned both social and business skills.

Another university-affiliated contractor in Philadelphia ran an urban nutrition employment activity at local high school sites that included cooking, farming, and an educational component. This educational component, the College Access and Career Readiness program, worked with participants to develop résumés and essays and required participants to submit at least three applications to IHEs. One of the South Central workforce board’s contractors we visited provided training that included

occupational skills, workplace skills, and job readiness skills. The contractor also held a 2-week orientation before placing the youth at work sites. Participants we spoke with emphasized the value of the key lessons they learned from the orientation, such as punctuality and wearing appropriate attire.

**Local Workforce
Investment Boards
Monitor Contractors for
the WIA Summer Youth
Recovery Act Funds**

The Recovery Act–funded WIA summer youth employment activities are administered by the Philadelphia Youth Network (PYN), a local nonprofit organization. While the Philadelphia Workforce Investment Board monitors PYN programmatically, the Philadelphia Workforce Development Corporation holds the contract with PYN and conducts fiscal monitoring.⁵⁴ According to Philadelphia workforce board officials, the Recovery Act contract was not awarded competitively. L&I applied and was approved for a waiver from Labor to expand the scope of existing competitively procured contracts. According to Philadelphia Workforce Development Corporation officials, the requirements were added to an existing cost reimbursement agreement. The officials added that they used a cost reimbursement structure, the same structure used for the year-round WIA Youth Program.

To safeguard the WIA Youth Program Recovery Act funding, Philadelphia Workforce Development Corporation officials stated that they use key procedures to monitor PYN and its contractors. These procedures include ensuring that the age requirements are specified, reporting and deliverables are met, fiscal internal controls exist, payment processes are timely, fiscal and programmatic documentation exist, and if applicable, support payments exist. PYN contracted with service providers, and Philadelphia Workforce Development Corporation officials stated that they check whether PYN is monitoring these contractors and that all parties involved are adhering to Recovery Act policies. PYN monitors its contractors through site visits to ensure things such as the existence of eligibility documentation and compliance with work site safety requirements. In addition, PYN trains contractors and workplace supervisors on administrative responsibilities and employment activity expectations.

⁵⁴According to Philadelphia Workforce Development Corporation and Philadelphia workforce board officials, PYN was the sole bidder for the past two rounds for the competitive process to secure the administration of YouthWorks, Philadelphia’s comprehensive youth workforce development program, which includes year-round and summer WIA Youth Programs.

The South Central Workforce Investment Board had five contractors administer the Recovery Act–funded summer youth employment activities in its area. According to the South Central workforce board officials, the contracts were not awarded competitively as allowed under the L&I waiver from Labor. Officials stated that because they had recently competitively bid the contracts for the year-round WIA Youth Program, they did not compete the Recovery Act–funded WIA summer youth employment activity contracts.⁵⁵ The officials asked the five contractors that had recently been awarded year-round WIA Youth Program contracts to submit proposals to cover the employment activities funded by the Recovery Act WIA summer youth activity dollars. The officials stated that the requirements were procured using cost reimbursement contracts. The officials stated that this type of format ensures that only actual costs are reimbursed in compliance with the approved budget.

To safeguard Recovery Act WIA Youth Program funds, South Central workforce board officials stated that they used different mechanisms to monitor contractors. Informally, some workforce board officials periodically visited work sites to ensure compliance with safety requirements. Officials stated that some of these early site visits yielded disconcerting observations, such as park crew participants working without proper safety equipment or some not engaged in meaningful work. Officials added that these observations were relatively few and were quickly addressed by the contractors. In terms of formal monitoring, officials stated that two staff visited contractors and work sites. Before such visits, workforce board staff conducted premonitoring visits to remind contractors that they would be monitored and to review the standards with them. The monitoring tool the officials used covered topics such as employment activity supervision, time, and attendance.

⁵⁵South Central workforce board officials stated that potential contractors were made aware that there would be additional Recovery Act funding available for WIA summer youth employment activities for those contractors that were successfully awarded year-round WIA Youth Program contracts.

Local Workforce Investment Areas Will Measure Work Readiness, and Pennsylvania Plans Additional Evaluations to Identify Best Practices for Serving Older Youth

Work readiness is the only measure that is required to assess the effectiveness of Recovery Act–funded WIA summer youth employment activities. Within the parameters set forth in federal agency guidance, local workforce investment areas may determine the methodology for measuring work readiness gains. In the Philadelphia workforce investment area, the same pre- and post-test work readiness assessment is administered for all work sites. The Philadelphia work readiness assessment focuses on seven skills—professionalism/work ethic, oral/written communication, lifelong learning/self-direction, technology, leadership, ethics and social responsibility, and teamwork and collaboration. According to board officials, in the South Central workforce investment area, contractors are required to measure work readiness at the beginning and end of an employment activity, but the decision on how to conduct the pre- and post-assessment was left up to the individual contractors. Both contractors we interviewed stated that they are using a pre- and post-test work readiness assessment. Without a standard work readiness assessment tool statewide and in some cases throughout the workforce investment area, Pennsylvania does not have consistent measures of work readiness outcomes from different work experience types, across workforce investment areas, or even across contractors for some workforce investment areas. Currently, L&I provides local workforce boards and contractors with a list of acceptable assessment tools, and L&I officials said that they are considering possible incentive grants for workforce boards and contractors that use a tool recommended by the state.

L&I plans to review completion rates, work readiness outcomes, expenditure rates, and characteristics of participants; analysis and listing of work site types; and best practices and innovative approaches to recruitment, retention, and work readiness. Recovery Act–funded WIA summer youth employment activities information is collected through Pennsylvania’s Commonwealth Workforce Development System (CWDS), a tracking and reporting data system used by the Pennsylvania workforce boards. As we reported in July, local workforce investment areas had to report data manually, but CWDS is now available online to track and report Recovery Act–funded WIA summer youth employment activity data. Should additional information be needed, the system can be modified to collect those data from the workforce boards. The state officials said that they will not delegate Recovery Act quarterly recipient reporting responsibilities to any workforce boards. They also stated that the reporting processes and systems have been designed to ensure accurate and complete information. For example, officials said that they have developed unique identifiers to monitor and track WIA Youth Program

activities separately from other funding streams. Through routine staff monitoring and quality assurance, officials stated that they will be able to ensure that reporting has all the required information fields as well as assign categories and subcategories of information. In terms of monitoring grantees, officials stated that they have processes in place, such as reviewing local monitoring documents, including those pertaining to service providers' financial and progress reports.

State officials said that they intend to conduct long-term evaluations of the Recovery Act–funded WIA summer youth employment activities. In particular, they plan to study the outcomes and employment activities for older youth from the ages of 22 to 24 years, as this was the first time older youth were served. Officials also want to look at the placements offered to all participants and whether certain placements (e.g., private sector or public sector work sites) provided better employment activities than others. State officials said that they plan to look at not only participant outcomes, but also at what efforts were successful and which activities and employment activities can be used for future job training activities throughout the state.

Local Housing Authorities Have Obligated 31 Percent of Public Housing Capital Fund Formula Grants

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management.⁵⁶ The Recovery Act requires HUD to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date on which they are made available to public housing agencies, expend at least 60 percent of funds within 2 years, and expend 100 percent of the funds within 3 years. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date on which the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in their current required 5-year capital fund plans.

⁵⁶Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

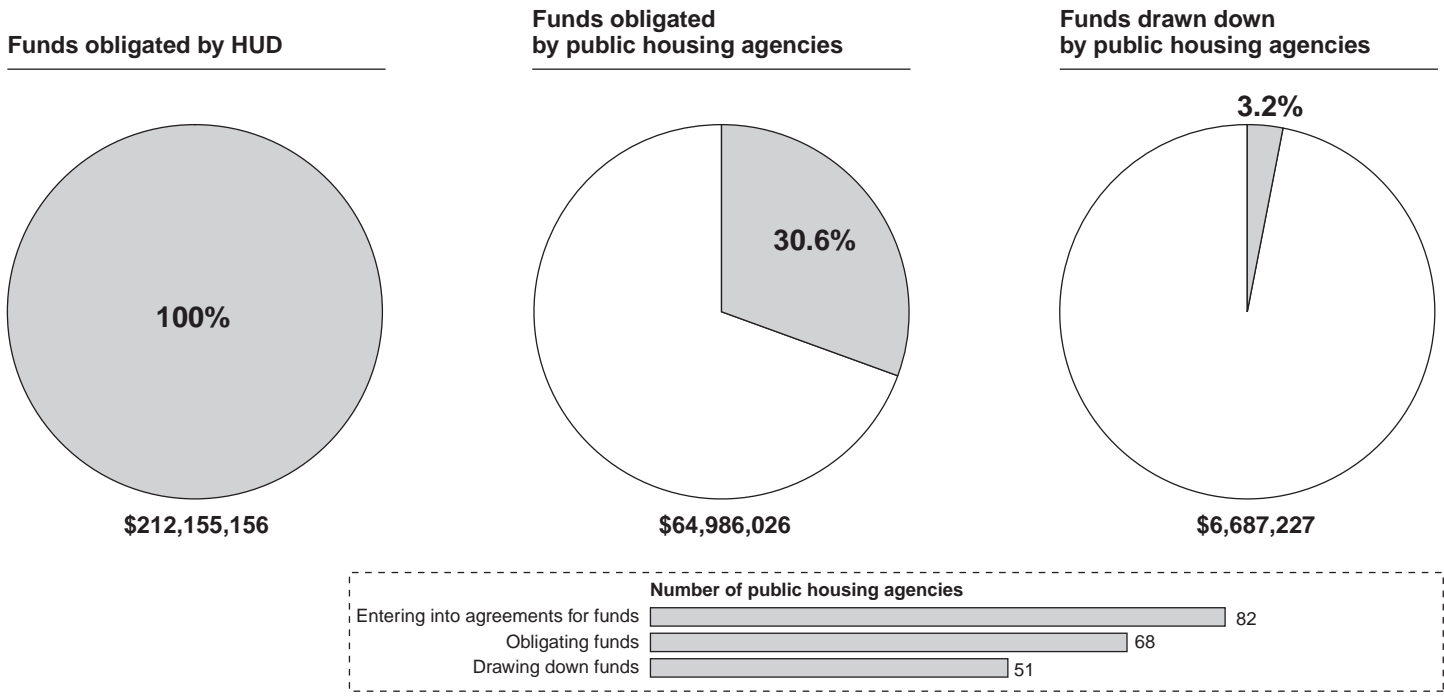
HUD is also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published May 7, 2009, and revised June 3, 2009, HUD outlined four categories of funding for which public housing agencies could apply:

- creation of energy-efficient communities (\$600 million),
- gap financing for projects that are stalled because of financing issues (\$200 million),
- public housing transformation (\$100 million), and
- improvements addressing the needs of the elderly or persons with disabilities (\$95 million).

For the creation of energy-efficient communities, applications (which were due July 21, 2009) were to be rated and ranked according to criteria outlined in the Notice of Funding Availability. The last three categories will be threshold based, meaning applications that meet all the threshold requirements will be funded in order of receipt. If funds are available after all applications meeting the thresholds have been funded, HUD may begin removing thresholds after August 1, 2009, in order to fund additional applications in the order of receipt until all funds have been awarded. Applications in these three categories were accepted until August 18, 2009.

Pennsylvania has 82 public housing agencies that have received Recovery Act formula grants. In total these public housing agencies received \$212.2 million in Public Housing Capital Fund formula grants. (See fig. 6.) As of September 5, 2009, 68 of these public housing agencies have obligated \$65 million (31 percent), and 51 have drawn down \$6.7 million. We visited two public housing agencies in Pennsylvania for our July report: the Philadelphia Housing Authority and the Harrisburg Housing Authority. We will provide updated information on these housing agencies in a future report.

Figure 6: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Pennsylvania, as of September 5, 2009



Source: GAO analysis of HUD data.

Pennsylvania's Accountability Office Plans Centralized Reporting for Recovery Act Funds Received by the State and Is Developing Performance Measures

Pennsylvania's new Accountability Office, led by the Recovery Act Chief Accountability Officer, plans a centralized approach for the quarterly recipient reporting that state agencies must submit to comply with Section 1512 of the Recovery Act. Under OMB guidance, these recipient reports are to be submitted through www.FederalReporting.gov. Pennsylvania's Accountability Office coordinates a reporting working group, which also includes the Office of Information Technology, the Governor's Budget Office, and the Office of the Chief Accounting Officer, to plan and implement the recipient reporting. Over the summer of 2009, the working group identified the gaps between the information required for the recipient reporting and data available from Pennsylvania's current enterprise resource planning (ERP) system.⁵⁷ As we previously reported, the Office of Comptroller Operations established unique accounting codes within the state's integrated accounting system (ERP system) to track Recovery Act spending separately. Where practical, new data fields will be added to the accounting system to support the data extract for Recovery Act reporting. Whereas the financial data for Pennsylvania's state recipient reports will be drawn from the ERP system, the Office of Information Technology designed a new centralized Recovery Act data warehouse—the Central Access to Recovery Data System (CARDS)—to compile the other data elements gathered from program agencies and their subrecipients and vendors. Pennsylvania's Accountability Office is developing internal controls and a quality review process to help ensure that the data are complete and accurate before submission.

According to Pennsylvania Recovery Act officials, many subrecipient and vendor details, such as names and addresses, required under Section 1512 already existed within Pennsylvania's ERP system, since most organizations receiving Recovery Act funds through state agencies were already registered to do business with Pennsylvania state government. State program agencies receiving Recovery Act funds—the direct recipients—are responsible for collecting and entering any additional data for their subrecipients and vendors into CARDS. For example, PennDOT is the direct recipient for the Highway Infrastructure Investment funds and will collect data from its vendors—the contractors working on the highway and bridge projects. For the WIA Youth Program, L&I as the direct recipient will compile data from the local workforce area

⁵⁷ An ERP solution is an automated system using commercial off-the-shelf software and consisting of multiple, integrated functional modules that perform a variety of tasks, such as accounts payable, general ledger accounting, and grant management.

subrecipients, which in turn will gather data from their vendors on the summer youth activities.

According to the Senior Advisor for Recovery Implementation, the process of classifying subrecipients and vendors using the five-point test in OMB's guidance has been surprisingly difficult. Pennsylvania's Accountability Office plans to use the state ERP system coding to preliminarily assign entities to one category or the other. Initially, entities receiving Recovery Act funds coded as grant, debt service/investment, and transfer payment categories will be treated as subrecipients, and entities receiving Recovery Act funds coded as operating expenses will be treated as vendors. Pennsylvania's Accountability Office will override these preliminary classifications in cases where the federal awarding agency's instructions are plainly contrary.

On August 26, 2009, Pennsylvania's Accountability Office issued instructions for program agencies detailing their reporting responsibilities and the timeline for preparing for the first recipient reports due on October 10, 2009. On August 31, 2009, Pennsylvania's Accountability Office issued companion instructions for use by the program agencies' vendors, subrecipients, and subrecipient vendors. By the end of August, each program agency was to identify its key reporting personnel, verify its identification numbers, and complete a onetime survey on its Recovery Act funding award received to date. In early September 2009, agency staff will receive CARDS training and will load onetime survey data from their outreach to vendors and subrecipients. All onetime data entry is to be completed by September 25, and program agencies are to begin entering quarterly data—such as the numbers of jobs, narrative on quarterly activities, and project status—beginning on October 1. Subrecipients are to provide their data by October 5, and the program agencies are to upload all data to CARDS by October 6. Each program agency is responsible for using CARDS to review and approve its final recipient report.

Pennsylvania's Accountability Office has registered at FederalReporting.gov and plans to transmit the recipient reports for Pennsylvania state agencies. As of September 11, 2009, the office expects to file at least 40 recipient reports by the October 10, 2009, deadline. To help oversee the reporting process, the reporting working group will set up a centralized operation focused exclusively on the recipient reporting

effort from September 23 until October 30, 2009.⁵⁸ Pennsylvania's Accountability Office told the program agencies that the first 10 days of October will be difficult but manageable. Pennsylvania's Accountability Office will also manage the process for program agencies to revise their reports and respond to any issues flagged by federal agencies.

Looking beyond the recipient reporting on jobs and project status, Pennsylvania's Accountability Office is developing a performance measure framework to track results of Pennsylvania's Recovery Act spending and report meaningful outcomes to the public. Pennsylvania's Accountability Office has reached out to state agencies receiving Recovery Act funds to identify performance measures for each Recovery Act program. In addition to job creation measures, Pennsylvania's Accountability Office plans to compile both program-specific output measures as well as longer-term outcome measures. For example, output measures for highway and bridge projects might include the number of road miles resurfaced and the number of bridges rehabilitated, whereas longer-term outcomes would be reducing the percentage of road miles rated as in poor condition in terms of roughness and the share of Pennsylvania bridges rated as structurally deficient. Where possible, Pennsylvania's Accountability Office is trying to identify measures of energy savings or environmental improvement. After the first round of recipient reporting is complete in October, Pennsylvania's Accountability Office will continue work to finalize the performance measures and begin collecting data for publication on Pennsylvania's recovery Web site, www.recovery.pa.gov.

State Comments on This Summary

We provided the Governor of Pennsylvania with a draft of this appendix on September 9, 2009, and the Chief Implementation Officer and Chief Accountability Officer responded for the Governor on September 11, 2009. These officials agreed with our draft and provided clarifying and technical comments that we incorporated where appropriate.

⁵⁸The centralized efforts will reopen in late December for the next quarterly recipient reporting round.

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Appendix XVII: Texas

Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act) ¹ spending in Texas. The full report covering all of our work at 16 states and the District of Columbia is available at www.gao.gov/recovery.

Use of Funds: We reviewed three programs in Texas funded under the Recovery Act Highway Infrastructure Investment funds, Workforce Investment Act (WIA) Youth Program, and Weatherization Assistance Program. We selected these programs for different reasons. The Highway Infrastructure Investment fund was selected because highway projects have been underway in Texas for several months, and provided an opportunity to review contracts. The WIA Youth Program was selected because Texas received a large increase in funding, the program was in full operation, and it provided an opportunity to review contracts. We selected the Weatherization Assistance Program because the Recovery Act provided a 25-fold increase in Texas's funding. With these programs we focused on how funds were being used; how safeguards were being implemented, including those related to procurement of goods and services; and how results were being assessed. We reviewed contracting procedures and examined two specific contracts under both the Recovery Act Highway Infrastructure Investment fund and the WIA Youth Program. In addition to these three programs, we also updated funding information on the use of Recovery Act funding in Texas's budget, including the use of the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF). Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Texas and local governments stabilize their budgets and to stimulate infrastructure development and expand existing programs—thereby providing needed services and potential jobs. The following provides highlights of our review of these funds:

- **U.S. Department of Education State Fiscal Stabilization Fund.** Education approved Texas's application making more than \$2 billion available for education programs, including public schools and higher education. As of September 8, 2009, the state has received 287 applications from school districts for these funds.

¹Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009).

- **Highway Infrastructure Investment Program.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$2.25 billion in Recovery Act funds to Texas. As of September 1, 2009, the federal government has obligated \$1.19 billion for 287 projects to Texas and \$47 million has been reimbursed by the federal government. Seventy-eight percent of highway obligations have been for pavement improvements and roadway widening.
- **Workforce Investment Act (WIA) Youth Program.** The Texas Workforce Commission has allocated approximately \$70 million of the WIA Youth Recovery Act funds, received from the Department of Labor, to 28 workforce development boards within the state. The goal is to expend at least 70 percent of these funds by September 30, 2009. As of August 15, 2009, local workforce development boards had expended approximately \$31.5 million and enrolled over 19,500 youth in summer employment activities throughout Texas. Texas is exceeding its target goal of summer employment for 14,420 youth.
- **Weatherization Assistance Program.** On July 10, 2009, the U.S. Department of Energy provided the Texas Department of Housing and Community Affairs (TDHCA) access to \$163.5 million of the state's \$327 million Recovery Act funding allocation. On September 11, 2009, TDHCA entered into contracts totaling \$145.5 million with subrecipients. The remaining \$17.8 million will be used for TDHCA administration and technical assistance and training for subrecipients and grantees.

Use of Recovery Act Funding in the Texas State Budget

On September 1, 2009, Texas began a new 2-year budget cycle, formally called the 2010-2011 biennium, making available about \$12 billion in Recovery Act funding for several programs, including Medicaid, public schools, higher education, and transportation.² However, Texas officials would like the federal government to clarify the process for recouping administrative costs and provide specific guidance on which Recovery Act programs are subject to the 0.5 percent administrative cap. In the longer term, the effect of the Recovery Act on the state's fiscal position remains uncertain.

²Texas budgets on a biennial basis. The 2010-2011 biennium will run through August 31, 2011.

Texas Is Using Recovery Act Funds, but Seeks to Clarify Administrative Cost Issues

As Texas implements its budget for the 2010-2011 biennium, state officials provided updated information on the use of Recovery Act funds, including the State Fiscal Stabilization Fund (SFSF), to support state programs. As the state begins to receive more Recovery Act funds, officials with the Governor's office indicated that they would like more federal guidance concerning administrative costs related to the Recovery Act. Texas officials have participated in conference calls with OMB officials, but did not receive requested guidance on what Recovery Act funded programs are subject to the 0.5 percent administrative cap.

Texas Preparing to Use State Fiscal Stabilization Fund

On July 24, 2009, the U.S. Department of Education (Education) approved Texas's application for the Recovery Act State Fiscal Stabilization Fund (SFSF), making available more than \$2 billion.³ According to an assessment by the Texas Legislative Budget Board (LBB),⁴ the 2010-2011 biennial budget uses SFSF funds to provide funding for education programs, including public schools, higher education and to the Texas Education Agency (TEA) for textbooks. Officials in the Governor's office told us that the TEA is accepting applications from school districts seeking SFSF funds. As of September 8, 2009, TEA reports that the agency has received 287 applications for SFSF funds.⁵ The Governor's staff anticipated that school districts would begin receiving SFSF funds in September 2009, and this would include retroactive funding for cost incurred for the period between the enactment date of the Recovery Act (February 17, 2009) and the effective date of the application.

³Education also noted that Texas would be eligible to apply for additional SFSF funds this fall.

⁴In Texas, the LBB is a permanent joint committee of the Texas legislature that develops budget and policy recommendations for legislative appropriations for all agencies of state government, as well as completes fiscal analyses for proposed legislation.

⁵TEA reports an additional 606 local education agencies (LEA) of the approximately 1,200 school districts and charters in the state have started a draft of the application in TEA's eGrants system, but have not finalized and submitted the application.

Texas Has Appropriated Funds to Pay Administrative Costs, but Seeks Clarification on Federal Guidance

The state legislature's conference committee report for the 2010-2011 budget identifies two sources of funding for administrative costs.⁶ The legislature appropriated \$10 million to the Governor's office from the Recovery Act's government services fund for administrative costs.⁷ State officials told us that the Governor's office may provide this funding to other state agencies with oversight responsibilities. The second source is money recovered from the State-wide Cost Allocation Plans (SWCAP) for administrative costs. On May 11, the Office of Management and Budget (OMB) issued a memo describing how states could recover central administrative costs related to carrying out Recovery Act programs and activities.⁸ However, officials with the Governor's office indicated that this guidance does not fully address their concerns.

The OMB memo gives the states the option to recoup costs for central administrative costs through SWCAP, which states submit to the U.S. Department of Health and Human Services annually. The guidance states that any estimated cost amount should not exceed 0.5 percent of the total Recovery Act funds received by the state. However, the Governor's staff said they were concerned about OMB's decision to use the SWCAP as a mechanism for states to recover administrative costs. The officials believe that using the SWCAP to recoup Recovery Act administrative costs could require duplicate reporting by the Texas state government—once for the Recovery Act and once for already established federal programs.

The Governor's staff also stated they needed more guidance on what programs were to be included in the total dollar amount that the 0.5 percent would be based on. For example, the Governor's staff said that if Recovery Act funds Texas received for Medicaid were included; the amount Texas could recoup in administrative costs would increase. For the 2010-2011 biennium, the Texas LBB estimated that the Recovery Act would increase federal funds for Medicaid by \$2.513 billion, of which 0.5 percent is approximately \$12.6 million. Texas officials told us they participated in conference calls with OMB officials where they requested

⁶Conference Committee Report for S.B. No. 1 General Appropriations Bill, 81st Leg. Sess., at XII-9.

⁷The conference report indicated that \$10 million would be available for administrative costs, provided that Texas receives more than \$700 million from the government services fund of the SFSF.

⁸Office of Management and Budget Memorandum M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities* (May 11, 2009).

guidance on this matter. Officials added that OMB has issued clarifying questions and answers. However, Texas officials thought further guidance is needed from OMB, including a listing of programs that are subject to the 0.5 percent administrative cap.

State Is Assessing Future Budget Funding

Our July and April reports noted that both the Governor and legislature have provided extensive guidance to state agencies indicating that much of the Recovery Act funding is temporary and should be used for nonrecurring expenditures, such as onetime costs. The conference committee report for the 2010-2011 appropriations bill directs state agencies to “give priority to expenditures that do not recur beyond the 2010-2011 biennium.”⁹ Similarly, the Governor in his proclamation concerning the state budget reiterated that “state agencies and organizations receiving these funds should not expect them to be renewed by the state in the next biennium.”¹⁰

The LBB is asking state agencies to report on their uses of Recovery Act funds, with the first report due in September 2009. LBB staff told us that these reports will allow them to monitor spending on an ongoing basis. A state legislative official noted that the LBB reports will be sent to key leaders in the legislature. Moreover, the Texas legislature’s House Select Committee on Federal Economic Stabilization Funding held a hearing in August to monitor how state agencies were using Recovery Act funding.

LBB staff said that the Recovery Act had helped fill gaps in funding education and Medicaid programs in the 2010-2011 budget. For example, LBB staff anticipate SFSF funds being used to address what likely would have been a gap in education funding for 2010-2011. More specifically, the staff expected SFSF funds would be used to replace funding the state usually receives from the state’s Permanent School Fund,¹¹ which has been adversely affected by financial market turmoil. However, LBB staff indicated that financial market turmoil may prevent the state from transferring Permanent School Fund money to support education in 2010-

⁹Conference Committee Report for S.B. No. 1 General Appropriations Bill, 81st Leg. Sess., at XII-9.

¹⁰Proclamation by the Governor of the State of Texas Concerning the General Appropriation Act.

¹¹The Permanent School Fund earns proceeds from the sale of state lands and mineral-related revenue from these lands.

2011. The 2010-2011 biennial budget uses SFSF funds to support education. A senior official with the Governor's office reiterated the state's commitment to fund education regardless of the performance of the Permanent School Fund.¹²

In our recent discussions, LBB staff noted the importance of identifying revenue to support education spending as well as the state's Medicaid program,¹³ when Recovery Act funding ends. In the case of education, LBB officials reported that there is uncertainty about whether the Permanent School Fund would provide a distribution that could fund education in the 2012-2013 biennium. Moreover, officials from two legislative offices told us that it may be challenging for some state agencies to scale back, once the Recovery Act funding ends. However, officials in the Governor's office reported that they continue to provide guidance indicating that Recovery Act funding is temporary. For example, a senior official said that the application for school districts to use in applying for SFSF funds makes clear that the SFSF funding is onetime.

Growth in Texas's Tax Revenue Has Declined

The Texas Comptroller has certified that sufficient funding exists to support the 2010-2011 biennium budget. However, in January 2009, the Comptroller projected that Texas may have 10.5 percent less revenue available for general purpose spending for the 2010-2011 biennium than was available in 2008-2009. Specifically, the Comptroller's *Biennial Revenue Estimate* anticipated that Texas would have \$77.1 billion available for general purpose spending in the 2010-2011 biennium, compared to \$86.2 billion in the previous 2008-2009 biennium. The Comptroller's revenue estimate has important implications. According to a report by the Texas legislature's House Research Organization, for an appropriations bill to be valid, the Comptroller must certify that there is enough revenue to cover the approved spending.¹⁴

¹²We were told by LBB staff that there is a constitutional requirement that fund returns over a 10-year period must exceed payouts over the same period in order for there to be a distribution.

¹³Recovery Act funds used in the state's fiscal year 2010-2011 budget include Federal Medical Assistance Percentage funds (discussed in [GAO-09-1016](#)).

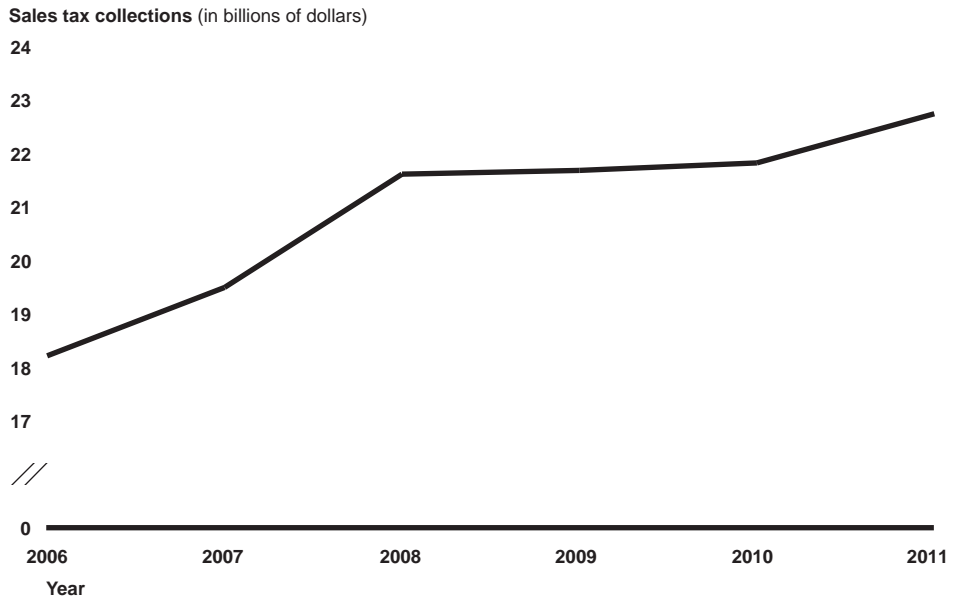
¹⁴Texas House of Representatives, House Research Organization, *Writing the State Budget 81st Legislature*, Report No. 81-1 (Feb. 2, 2009).

Of particular importance for Texas is the outlook for sales tax revenue. For the past two decades, state sales tax revenues have accounted for more than half of the state's general revenue related tax collections.¹⁵ The Comptroller's projections suggest that sales tax collections will slightly increase in 2009 and 2010. For example, in fiscal year 2010, the Comptroller projects sales tax revenue will increase by 0.5 percent. According to this report, this slight increase expected in fiscal year 2010 would come after strong revenue growth in fiscal year 2008. In fiscal year 2008, sales tax receipts increased 6.6 percent from the previous year. The Comptroller's report notes that, "loss of jobs, tighter credit, and uncertainty about the economy are likely to keep consumers at home." Moreover, figure 1 shows that the projected trend in sales tax collections for 2010-2011 would contrast with more rapid growth in sales tax collections in 2006 and 2007. Looking ahead, the Comptroller anticipates that sales tax revenue will grow at a faster pace in 2011.¹⁶

¹⁵Texas does not have a state income tax.

¹⁶Between 2010 and 2011, sales tax collections in Texas are expected to increase 4.2 percent. This rate of increase will likely exceed the rate of inflation, resulting in a real increase in sales tax revenue collected by the state.

Figure 1: Texas Sales Tax Collections: 2006-2011



Source: GAO analysis of Texas Comptroller data from *Biennial Revenue Estimate: 2010-2011 and Biennial Revenue Estimate, 2008-2009*.

Note: Figures for 2009-2011 as well as 2007 are estimates by the Comptroller.

State Officials’ Perspectives on the Rainy Day Fund

State officials had different perspectives concerning the potential need in the future to use money from the state’s rainy day fund, the Texas Economic Stabilization Fund.¹⁷ Officials from several legislative offices indicated it was likely that the state would need to use rainy day funds in the 2012-2013 biennium. For example, one of the officials noted that the state may face a “funding cliff,” as Recovery Act funding ends. Furthermore, the official pointed to 2003 when the state used money from the rainy day fund to address a budget deficit. According to a report by the Texas legislature’s House Research Organization,¹⁸ rainy day funds were used in fiscal 2003 to support several state programs, including \$460.3 million for Medicaid acute care as well as \$295 million for the Texas

¹⁷The state’s economic stabilization fund is commonly referred to as the “rainy day fund.”

¹⁸Texas House of Representatives, House Research Organization, *State Finance Report*, Report No. 78-3 (Nov. 17, 2003).

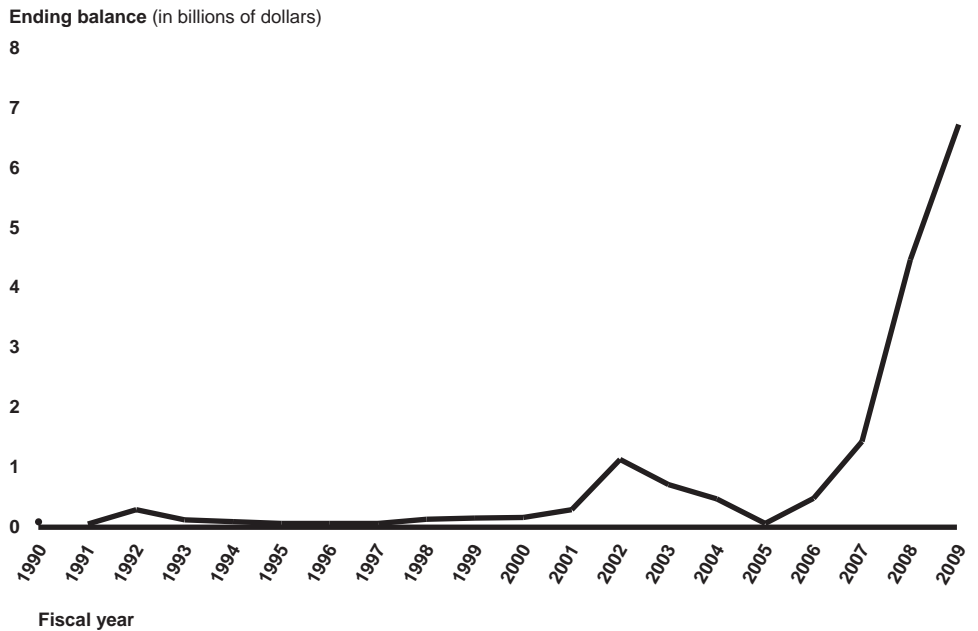
Enterprise Fund to support economic development.¹⁹ A senior official in the Governor's office did not anticipate the need to use money from the rainy day fund in the 2010-2011 budget. Moreover, the Governor's advisor noted that appropriating funds from the rainy day funds would require a supermajority vote in the legislature.²⁰

There has been recent discussion in the Texas legislature regarding the projected future balance of the rainy day fund. In an August hearing, the chairman of the Texas legislature's House Select Committee on Federal Economic Stabilization Funding requested updated information concerning the balance in the rainy day fund. An official from the Comptroller's office reported that the rainy day fund currently had a balance of approximately \$6.7 billion. In January 2009, the Comptroller had anticipated that money would be transferred into the rainy day fund in 2010-2011 and consequently the rainy day balance would reach \$9.1 billion. According to a report by the Comptroller's office, the state is required to transfer half of any General Revenue Fund surplus in each biennium and 75 percent of any oil and natural gas production taxes exceeding 1987 levels into the rainy day fund. In the Comptroller office's August statement, officials continued to expect that the state would transfer money into the rainy day fund in 2010-2011. Specifically, the official estimated that \$852 million would be transferred in fiscal 2010 and \$740 million in fiscal 2011. Oil and gas production taxes continue to be an important source of revenue for the rainy day fund. According to the Comptroller's office, \$852 million from oil and gas production taxes is anticipated to be transferred into the rainy day fund in fiscal 2010. Figure 2 shows recent trends in the rainy day fund's ending balance.

¹⁹According to a description on the Governor's Web page, the Texas Enterprise Fund is used primarily to attract new business to the state or assist with the substantial expansion of an existing business as part of competitive recruitment. The fund can be used for a variety of economic development projects including infrastructure and community development, job training programs, and business incentives.

²⁰A report by the House Research Organization indicates that more than a majority of members of the legislature must approve the use of rainy day funds. The report explains that, "generally, money in the rainy day fund can be spent only as approved by at least three-fifths of the members present in each house. Spending from the fund generally may not exceed the amount of any unanticipated deficit or revenue shortfall, but any amount from the fund may be spent for any purpose if at least two-thirds of the members present in each house approve it."

Figure 2: Texas Economic Stabilization Fund, Ending Balances (1990-2009)



Source: GAO analysis of data from Texas Comptroller's office.

Notes: Figures have been adjusted to report the ending balance in constant 2009 dollars using the GDP price index.

Figure for 2009 is preliminary data, year to date.

No data is available for 1991.

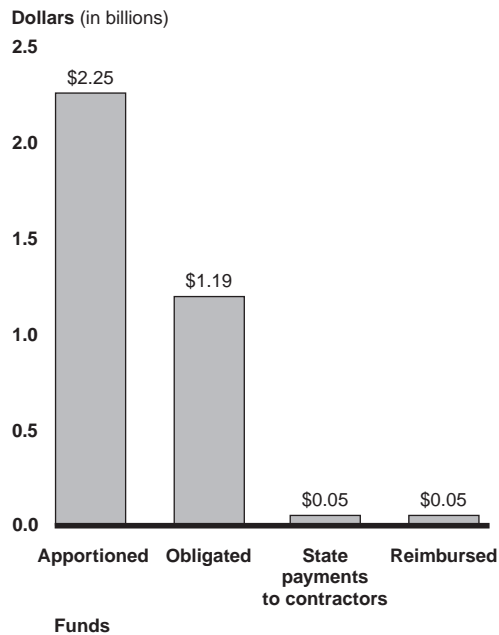
Texas Is Proceeding with Highway Infrastructure Investment Projects

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through federal-aid highway program mechanisms, and states must follow the requirements of the existing program, which include ensuring the project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), paying a prevailing wage in accordance with federal Davis-Bacon requirements, complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy America program requirements. While the maximum federal fund share of highway infrastructure investment

projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

As we reported in July 2009, \$2.25 billion was apportioned to Texas in March 2009 for highway infrastructure and other eligible projects, as shown in figure 3. As of September 1, 2009, \$1.19 billion had been obligated for 287 projects. As of September 1, 2009, \$47 million had been reimbursed by FHWA. The U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. States request reimbursement from FHWA as payments are made to contractors working on approved projects. Actual payments to contractors by Texas totaled about \$47 million.

Figure 3: Flow of Texas Recovery Act Highway Funds as of September 1, 2009



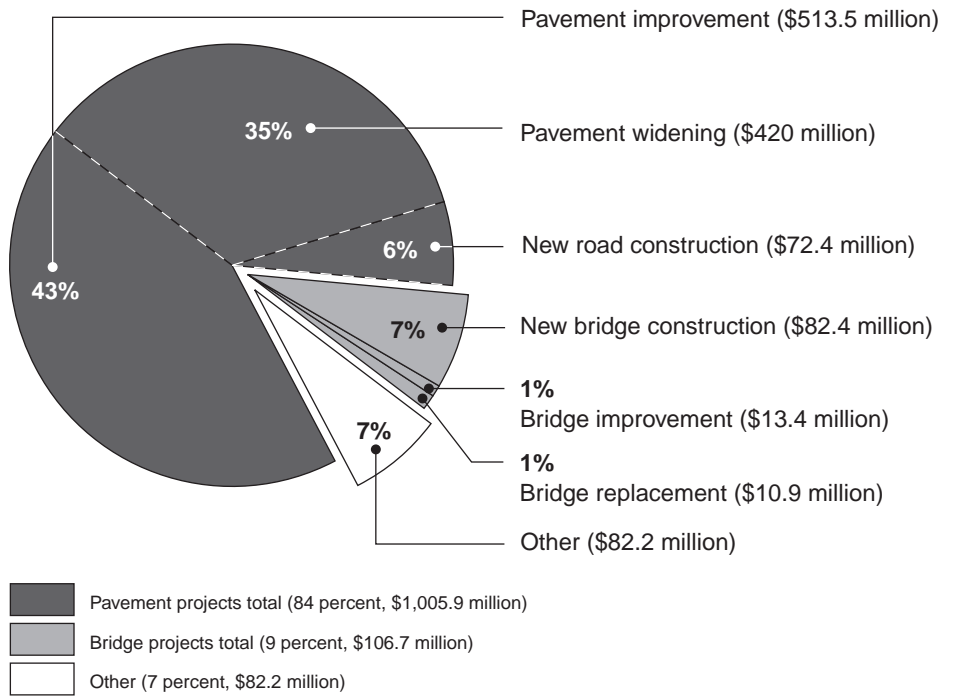
Source: GAO analysis of U.S. Department of Transportation and Texas Department of Transportation data.

Spending Continues on Planned Projects

Seventy-eight percent of Recovery Act highway obligations for Texas have been for pavement improvements and widening. Specifically, \$933.5 million of the \$1.19 billion obligated, as of September 1, 2009, is being used for projects such as resurfacing, repairing, and widening roadways,

including \$513.5 million for pavement improvements and \$420 million for roadway widening. Texas primarily selected highway preservation projects, such as resurfacing, repair and widening, which can be quickly started and completed. Figure 4 shows obligations by the types of road and bridge improvements being made as of September 1, 2009.

Figure 4: Highway Obligations for Texas by Project Improvement Type as of September 1, 2009



Source: GAO analysis of FHWA data.

Note: "Other" includes safety projects, such as improving safety at railroad grade crossings, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Construction at Two Sites Is Ongoing and, According to State Officials, Based on Competitively Awarded Fixed-Price Contracts

In August 2009, we returned to two Recovery Act–funded projects we visited for our July report.²¹ One project site was within the Texas Department of Transportation’s Fort Worth district office and the other site was within the Dallas district office. For this report, we revisited these two projects and observed work that was underway using Recovery Act funds.

Figure 5 shows the Fort Worth district office project before construction work started. This project is located in Tarrant County and involves resurfacing a 5-mile section of Interstate 820 to improve safety and maintain the roadway by performing pavement and bridge repairs. Figure 6 shows the work in progress.

Figure 5: Fort Worth, Texas, Interstate 820 Roadway Deterioration Prior to Resurfacing Using Recovery Act Funds



Source: Texas Department of Transportation.

²¹GAO, *Recovery Act: States’ and Localities’ Current and Planned Uses of Funds While Facing Fiscal Stresses (Appendixes)*, [GAO-09-830SP](#) (Washington, D.C.: July 2009).

Figure 6: Fort Worth, Texas, Interstate 820 Resurfacing in Process to Repair Roadway Deterioration Using Recovery Act Funds



Source: Texas Department of Transportation.

The Dallas district project is located in Cedar Hill, Texas, and involves the construction of intersection improvements including widening of the intersection, signal upgrades, and the addition of turn lanes at Farm-to-Market Road 1382 and Straus Road. Figure 7 shows the intersection prior to the start of construction and figure 8 shows the work site during our review.

Figure 7: Cedar Hill, Texas, Intersection at Farm-to-Market Road 1382 and Straus Road before Recovery Act–Funded Improvements



Source: GAO.

Figure 8: Cedar Hill, Texas, Intersection at Farm-to-Market Road 1382 and Straus Road, Temporary Turn Lane Constructed as Recovery Act–Funded Improvements Advance



Source: GAO.

According to Texas Department of Transportation officials, the two projects were initiated through competitively awarded contracts. According to state officials, after soliciting proposals for the projects, Texas received and evaluated 6 proposals for the Fort Worth district project and 10 proposals for the Dallas district project. Texas officials stated they followed the practice of awarding contracts to the lowest responsive bidder, and awarded fixed-price contracts for both projects.²² The Fort Worth and Dallas district contracts were awarded to the low bidder for approximately \$3.97 million and \$1.38 million respectively.

²²According to Texas Department of Transportation officials, highway construction contracts are awarded to the lowest responsible and responsive bidder.

Texas Is Meeting Recovery Act Highway Infrastructure Spending Requirements, and Maintenance-of-Effort Certification Has Been Accepted

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. States are required to do the following:

- Ensure that 50 percent of apportioned Recovery Act funds were obligated within 120 days of apportionment (before June 30, 2009). The 50 percent rule applies only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated, primarily based on population, for metropolitan, regional, and local use. In addition, states are required to ensure that all apportioned funds—including suballocated funds—are obligated within 1 year. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames.²³ As of September 1, 2009, approximately \$1.2 billion for highway projects has been obligated using Recovery Act funds. Included is approximately \$197 million obligated from the 30 percent of funds suballocated. The rate of obligation for suballocated funds is about 29 percent compared to a 53 percent obligation rate for Texas Recovery Act highway funds in general. Although the obligation of suballocated funds has been slower, Texas officials anticipate that suballocated funds will be obligated within the 1-year time frame required.
- Certify that the state will maintain the level of spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.²⁴ Following an initial certification by Texas dated March 17, 2009, the U.S. Secretary of Transportation informed Texas on April 20, 2009, that conditional and explanatory certifications were not permitted, and provided guidance. Subsequent to the Secretary's guidance, Texas resubmitted certifications on May 22, 2009, and July 9, 2009. The Office of the Secretary of Transportation accepted the Texas certification, as of August 13, 2009.

²³Pub. L. No. 111-5, 123 Stat. 115, 206 (Feb. 17, 2009).

²⁴Pub. L. No. 111-5, § 1201, 123 Stat. 115, 212 (Feb. 17, 2009).

Texas Transportation Agency Providing Monitoring and Oversight of Highway Contracts

According to Texas Department of Transportation officials, highway construction project management includes daily oversight of both contractors and subcontractors by on-site inspectors. Resident engineers for each work site keep a daily log of the quantity of materials delivered and installed. The engineers take measurements to verify the quantity of materials used (e.g., loads of asphalt) and whether those quantities conform to established specifications. As an additional check, state officials told us that independent record keepers verify the inspectors' calculations before payment to contractors or subcontractors is authorized.

Workforce Investment Act (WIA) Youth Program

The Recovery Act provides an additional \$1.2 billion in funds for the Workforce Investment Act (WIA) Youth program, including summer employment. Administered by the Department of Labor (Labor), the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. Funds for the program are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving as much as 15 percent for statewide activities. The local areas, through their local workforce investment boards, have the flexibility to decide how they will use the funds to provide required services.

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,²⁵ the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth Program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.²⁶ Local areas may design summer employment opportunities to include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. A key

²⁵H.R. Rep. No. 111-16, at 448 (2009).

²⁶Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

goal of a summer employment program, according to Labor's guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job, (2) learn work-readiness skills on the job, and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to develop work experiences that introduce youth to opportunities in "green" educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.²⁷ Labor's guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor's guidance. Each state's plan must discuss specific provisions for conducting its monitoring and oversight requirements.

The Recovery Act made several changes to the WIA Youth Program when youth are served using these funds. It extended eligibility through age 24 for youth receiving services funded by the act, and it made changes to the performance measures, requiring that only the measurement of work readiness gains will be required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Labor's guidance allows states and local areas to determine the methodology for measuring work readiness gains within certain parameters. States are required to report to Labor monthly on the number of youth participating and on the services provided, including the work-readiness attainment rate and the summer-employment completion rate. States must also meet quarterly performance and financial reporting requirements.

Texas Expects to Meet Expenditure and Participant Targets of WIA Youth Recovery Act Funds

Texas expects that it will meet its WIA Youth program expenditure and participant targets for Recovery Act funds. Texas was awarded approximately \$82 million in WIA Youth Recovery Act funds. Labor issued guidance stating that these funds are to be expended by June 30, 2011. The Texas Workforce Commission (TWC), the agency responsible for overseeing the state's WIA Youth Program, has allocated about \$70 million of the WIA Youth Recovery Act funds to 28 workforce development boards

²⁷Current federal wage law specifies a minimum wage of \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

within the state.²⁸ TWC's target is to expend at least 70 percent of these funds by September 30, 2009, and the remainder by September 30, 2010. Each workforce board receiving Recovery Act funds is also expected to meet these targets. As of August 15, 2009, Texas had expended about \$31.5 million, or 38.5 percent, and state officials expect to fully meet their expenditure target. As of August 15, 2009, over 19,500 youth had been enrolled in summer employment activities throughout Texas, exceeding TWC's state-wide participation target of 14,420 youth. Almost 25 percent of enrollees were out-of-school youth and 74 percent were youth between the ages of 14 and 18. Approximately 6.5 percent of youth enrolled by Texas as of August 15, 2009, were between the ages of 22 and 24.

Local Boards We Visited Faced Challenges

In July and August 2009, we revisited the two boards that we reported on in our July 2009 report. The Gulf Coast Development area, which covers 13 counties²⁹ and includes the cities of Houston and Galveston, was allocated \$14.8 million for its WIA youth program and given a target of 3,054 participants for summer employment activities by TWC. The local area exceeded its target and had placed 5,128 youth to work sites and expended approximately \$11.3 million, or 76 percent of its allocation as of September 3, 2009. The North Central Texas development area consists of 14 counties³⁰ and received an allocation of \$4.5 million in WIA Youth Recovery Act funds and a participant target of 927 youth. As of September 9, 2009, the board had recruited 1,090 summer youth participants for summer employment activities. Officials told us that as of August 31, 2009, it had expended 41 percent of its allocation.

The North Central Workforce Development Board covers a predominately rural area, and officials attributed their difficulty recruiting youth to the lack of public transportation in its region and the distances that must be traveled to work sites. Board officials have encouraged car pools to facilitate youth mobility. The board also sought to overcome recruiting

²⁸TWC used a portion of its 15 percent WIA youth state set-aside funds to fund employment opportunities for blind and deaf youth.

²⁹The Gulf Coast Workforce Development Board administers the WIA program throughout the following 13 counties: Austin, Brazoria, Chambers, Colorado, Galveston, Fort Bend, Harris, Liberty, Matagorda, Montgomery, Walker, Waller, and Wharton.

³⁰The North Central Workforce Development Board administers the WIA program throughout the following 14 counties: Collin, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, and Wise.

challenges by targeting rural areas with various types of media advertisements and on-site recruiting efforts.

Officials from both boards also cited challenges in dealing with program eligibility requirements and income limits that they believe are too low. Officials from one board said that they received 5-7 ineligible applications for every eligible youth recruited, creating a backlog of files and consuming staff resources. Further, youth participants and their parents do not always submit required eligibility documentation in a timely manner, which forces local officials to use their resources to obtain that documentation. Although officials we spoke with did not express difficulties recruiting work sites, they found it challenging to identify work sites that would hire participants who were between 14 and 16 years old.

**Local Boards Used
Contractors to Place
Youths at a Variety of Work
Sites**

According to officials, to implement Recovery Act–funded summer employment activities, the Gulf Coast and North Central Workforce Development Boards awarded contracts to a variety of organizations to recruit youth, determine participant eligibility, identify potential employers, and process payroll. According to officials, these organizations were also responsible for conducting youth and supervisor orientation sessions, assessing work sites’ safety requirements, and verifying that youth were performing meaningful work. Local workforce officials from both boards relied on existing relationships with community-based organizations, schools, and businesses that existed through other workforce programs to quickly identify work sites and recruit youth participants. In situations where additional work sites were needed, North Central board contractors scheduled presentations with business organizations and conducted outreach phone calls.

In order to recruit youth within the time frames for summer employment activities prescribed by Labor, both boards and their contractors purchased radio advertisements and distributed flyers and posters. Program presentations were also made to youth at schools and community colleges to notify them of the program. The North Central board officials informed us that because their area included several rural areas with declining populations they initiated media recruitment efforts by purchasing radio and billboard advertisements to meet this challenge. These efforts led, in part, to an influx of applicants, including many that were not eligible for the program.

Boards Provided a Variety of Employment Opportunities

TWC recommended to boards that they establish summer employment opportunities that were linked, to the extent possible, with education and training, and credential attainment. In addition to the work experience component of its summer youth program, the Gulf Coast board included computer technology occupational skills training and workshops designed to prepare youth for work. North Central board officials stated that their participants attended leadership and work training seminars before beginning work and were given the opportunity to attend a computer training class. Along with software training, the curriculum emphasizes presentation skills, professionalism, and personal responsibility.

Summer youth program participants in the 27 Texas counties covered by the two workforce areas we visited have been engaged in work activities offered by a variety of employers, including city and county governments, community colleges, school districts, and private companies. For example, one of the Gulf Coast Workforce board's contractors was a charter school that enrolled 50 youth between the ages of 14 and 16 for a 7-week entrepreneurship program. The program's goal was to provide hands-on projects to youth in order to prepare them for school and for the workforce. Youth were to learn various skills by attending workshops and presentations by speakers who overcame economic disadvantages while growing up. The youth had several responsibilities that had to be completed before successfully completing the program. For example, participants were required to create and market business plans to a panel of judges.

Employers and Youth at Sites We Visited Cited Program Benefits

We conducted work-site visits in order to observe work being performed and to speak with youth and employers participating in the program. The five employers we visited generally believed that program participants were performing good work and recognized the importance of utilizing youth for meaningful work activities. We spoke with a 23-year-old program participant who had been placed at a glass distribution company and who was offered permanent employment after 1 month in the program. Representatives of the company were pleased with the youth's work and stated their desire to hire additional program participants. Other employers we spoke with stated that they would permanently hire youth if their budgets allowed it. Seven program participants we spoke to felt that the program was beneficial for them and allowed them to gain necessary skills to enter the workforce. For example:

- A high-school senior placed as a teacher's assistant at Houston learning academy attributed her new-found interest in becoming a

teacher to her summer youth work experience. While at the academy, the high-school senior worked with students, prepared transcripts, and marketed the school's services to various media outlets. The academy owner stated that her goal was to teach her youth employees how to behave at a work place and teach them interpersonal and computer skills.

- Ten participants working for the City of Houston Human Resources Department performed a variety of clerical work. One program participant we spoke with added that he was responsible for helping City of Houston job applicants without computer skills apply for jobs online.
- A youth working at a city animal shelter was happy that the program took her preferences into account when placing her at a work site. Her goal is to become a veterinarian and she was able to gain first-hand experience about what would be required of her. Her experience included working with veterinarians, taking care of animals, cleaning kennels, and completing intake paperwork.

TWC and Local Boards Oversee Compliance with WIA Youth Program Requirements

According to officials, procedures have been put in place to ensure (1) youth are performing meaningful work activities with adequate supervision; (2) work sites meet safety requirements; and (3) youth payroll is accurate. TWC officials monitor the performance and the financial expenditure of funding allocated to the local workforce boards and meet monthly to discuss them. Technical assistance is provided to boards that do not appear to be on track to meet their participant or expenditure targets. According to officials, TWC also used established monitoring procedures intended to ensure compliance with Recovery Act requirements and the requirements established through the contracts with boards. TWC's Subrecipient Monitoring Department conducted nine board reviews during the summer and three Recovery Act-specific reviews at boards receiving the largest youth allocation amounts.

According to officials, workforce board officials and their contractors employ monitors to ensure compliance with program requirements. Contract monitors for the Gulf Coast board make unannounced visits to select work sites at least twice a week to determine program compliance. The local boards also employ their own monitors to conduct additional reviews. For example, monitors from the Gulf Coast Workforce board also conduct work site visits. The monitors interview youth and their supervisors to determine whether youth are performing meaningful work, whether all safety requirements are being met, and whether supervisors

require additional training. The monitors issue reports for each work site with observations and recommendations. Although issues have been reported by monitors, such as lack of supervisor training and too many youth per supervisor, board employees have worked with their contractors to rectify these problems. Officials from one contractor we visited told us that work-site orientation sessions have been held to confirm that employers are aware of program requirements.

Boards Are Using Different Work-Readiness Measures to Assess WIA Youth Summer Employment Success

The Recovery Act provided that, of the WIA Youth Program measures, only the work-readiness measure is required to assess the effectiveness of the summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local boards may determine the methodology they use to measure work readiness gains. The Gulf Coast and North Central boards have developed different tools to measure work readiness. The Gulf Coast board will, for example, use a tool that assesses each youth on 12 factors with a four-point system based on the frequency with which each factor is demonstrated.³¹ Officials from the North Central board have developed a Work Readiness Policy to identify the methodology for determining a measurable gain of work-readiness skills.

TWC officials informed us that boards will encourage older out-of-school youth to use workforce services for permanent employment options. Automation systems will allow TWC to track summer youth participants who continue to receive workforce services. This enables TWC to track and report on their employment and retention experience.

Contracts Awarded to Administer Recovery WIA Summer Youth Employment Activities

We selected one contract from each of the boards we visited. In April 2009, the Gulf Coast board issued a request for proposals from entities interested in providing the requested services. According to agency officials, the board received 37 proposals from this request and evaluated each one based on (1) experience performing the requested services, (2) management approach; and (3) financial stability of the bidding organization. According to officials, evaluation scores ranged from 93 to

³¹The factors include attendance, appearance, productivity, interpersonal relationships, work habits and attitudes, motivation and initiative, accepting direction, communication, and four additional factors the work-site supervisors identify.

21, and the highest 13 scores with a range of 93 to 81 were awarded fixed-price contracts.

The Gulf Coast Workforce Development Board contract we selected had a score of 89 and was ranked seventh. We reviewed contract documentation and spoke with agency officials, who explained the following; that the contract was awarded to a nonprofit organization on April 21, 2009, at a total value of \$2.7 million with a project start date of May 1, 2009, and a projected completion date of September 30, 2009; and that this contract was awarded competitively. The contract requires the organization to recruit young people from low-income families for subsidized summer jobs, develop work sites or activities or both, prepare participants for work, match participants to work sites, counsel young people, and oversee work sites.

According to officials, the North Central Workforce Development Board awarded only one new contract for its 2009 summer youth activities, and the remainder of the work was performed by extending an existing contract. We selected the board's new contract for our review and reviewed contract documents. On March 17, 2009, the board issued a request for proposals from entities interested in providing the requested services. Officials told us the following: that the board received five proposals from this request and had a panel of evaluators review each one; that the contract was awarded to a nonprofit organization on May 4, 2009, at a total value of \$740,000, and a completion date of November 30, 2009; and that this contract was awarded competitively. The contract requires the organization to recruit young people from low-income families for subsidized summer jobs, prepare participants for work, match participants to work sites, counsel young people, and oversee work sites.

Texas Expands the Weatherization Assistance Program

The Recovery Act appropriated \$5 billion over a 3-year period for the Weatherization Assistance Program, which the Department of Energy (DOE) administers through each of the states, and the District of Columbia and seven territories and Indian tribes. The Weatherization Assistance Program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation; sealing leaks; and modernizing heating equipment, air circulations fans, or air conditioning equipment. Over the past 32 years, DOE's Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The \$5 billion provided to the

Weatherization Assistance Program in the Recovery Act represents a significant increase for a program that has received about \$225 million per year in recent years.

As of September 14, 2009, DOE had approved all but two of the weatherization plans of the states, the District of Columbia, and the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states almost \$2.3 billion of the \$5 billion in weatherization funding under the Recovery Act. Use of the Recovery Act weatherization funds is subject to Section 1606 of the act, which requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, including fringe benefits, as determined under the Davis-Bacon Act.³² Because the Davis-Bacon Act had not previously applied to weatherization, the Department of Labor (Labor) had not established a prevailing wage rate for weatherization work. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor’s wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities. Labor then surveyed five types of “interested parties” about labor rates for weatherization work.³³ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

State Fund Allocations to Texas Subrecipients Are Underway

On June 26, 2009, DOE approved the weatherization plan developed by the Texas Department of Housing and Community Affairs (TDHCA) and allocated Recovery Act funding amounting to about \$327 million for the weatherization program. Funds are available over a 3-year period from April 2009 through March 2012. On July 10, 2009, DOE provided 50 percent or \$163.5 million of the funding allocation. As shown in figure 9, on July 30, 2009, the TDHCA Governing Board³⁴ authorized allocation of \$145.7

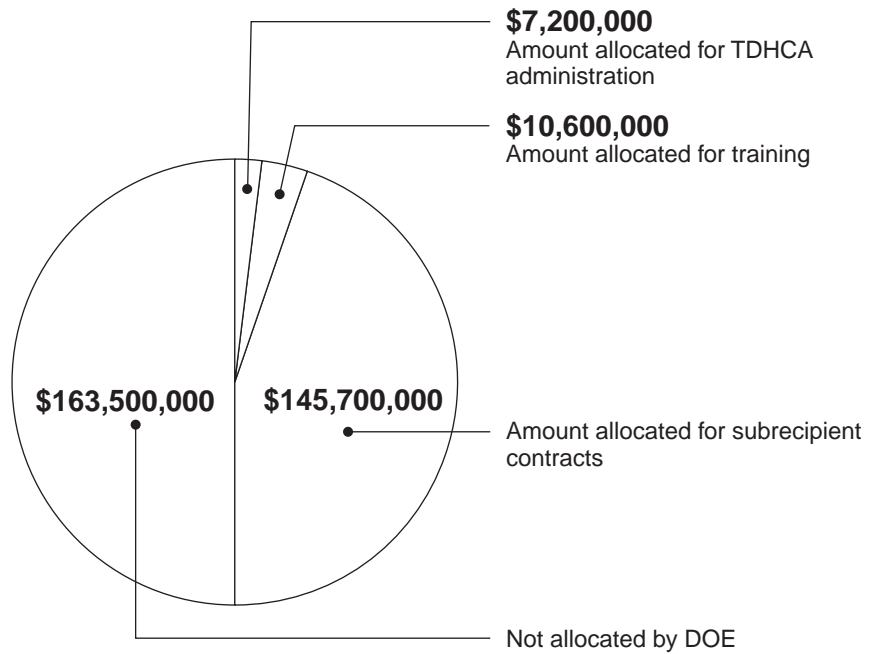
³²Weatherization Assistance Program funded through annual appropriations are not subject to the Davis-Bacon Act.

³³The five types of “interested parties” are state weatherization agencies, local community-action agencies, unions, contractors, and congressional offices.

³⁴The TDHCA Governing Board is the policy-making body of TDHCA.

million to subrecipients. TDHCA executed contracts to subrecipients³⁵ on September 11, 2009. The remaining \$17.8 million will be used for TDHCA administration and technical assistance and training for the grantee and subrecipients. As of August 31 2009, TDHCA spent approximately \$36,000 of the \$17.8 million allocated for TDHCA administration and training.

Figure 9: Allocation of Recovery Act Weatherization Program Funds



Source: GAO analysis of Texas Department of Housing and Community Affairs data.

³⁵TDHCA subrecipients in three categories will receive Recovery Act funds to provide weatherization services: (1) the existing subrecipient network (Community Action Agencies, Regional Councils of Government, and other nonprofit entities), who receive funds allocated by county based proportionately on low-income, elderly poverty population, median household income and climate data; (2) cities with populations over 75,000, where allocations were based on low-income households; and (3) competitively awarded grants to small cities and nonprofits for populations in rural areas that may not otherwise be served under the other two subrecipient categories.

TDHCA Officials and Some Subrecipients Believe Davis-Bacon Requirements May Delay Spending and Increase Administrative Costs

TDHCA officials and some existing subrecipients believe that Davis-Bacon requirements that contractors must meet may create delays and increase costs. For example, a potential effect of the Davis-Bacon Act is increased payroll and administrative costs to subcontractors, according to TDHCA officials. Under Davis-Bacon, workers are paid weekly based on an hourly rate. TDHCA officials told us that subcontractors often pay employees a set amount for a construction job rather than an hourly wage. Additionally, wage rates frequently differ by county. One subcontractor may conduct weatherization work in several counties and be required to pay different hourly wage rates depending on the county in which the work is conducted. As a result, TDHCA officials told us that the subcontractor may need to pay for changes in the payroll structure due to these Davis-Bacon requirements. Texas officials added that they believe Davis-Bacon requirements work against finding the most economical and efficient way to attain the program goals.

Risk-Assessment and Mitigation Approaches Exist or Are Under Development to Monitor the Use of Funds

As of August 2009, TDHCA officials told us that their internal audit division is developing its annual risk assessment and is likely to include audits of Recovery Act programs in the fiscal year 2010 audit plan. To handle the increase of Recovery Act funds, TDHCA has hired one new auditor and will be hiring two additional auditors with Recovery Act funds this fall, increasing TDHCA's internal audit staff from three to six. Internal audit staff will attend TDHCA Recovery Act meetings and training, and serve in an advisory capacity to review and comment on internal controls as Recovery Act funds are spent.

TDHCA also performs an annual risk assessment which includes existing providers and takes into account funding levels, time elapsed since last monitoring visit, number of monitoring findings, and the status of any Single Audit issues.³⁶ The risk-assessment process is being modified to consider the expanded network of providers and potential new risk factors. Additionally, TDHCA is taking the following actions to mitigate risks:

- As part of the application process a review is conducted to ensure the entity requesting funds does not have unaddressed compliance issues under any TDHCA program. The previous participation review is

³⁶The Single Audit Act of 1984, as amended (31 U.S.C. ch.75).

required by the Texas Government Code,³⁷ and helps ensure the ability of the applicant to administer TDHCA programs and to comply with program rules. As a result of these Recovery Act reviews for weatherization fund awards, five subrecipients were found to have noncompliance issues associated with their administration of other TDHCA housing programs. These five subrecipients were originally allocated \$27.3 million in weatherization funds before noncompliance issues surfaced. TDHCA is in the process of reviewing alternatives to disburse these funds to the affected communities.

- To mitigate risks associated with noncompliance and lack of weatherization construction expertise, TDHCA is developing a new training approach. A Request for Proposal was released asking potential vendors to bid on establishing a training and technical assistance academy. Submissions were due by August 7, 2009 and as of September 8, 2009, TDHCA was in process of selecting a vendor. The academy will offer a range of weatherization, energy efficiency, and administrative instruction through a combination of classroom teaching, online instruction, and field work. The administrative portion will include TDHCA regulations and reporting as well as financial accountability. The courses are intended for weatherization subrecipients, subcontractors, subcontractor employees, and TDHCA staff.

The financial status of Recovery Act funds at the local program level will be monitored by TDHCA staff. According to TDHCA's DOE-approved weatherization plan, the monitoring approach will be twofold, consisting of a fiscal review, as well as a review of the quality and scope of the work performed on dwellings. Monitoring will include procurement, financial procedures, compliance, personnel policies, site inspections, assessments, and staff procedures.

TDHCA is in the process of hiring 14 additional staff in its Energy Assistance Section, including 7 staff to monitor subrecipient weatherization of dwellings. The other new positions consist of four weatherization trainers, one contract specialist, one administrative assistant, and one Davis-Bacon specialist. Other monitoring steps include the following:

³⁷Texas Government Code, § 2306.057.

- An Office of Accountability and Oversight Project Manager position was created by TDHCA. This project manager helps develop and manage performance, compliance, and expenditures systems, with a goal of producing timely and accurate Recovery Act data.
- Work is underway on two major database systems to track and report on Recovery Act weatherization funds: (1) modification of the Central Database—the main information system for all TDHCA programs and activities—to conform to the Recovery Act data-collection and reporting requirements for subrecipients; and (2) development of the Consolidated Recovery Act Reporting System—a database to track information received from the Central Database and local programs such as contracts awarded, funds awarded and expended, and households and individuals served.

Plans Are Underway to Measure the Effect of Funds

As the prime recipient of Recovery Act weatherization funds, TDHCA told us it is in the process of modifying existing monitoring protocols to address job reporting and other monitoring needs. They expect that guidance from DOE will further define subrecipient reporting protocols and facilitate monitoring. When this guidance is issued, TDHCA will distribute it to the subrecipient network and incorporate reporting requirements into its training curriculum. TDHCA officials told us that training on the new and unfamiliar reporting requirements will be necessary for all subrecipients and subcontractors. Officials added that the new DOE reporting requirements are expected to include jobs created or retained at the TDHCA, subrecipient, local agency, and local contractor levels and on-site monitoring visits of dwellings where weatherization has been completed.

TDHCA plans to calculate projected savings from the installation of materials designed to reduce home energy consumption by using the DOE methodology developed at the Oak Ridge National Laboratory. Measures to be tracked and reported include the number of units weatherized, the average cost per home served, and the percentage of eligible low-income households that receive weatherization assistance.

Texas Efforts to Meet Recovery Act Section 1512 Reporting Requirements

The Recovery Act established several reporting requirements, and OMB issued guidance for meeting those requirements. Each recipient of Recovery Act funds is required to periodically report on a number of things including: (1) the total amount of Recovery Act funds received, (2) the amount of Recovery Act funds that were expended or obligated to projects or activities, and (3) an estimated number of jobs created and retained by projects or activities.³⁸ The first reporting deadline is October 10, 2009, with quarterly reports due 10 days after the end of each calendar quarter thereafter. OMB issued guidance on meeting those reporting requirements in February 2009 and updated the guidance in April and June 2009.³⁹ The guidance established that the reporting requirements apply to the prime nonfederal recipients of the federal funding. The prime recipient is responsible for reporting on how it used the funds as well as any subawards it made. To train federal agencies and recipients of Recovery Act funding on complying with their reporting responsibilities, OMB conducted a series of “webinars” in July 2009 on topics such as developing job creation estimates, prime and subrecipient reporting, and data quality requirements. Texas officials commented that OMB guidance related to Section 1512 reporting requirements continues to change. As an example, they said that as recently as August 2009, programs covered and data elements had changed. Texas officials believe these ongoing revisions create additional administrative burdens for the state in designing and maintaining Recovery Act reporting processes and systems.

Texas’s Plans for Reporting Have Been Finalized

Texas officials in the Office of the Governor told us in August 2009 that each state agency and institution would report directly to the designated federal Web site,⁴⁰ and the State Comptroller’s Office was establishing a process to receive copies of the report submissions to perform a quality assurance role for accuracy, completeness, and timeliness. Consistent with this quality assurance role, the State Comptroller’s Office also plans to perform field audits beginning in August 2009 to help ensure

³⁸Pub. L. No. 111-5, Sec. 1512(c), 123 Stat. 115, 287 (Feb. 17, 2009).

³⁹OMB Memorandums M-09-10, *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009* (Feb. 18, 2009); M-09-15, *Updating Implementing Guidance for the American Recovery and Reinvestment Act of 2009* (Apr. 3, 2009); and M-09-21 *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009).

⁴⁰www.FederalReporting.gov.

appropriate policies and processes are established for Section 1512 reporting.

Texas Has Issued Guidance and Conducted a Pilot Project to Prepare for the Reporting Deadline

In April 2009, the State Comptroller's Office issued guidance to state agencies and institutions of higher learning related to the use and subsequent reporting on Recovery Act funds.⁴¹ In May 2009, the State Comptroller's Office, in conjunction with the Office of the Governor and LBB, began requiring state agencies and 4-year institutions of higher education to report weekly on all Recovery Act funds allocated or requested. Additional guidance for the weekly reporting was issued by the State Comptroller's Office in July 2009.⁴² As of August 7, 2009, 42 state agencies reported about \$11.5 billion in Recovery Act awards and over \$2.1 billion in expenditures in the state's weekly activity reporting. The State Comptroller's Office makes information, such as the amount of federal awards received, available to the public on a Web site it maintains.⁴³

To allow Texas agencies and institutions the opportunity to better understand and fine-tune the recipient reporting requirements before the October 2009 deadline, the State Comptroller's Office required all state agencies and 4-year institutions of higher education that received a Notification of Award for Recovery Act funds and had a federal program subject to Section 1512 recipient reporting to participate in a pilot project of reporting information to the State Comptroller's Office by July 10, 2009. Guidance for this pilot process was issued by the State Comptroller's Office in June 2009.⁴⁴ Using this pilot process, the State Comptroller's Office compiled all questions and concerns related to the federal reporting for resolution with the appropriate state or federal oversight entity, and convened a Recovery Act working group on July 31, 2009. The State Comptroller's Office reported that 27 of the 33 state agencies filed Section 1512 recipient reports for the pilot project.

⁴¹Texas Comptroller of Public Accounts, "Fiscal Policies and Procedures, J.004" (Apr. 20, 2009). This guidance was superseded by the State Comptroller's Office in August 2009.

⁴²Texas Comptroller of Public Accounts, "Fiscal Policies and Procedures, B.008" (July 15, 2009).

⁴³www.window.state.tx.us/recovery/follow/received.php.

⁴⁴Texas Comptroller of Public Accounts, "Fiscal Policies and Procedures, B.009" (June 30, 2009).

Texas's Comments on This Summary

We provided the Governor of Texas with a draft of this appendix on September 8, 2009. A Senior Advisor, designated as the state's point of contact for the Recovery Act, responded for the Governor on September 10, 2009. In general, the Senior Advisor agreed with the information in this appendix, but expressed concern that our discussion on the future of Texas's budget was outside the scope of our work and that we did not acknowledge what the Office of the Governor has relayed to us in numerous discussions, that Texas has a track record of living within its means by cutting spending when necessary. We explained that the purpose of the discussion in this section was to provide a perspective on Texas's budget, beyond the current biennium, with the expiration of Recovery Act funding. This particular section of the appendix reflects the views and data provided by staff from the Governor's Office, Comptroller's Office, the Legislative Budget Board, and the legislature's House Select Committee on Federal Economic Stabilization Funding. In discussing this section of the appendix with the Senior Advisor, we made revisions to reflect the varied views of the State's budget beyond the current biennium. In addition, more contextual perspective was added to the appendix on how the state views the guidance and directives received from the federal government on what is expected on reporting and monitoring of Recovery Act funds. The Senior Advisor also provided technical suggestions that we incorporated, where appropriate.

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