United States Government Accountability Office

GAO

Report to the Republican Leader

February 2010

RECOVERY ACT

Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors

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Accountability * Integrity * Reliability

GAO-10-383

RECOVERY ACT

Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors

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Highlights

Highlights of GAO-10-383, a report to the Republican Leader

Why GAO Did This Study

The American Recovery and Reinvestment Act of 2009 (Recovery Act) aims to stimulate the economy. It provided $787 billion in spending and tax provisions; more than a third of the money was slated for projects and activities, including construction and certain research projects. To implement a project using federal funds, agencies and funding recipients must comply with federal laws and regulations.

GAO was asked to identify key federal requirements that apply to Recovery Act projects and to assess the extent to which (1) selected agencies have obligated and spent funds for Recovery Act projects and (2) federal requirements and other factors have affected, or are expected to affect, project selection and start dates. GAO requested data from 27 agencies that received appropriations under the act. We also spoke with officials responsible for implementing Recovery Act projects in 16 states and the District of Columbia, which together are estimated to receive about two-thirds of the intergovernmental federal assistance available under the act. We also spoke with organizations representing state and local officials and the private sector, as well as private sector contractors.

Although GAO is not making recommendations in this report, these findings may be helpful in considering and designing legislation with similar objectives.

View GAO-10-383 or key components.
For more information, contact Patricia A. Dalton at (202) 512-3841 or daltonp@gao.gov.
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What GAO Found

As of December 31, 2009, the 27 federal agencies GAO reviewed had obligated a total of $194 billion (63 percent) of the approximately $309 billion that was appropriated by the Recovery Act for projects and activities, according to data provided by agency officials. By this date, the percentage of funds obligated ranged from nearly 100 percent for the National Endowment for the Arts ($50 million) to 18 percent for the Social Security Administration ($183 million). As of that same date, the agencies reported they had spent 20 percent ($61 billion) of their appropriated funds. However, according to agency officials, the amount reported as spent may not accurately reflect the amount of work done on a given project because payment for federal projects generally occurs after work is completed, and the recipient may not yet have submitted an invoice for payment.

Some federal agency officials reported that certain federal requirements and other factors affected their ability to select and start Recovery Act projects. These include the following:

- *Davis-Bacon requirements.* Four federal agencies—the Departments of Commerce, Energy, and Housing and Urban Development, and the Environmental Protection Agency—told us that Davis-Bacon requirements affected the timing of some of their Recovery Act projects. For example, the Department of Energy's Weatherization Assistance Program became subject to the Davis-Bacon requirements for the first time after having been previously exempt from those requirements. Thus, the Department of Labor had to determine the prevailing wages for weatherization workers in each county in the United States, a task it completed on September 3, 2009. Seven out of 16 states and the District of Columbia that GAO has been reviewing said that they had waited to begin weatherizing homes until the Department of Labor had determined county-by-county prevailing wage rates for their state. States used only a small percentage of their available funds in 2009, mostly because state and local agencies needed time to develop the infrastructures required for managing the significant increase in weatherization funding and for ensuring compliance with Recovery Act requirements, including Davis-Bacon requirements. As of December 31, 2009, according to data available to the Department of Energy, about 9,100 homes had been weatherized out of a planned 593,000. In addition, officials from the Department of Housing and Urban Development told us that until passage of the Recovery Act, one of its grant programs had never been subject to Davis-Bacon requirements. Therefore, agency staff, grantees, and contractors needed to establish and implement new administrative procedures, which delayed the start of construction projects. Officials from 10 states and 3 local agencies said Davis-Bacon requirements had similarly caused delays in implementing Recovery Act projects.

- *Buy American requirements.* Five federal agencies—the Departments of Commerce, Education, Homeland Security, and Housing and Urban Development, as well as the Environmental Protection Agency—told us that Buy American provisions had affected their ability, or their grantees' ability, to select or start some Recovery Act projects. For example, a project within Homeland Security's Electronic Baggage Screening Program was slowed as officials awaited a Buy American waiver, which became necessary when the contractor learned that U.S.-made components would have hindered the integration of an airport's security systems. At the local level, officials from the Chicago Housing Authority (CHA) reported that the only security cameras that are compatible with the existing CHA system and City of Chicago police systems are not made in the United States. CHA worked with Housing and Urban Development officials to determine how to seek a waiver for this particular project. Officials from 2 states and 1 local entity also said that Buy American requirements affected their ability to select and start projects.

- *The National Historic Preservation Act.* Two federal agencies—the Departments of Commerce and Transportation—told us that this act affected the selection and start of projects. For example, Department of Transportation officials said that projects to improve the security of train stations, bridges, and tunnels were delayed because Amtrak had to obtain clearances for its projects through the various state historic preservation offices before starting work. Likewise, 7 states identified this act as a factor that did or could impact the timing of their Recovery Act projects. For example, officials from the Michigan Department of Human Services stated that an estimated 90 percent of the homes slated for weatherization in their state would need a historic preservation review. As of late fall 2009, the state historic preservation office had only two employees, so state officials were concerned that the review process could cause significant delays, according to Michigan officials. To avoid further delays, Michigan officials told us that they have since signed an agreement with the state historic preservation office, which they believe will expedite the review process.

Federal agency officials also stated that factors other than federal requirements affected their ability to quickly select or start projects. These include

- challenges associated with starting entirely new programs,
- states' budgeting issues, such as difficulties in providing matching funds,
- higher staff workloads because of the act,
- seasonal issues or weather, and
- lack of clarity on the meaning of "shovel-ready."

Officials from some federal agencies told us that federal requirements did not affect the timing of certain projects. These officials cited two main reasons why they were able to implement some Recovery Act projects quickly. First, in certain cases, federal officials said the award processes for Recovery Act projects were not substantially different from the processes they follow for non-Recovery Act projects. Second, to expedite the use of Recovery Act funds, some federal officials told GAO that they had either (1) intentionally selected projects that had already satisfied key federal requirements, such as environmental reviews, or (2) modified existing contracts or awarded funding to projects that had already undergone peer review during an earlier review process.

Contents

Abbreviations

BTOP	Broadband Technology Opportunities Program
CHA	Chicago Housing Authority
FAR	Federal Acquisition Regulation
NACO	National Association of Counties
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
OMB	Office of Management and Budget
SHPO	State Historic Preservation Office

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Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

February 10, 2010

The Honorable Mitch M. McConnell
Republican Leader
United States Senate

Dear Leader McConnell:

The American Recovery and Reinvestment Act of 2009 (Recovery Act) is intended to promote economic recovery, make investments, and minimize or avoid reductions in state and local government services.[1] Enacted on February 17, 2009, the act was a response to the economic recession at a time when the jobless rate was approaching 8 percent. The Recovery Act provided funding for a range of programs and specified that priority should be given to certain infrastructure projects that could be completed within 3 years. (The Administration referred to projects that can be quickly initiated as "shovel-ready.") In early 2009, the Congressional Budget Office projected that the Recovery Act would increase employment by between 1.2 million and 3.6 million jobs by the end of 2010 and estimated that its net cost would total approximately $787 billion from 2009 through 2019. Of that total, more than one-third comes from Division A of the act, which provides substantial funding for, among other things, projects and activities.[2]

When implementing a project using federal funds, agencies and funding recipients must typically comply with certain federal laws and regulations that are intended to, among other things, ensure fair and open competition and financial integrity, and protect the environment. These laws and regulations typically include the following:

[1]Pub. L. No. 111-5 (2009).

[2]The Recovery Act consists of two divisions, Division A and Division B. Division A consists primarily of discretionary spending, with some exceptions; Division B consists of mainly mandatory spending and revenue provisions, with some exceptions, and includes tax, unemployment, health, state fiscal relief, and some other provisions. We focused on Division A of the Recovery Act. (Discretionary spending refers to outlays from budget authority that is provided in and controlled by appropriation acts. Examples of discretionary projects and activities include federal construction projects and certain research activities. Spending from budget authority that is provided in laws other than appropriation acts is referred to as mandatory spending, which includes spending for entitlement programs such as Medicare, Food Stamps [now known as the Supplemental Nutrition Assistance Program], and veterans' pensions.)

- *The Federal Acquisition Regulation* (FAR) establishes uniform policies and procedures for executive branch agencies to acquire goods and services.[3] Among its many objectives, the FAR strives to facilitate the purchase of high-value products and services on a timely basis while maintaining the public's trust in the procurement process and fulfilling public policy objectives. Generally, the FAR requires agencies to compete contracts by, among other things, publishing a notice on the Federal Business Opportunities Web site (a database of federal government contracting opportunities), accepting bids from interested parties, evaluating proposals, and awarding contracts. In addition, each federal agency may institute agency-specific rules to better meet its procurement objectives.

- *The National Environmental Policy Act* (NEPA) establishes national environmental policies and goals to ensure that federal agencies properly consider environmental factors before deciding on a project.[4] Under NEPA, federal agencies evaluate the potential environmental effects of projects they are proposing using an environmental assessment or, if projects may significantly affect the environment, a more detailed environmental impact statement.[5]

- *The National Historic Preservation Act* (NHPA) declares that the federal government has a responsibility to expand and accelerate historic preservation programs and activities in order to preserve the nation's historical and cultural foundations.[6] The act requires that for all projects receiving federal funding or a federal permit, federal agencies must take into account the project's effect on any historic site, building, structure, or other object that is or can be listed on the National Historic Register. Under the act and its implementing regulations, the agency must consult with relevant federal, state, and tribal officials with regard to such a project.

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[3]48 C.F.R. § 1.000 *et seq.*

[4]42 U.S.C. § 4321 *et seq.*

[5]Section 1609 of the Recovery Act directs agencies to devote "adequate resources" to ensure that applicable environmental reviews under NEPA "are completed on an expeditious basis using the shortest existing applicable environmental review process." Section 1609 further requires the President to produce periodic reports on the status and progress of NEPA compliance for Recovery Act projects.

[6]16 U.S.C. § 470 *et seq.*

In addition, the Recovery Act outlines several specific statutory requirements that agencies and funding recipients must comply with, including the following:

- *Davis-Bacon requirements.* The Davis-Bacon Act requires that contractors and subcontractors pay workers the locally prevailing wages on most federally funded construction projects, and it imposes several administrative requirements relating to the payment of workers on qualifying projects.[7] The Recovery Act applies Davis-Bacon requirements to all Recovery Act-funded projects, requiring contractors and subcontractors to pay all laborers and mechanics at least the prevailing wage rates in the local area where they are employed, as determined by the Secretary of Labor. In addition, contractors are required to pay these workers weekly and submit weekly certified payroll records, generally to the contracting federal agency.[8]

- *Buy American requirements.* The Buy American Act generally requires that raw materials and manufactured goods acquired for public use be made or produced in the United States, subject to limited exceptions.[9] Federal agencies may issue waivers for certain projects under specified conditions, for example, if using American-made goods is inconsistent with the public interest or the cost of those goods is unreasonable. Agencies also need not use American-made goods if they are not sufficiently available or of satisfactory quality. The Recovery Act has similar provisions, including one limiting the "unreasonable cost" exception to those instances when inclusion of American-made iron, steel, or other manufactured goods would increase the overall project cost by more than 25 percent.

- *Recovery Act-specific requirements.* Sections 1511 and 1512 of the Recovery Act establish additional requirements for the expenditure of Recovery Act funds. Section 1511 requires chief executives of state and local governments to certify that infrastructure investments have "received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars." Section 1512 requires that recipients of Recovery

[7] 40 U.S.C. § 3141 *et seq.*

[8] Separately, we will be reporting on the impact of Davis-Bacon requirements on Recovery Act programs subject to those requirements for the first time.

[9] 41 U.S.C. § 10a.

Act funding report quarterly on a number of measures. Each report is to include the amount of funds received and the amount of funds expended or obligated to projects or activities. For each project or activity, the report must include the project's name and a description, an evaluation of its completion status, and an estimate of the number of jobs created or retained by that project or activity.

Many other federal requirements also apply to projects receiving any government funds. For example, as we reported in December 2008, over 70 requirements may apply to states that accept federal funding for highway projects.[10] Likewise, states often have their own requirements that apply to implementing federally funded projects.

In this context, you asked us to identify key federal requirements that apply to Recovery Act projects and to assess the extent to which (1) selected agencies have obligated and spent funds for Recovery Act projects and (2) federal requirements and other factors have affected, or are expected to affect, the selection and start dates of Recovery Act projects.

To describe the extent to which agencies have obligated and spent Recovery Act funds,[11] we requested financial data from 27 of the agencies that received Division A funding—about one-third of the act's total—which was for projects and activities. Although the act provided $787 billion in spending and tax provisions, we focused on Division A because it contains the majority of funding for projects. The remaining amount (Division B) comprises additional mandatory spending and revenue provisions that generally do not involve funding for specific projects. For example, the mandatory spending provisions primarily reflect temporary increases in cash transfers in programs such as Medicaid and unemployment compensation, while the revenue provisions generally reduce the tax liability for individuals, families, and businesses.

[10] GAO, *Federal-Aid Highways: Federal Requirements for Highways May Influence Funding Decisions and Create Challenges, but Benefits and Costs Are Not Tracked*, GAO-09-36 (Washington, D.C.: Dec. 12, 2008).

[11] An obligation is a definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received. An agency incurs an obligation, for example, when it places an order, signs a contract, awards a grant, purchases a service, or takes other actions that require the government to make payments to the public or from one government account to another.

The 27 federal agencies we reviewed consisted of departments and other agencies that received funding for almost all projects under the act. Specifically, we reviewed the departments of

- Agriculture,
- Commerce,
- Defense,
  - U.S. Army Corps of Engineers,[12]
- Education,
- Energy,
- Health and Human Services,
- Homeland Security,
- Housing and Urban Development,
- the Interior,
- Justice,
- Labor,
- State,
- Transportation,
- Treasury,
- Veterans Affairs, and

Other agencies:

- Corporation for National and Community Service,
- Environmental Protection Agency,
- Federal Communications Commission,
- General Services Administration,
- National Aeronautics and Space Administration,
- National Endowment for the Arts,
- National Science Foundation,
- Small Business Administration,
- Smithsonian Institution,
- Social Security Administration, and
- U.S. Agency for International Development.

We requested information on the dates on which the Office of Management and Budget (OMB) first apportioned money for each of the

[12]The U.S. Army Corps of Engineers is part of the Army that has both military and civilian responsibilities.

27 federal agencies in our review.[13] We also requested data from the agencies on their obligations and expenditures for Recovery Act projects for the quarters ending June 30, 2009; September 30, 2009; and December 31, 2009. We verified the agency-provided data with agency officials and checked their appropriations figures with appropriations values in the Recovery Act. However, we did not check obligations or spending against other sources, with the exception of the Recovery.gov Web site. Our data differ from those on that site because of data presentation, coverage, and reporting dates. We believe the data we collected are sufficiently reliable for the descriptive purposes of this review. To describe the extent to which federal requirements have significantly affected, or are expected to significantly affect, Recovery Act project selection and start dates, we asked the 27 agencies which federal requirements, if any, affected the timing of project selection and start dates. We also asked whether any requirements at the state and local levels, or any other factors, affected project selection and start dates. To supplement the federal agencies' responses, we spoke with officials in 16 states and the District of Columbia who are responsible for implementing Recovery Act projects. We are reviewing these 16 states and the District of Columbia for our bimonthly reports to Congress on Recovery Act implementation.[14] These 16 states are Arizona, California, Colorado, Florida, Georgia, Illinois, Iowa, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. To gain an industry perspective on the extent to which federal requirements affect the timing of Recovery Act projects, we spoke with representatives of three business associations—the Associated General Contractors of America, the Professional Services Council, and the U.S. Chamber of Commerce—that represented firms receiving Recovery Act funds. We also spoke with representatives from the National Governors Association; the National Association of State Auditors, Comptrollers, and Treasurers; and the National Association of Counties. We also spoke with contractors that

[13]Apportionment is the action the OMB uses to distribute amounts available for obligation. An apportionment divides amounts available for obligation by specific time periods (usually quarters), activities, projects, objects, or a combination thereof.

[14]The states selected for our bimonthly reviews contain about 65 percent of the U.S. population and are estimated to receive collectively about two-thirds of the intergovernmental federal assistance funds available through the Recovery Act. We selected these states and the District of Columbia on the basis of federal outlay projections; percentage of the U.S. population represented; unemployment rates and changes; and a mix of states' poverty levels, geographic coverage, and representation of both urban and rural areas.

received funds for large construction projects from the Department of Housing and Urban Development and the Environmental Protection Agency. In addition, we spoke with community action agencies that have contracts with various states to do weatherization work funded by the Department of Energy. We obtained contractor names for Recovery Act programs from state and local officials in states that we reviewed as part of our bimonthly reporting. We ensured a range of firms were selected by asking for contacts from different states (geographically dispersed and different in terms of unionization rates) for different Recovery Act programs. The examples we provide in this report are illustrative only and not generalizable to other federal agencies.

We conducted this performance audit from September 2009 to February 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

In responding to the deepest recession since the end of World War II, the Recovery Act employs a combination of tax relief and government spending. The Recovery Act's purposes are to preserve and create jobs and promote economic recovery; assist those most impacted by the recession; provide investments needed to increase economic efficiency by spurring technological advances in health and science; invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and stabilize the budgets of state and local governments.[15]

About one-third of the funds provided by the act is for tax relief to individuals and businesses; one-third is in the form of temporary increases in entitlement programs to aid people directly affected by the recession and provide some fiscal relief to states; and one-third falls into the category of grants, loans, and contracts, which generally fund projects and activities.

[15] Pub. L. No. 111-5, § 3, 123 Stat. 115 (2009).

Agencies Had Obligated a Total of $194 Billion of Division A Funds as of December 31, 2009

The 27 agencies that we reviewed reported that they had obligated a total of about $194 billion of the approximately $309 billion in Division A Recovery Act funds by the end of 2009; $173 billion as of September 30, 2009; and $106 billion as of June 30, 2009. As of June 30, the percentage of funds obligated ranged from a high of 98 percent for the Department of Treasury ($98 million) to a low of about 1 percent (about $8.3 million) for the National Aeronautics and Space Administration (NASA). By December 31, the percentage of funds obligated ranged from nearly 100 percent for the National Endowment for the Arts ($50 million) to 18 percent for the Social Security Administration ($183 million).

Regarding expenditures, the agencies reported that, as of June 30, 2009, they had spent about 5 percent (about $15 billion) of their appropriated Division A Recovery Act funds; about 12 percent ($38 billion) as of September 30, 2009; and 20 percent ($61 billion) as of December 31, 2009. Although expenditure data provide some indication of when funding was spent, officials from several agencies told us that payment for federal projects generally occurs after work on a given project is completed. As a result, although work may have been substantially completed, the expenditure data would not reflect this fact because the recipient would not have submitted an invoice for payment. For example, as we reported in July 2009, although funding has been obligated for more than 5,000 Federal Highway Administration projects, it may be months before the federal government is billed for completed work.[16] Contractors have to complete work before receiving payments from the state, which, in turn, invoices the cognizant federal agency.

Agencies generally have until September 30, 2010, to obligate funds appropriated by the Recovery Act; some agencies have chosen to obligate and spend funds over time to ensure they will have a steady stream of funds for program activities. For example, Department of Health and Human Services officials noted that some agency projects involved social service activities, for which funding is intentionally spent over time. Consequently, outlays for such service-based projects may be uneven throughout the year, depending on program needs. Table 1 provides data on agencies' Division A obligations and expenditures as of June 30, September 30, and December 31, 2009.

[16]GAO, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*, GAO-09-829 (Washington, D.C.: July 8, 2009).

Table 1: Recovery Act Division A Appropriations, Obligations, and Spending (Cumulative) by Federal Agencies, as of June 30, 2009, September 30, 2009, and December 31, 2009

Dollars in millions

Department or agency	Appropriated funding	Obligations 6/30/2009[a]	Obligations 9/30/2009	Obligations 12/31/2009	Expenditures 6/30/2009[a]	Expenditures 9/30/2009	Expenditures 12/31/2009
Agriculture	$27,638	$3,380	$6,552	$10,056	$2,426	$4,998	$7,849
Commerce	7,825	604	1,390	1,579	267	570	674
Federal Communications Commission[b]	91	66	72	79	6	54	59
Defense	7,435	1,303	3,259	3,836	20	241	723
Education	98,238	49,993	67,634	69,273	10,123	20,675	30,008
Energy	43,225[c]	6,639	17,427	23,156	144	734	1,781
Health and Human Services	22,400	4,979	10,385	14,409	106	1,627	3,410
Homeland Security	2,755	537	1,720	1,403[d]	19	107	153
Housing and Urban Development	13,625	5,489	11,300	11,384	932	1,529	2,483
Interior	2,990	251	833	1,239	6	130	247
Justice	4,002	1,781	3,969	3,968[e]	424	1,160	1,420
Labor	4,806	3,563	3,680	3,814	140	843	1,449
State	564	38	143	331	6	25	50
U.S. Agency for International Development[f]	38	5	20	22	0.1	4	7
Transportation	48,120	20,717	29,471	32,856	493	3,656	7,920
Treasury	100	98	99	99	0	98	99
Veterans Affairs	1,401	94	486	588	3	36	86
Corporation for National and Community Service	201	129	154	166	2	17	48
Environmental Protection Agency	7,220	4,449	7,086	7,089	16	274	793
General Services Administration	5,857	571	1,694	2,370	6	297	415
National Aeronautics and Space Administration	1,002	8	394	587	0	37	133
National Endowment for the Arts	50	20	50	50	0.4	8	19

Dollars in millions							
		Obligations			Expenditures		
Department or agency	**Appropriated funding**	**6/30/2009[a]**	**9/30/2009**	**12/31/2009**	**6/30/2009[a]**	**9/30/2009**	**12/31/2009**
National Science Foundation	3,002	672	2,402	2,426	11	27	104
Small Business Administration	730	130	323	537	36	117	254
Smithsonian Institution	25	18	21	22	0.5	2	8
Social Security Administration	1,002	25	148	183	22	129	179
U.S. Army Corps of Engineers	4,600	551	2,213	2,802	62	327	727
Total	**$308,942[g]**	**$106,111**	**$172,923**	**$194,327**	**$15,273**	**$37,720**	**$61,101**

Source: Agency-provided data.

Notes: This table represents funding under Division A of the act, which consists primarily of discretionary spending, with some exceptions.

Appropriations totaling $109 million for the Recovery Accountability and Transparency Board and the Government Accountability Office were excluded because these funds are used primarily to provide oversight. We also excluded the Railroad Retirement Board because these funds are directly paid to beneficiaries.

The numbers in this table may differ from those reported by agencies on the Recovery.gov Web site. These differences may be attributed to presentation, coverage, and reporting date.

Some agencies chose to include certain appropriation, obligation, and outlay information, such as funding for inspector general offices and salaries and expenses, while others did not.

[a]Some agencies chose to report data for July 3, which was the Friday after the first quarter reporting period, instead of June 30 data.

[b]Transfer from the Department of Commerce.

[c]The Department of Energy was initially appropriated $45.2 billion in the Recovery Act; however, $2 billion for the Loan Guarantee Program was transferred from Energy's Recovery Act appropriation. As a result, Energy's appropriations under the Recovery Act now total $43.2 billion. In addition, this $43.2 billion includes $6.5 billion in borrowing authority.

[d]Department of Homeland Security officials told us that the decline in obligations was a result of interagency agreements and a bid protest. For example, the department has obligated $412 million to interagency partners, including the General Services Administration and the U.S. Army Corps of Engineers.

[e]Department of Justice officials told us that obligations decreased from September to December because a few Recovery Act grantees declined their awards, thereby requiring a deobligation of funds.

[f]Transfer from the Department of State.

[g]The total obligations are calculated on the basis of $309 billion in appropriations, not $311 billion, as sometimes cited by other sources, because (1) $2 billion for the Loan Guarantee Program was transferred from Energy's Recovery Act appropriation; (2) we excluded the Recovery Accountability and Transparency Board and the Government Accountability Office from the calculations; and (3) some agencies chose to exclude certain categories of funding, such as administrative expenses.

Table 2 shows the percentage of Division A funding that each agency had obligated and spent as of June 30, September 30, and December 31, 2009.

Table 2: Percentage of Recovery Act Division A Appropriations Obligated and Spent by Federal Agencies, as of June 30, 2009, September 30, 2009, and December 31, 2009

Dollars in millions

		Percentage obligated			Percentage spent		
Department or agency	Appropriated funding	6/30/2009[a]	9/30/2009	12/31/2009	6/30/2009[a]	9/30/2009	12/31/2009
Agriculture	$27,638	12	24	36	9	18	28
Commerce	7,825	8	18	20	3	7	9
Federal Communications Commission[b]	91	73	79	87	7	60	66
Defense	7,435	18	44	52	0	3	10
Education	98,238	51	69	71	10	21	31
Energy	43,225[c]	15	40	54	0	2	4
Health and Human Services	22,400	22	46	64	0	7	15
Homeland Security	2,755	19	62	51[d]	1	4	6
Housing and Urban Development	13,625	40	83	84	7	11	18
Interior	2,990	8	28	41	0	4	8
Justice	4,002	44	99	99[e]	11	29	35
Labor	4,806	74	77	79	3	18	30
State	564	7	25	59	1	4	9
U.S. Agency for International Development[f]	38	14	53	59	0	10	20
Transportation	48,120	43	61	68	1	8	16
Treasury	100	98	99	99	0	98	99
Veterans Affairs	1,401	7	35	42	0	3	6
Corporation for National and Community Service	201	64	77	83	1	8	24
Environmental Protection Agency	7,220	62	98	98	0	4	11
General Services Administration	5,857	10	29	40	0	5	7
National Aeronautics and Space Administration	1,002	1	39	59	0	4	13
National Endowment for the Arts	50	40	100	100	1	16	38
National Science Foundation	3,002	22	80	81	0	1	3

Dollars in millions							
		Percentage obligated			Percentage spent		
Department or agency	Appropriated funding	6/30/2009[a]	9/30/2009	12/31/2009	6/30/2009[a]	9/30/2009	12/31/2009
Small Business Administration	730	18	44	74	5	16	35
Smithsonian Institution	25	70	83	88	2	7	33
Social Security Administration	1,002	2	15	18	2	13	18
U.S. Army Corps of Engineers	4,600	12	48	61	1	7	16
Total obligated	**$308,942**[g]	**34**	**56**	**63**	**5**	**12**	**20**

Source: GAO analysis of agency-provided data.

Notes: This table represents funding under Division A of the act, which consists primarily of discretionary spending, with some exceptions.

Appropriations totaling $109 million for the Recovery Accountability and Transparency Board and the Government Accountability Office were excluded because these funds are used primarily to provide oversight. We also excluded the Railroad Retirement Board because these funds are directly paid to beneficiaries.

The numbers in this table may differ from those reported by agencies on the Recovery.gov Web site. These differences may be attributed to presentation, coverage, and reporting date.

Some agencies chose to include certain appropriation, obligation, and outlay information, such as funding for inspector general offices and salaries and expenses, while others did not.

[a]Some agencies chose to report data for July 3, which was the Friday after the first quarter reporting period, instead of June 30 data.

[b]Transfer from the Department of Commerce.

[c]The Department of Energy was initially appropriated $45.2 billion in the Recovery Act; however, $2 billion for the Loan Guarantee Program was transferred from Energy's Recovery Act appropriation. As a result, Energy's appropriations under the Recovery Act now total $43.2 billion. In addition, this $43.2 billion includes $6.5 billion in borrowing authority.

[d]Department of Homeland Security officials told us that the decline in obligations was a result of interagency agreements and a bid protest. For example, the department has obligated $412 million to interagency partners, including the General Services Administration and the U.S. Army Corps of Engineers.

[e]Department of Justice officials told us that obligations decreased from September to December because a few Recovery Act grantees declined their awards, thereby requiring a deobligation of funds. Because the amount is small (about $1 million), the decrease is not reflected in table 2.

[f]Transfer from the Department of State.

[g]The total obligations are calculated on the basis of $309 billion in appropriations, not $311 billion, as sometimes cited by other sources, because (1) $2 billion for the Loan Guarantee Program was transferred from Energy's Recovery Act appropriation; (2) we excluded the Recovery Accountability and Transparency Board and the Government Accountability Office from the calculations; and (3) some agencies chose to exclude certain categories of funding, such as administrative expenses.

The Effects of Federal Requirements and Other Factors on Project Selection and Starts Varied

Officials at some of the 27 agencies said federal requirements had affected their ability to implement Recovery Act projects. For example, Davis-Bacon, Buy American, and National Historic Preservation Act requirements slowed some project selection and starts. Other factors unrelated to federal requirements also affected the timing of some projects, according to federal and state officials. On the other hand, officials from some agencies and certain programs within other agencies said they were able to implement Recovery Act projects quickly for two main reasons. First, the award processes for some Recovery Act projects were not substantially different from the processes agencies use for non-Recovery Act projects. Second, to expedite the use of Recovery Act funds, some federal agencies selected projects that had already satisfied key federal requirements, such as NEPA, that need to be met before a federal project can start.

Some Agencies Reported That Certain Federal Requirements Affected the Timing of Project Selection and Starts

Officials from some agencies cited certain federal requirements that had affected their ability to select or start some Recovery Act projects.[17] Figure 1 shows the factors that federal officials most often cited as affecting their ability to select or start projects, and figure 2 shows the factors most often cited by state and local officials.

[17]Most federal agencies and departments covered in this review have multiple programs under the Recovery Act. While certain programs within each agency or department may have encountered challenges in implementing Recovery Act projects in a timely manner, this may not be true for all programs within that particular agency or department.

Figure 1: Factors Federal Officials Most Often Cited as Affecting Their Ability to Select or Start Projects

	Federal requirements						Other factors			
Agency	Davis-Bacon requirements	Buy American requirements	National Historic Preservation Act	Project selection process	Recovery Act-specific requirements	National Environmental Policy Act	Newness of programs	State, local, or tribal issues	Staff capacity	Seasonal issues or weather
Agriculture		○						●		○
Commerce	●	●	●	●		●	●	●	●	○
Defense				●		○		●	●	●
Education	○	●		●	○			●		
Energy	●	○	○			●	●	●	●	
Health and Human Services			○	●	●			●		●
Homeland Security		●	○	●			●			
Housing and Urban Development	●	●	○			●	●	●	●	
Interior			○			○		○	○	●
Justice	○	○		○	●	○				
Labor				○		○				
State			○			○				
Transportation			●		●	○				
Veterans Affairs									●	
Environmental Protection Agency	●	●			●					
National Aeronautics and Space Administration					●		●			
National Endowment for the Arts								●		
National Science Foundation						○				
Small Business Administration							●		●	
Social Security Administration						○				

● Agency stated that this factor caused delays in implementing Recovery Act projects

○ Agency stated that this factor could cause delays in implementing Recovery Act projects

Source: Federal agency officials.

Notes: The following agencies did not identify any factors as affecting their ability to select or start Recovery Act projects and thus are not included in figure 1: Corporation for National and Community Service; Federal Communications Commission; General Services Administration; Smithsonian Institution; Department of the Treasury; and U.S. Agency for International Development. The U.S. Army Corps of Engineers said that efforts to fulfill the purposes and principles of the act were a factor in slowing its ability to select projects; this factor is not included in figure 1.

This figure is not comprehensive; it includes only the most commonly cited factors affecting the timing of Recovery Act project selection and starts. Some agencies also listed additional factors.

Figure 2: Factors State and Local Government Officials Most Often Cited as Affecting Their Ability to Select or Start Projects

	Federal requirements					Other factors						
State	Davis-Bacon requirements	Buy American requirements	National Historic Preservation Act	Recovery Act-specific requirements	National Environmental Policy Act	Federal guidance delayed or changing	Contract issues at the state and local levels	State or local grant planning and application process for Recovery Act funds	Local agencies' lack of familiarity with federal requirements	State-specific laws	Staff capacity	Seasonal issues or weather
Arizona					●				●			
California	●■	●	●	●	●		●■		○	○	●	
Colorado						■						
District of Columbia	●					●		●	●		●	
Florida	●					●	●		●			
Georgia		○		○								
Illinois		■		●								
Iowa	●		○									
Massachusetts												●
Michigan	●■		○									
Mississippi	○	○	○	●	○	●		○		●		
New Jersey	●	●	○		●			■		○		●
New York	●■		○	●								
North Carolina							●					
Ohio	●											
Pennsylvania	●						●					
Texas	●	○	○	●	○	●						

● State agency stated that this factor caused delays in implementing Recovery Act projects

○ State agency stated that this factor could cause delays in implementing Recovery Act projects

■ Local agency stated that this factor caused delays in implementing Recovery Act projects

Source: State and local agency officials.

Note: This figure is not comprehensive; it includes only the most commonly cited factors affecting the timing of Recovery Act project selection and starts. Some state and local agencies also listed additional factors.

As figures 1 and 2 show, federal, state, and local agency officials identified several factors affecting their ability to select or start projects. For example:

- *Davis-Bacon requirements.* Officials in 4 of the 27 federal agencies—the Departments of Commerce and Energy and Housing and Urban Development, as well as the Environmental Protection Agency—cited these requirements as affecting project timing, and officials from another 2 federal agencies said Davis-Bacon requirements may affect the timing of projects. Similarly, officials from 10 states and 3 local agencies said Davis-Bacon requirements had caused delays in implementing Recovery Act projects. In particular, Energy's Weatherization Assistance Program became subject to the Davis-Bacon requirements for the first time after having been previously exempt from those requirements.[18] Thus, the Department of Labor had to determine the prevailing wages for weatherization workers in each county in the United States. In July 2009, the departments of Energy 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. On September 3, 2009, Labor completed its determinations; later that month, we reported that Davis-Bacon requirements were a reason why some states had not started weatherizing homes. Specifically, 7 out of 16 states and the District of Columbia decided to wait to begin weatherizing homes until Labor had determined county-by-county prevailing wage rates for their state. These officials explained that they wanted to avoid having to pay back wages to weatherization workers who started working before the prevailing wage rates were known.[19] States used only a small percentage of their available funds in 2009, mostly because state and local agencies needed time to develop the infrastructures required for managing the significant increase in weatherization funding and for ensuring compliance with Recovery Act requirements, including Davis-Bacon requirements. According to data available to Energy, as of December 31, 2009, about 9,100 homes had been weatherized out of a planned 593,000. Moreover, Housing and Urban Development officials told us that until passage of the Recovery Act, one of its Office of Healthy Homes and Lead Hazard Control grant programs had never been subject to Davis-Bacon requirements. Therefore, agency staff, grantees, and contractors needed to establish and implement new administrative procedures, which delayed the start of construction

[18]The Recovery Act appropriated $5 billion for the Weatherization Assistance Program, which Energy is distributing to each of the states, the District of Columbia, and seven territories and Indian tribes. The program seeks to assist low-income families by making such long-term energy efficiency improvements to their homes as installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, and air conditioning equipment.

[19]GAO, *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed*, GAO-09-1016 (Washington, D.C.: Sept. 23, 2009).

projects. In another case, Texas Department of Housing and Community Affairs officials told us that Davis-Bacon's administrative requirements affected their ability to start projects in two ways. First, the state had to wait until late December 2009 for wage rates for a particular county. Second, officials experienced delays of 30 to 45 days to (1) provide training to ensure an understanding of the Davis-Bacon Act at the grantee, subrecipient, and subcontractor levels, and (2) have sufficient staff to collect, monitor, and document that data and check its reliability through payment verifications and employee interviews.

- *Buy American provisions.* According to officials from 5 of the 27 federal agencies—the Departments of Commerce, Education, Homeland Security, Housing and Urban Development, as well as the Environmental Protection Agency—these provisions had affected their ability, or their grantees' ability, to select or start some Recovery Act projects. Moreover, officials from 3 additional federal agencies said Buy American provisions may affect their ability to select or start projects. At the state level, 2 states and 1 local entity said that Buy American provisions had affected the timing of Recovery Act projects. In some cases, federal agencies had to develop guidance for compliance with Buy American provisions, including issuing guidance on waivers to recipients that were unable to comply. For example, according to Environmental Protection Agency officials, developing Buy American guidance was particularly challenging because of the need to establish a waiver process for Recovery Act projects. Likewise, Homeland Security officials told us that a project under the Transportation Security Administration's Electronic Baggage Screening Program was slowed as officials awaited a Buy American waiver to allow contractors to use foreign-made components.[20] The waiver became necessary when the contractor learned that U.S.-made components would have hindered the integration of an airport's security systems. At the local level, officials from the Chicago Housing Authority (CHA) reported that the only security cameras that are compatible with the existing CHA system and City of Chicago police systems are not made in the United States. CHA worked with Housing and Urban Development to determine how to seek a waiver for this particular project. Moreover, an industry representative told us that the Buy American provisions could interrupt

[20]The Department of Homeland Security's Electronic Baggage Screening Program ($700 million) includes airport facility modification projects, such as the construction of baggage handling systems and the purchase and installation of explosives detection equipment.

contractors' supply chains, requiring them to find alternate suppliers and sometimes change the design of their projects, which could delay project starts.

- *The National Historic Preservation Act.* According to officials from 2 of the 27 federal agencies—the Departments of Commerce and Transportation—NHPA requirements affected some Recovery Act project selection and starts, and officials at another 6 federal agencies stated that the NHPA may affect the timing of project implementation. Officials from 7 states identified this act as a factor that did or could impact the timing of their Recovery Act projects. At the federal level, Transportation officials said that projects to improve the security of train stations, bridges, and tunnels have been delayed because Amtrak must obtain clearances for its projects through the various state historic preservation offices before starting work. Commerce officials also said that some state historic preservation officers were slow to issue NHPA clearances because of the increased workload stemming from the Recovery Act. At the state level, Mississippi officials said the NHPA's clearance requirements represented one of the biggest potential delays to project selection in the energy programs. In part because of this requirement, the state had to adjust program plans and limit the scope of eligible recipients and projects to avoid historic preservation issues. For example, many of the city- and county-owned facilities that could benefit from the Energy Efficiency and Conservation Block Grant program could be subject to historic preservation requirements.[21] These program requirements mandate that projects must be identified within 180 days of award.

  Likewise, officials from the Michigan Department of Human Services told us that the NHPA requires that weatherization projects receiving federal funds undergo a state historic preservation review. According to Michigan officials, this requirement means that the state historic preservation office may review every home over 50 years of age if any work is to be conducted, regardless of whether the home is in a historic district or on a national registry. State officials told us that an estimated 90 percent of the homes to be weatherized would need a historic review. These reviews are a departure from Michigan's previous experience; the state's historical preservation office had never considered weatherization work to trigger a

[21]The Energy Efficiency and Conservation Block Grants program, administered by Energy, provides funds through competitive and formula grants to units of local and state government and Indian tribes to develop and implement projects to improve energy efficiency and reduce energy use and fossil fuel emissions in their communities. The Recovery Act includes $3.2 billion for the program.

review. Furthermore, Michigan officials told us that the State Historic Preservation Office (SHPO) policy is to review weatherization applications for these homes within 30 days after receiving the application and advise the state Department of Human Services on whether the work can proceed. However, as of October 29, 2009, SHPO had only two employees, so state officials were concerned that this process could cause a significant delay, according to officials in the state's Department of Human Services. To avoid further delays, Michigan officials told us that in November 2009, they signed an agreement with the SHPO that is designed to expedite the review process. They also told us that with the agreement in place, they expect to meet their weatherization goals.

- *Project selection process.* This process—including requesting and reviewing applications—was cited as a factor affecting the timing of projects by 5 of the 27 federal agencies—the Departments of Commerce, Defense, Education, Health and Human Services, and Homeland Security—and 2 agencies said it may be a factor. For example, according to Commerce officials, before selecting or awarding grants, the department's rules require that each application to the Broadband Technology Opportunities Program (BTOP) be reviewed by a panel of at least three reviewers.[22] The agency within Commerce that oversees BTOP received more than 1,800 applications for funding. According to agency officials, ensuring that each application was evaluated by three independent reviewers resulted in a moderate delay in awarding funds. The agency originally anticipated starting to announce BTOP awards in November 2009, but it delayed these initial announcements until December 2009 to ensure that each application received a thorough review and evaluation. Likewise, officials from Homeland Security's Federal Emergency Management Agency said that it needed to carry out very rigorous technical reviews of its new Fire Station Construction Grants program so that the (1) recommended costs would be appropriate and

[22]The Department of Commerce's National Telecommunications and Information Administration administers the Recovery Act's Broadband Technology Opportunities Program. This program was appropriated $4.7 billion, including up to $350 million for the purposes of developing and maintaining a broadband inventory map. The State Broadband Data and Development Grant Program is a competitive, merit-based matching grant program that funds projects that collect comprehensive and accurate state-level broadband mapping data, develop state-level broadband maps, aid in the development and maintenance of a national broadband map, and fund statewide initiatives directed at broadband planning.

allowable and (2) "shovel-ready" aspect of the grant would be verified.[23] Technical review of grant applications, therefore, affected the timing of projects funded under this program.

- *Recovery Act-specific requirements*. Five of the 27 federal agencies—the Departments of Health and Human Services, Justice, and Transportation, as well as the Environmental Protection Agency and NASA—stated that some Recovery Act requirements, particularly sections 1511 (certification) and 1512 (reporting), affected the timing of projects. In addition, Education told us that both sections 1511 and 1512 may cause delays. Officials from 5 states also said that Recovery Act-specific requirements caused delays. At the federal level, Transportation officials told us that the section 1511 certification requirement added a step to the process for both states and the department, and in a few cases, the certification and posting requirement delayed the start of a project. At the state level, officials from the Illinois State Board of Education reported that section 1511 delayed approval of fiscal year 2010 grant applications that contain construction costs. Specifically, because of the need to develop a state-level certification process, the approval of construction funding requests was delayed, in some cases by several months, for a few districts that submitted requests prior to completing a state-level process. Illinois officials indicated that an approval process was subsequently put in place; as a result, districts usually received approval within days of the request submission. Similarly, officials from California stated that section 1511 certification caused a delay of about 30 days.

  NASA officials told us that contractors sometimes resisted the Recovery Act's section 1512 public reporting requirement. For example, one company negotiated with the agency for about 2 months, mainly over the effect of the Recovery Act's reporting requirements on its subcontractors. In addition, officials at the Texas Criminal Justice Division told us that the state invested more than 1,000 hours to develop and implement technology system updates to accommodate the Recovery Act reporting requirements, which included redesigning their system to collect data from grantees and adding new data elements to the information that they had already collected. These system updates, along with the need to send a large

[23]The Recovery Act Assistance to Firefighters Fire Station Construction Grants program—appropriated $210 million and is administered by Homeland Security's Federal Emergency Management Agency—provides federal grants directly to fire departments on a competitive basis to build or modify existing nonfederal fire stations in order for departments to enhance their response capability and protect the communities they serve from fire and fire-related hazards.

volume of applications back to applicants as new or changing federal guidance was released, added an estimated 3 weeks to program implementation.

- *National Environmental Policy Act.* Officials from 3 federal agencies—Commerce, Energy, and Housing and Urban Development—stated that NEPA had affected project timing; another 8 federal agencies stated that NEPA may affect project timing. Officials from 3 states also said that NEPA affected project timing. Although Energy officials stated that the agency had taken steps to expedite the NEPA review process and the agency's funding opportunity announcements specified that projects must be sufficiently developed to meet the Recovery Act's timetable for commitment of funds, officials in California and Mississippi nonetheless told us that NEPA had caused delays in Energy programs. For example, California officials said that the State Energy Commission must submit some of its Recovery Act projects to Energy for NEPA review because they are not covered by Energy's existing categorical exclusions.[24] State officials said that such reviews can take up to 6 or more weeks. Both California and Mississippi officials told us that activities that are categorically excluded under NEPA (e.g., road repaving or energy-efficient upgrades to existing buildings) still require clearance before the state can award funds. Staff must spend time filling out forms and supplying information to Energy on projects that may qualify for a categorical exclusion. Similarly, Arizona state transportation officials stated that NEPA was causing some delays in project selection and starts. In particular, Arizona officials explained that delays have occurred at the local level because local officials do not have experience in dealing with federal highway requirements, including NEPA requirements.

Factors Other than Federal Requirements Have Also Affected the Timing of Project Selection and Starts

Officials also told us that factors other than federal requirements have affected the timing of project selection or starts. For example:

- *Newness of programs.* Because some Recovery Act programs were newly created, officials at several federal agencies told us that before implementing projects, they needed time to establish procedures and provide guidance. Housing and Urban Development officials, for example,

[24]If an agency determines that activities of a proposed project fall within a category of activities the agency has already determined has no significant environmental impact—called a categorical exclusion—then the agency generally need not prepare an environmental assessment or environmental impact statement.

told us that because its Office of Native American Programs had not previously administered a competitive Native American Housing Block Grant,[25] they had to develop a new notice of funding availability and new forms for the program, which then had to be cleared by both the department and OMB.[26] The Energy Inspector General noted that the awards process for the Energy Efficiency and Conservation Block Grant Program, newly funded under the Recovery Act, was challenging to implement because there was no existing infrastructure. Hence, Recovery Act funds were not awarded and distributed to recipients in a timely manner.

- *State, local, or tribal issues.* The economic recession affected some states' budgets, which, in turn, affected states' ability to use some Recovery Act funds. For example, an Army National Guard cooperative agreement program required states to provide matching funds for such things as window and roof replacement at certain facilities. However, because states were experiencing difficulties in passing their current-year budgets, some were unable to provide the matching funds. As a result, according to Defense officials, Defense had to revise its Recovery Act project plan to cancel or reduce the number of Army National Guard projects with state matching funds and replace them with other projects that did not require matching funds. In addition, according to officials at the National Endowment for the Arts, one state arts agency had to delay its release of Recovery Act grant funds by 3 months, from July to October 2009, because of the state's budgetary constraints. Because the state had not approved its budget on time, it authorized agencies to spend funds only in quarterly allotments, which were not sufficient to make the recommended grants. The state arts agency ultimately received approval of its special request for the funds to be released as one allotment. Finally, Housing and Urban Development told us that project starts in some instances were affected by the need for state and local governments to furlough employees as a result of the economic downturn.

[25]Housing and Urban Development's Native American Housing Block Grant program ($510 million) assists tribes in developing, operating, maintaining, and supporting affordable housing for rental and homeownership housing.

[26]Under the Paperwork Reduction Act, federal agencies may not conduct or sponsor the collection of information unless approved by OMB. OMB is required to determine that the agency collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. Consistent with the act's requirements, OMB has established a process to review all proposals by executive branch agencies (including independent regulatory agencies) to collect information from 10 or more persons, whether the collections are voluntary or mandatory.

- *Staff capacity.* Federal officials at some agencies told us they have experienced heavy workloads as a result of the Recovery Act, which has impaired their ability to initiate programs. For example, officials from the Small Business Administration said that they were unable to begin their two secondary markets programs until the fall of 2009 because of limited staff resources and the need to sort out other issues related to these programs, including contracting and Recovery Act recipient reporting requirements.[27] In addition, as we reported in December 2009, smaller localities, which are often rural, told us that they faced challenges because of a lack of staff to understand, apply for, and comply with requirements for federal Recovery Act grants.[28] For example, some local government officials reported that they did not employ a staff person to handle grants and therefore did not have the capacity to understand which grants they were eligible for and how to apply for them. In the District of Columbia, moreover, Department of the Environment officials explained that weatherization funds had not been spent as quickly as anticipated because officials needed to develop the infrastructure to administer the program. For example, the department needed to hire six new staff members to oversee and manage the program. Officials reported that, as of late January 2010, the department had still not hired any of the six new staff required. However, the job posting was closed, and Department of the Environment officials expected Recovery Act-funded weatherization work to begin in early February 2010. Officials from the National Association of Counties (NACO), moreover, said that some localities had turned down Recovery Act funding to avoid the administrative burdens associated with the act's numerous reporting requirements.

- *Seasonal issues or weather.* Officials at some federal agencies said that winter and other seasonal concerns impeded their ability to start or continue construction projects. For example, according to Interior officials, construction starts in Alaska and some northern areas of the continental United States may be delayed because of the long winter seasons there. In addition, an Interior official stated that seasonal wildland fires could also affect the agency's ability to start certain Recovery Act projects. Likewise, Defense officials told us that construction on a pier was delayed because the contractor missed the "fish window," when

[27]One of the Small Business Administration's secondary market programs provides loans to market broker/dealers to support their continued purchase of the agency's loan products; the other provides financing to acquire fixed assets, such as real estate or equipment, for expansion or modernization.

[28]GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability*, GAO-10-231 (Washington, D.C.: Dec. 10, 2009).

construction activities underwater can be performed with minimal impact on fish habitat. Finally, contractors in Massachusetts said that inclement weather delayed the progress of some paving projects.

- *Lack of clarity on the meaning of "shovel-ready."* Although officials from several federal agencies said they made "shovel-ready" projects a priority for funding, officials from NACO told us that there was no official definition of "shovel-ready." Hence, local officials had different interpretations of the concept. According to NACO officials, localities had designated certain projects "shovel-ready," but the necessary background work for these projects had not in fact been completed.

Some Federal Officials Reported That Federal Requirements Did Not Affect the Timing of Recovery Act Projects for Two Reasons

Federal officials from some agencies offered two reasons why federal requirements did not affect the timing of certain Recovery Act projects. First, officials from these agencies said that the procedures for awarding and implementing Recovery Act funds for some programs and projects were similar to, or the same as, their usual procedures and did not pose any new challenges or cause any particular delays. For example, officials from Agriculture's Farm Direct Operating Loans program used Recovery Act dollars to fund an existing backlog of direct operating loan applications that had been previously approved but for which no funding was available. According to agency officials, the requirements for direct operating loans funded through the Recovery Act were thus the same as those for direct operating loans funded with regular annual appropriations. Therefore, there was no additional burden on applicants. These preapproved loans accounted for more than 75 percent of the funding made available through the Recovery Act. Within 3 weeks of receipt, according to Agriculture officials, nearly 100 percent of the Recovery Act direct operating loan funds had been obligated. Likewise, General Services Administration officials stated that the agency has been operating under the Davis-Bacon requirements within the United States for years and has accounted for these requirements in its project plans. According to these officials, in cases where Davis-Bacon newly applies to Recovery Act projects (i.e., projects in the territories of Puerto Rico and the Virgin Islands), the agency's experience with the requirements has facilitated its ability to implement these projects. Hence, according to General Services Administration officials, the impact of any federal requirements on Recovery Act projects has been negligible.

Furthermore, in some cases, agencies provided Recovery Act funding through major programs that have historically received large sums of funding and already had the infrastructure in place to administer the high level of funding involved. For instance, a significant amount of

Transportation's Recovery Act funding is being provided to state and local transportation authorities through existing program structures, helping to ensure that these funds will be used expeditiously. Of the $48 billion that Transportation received under the act, nearly $39 billion was distributed through existing funding programs, such as highway formula grant programs.

Second, to expedite the use of Recovery Act funds, some federal agencies selected—or encouraged states to select—projects that had already satisfied key federal requirements that need to be met before a federal project can start. For example, agency officials reported the following:

- *Transportation's* Federal Highway Administration encouraged states to select projects that had completed preconstruction requirements, including NEPA reviews, preconstruction procedures, right-of-way acquisition, planning, and administration of engineering- and design-related services.

- *The National Science Foundation* awarded the majority of its funding to proposals that had been received by the agency or gone through its merit review process prior to September 30, 2009.

- *NASA and the U.S. Agency for International Development* mainly modified existing contracts, rather than developing new ones, to implement projects expeditiously. NASA officials estimated that about 80 percent of its programs consist of modifications to existing contracts. U.S. Agency for International Development officials said they simply included a reference to a new FAR clause for the Recovery Act and took the appropriate procurement and contracting actions required by the FAR before obligating funds.

Similarly, many state transportation officials said they selected a large percentage of resurfacing and other pavement improvement projects for Recovery Act funding because such projects did not require extensive environmental clearances and because other processes could also occur quickly, such as design, request for bids, obligation of funds, and employment. In addition, projects could be completed within 3 years.[29] For example:

[29]The Recovery Act contains a requirement to give priority to certain transportation projects that can be completed within 3 years.

- Massachusetts transportation officials said that they had avoided significant delays in starting projects by selecting those that were likely to have little environmental impact—such as impairing air quality—or that require additional permitting before the project could get under way. These officials also said that they did not select projects involving entities with a history of lengthy permitting processes. For example, if a project had permitting requirements that involved the U.S. Army Corps of Engineers, the Coast Guard, or a municipality, the state did not generally select the project for Recovery Act funding because, according to state officials, the permitting process with these entities typically takes a year or more to resolve.

- Mississippi officials told us that prior to the enactment of the Recovery Act, the state's department of Transportation appointed a selection committee to identify projects that could be advertised no later than June 2009. Projects placed on the list to be funded by the Recovery Act were required to have all rights-of-way acquired, utilities adjusted, environmental clearances obtained, and plans developed. In addition to selecting highway construction projects, the committee identified transportation enhancement projects that could be obligated before February 17, 2010, 1 year after the act's enactment.[30] Such projects included improving the department's rest areas and welcome centers to enhance tourism and encourage new industry in the state. All identified projects were reviewed and ranked on the basis of (1) need, (2) location in an economically distressed area, (3) the likelihood of statewide job creation, (4) expected economic benefit to the area, and (5) the projects' ability to meet requirements for timely obligation. When the state was notified of its share of Recovery Act funds, officials selected projects from this group of reviewed and ranked projects and emphasized obligating 50 percent of a subset of the funds within 120 days.

Agency Comments and Our Evaluation

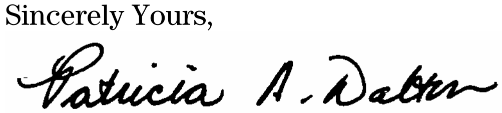
We provided a draft of this report to all 27 agencies and OMB for review and comment and received technical comments from 17 agencies. We have incorporated these comments into the report as appropriate. We also provided a copy of the relevant sections to GAO teams responsible for reviewing Recovery Act work in the states mentioned in this report. In some cases, those teams forwarded relevant sections to officials within those states. We included these comments as appropriate.

[30]Transportation enhancements include activities such as provision of facilities for pedestrians and bicyclists, preservation of abandoned railway corridors, acquisition of scenic easements, and historic preservation projects.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to all 27 agencies reviewed in this report and other interested parties. The report will also be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or daltonp@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix I.

Sincerely Yours,



Patricia A. Dalton
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Appendix I: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

Other key contributors to this report were Mark Gaffigan (Director), Ric Cheston (Assistant Director), Kimberly Gianopoulos (Assistant Director), Anne K. Johnson (Analyst-in-Charge), and Amanda Krause. Important contributions were also made by Jessica Bryant-Bertail, Janice Ceperich, Richard P. Johnson, Jonathan Kucskar, Anne Rhodes-Kline, and Carol Herrnstadt Shulman.

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