

July 2009

# RECOVERY ACT

## States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses (Appendixes)



GAO

Accountability \* Integrity \* Reliability

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# Contents

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**Contents**

1

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<b>Appendix I: Arizona</b>	<b>AZ-1</b>
<b>Appendix II: California</b>	<b>CA-1</b>
<b>Appendix III: Colorado</b>	<b>CO-1</b>
<b>Appendix IV: Florida</b>	<b>FL-1</b>
<b>Appendix V: Georgia</b>	<b>GA-1</b>
<b>Appendix VI: Illinois</b>	<b>IL-1</b>
<b>Appendix VII: Iowa</b>	<b>IA-1</b>
<b>Appendix VIII: Massachusetts</b>	<b>MA-1</b>
<b>Appendix IX: Michigan</b>	<b>MI-1</b>
<b>Appendix X: Mississippi</b>	<b>MS-1</b>
<b>Appendix XI: New Jersey</b>	<b>NJ-1</b>
<b>Appendix XII: New York</b>	<b>NY-1</b>
<b>Appendix XIII: North Carolina</b>	<b>NC-1</b>
<b>Appendix XIV: Ohio</b>	<b>OH-1</b>
<b>Appendix XV: Pennsylvania</b>	<b>PA-1</b>
<b>Appendix XVI: Texas</b>	<b>TX-1</b>
<b>Appendix XVII: District of Columbia</b>	<b>DC-1</b>

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# Appendix I: Arizona

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> spending in Arizona. 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/>.

**Use of funds:** Our work in Arizona focused on eight federal programs, selected primarily because they have begun disbursing funds to states and includes existing programs receiving significant amounts of Recovery Act funds or significant increases in funding. Program funds are being directed to helping Arizona stabilize its budget and support local governments, particularly school districts, and are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Increased Medicaid Federal Medical Assistance Percentage (FMAP) funds.** As of June 29, 2009, Arizona has received about \$535 million in increased FMAP grant awards, of which it has drawn down about \$513 million, or 96 percent. Arizona officials said the funds made available as the result of increased FMAP are critical in helping Arizona maintain its core Medicaid program and avoid systematic reductions in funding for other programs, such as the State Children's Health Insurance Program. Arizona is also planning on using state funds freed up as a result of the increased FMAP to offset the state budget deficit.<sup>2</sup>
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration apportioned \$522 million in Recovery Act funds to Arizona. As of June 25, 2009, \$262 million has been obligated for highway projects. Arizona's Department of Transportation and Arizona's Federal Highway Administration worked together to identify a priority list of transportation infrastructure projects that could be started quickly. ADOT has awarded 24 contracts for Recovery Act highway projects, largely involving pavement preservation, shoulder widening, and road repair.

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. The receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid program, and states have reported using these available funds for a variety of purposes.

As of June 25, 6 highway projects funded with Recovery Act dollars have begun construction. For example, the initial project under construction near Prescott involves making safety improvements and repairs to the roadway.

- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education has awarded Arizona about \$832 million, or about 81.8 percent of its total SFSF allocation of \$1.017 billion. Arizona has not drawn down any of the funds as of June 30, 2009. Arizona is planning to use a portion of these funds to offset budget cuts, in such areas as education. For example, the state has allocated, for fiscal year 2009, \$250 million to be used for the K-12 program, and \$183 million for community colleges and universities. Remaining funds will be used for education, public safety, or other government services.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA) funds.** The U.S. Department of Education has awarded Arizona about \$97.5 million in Recovery Act ESEA Title I, Part A, funds, or 50 percent of its total allocation of \$195 million. Of these funds, Arizona has allocated to state local education agencies (LEA) about \$185 million. As of June 30, 2009, the state education agency had approved 24 applications for about \$6.7 million. The schools are encouraged to use the funds in ways that will build their long-term capacity to service disadvantaged youth, such as through providing professional development of teachers. For example, a school will acquire an instructional data system, which integrates curriculum mapping, assessment, reporting, and analysis tools, to identify trends in student learning and make improvements in classroom instruction, and contract for a system coordinator.
- **Individuals with Disabilities Education Act (IDEA), Part B and C funds.** The U.S. Department of Education has allocated about \$194 million in Recovery Act IDEA, Part B and C funds to Arizona. The Arizona Department of Education will receive about \$184 million in IDEA Part B funds and the Department of Economic Security will receive about \$10 million in IDEA Part C funds. On April 1, 2009, the U.S. Department of Education made available about 50 percent of the total allocation. The Arizona Department of Education has allocated about \$178 million and about \$6 million to state LEAs and preschools, respectively, in Part B funds. On June 22, 2009, Arizona opened the grant application process to support special education and related services for infants, toddlers, children, and youth with disabilities. For example, LEAs plan to use the funds to provide teachers with coaching

services for improving behavior management skills, and initiate an in-school program for students with autism and another for medically fragile students.

- **Weatherization Assistance Program funds.** The U.S. Department of Energy allocated about \$57 million in Recovery Act weatherization funding to Arizona for a 3-year period. Based on information available on June 30, 2009, Arizona has received \$28.5 million in weatherization funds. Arizona is using the initial funding allocation of \$5.7 million to hire and train program staff and has received an additional \$22.8 million of the Recovery Act weatherization funds. Arizona intends to use this money to begin to weatherize at least 6,400 homes.
- **Edward Byrne Memorial Justice Assistance Grant Program funds.** The U.S. Department of Justice's Bureau of Justice Assistance has awarded \$25.3 million directly to Arizona in Recovery Act funding. Based on information available as of June 30, 2009, about \$23.1 million (91 percent) of these funds have been obligated by the Arizona Criminal Justice Commission, which administers these grants for the state.<sup>3</sup> These funds coming to the state are being used mostly to supplement current state law enforcement and criminal justice efforts. For example, 36 projects have been approved for funding in such areas as drug forensics, drug and gang prosecution, rural law enforcement, and information sharing initiatives.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$12 million in Recovery Act funding to 15 public housing agencies in Arizona. Based on information available as of June 20, 2009, about \$1.7 million (14 percent) had been obligated by 11 of those agencies. At the five public housing authorities we visited, this money, which flows directly to the authorities, is being used for various capital improvements. For example, two projects underway in Tucson are using the funding to repair asphalt, to do roof repairs, and to remodel a kitchen and bathroom and to replace the hot water and air-conditioning units.

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

**Safeguarding and transparency:** Arizona has enhanced its accounting system to track Recovery Act funds by adding new accounting codes in order to segregate and track these funds separately from other funds that will flow through the state government. Arizona's General Accounting Office has issued guidance to state agencies on their responsibilities, including how they are to receive, disburse, tag or code funds in their accounting systems; track funds separately; and, to some extent, report on these federal resources. State department heads and program officials generally expect that they will also require subrecipients, through agreements, grant applications, and revised contract provisions, to track and report Recovery Act funding separately. The state comptroller and the state chief information officer are devising a methodology to integrate information gathered across the state agencies with the data in the state's accounting system, the Arizona Financial Information System, into an overall database or data warehouse for reporting on the use of Recovery Act funds for the entire state. Although the state has not completed a separate risk assessment for these funds, the state is in the process of administering a survey asking state agencies for a self-assessment of their internal controls that includes a risk assessment, to help safeguard Recovery Act resources.

**Assessing the effects of spending:** Arizona agencies have begun collecting information on jobs created and preserved, although different kinds of information are being submitted across programs. On June 22, 2009, OMB issued implementing guidance clarifying how states are to report the number of jobs created and preserved under the Recovery Act. Existing programs that are receiving Recovery Act funds are continuing to measure some results beyond jobs—such as program outcomes—through their existing program evaluations, but some programs are still awaiting guidance for how to assess outcomes from federal programs.

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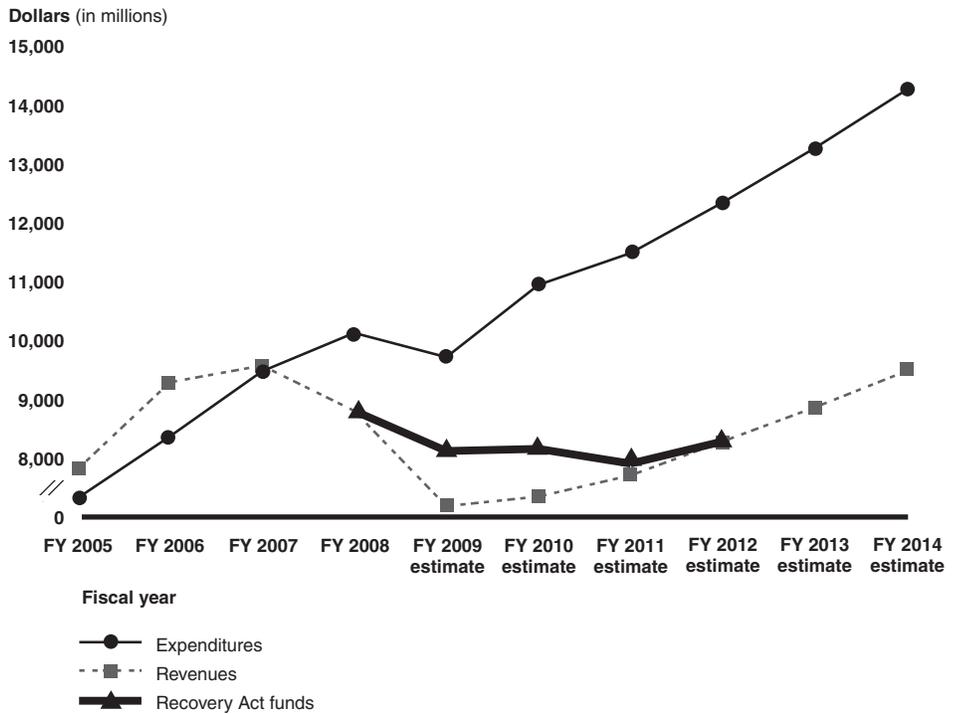
## Arizona Is Using Recovery Act Funds to Stabilize Budget and Support Programs and Infrastructure, but Expects Fiscal Challenges to Continue after Recovery Act Funds Expire

Arizona continues to face economic distress, which state officials expect will be partially relieved with Recovery Act funding. Arizona budget officials estimate that expenses to the state's general fund will exceed revenues by over \$10 billion for fiscal years 2009 through 2011, with minimal or no revenue increases projected through fiscal year 2011. The major cause of the widening budget gap is revenue collections, which continue to be significantly lower than officials had anticipated. For example, since May 2007, the state has experienced consistent revenue declines in income tax, corporate income tax, and sales tax revenue, according to state budget officials. To help reduce the budget shortfall, the state has imposed budget cuts on all areas of state government, including education, health care, environmental protection, behavioral health, and public safety. However, due to the severity of the state's economic situation, the state's budget office estimates that the state's general fund gap will continue to grow into fiscal year 2014 (see figure 1). Governor Jan Brewer recently approved legislation to address an even deeper fiscal year 2009 shortfall than expected and, as of June 30, is in negotiations with the state legislature to finalize plans to close an expected \$4 billion deficit in order to balance the fiscal year 2010 budget.<sup>4</sup> The Governor's plans to balance the fiscal year 2010 and 2011 budgets may include temporary increases in tax revenues as a means to avoid additional cuts. As of June 30, 2009, the state's fiscal year 2010 budget had not been passed.

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<sup>4</sup>The fiscal year in Arizona begins July 1 and ends June 30. In our April report we noted that state officials were working to close an estimated budget gap of about \$2.1 billion for state fiscal year 2009.

**Figure 1. Arizona General Fund Expenses, Revenues, and Federal Recovery Act Funding for Fiscal Year 2005 to Fiscal Year 2014 (in millions)**



Source: Arizona's Office of Strategic Planning and Budgeting.

Budget officials stated that Recovery Act funds will help to reduce the size of current and future general fund shortfalls but will not completely eliminate them. For example, the state used \$470 million made available as a result of the increased FMAP to help close a gap in the fiscal year 2009 budget, and plans to apply \$810 million of such funds in fiscal year 2010 and \$500 million in fiscal year 2011 for the same purpose. In addition, the state applied \$443 million in SFSF funds to the budget gap in fiscal year 2009 and plans to use \$390 million for that purpose in fiscal year 2010. Recovery Act funds used to close the budget gap total about \$2.6 billion across fiscal years 2009 to 2011—compared to the state's estimated general fund shortfall of over \$10 billion for that same period.<sup>5</sup>

<sup>5</sup>In our April 2009 report we noted that the state had depleted its budget stabilization fund, known as its rainy-day fund.

In addition to general fund stabilization, budget officials noted that Recovery Act funding enabled the state to, among other things, reduce the number of furloughs and layoffs, avoid some service reductions, maintain the level of state employee benefits, and prevent some contract delays and reductions that otherwise would have occurred. Budget officials noted that they intend to develop an exit strategy that will prepare the state for when Recovery Act funds are no longer available. To do so, they will work with agencies to minimize the funding cliff effect that could result once Recovery Act funds expire, but the officials said that such instructions have not yet been developed. The Governor has stated that the use of Recovery Act funds is not intended to grow the size of Arizona's government services to unsustainable levels once such funds are no longer available.

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**Arizona Requires Additional Management Capacity to Oversee Recovery Act Funds and Is Addressing This Gap with Federal Funding**

Budget officials stated that more staff are needed to implement the estimated \$6.3 billion in total Recovery Act funds that are to be received by Arizona. Currently, there are about 15 full-time staff within the state's Office of Economic Recovery, and other agencies have designated staff members who are primary contacts or who are called on an as-needed basis for Recovery Act funding issues. For example, the state comptroller has an internal staff of 3 that is responsible for communicating with the Governor's Office and state agencies, teaching the state agencies what is needed to comply with the Recovery Act requirements, and emphasizing the need for good internal controls. To assure that the state has the capacity to comply with Recovery Act provisions, officials estimated that they will need an additional 35 full-time staff and plan to complete an assessment of actual staffing needs by the end of July.

As part of the staff planning efforts, officials are drafting a budget that will use the option as announced by OMB in May 2009 to charge up to 0.5 percent of certain Recovery Act funds in indirect costs to provide additional staffing resources to entities responsible for the oversight, monitoring, and tracking of Recovery Act funds. The announcement by OMB has been very helpful, according to Arizona officials. The comptroller noted that the state is developing strategies and processes to estimate the state's indirect costs and plans to make subsequent adjustments to the estimated amounts after actual costs are incurred. In addition, some individual programs receiving Recovery Act funds allow agencies to use a share of these funds for administrative costs. For example, the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, under the Recovery Act, allows up to 10 percent of funds to be used for such costs. Officials with the Arizona Criminal Justice

Commission, which oversees JAG funds for the state, estimated that the workload is likely to double as a result of receiving additional funds through the Recovery Act. They plan to use some of the state's administrative JAG funds to hire additional staff to help manage the heightened Recovery Act requirements and increased number of subrecipients.

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## Federal Assistance under the Recovery Act Is Helping Arizona to Maintain Its Medicaid Program and to Address Budget Deficits

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008 through December 31, 2010.<sup>6</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>7</sup> Generally, for federal FY 2009 through the first quarter of federal FY 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

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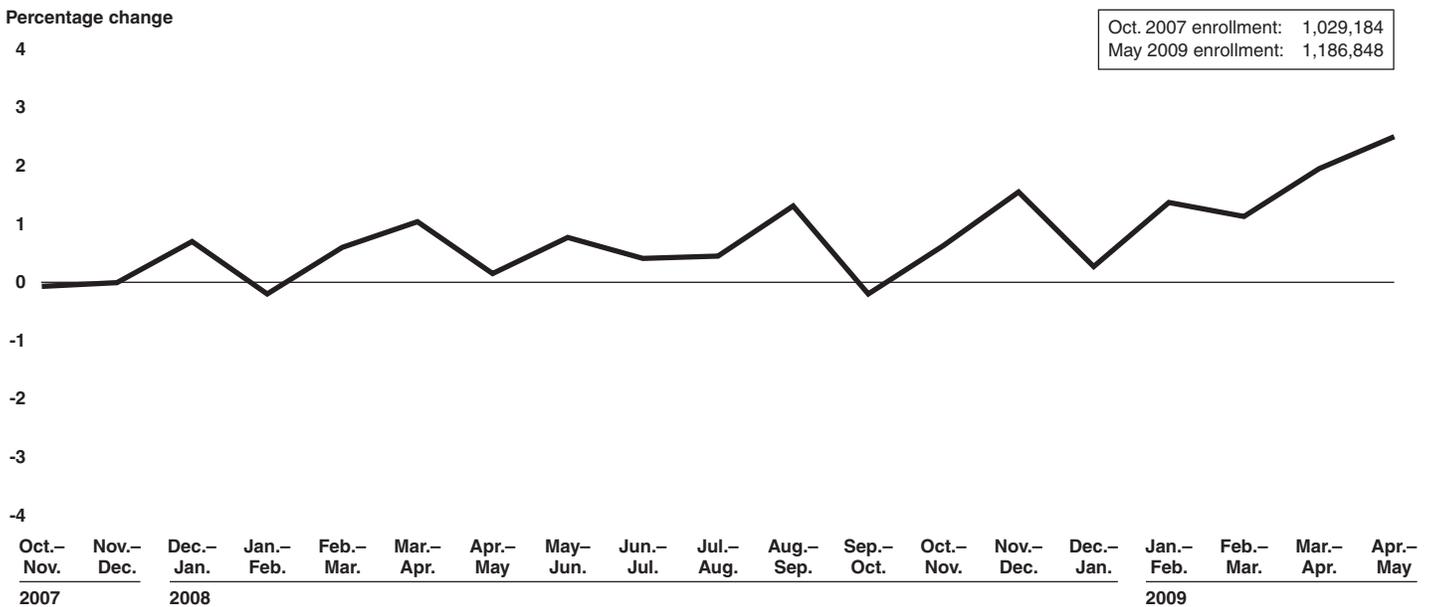
<sup>6</sup> See Recovery Act, div. B, title V, §5001.

<sup>7</sup> Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

## Enrollment Growth in Arizona’s Medicaid Program Adding Pressure to State Budget

From October 2007 to May 2009, the state’s Medicaid enrollment increased from 1,029,184 to 1,186,848, an increase of over 15 percent.<sup>8</sup> Enrollment varied during this period—the largest enrollment increase occurred between April and May 2009, and there were several months where enrollment decreased (fig. 2). Most of the increase in enrollment was attributable to the population groups of (1) children and families, and (2) non-disabled non-elderly adults.

**Figure 2: Monthly Percentage Change in Medicaid Enrollment for Arizona, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Arizona has drawn down almost \$513 million in increased FMAP grant awards, which is over 96 percent of its awards to date.<sup>9</sup> Arizona officials reported that they are planning on using funds made available as a result of the increased FMAP to offset the state budget deficit.

<sup>8</sup>The state provided projected Medicaid enrollment data for May 2009.

<sup>9</sup>Arizona received increased FMAP grant awards of almost \$535 million for the first three quarters of federal fiscal year 2009.

Arizona officials noted that the state's Medicaid program continues to experience substantial growth as the state continues to face difficult budget periods. Officials added that the funds made available as a result of the increased FMAP have been critical in helping Arizona maintain its core Medicaid program and avoid systematic reductions in funding for other programs, such as the State Children's Health Insurance Program (CHIP). Officials added that in the absence of funds made available as a result of the increased FMAP, funding for CHIP would have been particularly affected because the program does not have the same entitlement protections as the Medicaid program. In using the increased FMAP, Arizona officials reported that the Medicaid program has incurred additional costs related to developing new systems or adjusting existing reporting systems associated with these funds.

Since increased FMAP dollars became available, Arizona has raised a number of questions related to its ability to maintain eligibility for these funds. For example, on June 26, 2008, the state passed a law which changed the frequency of Medicaid eligibility determinations for childless adults who are not disabled from 12 months to 6 months. Because the Arizona constitution provides for a delayed effective date for non-emergency legislation, the change was not implemented until September 26, 2008. CMS determined that this change constituted a more restrictive eligibility standard, thus violating one of the maintenance of eligibility requirements under the Recovery Act.<sup>10</sup> As a result, on April 29, 2009, the Governor signed an emergency measure to amend the state's law to revert back to an annual redetermination process, which was effective June 1, 2009.<sup>11</sup> The state had suspended any additional draw downs of increased FMAP until this change was implemented. State officials reported that CMS has not indicated that the state would be required to repay any dollars.

Similarly, the officials said that the state has required political subdivisions—most typically counties—to contribute to the nonfederal share for Medicaid expenditures and that this contribution varied. Some

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<sup>10</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

<sup>11</sup>Officials reported that prior to CMS's ruling, the state drew down FMAP dollars totaling about \$286 million, which the state held but did not distribute.

officials have raised questions about how this practice relates to the maintenance of eligibility requirement in the Recovery Act.<sup>12</sup> For example, the largest contribution may have its annual sharing percentage change between the state and the counties. Other contributions made by counties to the state's acute care program are not subject to adjustments. However, state officials reported that the underlying laws, which require the counties to contribute to the non-federal share of expenditures, have not changed.

Regarding the tracking of the increased FMAP, state Medicaid officials indicated that Arizona changed its accounting system to include a new fund for tracking revenues and expenditures specific to increased FMAP and that the state will use existing reconciliation processes to assure the completeness and accuracy of tracked and reported data on increased FMAP dollars. However, the Medicaid officials noted that they and officials from Arizona's General Accounting Office are awaiting guidance from OMB about what steps auditors should follow when reviewing increased FMAP revenues and expenditures. The 2007 and 2008 Single Audits for Arizona identified no material weaknesses related to the data systems or other aspects of the Medicaid program.<sup>13</sup>

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<sup>12</sup>In some states, political subdivisions—such as cities and counties—may be required to help finance the state's share of Medicaid spending. Under the Recovery Act, a state that has such financing arrangements is not eligible for certain elements of the increased FMAP if it requires subdivisions to pay during a quarter of the recession adjustment period a greater percentage of the non-federal share than the percentage that would have otherwise been required under the state plan on September 30, 2008. See Recovery Act, div. B., title V, § 5001(g)(2). The recession adjustment period is the period beginning October 1, 2008 and ending December 31, 2010.

<sup>13</sup>The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or non-profit 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 (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.

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## First Round of Arizona Recovery Act Highway Projects Under Way

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 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 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.

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## Arizona Selected Quick-Start Highway Projects to Help Comply with the Act and Received Contract Bids That Were Lower Than Estimated

As we previously reported, \$522 million was apportioned to Arizona in March for highway infrastructure and other eligible projects. As of June 25, 2009, \$262 million had been obligated (see Table 1). 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 June 25, 2009, no funds had been reimbursed by FHWA. States request reimbursement from FHWA as they make payments to contractors working on approved projects.

In anticipation of stimulus legislation, Arizona began planning for federal highway infrastructure investment before the Recovery Act was passed. Arizona's Department of Transportation (ADOT) and the Arizona Division of the Federal Highway Administration (FHWA) worked together to identify a priority list of transportation infrastructure investments from Arizona's Five Year Transportation Plan. Together, they identified projects that could be started quickly, focusing on projects that could be implemented in under 180 days, as well as projects that could be completed within a 3-year time frame. As a result, the initial Recovery Act funded projects advertised for bid are all short-term projects that require little lead time for planning and design, enabling contractors to begin work quickly. Many initial round projects were also chosen to coincide with the construction season, which, in the northern part of the state, excludes the winter months.

**Table 1: Highway Obligations for Arizona by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects				Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
	\$10	\$113	\$75	\$8	\$1	\$13	\$42	<b>\$262</b>
Percent of total obligations	3.7	43.3	28.6	3.1	0.4	4.8	16.1	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

ADOT has advertised 35 of the 41 statewide highway projects authorized by the FHWA’s Arizona Division. As of June 30, 2009, contracts for 24 of these projects have been awarded. Specifically:

- On May 15, 2009, ADOT awarded contracts for the first six projects to be undertaken using Recovery Act funds. Five of these six projects are pavement preservation projects and one is for shoulder widening and safety improvements. These six projects came in about \$3 million below ADOT’s initial estimates.
- On June 3, 2009, ADOT awarded an additional nine contracts that came in \$4.3 million below ADOT’s initial estimates.
- On June 19, ADOT awarded nine highway contracts that came in \$2.7 million below ADOT’s initial estimates.

ADOT officials believe that the bids coming in below estimates are 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. If the trend of bids coming in lower than ADOT estimates continues, ADOT officials told us that they are considering lowering bid estimates in the future. The savings from these low bids likely will be reinvested in additional Recovery Act projects.

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## Arizona Expects to Meet All Highway Spending Requirements under the Act

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to

- ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.<sup>14</sup> 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.
- give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>15</sup>

Based on the progress to date, Arizona officials are reporting that they are on track to meet all three of their spending requirements under the Recovery Act. First, Arizona has met the Recovery Act requirement that 50 percent of their apportioned funds are obligated within 120 days. Of the approximately \$365 million that is subject to this provision 71.4 percent was obligated as of June 25, 2009.

Second, Arizona believes it will be able to expend most of the Recovery Act funds in 3 years because it has made it a priority to select projects that

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<sup>14</sup>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.

<sup>15</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of the each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

could begin quickly and be completed within 2 years. State officials reported that, since the first projects are predominantly repaving projects, most are likely to be completed within 1.5 years of award. In addition, according to ADOT officials, all highway projects being undertaken with Recovery Act funds will be located in EDAs. To meet this requirement, ADOT officials developed a map of economically distressed areas in the state based on home foreclosure rates, unemployment rates, and data on disadvantaged business enterprises from the Department of Commerce. ADOT outlined its methodology for determining EDA in a letter to FHWA, which approved the methodology.

Third, on March 17, 2009, the Governor submitted Arizona's certification to the Department of Transportation certifying that the state would maintain its projected level of spending as required in the act. On April 20, 2009, the Department of Transportation responded that the state did not list all of the programs covered under the Recovery Act in the maintenance of effort certification and gave the state the opportunity to amend its certification with the correct information. On May 19, 2009, Arizona resubmitted its certification. According to Department of Transportation officials, the department has concluded that the form of the certification is consistent with the additional guidance. The Department of Transportation is currently evaluating whether the states' method of calculating the amounts they planned to expend for the covered programs is in compliance with the Department of Transportation guidance.

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## Arizona's Application for State Fiscal Stabilization Funds to Offset Budget Cuts Was Approved

The Recovery Act created the State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Furthermore, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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 Governor submitted an application to Education on May 21, 2009, for SFSF funds, which will allow the state to offset budget cuts. The application was approved on June 11, 2009. Arizona's SFSF allocation is \$1.017 billion. The state specified in its application that stabilization funds of \$433 million in fiscal year 2009 and \$399 million in fiscal year 2010 should help to offset Arizona's budget cuts to education. The state has allocated, for fiscal year 2009, \$250 million of the \$433 million be used for the K-12 program, and the remaining \$183 million for community colleges and universities. The state similarly allocated, for fiscal year 2010, \$223 million of the \$399 million for the K-12 program, and \$176 million for community colleges and universities. The application stated that the remaining 18.2 percent or \$185 million will be used at the Governor's discretion for education, public safety, or other government services.<sup>16</sup>

In terms of the \$433 million, in May 2009, the governor had to modify the state's spending for the current fiscal year, which ended June 30, 2009, to address a widening budget gap. The governor replaced \$250 million in general funds allocated for K-12 programs education and backfilled this amount with the education stabilization funds. Specifically, in fiscal year 2009 the education stabilization funds allocated to elementary and secondary education will replace about 5.9 percent of the general funds and the funds allocated to community colleges and universities will replace about 17 percent of the general fund. Similarly, it is estimated that the education stabilization funds will replace about the same amounts in fiscal year 2010. According to an official from the Governor's Office of Strategic Planning and Budgeting, no funds have been drawn down as of June 30, 2009.

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<sup>16</sup>Four categories of other expenditures were listed as "Allocation to Other Services" in an attachment to Arizona's application. The uses listed are (1) Education Reform; (2) Health Care and Children's Programs; (3) Public Safety; and (4) Innovation, Technology, and Economic Development.

The Governor stated that Arizona will not need to request a waiver from the Recovery Act requirement that states maintain the support for education programs at least at the level provided in fiscal year 2006. For example, the levels of state support for elementary and secondary education for fiscal years 2009 and 2010 (\$3.976 billion and \$3.926 billion respectively) exceed the fiscal year 2006 amount of \$3.464 billion and, therefore, comply with the maintenance of effort requirement. Budget officials said that they had no concerns about being able to effectively spend the general fund resources freed up as a result of the federal stabilization funds because of the significant budget deficits and resulting program cuts the state has faced since fiscal year 2007.

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## Local Education Agencies Are Beginning to Apply for ESEA Title I Part A Education 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 (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulae, which target funds based on factors such 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 its fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>17</sup> Education is advising local educational agencies to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' ESEA Title I, Part A funding available on April 1, 2009, with Arizona receiving \$97.5 million of its approximately \$195 million total allocation.

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<sup>17</sup>LEAs must obligate at least 85 percent of their ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver, and all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

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## Arizona LEAs Are in the Process of Submitting Applications for ESEA Title I Funding Focusing on Improving Students' Academic Achievement

Arizona's State Department of Education has allocated \$185 million in ESEA Title I Recovery Act funds to date and is accepting applications from LEAs that outline how they will use these funds. The state is requiring that LEAs use the same grant process for requesting and reporting on ESEA Title I Recovery Act funds as they do for non-Recovery Act ESEA Title I funds. The process includes LEAs submitting applications that contain a detailed plan on how and when the funds will be used and State Education Agency (SEA) officials reviewing the application to ensure that spending plans comply with applicable laws and regulations. As of June 30, 2009, the SEA had approved 24 applications for about \$6.7 million. Also, another 73 LEAs have submitted its application for about \$33.2 million, but the applications have not been approved. In addition, another 165 LEAs have started the application process but have not formally submitted applications for approval. The additional applications total approximately \$115.5 million. According to SEA officials, they expect to approve all applications by September 30, 2009. Both the SEA and the five LEAs that we visited were confident that they could spend the funds in the next school year, especially given the program cuts they have experienced and expect to face. Although most LEAs have not submitted applications for grants, because it is the end of the school year and funds are not needed, they are developing plans for the use of the Recovery Act ESEA Title I funds for next year that focus on improving students' academic achievement.

During our fieldwork, we visited five Arizona LEAs including the four largest school districts. We found that one LEA had submitted an application for Recovery Act funds; three LEAs had drafted plans for the use of funds but had not submitted an application because it is the end of the school year and they have time to consider other projects before school begins; and one LEA had developed projects for its funding allocation, but is considering additional uses of its funds before submitting an application. The following examples show how the LEAs plan to spend Recovery Act ESEA Title I funds.

- The Phoenix Elementary School District No 1 plans to hire 36 specialists (three at each ESEA Title I school) to provide strategic and intensive reading intervention to students who are not meeting Arizona's reading standards. The LEA will also hire a reading curriculum resource specialist to oversee the ESEA Title I Recovery Act reading program. The LEA expects these positions to last only during the years of Recovery Act funding, although the LEA is hoping to make the resource specialist position permanent by looking for another source of funding.

- Another LEA, the Imagine Charter Elementary at Desert West, will 1) acquire an instructional data system, which integrates curriculum mapping, assessment, reporting, and analysis tools, to identify trends in student learning and make improvements in classroom instruction; and 2) contract for a system coordinator. The LEA piloted the system last year and determined that the system could improve student academic achievement, but that a full-time coordinator could enhance the effectiveness of the system by providing prompt feedback to the teachers regarding areas in which students need additional instruction. The Recovery Act funds will be used initially to contract for a coordinator, but the LEA plans to keep the coordinator after Recovery Act funds are terminated by reprioritizing its existing projects.

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### LEAs Will Seek Waivers So ESEA Title I Funds Can Be Used More Flexibly

LEAs we visited will likely seek waivers from requirements to provide funds for supplemental educational services (SES), such as tutoring, because they go unused and this waiver will provide more funding for other ESEA Title I projects. Specifically, three of the five LEAs we visited had schools in the district needing academic improvement and as a result are required to provide an amount equal to at least 20 percent of ESEA Title I funds transportation for public school choice and SES.<sup>18</sup> According to officials from the three LEAs, they will seek a waiver from Education from this requirement, which could allow the LEAs to use the funds for other ESEA Title I approved purposes. The LEA officials said the primary reason for requesting a waiver was that in the past, parents and students did not use the tutoring available through the vendors and the LEAs had to forfeit those funds. LEA officials explained that the tutoring services went unused because the district covers hundreds of square miles, and parents are unable to get students to approved vendors for tutoring. Furthermore, according to LEA officials, their discussions with parents showed that the parents would prefer to have their children's current teachers provide the tutoring, but they are not allowed to do so. Lastly, LEA officials said that since non-Recovery Act ESEA Title I funds already require a 20-percent expenditure and are not totally used, an additional expenditure from

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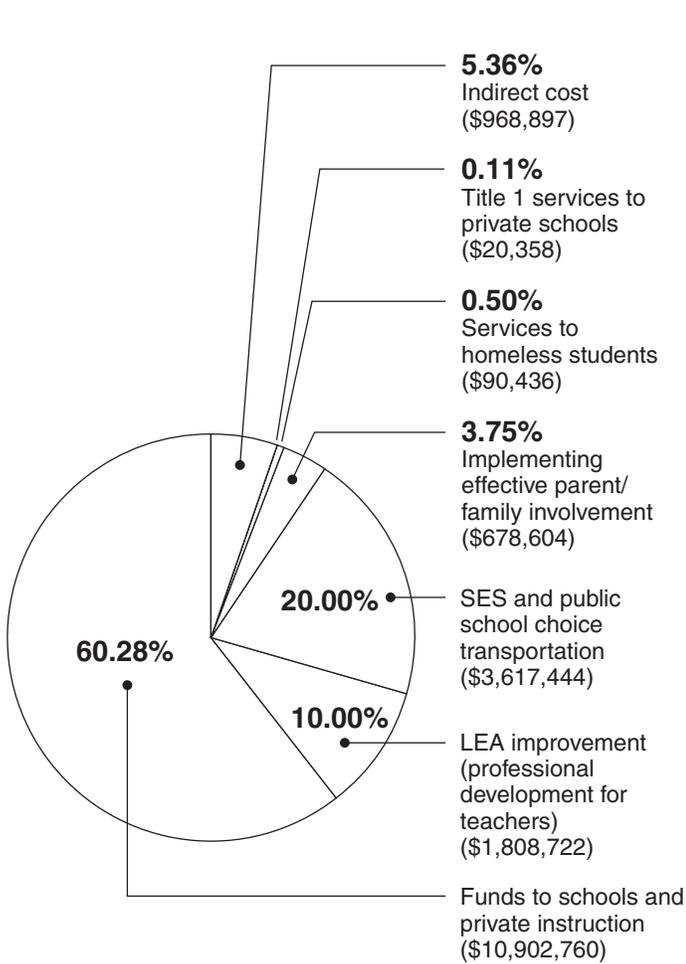
<sup>18</sup>Under ESEA Title I, states are required to establish performance goals and hold their ESEA Title I schools accountable for students' performance by determining whether or not schools have made adequate yearly progress (AYP). Schools that have not made AYP goals for 2 or more consecutive years are identified for improvement and must implement certain activities that are meant to improve student academic achievement. Districts with schools are required to provide an amount not less than 20 percent of their ESEA Title I, Part A allocation to cover school choice-related transportation costs and SES. Unless a waiver is granted, this requirement would apply to ESEA Title I Recovery Act funds also.

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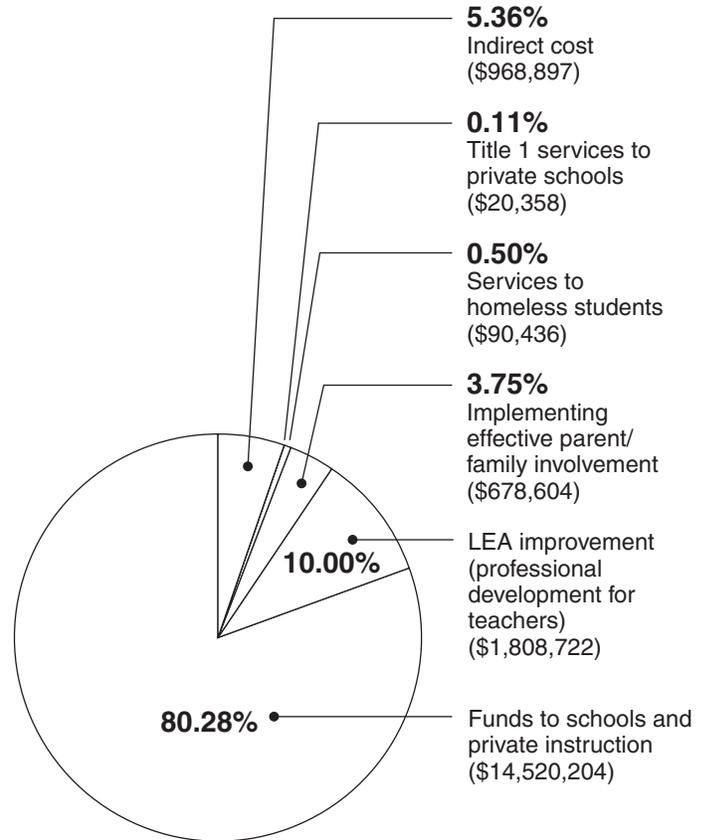
Recovery Act funds would exacerbate this situation. For example, as a result of receiving additional ESEA Title I Recovery Act funds, Phoenix High School must spend more than \$2 million for SES and \$1.7 million for other requirements, leaving \$6.5 million for spending on other ESEA Title I projects. If the waiver were granted, the LEA would be able to spend about \$8.6 million for other ESEA Title I projects, which is an increase of about 30 percent. Figure 3 shows how the Tucson Unified School District's funds to schools and private institutions would increase from \$10.9 million to \$14.5 million if the waiver were granted. SEA officials added that they have had discussions with LEAs on this subject and the state officials expect that many LEAs will seek a waiver. The state has also discussed this issue with the Department of Education although Education has not provided guidance on the process the SEA and LEAs are to use in seeking and approving waivers. According to state officials, Education may require each LEA to seek a waiver from Education or it may give the SEA authority to grant the waivers.

**Figure 3: Comparison of Tucson Unified School District Recovery Act ESEA Title I Budget Before and After an SES Waiver**

**Stimulus budget (total \$18,087,222)**



**Stimulus budget after school choice/SES waiver (total \$18,087,222)**



Source: Tucson Unified School District, June 2009.

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## Individuals with Disabilities Education Act Part B Funds Have Been Allocated to Local Education Agencies and Part C Funds Are Being Used to Offset Budget Reductions in Early Intervention Services

The Recovery Act provided supplemental funding for programs authorized by Part B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities, or at risk of developing a disability, and their families. IDEA funds are authorized to states through 3 grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

The U.S. Department of Education has allocated about \$194 million in Recovery Act IDEA Part B and Part C funds to Arizona. The Arizona Department of Education will receive about \$184 million in IDEA Part B funds and the Arizona Department of Economic Security (DES) will receive about \$10 million in IDEA Part C funds. The Arizona Department of Education has allocated about \$178 million and about \$6 million to state LEAs and preschools, respectively, in Part B funds. On April 1, 2009, the U.S. Department of Education made available about 50 percent of the total allocation.

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## The SEA Recently Opened the LEA Application Process for IDEA Part B Funds

The state has allocated \$178 million of these funds among 544 LEAs. According to SEA officials, they plan to use the same grant process for Recovery Act IDEA funds that they use for non-Recovery Act IDEA funds. The process includes agreeing to the Recovery Act's reporting requirements, submitting an application that contains a detailed plan on how and when the funds will be used, and the SEA officials conducting a subsequent review to ensure that spending plans comply with applicable laws and regulations.

The SEA opened the application process for IDEA grants on June 22, 2009. The grant process was delayed while waiting for OMB guidance on reporting requirements for Recovery Act funds. The SEA opened the grant application process on the same day OMB issued the program reporting

requirement guidance.<sup>19</sup> As of June 30, 2009, the SEA had approved 2 applications for about \$18,000. Also, another 15 LEAs have submitted its application for about \$1.5 million, but the applications have not been approved. In addition, 129 LEAs have started the application process but have not formally submitted applications for approval. The additional applications total approximately \$107 million.

Although Arizona has recently opened the application process for Recovery Act IDEA Part B funds, the five LEAs we visited in early June have determined how they will use the funds. We found that the LEAs had many ideas for the use of the funds, including professional development and assistive technology that may help the student participate in school (such as special computer software or a device to assist in holding a pencil). Specifically:

- The Mesa Unified School District No. 4 plans to use the funds to provide teachers with coaching services for improving behavior management skills. The coaches will work with the general and special education teachers both on individual levels and in group settings to identify specific techniques to use to manage the behavior of special education students. These skills can be used to assist students in the classroom and to implement a student's individual education plan.
- The Phoenix Union High School District No. 210 plans to use the funds to initiate an in-school program for students with autism and another for medically fragile students. Approximately half of these funds will be used to purchase medical equipment and supplies, and the remainder will be used to employ or contract for nurses, aides, and teachers. School officials estimate that by moving these programs in house, the school district will save about \$210,000, which will be spent on sending students to outside vendors. The savings will result in increased services for IDEA Part B students in areas such as improving reading and math skills. However, the LEA stated that the application delay may prohibit the projects from starting in the fall, because soliciting bids and obtaining equipment takes weeks to accomplish.

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<sup>19</sup> In response to requests for more guidance on the recipient reporting progress and requiring data, OMB in consultation with a broad range of stakeholder issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009.

- The Tucson Unified School District No. 1 plans to use part of the Recovery Act IDEA Part B funds to purchase, install, and pilot voice amplification systems in classrooms by collecting pre/post data at the elementary and middle school levels. The amplification system will make it easier for students to hear the teacher's voice over the background sounds and allows the teacher to speak more quietly and still be heard. After reviewing research during 2008 to 2009, the LEA determined that the system will benefit students with low hearing and students with attention deficit disorder and benefit teachers who will be able to teach all day without straining their voices. Data will be collected on student and teacher perceptions as well as academic achievement, learning behaviors, and staff absenteeism.

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### Arizona Is Using Initial IDEA Part C Funds to Support a Growing Caseload

IDEA Part C provides funds to states to implement statewide, comprehensive, multidisciplinary, interagency programs and make early intervention services available to children under age 3 with disabilities and their families. In Arizona, these services are provided by entities that contract with DES. Under the Recovery Act, DES is scheduled to receive a total of nearly \$10 million for IDEA Part C. On April 1, 2009, DES received nearly \$5 million and is scheduled to receive nearly \$5 million by September 30, 2009, after it submits for review and approval additional information addressing how it will meet the accountability and reporting requirements specified in the Recovery Act. DES officials maintain that these funds will be used to offset reductions in early intervention services and to enable DES to provide for an increase in its caseload.

Federal guidance states that the Secretary of Education does not have authority to grant waivers under IDEA for Part C's maintenance of effort requirement. Guidance also states that federal provisions require each lead agency to ensure that the total amount of state and local expenditures on early intervention budgeted for a particular fiscal year are at least the amount of such funds expended in the prior fiscal year. On April 22, 2009, Education sent a letter to DES officials to clarify Arizona's responsibilities under Part C of the IDEA, particularly with regard to service provisions and maintenance of effort requirements. The letter stated that the Office of Special Education Programs under Education had learned that DES had informed parents of over 2,200 children that their children would no longer be served under IDEA Part C because of cuts in state funding. DES officials explained that reductions in the IDEA Part C program (reflected in the Education letter) resulting from the severe, recession-driven budget challenges facing the state may have been necessary prior to the passage of the Recovery Act. But with the assistance of Recovery Act funds, DES

officials stated that they will be able to serve all individuals that had received services in the prior fiscal year, and therefore, will be able to meet the maintenance of effort requirements for receiving the funds.

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## Arizona's Edward Byrne Memorial Justice Assistance Grant Program Funding Will Support the State's Efforts to Control Drugs, Gangs, and Violent Crime in the State

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants is available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>20</sup> The total JAG allocation for Arizona state and local governments under the Recovery Act is about \$42 million, a significant increase from the previous fiscal year 2008 allocation of about \$3.1 million. The Arizona Criminal Justice Commission (ACJC) administers JAG funds for the state.

As of June 30, 2009, Arizona has received its full state award of about \$25.3 million.<sup>21</sup> ACJC officials explained that the state's direct Recovery Act funding enables them to continue to support drug taskforces and projects throughout the state, projects that were otherwise at risk of being reduced given a 66 percent decrease in fiscal year 2008 JAG funding as well as program budget cuts by the state legislature. Because of its geographic location, Arizona faces significant law enforcement challenges associated with drug and human trafficking along the border. From March 31 to April 24, ACJC officials solicited applications for funding from state criminal justice agencies. To ensure funding stability for projects given the short-term availability of Recovery Act funding, ACJC officials proposed a

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<sup>20</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>21</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

budget that uses Recovery Act and non-Recovery Act JAG funds as well as the state's matching Drug and Gang Enforcement funds to sustain projects through fiscal year 2014.<sup>22</sup> From 52 applications received, ACJC officials selected 50 eligible projects for JAG funding, of which 36 will receive only Recovery Act JAG funding. These projects received final committee approval and funds were made available to the criminal justice agencies on July 1, 2009. These agencies proposed projects for funding such as drug forensics, drug and gang prosecutions, rural law enforcement, and information sharing initiatives. All approved projects support the seven JAG purpose areas defined by BJA,<sup>23</sup> as well as four priorities laid out in Arizona's statewide strategic plan to control and combat drugs, gangs, and violent crime in the state. In addition, officials plan to use 10 percent of the funds for administrative purposes, as permitted by BJA. (See figure 4 for estimated funding distributions.)

**Priority 1:** Multiagency, multijurisdictional drug, gang, and violent crime task forces, their tandem prosecution projects, and statewide civil forfeiture efforts;

**Priority 2:** Criminal justice information sharing projects;

**Priority 3:** Adjudication, forensic analysis, detention, and criminal justice system support services; and

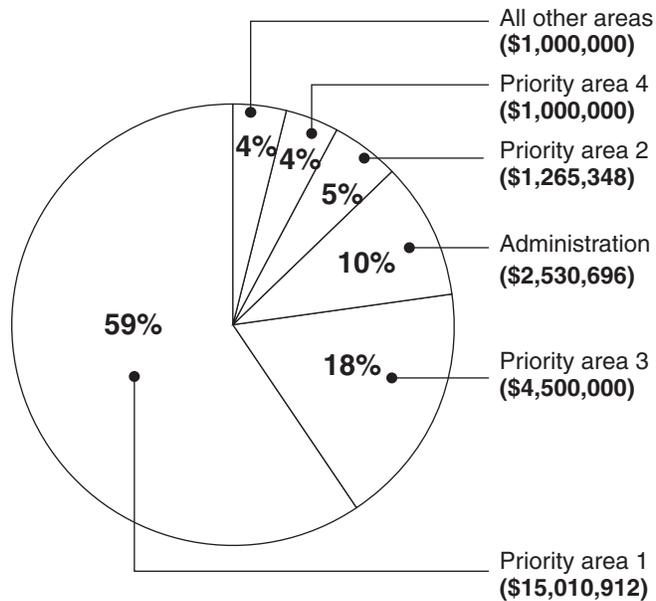
**Priority 4:** Proven substance abuse prevention and education programs.

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<sup>22</sup>The Drug and Gang Enforcement Account is within Arizona's criminal justice enhancement fund and its funds are used to enhance efforts to deter, investigate, prosecute, adjudicate, and punish drug offenders and members of criminal street gangs. Ariz. Rev. Stat. § 41-2402.

<sup>23</sup>The Bureau of Justice Assistance allows JAG funding for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, as well as criminal justice-related research and evaluation activities that will enhance the following seven areas: prosecution and court programs; crime prevention and education programs; corrections and community corrections programs; drug treatment and enforcement programs; program planning and evaluation, as well as technology improvement programs, and crime victim and witness programs.

**Figure 4: Estimated State Distribution of Recovery Act JAG Funds**



Source: GAO analysis of Arizona Criminal Justice Commission data.

Furthermore, officials stated that, without Recovery Act JAG funding, local subrecipients would have experienced additional staff reductions as has been experienced since fiscal year 2000 because of reductions in federal JAG funding and reduced state funding. With Recovery Act funds, subrecipients plan to be able to keep key law enforcement personnel in the task force; prosecutorial, court and probation personnel; and forensic analysis staff. Of the 36 projects with Recovery Act funding, ACJC officials estimate that 103 full-time equivalents will be created or preserved.

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## Arizona's Public Housing Agencies Receive Capital Formula Grants and Are Funding Priority Projects

The Public Housing Capital Fund provides formula-based grant funds directly to Public Housing Agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>24</sup> The Recovery Act requires the 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 they are made available to public housing agencies for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already under way, or are included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing authorities based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process for funding, criteria for applications, and time frames for submitting applications.<sup>25</sup>

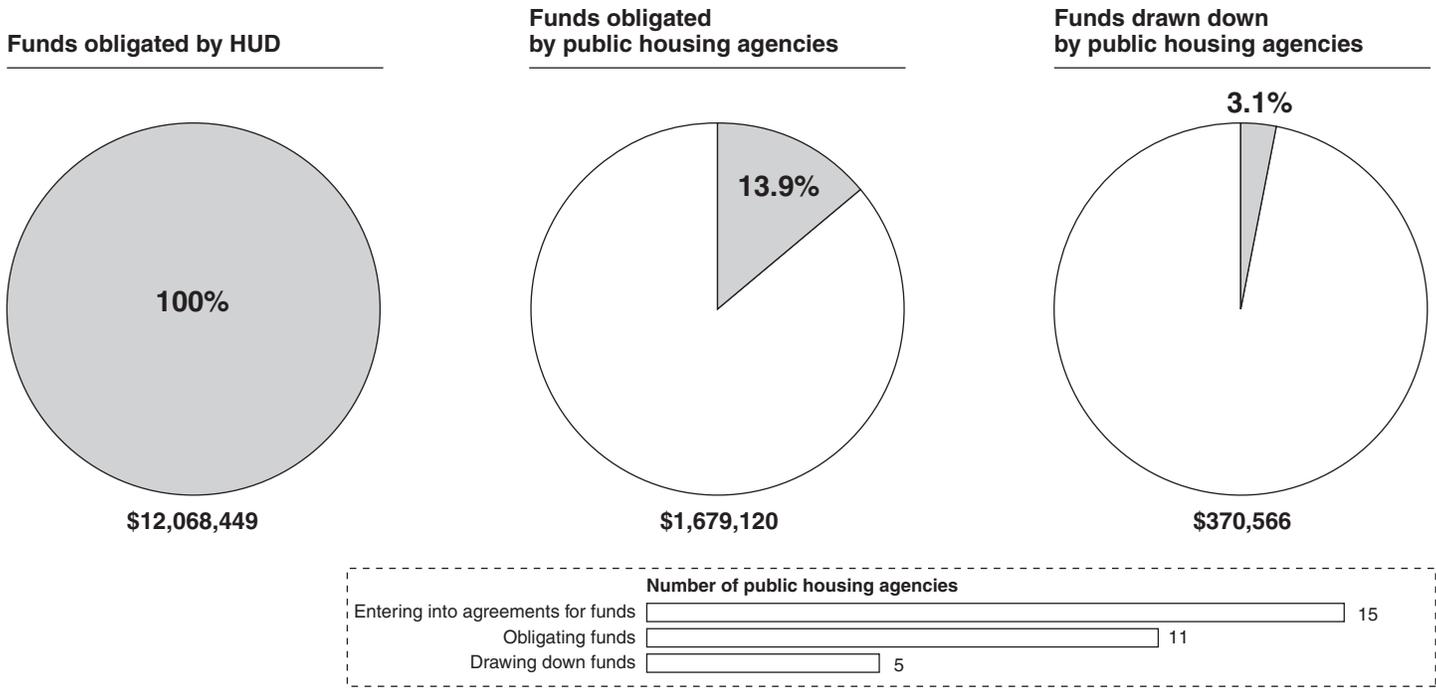
Arizona has 15 public housing agencies that have received Recovery Act formula grant awards. As described in figure 5, all these public housing agencies received \$12,068,449 from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, only 11 public housing agencies have obligated \$1,679,120 or 13.9 percent and have drawn down \$370,566 or 3.1 percent of the total amount.

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<sup>24</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>25</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and timeframes for application, and to funding limits.

**Figure 5: Percentage of Public Housing Capital Funds Allocated by HUD that Have Been Obligated and Drawn Down in Arizona**



Source: GAO analysis of HUD data.

We visited five public housing agencies in Arizona: the City of Phoenix Housing Department, the City of Glendale Community Housing Division, the Housing and Community Development Department of the City of Tucson, the Housing Authority of Maricopa County, and the Pinal County Housing Authority. We selected these housing agencies based on the amount of funding they were allocated, the housing agency size as measured by the number of units the agency has, and if the authority may have received a recent HUD troubled designation.<sup>26</sup>

<sup>26</sup>HUD developed a Public Housing Assessment System (PHAS) to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies' public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring.

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## Housing Agencies Have Plans to Use Capital Funds for Rehabilitating Properties and Are on Track to Meet Recovery Act Time Frames

The five housing agencies that we visited in Arizona received a total of \$8.8 million in Capital Fund formula grants. Officials at each housing agency told us that they expect to obligate and expend their Recovery Act allocations within the required timeframes. As of June 20, 2009, these housing agencies obligated \$458,260, or about 5.2 percent of the total award, and had drawn down \$294,492. Officials at two housing agencies have planned four projects and have obligated or plan to obligate all of their funds and begin work in June. The other three housing agencies have obligated some funds to support a variety of projects and began some work in May. According to officials, drawdowns occur after funds have been expended; therefore, they expect to begin drawing down funds in July when invoices and receipts have been submitted for payment.

The five housing agencies are funding a total of 36 projects. The types of projects undertaken vary from remodeling the interior and exterior of a vacant single-family unit, to remodeling 51 kitchens within occupied units and replacing roofing or elevator and lobby glass in high-rise complexes to achieve greater energy efficiency. For example, one project under way in Phoenix will use \$30,163 to seal the roof surface of two large housing complexes, which will help maintain the integrity of the roof and promote energy efficiency. Two other projects under way in Tucson will use \$35,017 and \$46,700, respectively, to patch, repair, and seal the asphalt at 11 housing sites and to complete a major rehabilitation of a vacant single-family residence to include roof repairs; kitchen cabinet, window, hot water and air-conditioning unit replacements; bathroom remodeling; and painting. These three projects began in May 2009 and are expected to be completed by or in August 2009.

Generally, the public housing agencies we visited had high occupancy rates; therefore, they did not give priority to the rehabilitation of vacant units. Rather, they gave priority to larger, more costly, deferred projects in their 5-year plans that met Recovery Act requirements and that could be awarded within 120 days of when the funding was made available.<sup>27</sup> For example, Phoenix housing officials conducted a thorough evaluation of all projects contained in their 5-year plan; reviewed the scopes and types of work, and the potential for projects to have funds obligated within 120 days, be executed in a short time frame, and improve their HUD inspection scores; and selected some larger, deferred projects such as exterior

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<sup>27</sup> The 5-year plan addresses the housing agency's mission and their overall plan and priority list of projects to achieve their mission goals.

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painting, air-conditioning upgrades, and lighting improvements that were long overdue and could be efficiently approved through the city's procurement process. Phoenix, Maricopa, and Tucson housing officials specifically stated that they did not consider any major reconstruction projects because the time frame to process and approve the architectural designs and obtain permits for such projects would not meet Recovery Act obligation and expenditure requirements.

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### Lack of HUD Guidance Has Delayed Some Capital Fund Contract Awards

Officials from the five housing agencies we visited did not anticipate any challenges in accessing Capital Fund formula grants or in meeting the accelerated timeframes for using Recovery Act funds; however, they expressed concern over not having complete HUD guidance in advance of the funding being made available. Specifically, all housing officials stated that they are still awaiting guidance on

- what data should be measured to determine results achieved beyond the number of jobs created and preserved,
- the parameters of what is considered a job created or preserved, and
- the format on how to report the data and the entities who are to receive the reports.

On June 22, OMB issued implementing guidance that describes, among other things, how states are to report the number of jobs created and preserved under the Recovery Act as well as how they are to report these and other data. According to several housing and procurement officials, the lack of clear guidance has delayed the bidding and awarding of some contracts. This is because officials are obtaining clarification from local HUD and other city officials regarding specific metrics the housing agencies should require contractors to track and measure, as well as guidance on how to interpret and incorporate the Buy American provision,<sup>28</sup> and how to modify local procurement policies to adhere to federal Recovery Act requirements. For example, Tucson officials stated that because HUD has not provided any guidance on the Buy American provision, they have delayed the awarding of contracts so that city attorneys can research and provide guidance on how they should interpret and apply the Buy American provision, what changes need to occur to

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<sup>28</sup>The Buy American provision of the Recovery Act prohibits, with certain exceptions, the use of Recovery Act funds for the construction, alteration, maintenance, or repair of a public building or work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Recovery Act, div, A, title XVI, § 1605

existing city procurement policies, and how to integrate changes into contracts. Furthermore, all of the housing authorities we met with stated that they are not aware of any quarterly report requirements nor have they received any guidance from HUD regarding the content of any quarterly reports, as well as how to measure jobs created or assess effects.

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**Housing Agencies Will Include Additional Data to Meet the Recovery Act's Reporting Requirements in Existing Financial Systems**

All five housing agencies that we met with stated that they will be able to code, separately track, monitor, and report on the Recovery Act formula and competitive funds as well as add any new data that need to be tracked to each project activity as more guidance is provided on what metrics must be met. Currently, the number of jobs created or preserved is a requirement included in contracts and will be tracked in Davis-Bacon Act reports.<sup>29</sup> Furthermore, when asked about the Recovery Act requirement related to the application of prevailing wage rates as required by the Davis-Bacon Act, officials from the five public housing agencies we visited indicated that they are accustomed to meeting Davis-Bacon requirements and view meeting these wage levels as a seamless part of their contractual agreements with workers. All of the housing officials we met with stated that they would be able to track the number of jobs created or preserved through the Davis-Bacon reports; however, they are uncertain about what other data they should be tracking and how to assess impacts.

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<sup>29</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

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## Arizona Is One of the First Four States to Have Its Weatherization Plan Approved and Has Received the First Half of Recovery Act Weatherization Funds

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>30</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE has allocated to Arizona about \$57 million in funding for the Recovery Act Weatherization Assistance Program for a 3-year period, which represents a large increase in funding from previous years. Arizona received \$1.0 million and \$1.1 million for the weatherization program in 2007 and 2008, respectively. Arizona's Department of Commerce (DOC) Energy Office is responsible for administering the program. Arizona submitted its Weatherization Program Plan to DOE on April 28. DOE

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<sup>30</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

verified that Arizona’s plan met the requirements provided in its guidance and approved the plan on June 5.

On April 10, 2009, DOE provided the initial 10 percent allocation (approximately \$5.7 million) to Arizona. Since receiving these funds, DOC officials stated that they have been ramping up the program, including adding staff and obtaining additional field equipment such as tools, diagnostic equipment, and infrared cameras, because DOE guidance prohibits using any of the initial 10 percent for the actual weatherization production activities. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds to local agencies for production activities that previously provided services and are included in state Recovery Act plans.

Once Arizona’s weatherization plan was approved, DOE provided an additional \$22.8 million for weatherization. Arizona expects to use Recovery Act funding to weatherize at least 6,400 homes. The state will begin funding applicants as soon as grants are received and approved.

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## Existing Internal Controls Will Be Used to Safeguard Recovery Act Funds at Various Levels in the State, Its Agencies, and Localities

According to the officials at the state level, with state agencies, and at the localities for the programs we visited, they will use their existing internal control processes for monitoring the receipt and spending of Recovery Act funds to help ensure compliance with the requirements of the Recovery Act. Since most of the funds will go through existing or long-standing programs, the procedures and controls that were in place for monitoring funding sources other than the Recovery Act have already been tested over the years. Overall, the controls are currently working well, according to the state officials. The State Comptroller’s comment that the key internal control is the attitude of management closely parallels a fundamental concept *Standards for Internal Control in the Federal Government* that states “managements sets the objectives, puts the control mechanisms and activities in place, and monitors and evaluates the control.”<sup>31</sup> Although, the state comptroller has a limited staff of 3 internal auditors, they are communicating with the Governor’s Office and state agencies as well as teaching the state agencies what is needed to comply with the Recovery Act requirements and emphasizing the need for good internal controls.

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<sup>31</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

Although the state has not done a separate risk assessment of the internal controls for the programs receiving Recovery Act funds, the state Department of Administration<sup>32</sup> is in the process of administering a survey that includes asking each of the state agencies to complete a self-assessment of internal controls. Each of the state agencies was asked to complete the survey by April 30, 2009; however, additional follow up was needed and the analysis of the survey responses is expected to begin in July 2009. Additionally, in April 2009, the Arizona comptroller issued technical guidance directing state agencies to mitigate risk associated with Recovery Act funds. The guidance stated that, at a minimum, state agencies should do such things as ensure that qualified personnel oversee the administration of Recovery Act funds, maximize competitive awards, minimize improper payments, and conduct audits and investigations to identify and prevent wasteful spending. Later on May 27, 2009, the Arizona State Comptroller issued another technical bulletin stating that agencies receiving Recovery Act dollars should implement the management activities provided in guidance from the Association of Government Accountants Risk Assessment Monitoring Tool and Financial and Administrative Monitoring Tool. In general, these tools provide checklists and questions to assist the users, in part, with evaluating programmatic compliance risk and determining that federal grant purposes are being met. The State Comptroller stated that his bottom line is to mitigate risk and to get agency management to assess their programs and make choices based on an informed awareness of risks.

In addition, the state agencies and the localities that we met with have their own separate internal controls for safeguarding Recovery Act funds. For example, ACJC officials stated that they will use existing processes to safeguard the use of JAG funds. They used a peer-reviewed, risk-based scoring matrix to select subrecipients. Scoring criteria considered, among other things, the applicant's most recent Single Audit results; plans for evaluating the impact resulting from the use of such funds; ACJC funding history, including any past compliance issues; and evidence of the applicant's ability to meet Recovery Act requirements. ACJC officials stated that the 32 subrecipients selected to receive Recovery Act JAG funding have all received ACJC funding for the past several years and are all considered a low risk for noncompliance. Furthermore, officials stated that they are committed to working closely with subrecipients to ensure that they comply with the act. Once awards are granted, ACJC officials

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<sup>32</sup>The State Comptroller's office is in the Department of Administration.

stated that they have a compliance team of six staff that performs ongoing financial and programmatic compliance reviews to ensure that subrecipients comply with grant guidance. For example, program compliance staff reviews subrecipients' monthly and quarterly financial reports and identifies any areas of concern, such as if funds are drawn down too slowly or too quickly, if there are questionable expenses, or if monthly and quarterly reports do not agree. Financial compliance staff also performs annual onsite visits that include financial audits in addition to internal controls inspections of, among other things, the accounting system and key financial documentation. Noncompliance may be addressed through withholding funds, reducing funds, and placing the subrecipient on a high-risk list, although ACJC officials stated that subrecipients are often initially noncompliant as a result of error.

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### Arizona's Agencies and Localities Will Use Existing Accounting Systems to Separately Track Recovery Act Funds

Arizona and its agencies, as well as the localities that are in our sample, are relying on existing accounting systems to separately track the financial data of the Recovery Act funds. Arizona officials we spoke with noted that they do not foresee that it will be difficult to track the Recovery Act funds separately. Arizona will track receipt and spending of the Recovery Act funds that the state receives using its existing accounting system, the Arizona Financial Information System (AFIS). According to the State Comptroller, the state agencies have the primary responsibility for the tracking of the receipt and spending of their Recovery Act funds and, due to the decentralized nature of Arizona government, accounting data are housed in a variety of different systems. On the other hand, the LEAs will use the existing state Department of Education's accounting systems for tracking Recovery Act financial data. Transactions for the state are on its accounting system, AFIS; and transactions for some of the state agencies, such as Arizona's Medicaid program and ADOT, are housed in their own separate accounting systems. For example, Arizona Medicaid officials indicated that for tracking of the increased FMAP, Arizona changed its accounting system to include a new fund for tracking revenues and expenditures specific to increased FMAP and that the state will use existing reconciliation processes to assure the completeness and accuracy of tracked and reported data on increased FMAP dollars. However, the Medicaid officials noted that officials from Arizona's General Accounting Office (AGAO) are awaiting guidance from OMB about what steps auditors should follow when reviewing increased FMAP revenues and expenditures.

The housing authorities that we visited each have separate accounting systems with some also being stand alone systems and others integrated into their city or county accounting system. For example,

- The City of Phoenix has an existing financial system that is used for all city programs, including the Housing Department. The system codes, separately tracks, monitors, and reports on the regular Capital Fund program by project, activity, and account numbers for revenues and expenditures. Once a transaction is entered into the financial system, the information is updated throughout the entire financial system and modifications can be made at any time to track new information.
- The Housing Authority of Maricopa County will use an existing financial system that according to Housing Authority officials will allow them to code, separately track, and monitor funds. Additionally, officials said that various internal controls are in place to compare the revenues and expenditures in monthly reconciliations conducted by five different officials tracking and monitoring each other's documentation.
- The City of Glendale Housing Authority will also be using their existing financial system. Housing Authority officials stated that the existing systems will code, separately track, monitor, and report on financial and program information. They will also rely on existing internal controls to manage the additional Recovery Act funds and metrics.

The state agencies using separate accounting systems periodically provided to the AGAO the data for inclusion in the state's accounting system, AFIS. To assist state agencies on the accounting for Recovery Act receipts and expenditures, the AGAO issued a technical bulletin on April 7, 2009, providing initial guidance on tracking receipts and expenditures. It directed state agencies to use specific codes for recording Recovery Act funds and for tracking receipts and expenditures in AFIS. It also stated that it is imperative that agencies that use systems other than AFIS also separately track and account for receipts and expenditures. In May 2009, we reviewed accounting structure information provided by the comptroller on AFIS and found that the system has an accounting code structure that includes separate codes for the agency, program, and organization, as well as distinct appropriation and grant codes. Additionally, the agencies have the discretion to assign another code as needed for their individual requirements. The Arizona comptroller will be able to query activity related to Recovery Act funds using these codes.

In April 2009, we reported that state officials were concerned that the state's accounting system was old and not designed with the reporting capacity needed to report the uses of Recovery Act funds.<sup>33</sup> The state comptroller and the state chief information officer (CIO) are investigating procuring new software with the capacity to extract data from AFIS and other agency systems and integrate it into an overall database or data warehouse. This will allow the state to analyze and manipulate the data in ways that they need to be able to meet the reporting requirements for Recovery Act funds. The CIO expected to have enough of the project implemented that the system will be able to satisfy the October reporting deadline under the act. The CIO also said that the project initially will address financial reporting requirements, but he hopes to be able to integrate reporting on program performance achieved with Recovery Act funds as well. While the project was undertaken to comply with the act, overall it will have benefits for reporting on other federal and state funding.

Arizona will continue to be challenged to track funds that go directly to localities. State officials expressed concern that they may not be able to track Recovery Act funds when the funds are received directly from federal agencies rather than through state agencies, such as housing authorities that receive Recovery Act funds directly from HUD.

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<sup>33</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009).

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## Arizona Plans to Use Single Audit Reports as a Source of Information on Internal Control Risks

The Single Audit reports for Arizona and the localities are a source of information on internal control risks.<sup>34</sup> According to the Arizona state comptroller and other agency and locality officials that we met with, they plan to use their respective Single Audit reports as a source of information about internal weaknesses for programs receiving Recovery Act Funds.<sup>35</sup>

The state comptroller's office has met with all the agencies that have Single Audit findings to address the 2007 findings (the fiscal year 2007 Single Audit report was the most recent report as of May 21, 2009). Additionally, the state comptroller's office and the agencies are assessing how any draft 2008 findings will affect the agencies.

However, for the last 2 years, the Single Audit report for Arizona has been late by approximately 2 months. The report for 2008 is expected to be issued June 30, 2009, or approximately 3 months after initial due date of March 30, 2009. According to the State of Arizona Office of the Auditor General's staff and the comptroller, the Department of Administration, which is responsible for consolidating all the financial data into the state's Comprehensive Annual Financial Report (CAFR), does not receive the financial information from the state agencies in a timely manner. As a result, the state cannot issue the CAFR and the Single Audit report will be issued late.

The lateness of Single Audit reports affects the usefulness of the information as a tool for monitoring the internal controls over Recovery Act funds.

However, some of the state officials said they use the report to identify and correct internal control weaknesses. Additionally, LEA officials plan to use their own Single Audit reports to identify and correct internal control weaknesses specific to their LEAs. The LEA officials explained

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<sup>34</sup>The Single Audit Act of 1984, as amended (31 U.S.C ch. 75), requires that each state, local government, or non-profit 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 (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.

<sup>35</sup>For Arizona, the Auditor General serves as the state's auditor for the Single Audit; however, some of the audits are performed by the Auditor General but others are contracted out with independent accounting firms.

that their own Single Audit report is submitted by the contracted audit firm to the State of Arizona Office of the Auditor General, Arizona Department of Education, and the LEA simultaneously. Next, if an LEA's internal control weaknesses are significant, the LEA may receive a formal letter from the Auditor General's Office outlining the LEA's weaknesses contained in the report, stressing the importance of taking action to implement the reports recommendations, and giving the LEA a statutory 90 days to correct the weaknesses. Once the 90-day period has passed and if LEA officials notify the Auditor General that they have corrected the weaknesses, the Auditor General will conduct an on-site follow-up to determine if the deficiencies have, in fact, been corrected. If the Auditor General finds that the weaknesses are not corrected, the Auditor General will refer the LEA to the Arizona State Board of Education for action.

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## Arizona Is Developing Plans to Assess the Effects of Recovery Act Funds

On June 22, 2009, OMB issued implementing guidance for how states are to report the number of jobs created and preserved under the Recovery Act. Even before this guidance was issued, Arizona agencies began collecting information on jobs created and preserved although different kinds of information are being submitted across programs. For example, ACJC officials stated that they are capturing information on the number of jobs created and preserved using Recovery Act funds to the best of their ability. As part of this effort, potential JAG fund subrecipients were asked to provide the number of jobs that would be created and preserved as part of their application; in order to demonstrate jobs preserved, ACJC officials requested documentation of intended layoffs or hiring freezes.

Similarly, ADOT has written into all of its awarded contracts specific requirements that contractors will have to report monthly on the number of workers employed as a direct result of Recovery Act funded projects. FHWA worked with ADOT and a software vendor to create a custom software program through which ADOT can upload all indirect job creation from Arizona to FHWA. The vendor also developed the reports that can count the number of direct jobs created that will help ADOT meet reporting requirements under the Act.

Phoenix housing officials stated that they are able to track the number of jobs created and preserved and assesses the results of the Recovery Act-funded projects through weekly meetings and monitoring. However, they are uncertain as to how to assess the effects of their funded projects on the community and currently lack the administrative funding and manpower to routinely track more than what they are directed to track, let alone assess effects. Alternatively, according to City of Glendale Housing

Authority officials, besides tracking the number of jobs that will be created or preserved, they plan to track the amount of sales tax generated as well as administer a housing satisfaction survey to their tenants. Also, they are developing other social, economic, and physical tracking metrics that may provide more information on how various physical improvements and sources of funding, which includes Recovery Act funding, are making an impact on the City of Glendale. The officials added that while the existing initiative will account for some assessment of impacts, they are also uncertain about how to assess the effects of the Recovery Act spending without specific guidance from HUD.

Similarly, Arizona has a plan in place to monitor the dwellings that have been weatherized to ensure that the funding was spent in accordance with program requirements. The monitoring plan includes three components: (1) inspection of every completed weatherized home by the local Energy provider, (2) a review by the state Energy Office staff of 100 percent of the data submitted to the Arizona Weatherization Assistance Program Web-based reporting system, and (3) site monitoring visits by Energy Office staff to review job files and perform site monitoring on a minimum of 10 percent of the completed dwellings. A senior state Energy Office official believes that having this oversight plan in place will provide the necessary assurances that the program is operating according to federal requirements.

Because Arizona monitors its Recovery Act funds on an agency-by-agency basis, it will have to collect information on the number of jobs created and preserved on an agency-by-agency basis. Although some programs receiving Recovery Act funds, such as Federal Highways, have received some guidance on how to collect information on the number of jobs created and preserved from the federal agencies that they work closely with, others, such as public housing, have received no federal-level guidance on how to collect and report those data. As a result, Arizona has no central repository for collecting and disseminating data on the effects of the Recovery Act dollars, but as we previously discussed, Arizona's CIO noted that the state is updating its data reporting system in order to find a solution that will integrate gathered information across agencies. According to the Director of Arizona's Office of Economic Recovery, it will soon have a system and staff to collect, assess, and report Recovery Act data. Currently, the state's system mostly aggregates data from the disparate data sources, but the new system will provide the capability to report Recovery Act funds across the entire state. In addition, to the new state-wide tracking system described above, some agencies will track Recovery Act funds with their own in-house systems.

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## State Comments on This Summary

We provided the Governor of Arizona with a draft of this appendix on June 17, 2009. The Director of the Office of Economic Recovery responded for the Governor on June 23, 2009. Also, on June 24, 2009, we received technical comments from the State of Arizona Office of the Auditor General. In general, the state agreed with our draft and provided some clarifying information which we incorporated.

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## GAO Contacts

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## Staff Acknowledgments

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# Appendix II: California

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> 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/>.

**Use of funds:** GAO's work focused on nine federal programs, selected primarily because they have begun disbursing funds to states, include new programs, or include existing programs receiving significant amounts of Recovery Act funds. Program funds are being directed to help California stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, California has received about \$3.3 billion in increased FMAP grant awards, of which it has drawn down almost \$2.8 billion, or about 83 percent of its awards to date. California is planning on using funds made available as a result of the increased FMAP to help offset the state budget deficit.<sup>2</sup>
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$2.570 billion in Recovery Act funds to California for highway infrastructure and other eligible projects. As of June 25, 2009, \$1.558 billion of the \$2.570 billion had been obligated and \$1.21 million had been reimbursed to California. As of June 11, California had awarded 23 contracts totaling \$134 million, 2 of which—totaling \$71 million—are under construction: a highway rehabilitation project on Interstate 80 and construction of 3 miles of six-lane freeway on State Route 905 in San Diego County.
- **U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF).** Education has awarded California about

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

\$3.99 billion for SFSF, and as of June 30, 2009, California state officials reported that about \$2.14 billion in education stabilization funds had been expended. California is using most of the education stabilization funds—81.8 percent of total SFSF—to restore state aid to school districts (75 percent) and institutes of higher education (25 percent). The two school districts (Los Angeles and San Bernardino Unified) and university systems (University of California and California State University) we visited are generally using the funds to help avert layoffs. The other 18.2 percent of SFSF, government services funds, must be spent on public safety and other government services at the Governor's discretion and is expected to be directed to public safety, specifically, corrections. As of June 30, 2009, California state officials reported that \$727 million in government services funds had been expended.

- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded California \$565 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$1.1 billion. California's Department of Education is urging local districts to use these funds in ways that will build their long-term capacity to serve disadvantaged youth. The two school districts we visited told us that their preliminary plans for these funds include investment in additional training and coaching for teachers, class size reduction, support for learning centers, and the purchase of reading intervention curriculum materials.
- **Individuals with Disabilities Education Act (IDEA), Part B & C.** Education has awarded California \$661 million in Recovery Act IDEA, Part B and C, funds, or 50 percent of its total allocation of \$1.32 billion. The state plans to make these funds available to local education agencies to support special education and related services for infants, toddlers, children, and youth with disabilities through, among other things, saving jobs and investing in additional training and coaching for teachers. The two school districts we visited told us that they plan to use the funds to hire coaches or other specialists who will help teachers and assistants increase their skills in meeting the special needs of children with disabilities.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$186 million in total Recovery Act weatherization funding to California for a 3-year period. On April 1, 2009, DOE provided \$18.6 million to California. Based on information available on June 30, 2009, California has obligated none of these funds. On June 18, DOE announced that California received an

additional 40 percent of the Recovery Act weatherization money, or \$74.3 million. California plans to begin disbursing its funds in July 2009 for weatherizing over 50,000 low-income family homes.

- **Workforce Investment Act Youth Program.** The U.S. Department of Labor allotted about \$187 million to California in Workforce Investment Act Youth Recovery Act funds. California has allocated about \$159 million to local areas, based on information available as of June 30, 2009. California's 49 local areas are free to determine how much of their Recovery Act Workforce Investment Act Youth funding will be spent on summer activities, although in April the Governor issued a letter to local elected officials across the state encouraging them to ensure that most of the funding be expended on summer activities. The California Workforce Association estimates that over 47,000 California youth will participate in Recovery Act-funded summer employment activities in 2009.
- **Edward Byrne Memorial Justice Assistance grants.** The Department of Justice's Bureau of Justice Assistance has awarded \$135 million directly to California in Recovery Act funding. Based on information available as of June 30, 2009, none of these funds have been obligated by the California Emergency Management Agency (CalEMA), which administers these grants for the state.<sup>3</sup> About 90 percent is to be allocated by the state to local law enforcement agencies to support local drug reduction efforts. These funds will allow California law enforcement to concentrate efforts on the widespread apprehension, prosecution, adjudication, detention, and rehabilitation of offenders by enabling law enforcement agencies to create and retain from 275 to 300 positions over the next 4 years.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated approximately \$117 million in Recovery Act formula grant awards from the Public Housing Capital Fund to 55 public housing agencies in California. Based on information available as of June 20, 2009, about \$12.55 million had been obligated by those agencies. At the three housing agencies we visited—Area Housing Authority of the County of Ventura, Sacramento Housing and Redevelopment Agency, and San Francisco Housing Authority—this money, which flows directly to public housing agencies, will be used

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

for various capital improvements, including replacing windows and roofs and rehabilitating vacant units.

**Safeguarding and transparency:** California's Recovery Act Task Force (the Task Force) has overarching responsibility for ensuring that the state's Recovery Act funds are spent efficiently and effectively and are tracked and reported in a transparent manner. The Task Force is relying on the state's existing internal control structure, enhanced to include internal readiness reviews and activities of the state's Recovery Act Inspector General, to fulfill this responsibility. The State Auditor will also be expanding the scope of her work to include specific focus on state programs receiving Recovery Act funds. The Task Force will continually report on the use and status of Recovery Act funds using the state's Web site ([www.recovery.ca.gov](http://www.recovery.ca.gov)). The Task Force has notified state agencies of their responsibility to separately track and account for Recovery Act funds that both they and their subrecipients receive. State agency and subrecipient officials we interviewed told us that they will establish separate accounting codes within their existing accounting systems that will enable them to effectively track Recovery Act funds. However, accumulating this information at the statewide level will be difficult using existing mechanisms, which currently consist of lengthy, manually updated spreadsheets. The state has issued a request for proposal for a system to effectively track and report all state-level Recovery Act funds to the federal government. State agency and subrecipient officials we spoke with also told us that they will use their existing internal control and oversight processes to maintain accountability for Recovery Act funds at the program level.

**Assessing the effects of spending:** California state officials and local recipients continue to express concern about the lack of clear federal guidance on assessing the results of Recovery Act spending. Additionally, officials expressed concerns about the potential for inconsistent reporting among subrecipients or contractors. For example, California's Department of Transportation (Caltrans) is planning to rely on job reports and payroll information submitted by contractors, while education programs are planning to estimate the number of employees who would have been otherwise laid off. Aside from job creation, several recipient agencies we spoke with are also developing and implementing plans to evaluate other effects of Recovery Act spending. For example, CalEMA officials told us that they have been given new draft performance measures by the Department of Justice that include Justice Assistance Grant funds. These 71 separate measures are to be assessed each quarter by local law enforcement agencies and submitted to CalEMA for reporting to the

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department's Bureau of Justice Assistance 30 days after the end of each quarter.

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## California's Fiscal Crisis Deepens, despite Recovery Act Funds

California's fiscal situation has deteriorated significantly, as the state's projected budget gap has grown to \$24.3 billion from \$8 billion in April. The Governor has proposed a list of unprecedented budget solutions totaling \$24 billion, including cutting or eliminating many major programs in order to close this gap.<sup>4</sup> For example, the Governor has proposed borrowing property tax receipts from local governments; major cuts to welfare, education, and other programs; cutting pay for state workers; and selling state assets. The budget gap, which constitutes roughly one quarter of the state's annual budget expenditures, has grown because state revenue projections have declined much faster than anticipated. According to the Legislative Analyst's Office (LAO), revenue forecasts are down over \$15.4 billion since last February's revision for fiscal years 2008-09 and 2009-10. The LAO cited a weakening economy as the year progressed, which reduced collections from personal, sales, and corporate taxes. According to officials in the California Department of Finance, the state legislature is now considering these and other measures to balance the state's budget.

According to state officials, California needs to resolve its budget deficit and cash shortage soon. On May 13, the California Treasurer asked the U.S. Secretary of the Treasury for assistance from the Troubled Asset Relief Fund (TARP) to back state debt issuances. The Treasurer requested that TARP funds be used to guarantee state debt against default; otherwise, issuing new debt in the current budget environment would be very difficult. He warned that the state risked running out of cash in July unless it could issue new debt and that a "fiscal meltdown" by California could destabilize U.S. and global financial markets. On May 21, the Secretary of the Treasury stated that the law did not allow the use of TARP for nonfinancial entities, and the state has not pursued federal guarantees from TARP any further. On May 29 and June 10 of this year, the State Controller notified the state legislature and Governor that the state needed to resolve its budget crisis by June 15 or face running out of cash in late July. The California Department of Finance noted that some extreme

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<sup>4</sup>The state has maintained a relatively small rainy-day fund currently targeted at \$2 billion. Even if the full \$24 billion in proposed measures are adopted, the state estimates that it will end the current budget year with a reserve of \$1.5 billion this fiscal year and \$4.5 billion next fiscal year.

measures, such as delaying or not making certain payments, could forestall this date. The State Treasurer has warned that delaying payments to cash strapped school districts could force some into bankruptcy.

The Department of Finance estimates that Recovery Act funds will provide approximately \$8 billion in general budget relief for this fiscal year and next, principally because of increased Federal Medicaid Assistance Percentage and State Fiscal Stabilization Funds. This level of budget relief may fluctuate as the state economic crisis deepens and the state loses the federal match in Temporary Assistance for Needy Families (TANF) or the Medicaid caseload increases significantly. While the February 2009 budget cuts discussed in our April report were not affected by Recovery Act funds, according to state officials, the Recovery Act funds helped delay and reduce the state's budget cuts. Even so, the current budget gap of \$24 billion is three times the size of the general budget relief from Recovery Act funds. Further, the state may have to forgo billions of dollars in federal aid if proposed cuts in TANF and Medicaid programs are undertaken, according to state officials.

Even if the state can balance its budget for next year, it still faces a structural deficit in later years at the same time that Recovery Act funds will be diminishing. The LAO estimates a budget gap of \$15 billion for fiscal year 2010-11, even if all current proposed measures are adopted. State officials indicated that fundamental changes are needed in federal program requirements, along with economic recovery, if California is going to overcome its long-term fiscal problems.

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## California's Drawdown of Increased FMAP Is the Largest in the United States, but Maintaining Eligibility for Funds Is a Concern in Light of the State's Financial Crises

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>5</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>6</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the state's Medicaid enrollment increased from 6,597,846 to 6,777,781, an increase of almost 3 percent, with most of the increase attributable to the children and families population group.<sup>7</sup> There was a slight decrease in the nondisabled, nonelderly adults population group. Enrollment generally varied during this period—a larger increase occurred from August through September 2008, and there were several months where enrollment decreased (see fig. 1).

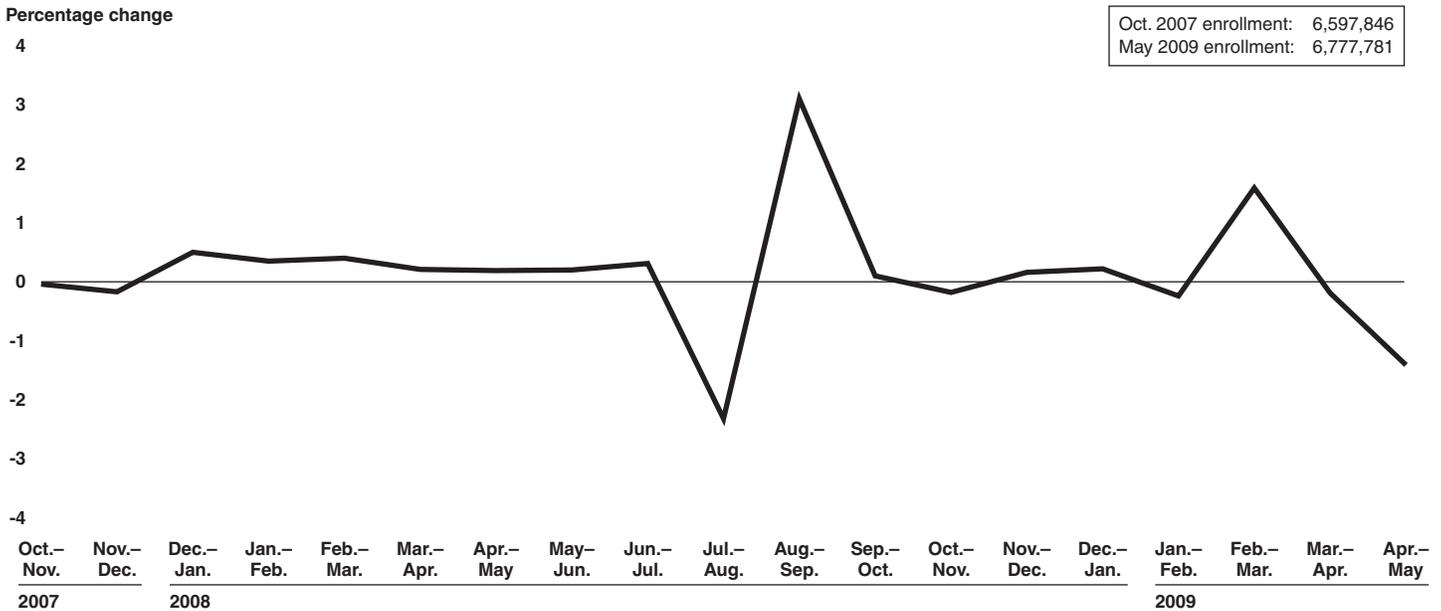
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<sup>5</sup>See Recovery Act, div. B, title V, § 5001.

<sup>6</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>7</sup>State projected enrollment for May 2009.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for California, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

California received increased FMAP grant awards of \$3.3 billion for the first three quarters of federal fiscal year 2009. As of June 29, 2009, California had drawn down almost \$2.8 billion in increased FMAP grant awards, which is about 83 percent of its FMAP awards to date. California officials reported that they are planning on using funds made available as a result of the increased FMAP to help offset the state budget deficit. In using these funds, California officials reported that the Medicaid program has incurred additional costs related to

- the resources required to verify on a daily basis that the state is meeting prompt payment requirements;
- systems development or adjustments to existing reporting systems; and
- the personnel associated with ensuring compliance with reporting requirements related to increased FMAP.

California officials have ongoing concerns regarding meeting requirements for increased FMAP.<sup>8</sup> Recently, the Governor indicated that the current growth of the state's Medicaid program is unsustainable in light of the financial crises facing the state and requested that the administration work with the state to secure program flexibilities. Specifically, in a May 18 letter to the President, the Governor said that his proposed program changes, which were necessary if California was to manage the program with available resources, were no longer permitted under federal requirements related to the Recovery Act and asked the President to support the state's authority to determine eligibility, the scope of benefits, and the adequacy of provider rates. When asked about the content of this letter, CMS officials confirmed that the Recovery Act precludes waivers of maintenance of eligibility requirements in the act.<sup>9</sup>

In addition, in a May 20, 2009, letter to the Governor, CMS clarified its position regarding California's compliance with the Recovery Act's requirements related to contributions to the nonfederal share made by political subdivisions.<sup>10</sup> In particular, California had asked CMS to clarify whether this requirement would be violated if a county voluntarily used county-only funds to make up for a decrease in the amount appropriated by the state to the Medicaid program for payment of wages of personal

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<sup>8</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid programs on July 1, 2008. See Recovery Act, div. B, title V, § 5001(f)(1)(A). The state previously reversed a policy that had increased the frequency at which it conducted eligibility redeterminations for children from annually to every 6 months.

<sup>9</sup>See Recovery Act, div. B, title V, § 5001(f)(4).

<sup>10</sup>In some states, political subdivisions—such as cities and counties—may be required to help finance the state's share of Medicaid spending. Under the Recovery Act, a state that has such financing arrangements is not eligible for certain elements of the increased FMAP if it requires subdivisions to pay during a quarter of the recession adjustment period a greater percentage of the nonfederal share than the percentage that would have otherwise been required under the state plan on September 30, 2008. See Recovery Act, div. B., title V, § 5001(g)(2). The recession adjustment period is the period beginning October 1, 2008, and ending December 31, 2010.

care service providers.<sup>11</sup> In a letter to the state, CMS noted that the state plan in effect on September 30, 2008, allowed the state Medicaid program to consider a county election to pay a greater percentage of the nonfederal share in determining whether to approve Medicaid provider wage rates recommended by the county for personal care services. Because the provisions of the state plan in effect on September 30, 2008, permit counties to elect to pay a higher percentage of the nonfederal share for the payment of wages, the increased payment by the county would not affect the state's eligibility for increased FMAP under the Recovery Act. A CMS official confirmed that if counties elect to use county-only funds to pay the difference in the provider rate, and the state certifies the rate by which the county will pay for these services, the county payment can be claimed as a Medicaid reimbursable expenditure, and can be claimed against the increased FMAP. Conversely, if the state approves provider wage rates at the lower rate—that is, with no county contribution above what the state plan specifies—the state plan must provide that Medicaid providers are limited to the approved rate as payment in full. Additionally, the state needs to ensure that the lack of funding from local sources will not result in lowering the amount, duration, scope or quality of care and services available under the plan.

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<sup>11</sup>According to CMS, the rate-setting methodology under the California state plan gives counties a primary role in developing and recommending Medicaid personal care service provider wage rates to the state agency that administers the Medicaid program. In February 2009, the state enacted a law that as of July 1, 2009, would change the amount that the state contributed for wages and benefits for personal health care service workers from \$12.10 to \$10.10 an hour. The California Medicaid plan in effect on September 30, 2008, provides for counties to contribute 100 percent of the nonfederal share of personal care service expenditures furnished through the county when those expenditures exceed funds appropriated by the legislature for that purpose. California requested that CMS explain whether the county's payment of amounts above the amount appropriated by the state would implicate section 5001(g)(2) of the Recovery Act.

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**California Is Beginning to Spend Recovery Act Funds for Highway Infrastructure Investment and Is on Track to Meet Requirements**

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 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 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.

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**Funds Have Been Obligated for Highway Infrastructure in California, and Construction Is Under Way on Two Projects**

As we previously reported, California was apportioned \$2.570 billion in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$1.558 billion had been obligated. The U.S. Department of Transportation has interpreted “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 June 25, 2009, \$1.21 million had been reimbursed by FHWA. The state requests reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Of the obligated funds, approximately 65 percent are slated to fund pavement improvement and widening projects, 1 percent are slated to fund bridge replacement and improvement projects, and 34 percent are slated to fund other projects, including safety improvement projects and transportation enhancement projects. (See table 1.) For state-level projects, Caltrans has prioritized State Highway Operation and Protection Program (SHOPP) projects to receive Recovery Act funds. Officials from Caltrans told us that these projects were prioritized because they can be started quickly. The state expects to expend most of its funds in fiscal years 2010-11 and 2011-12. While some Recovery Act funds for highway projects have been obligated for localities, much of the funding has yet to be obligated.

**Table 1: Highway Obligations for California by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects				Total <sup>b</sup>
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
	\$0	\$883	\$136	\$0	\$12	\$3	\$526	<b>\$1,558</b>
Percent of total obligations	0.0	56.6	8.7	0.0	0.7	0.2	33.7	<b>100.0</b>

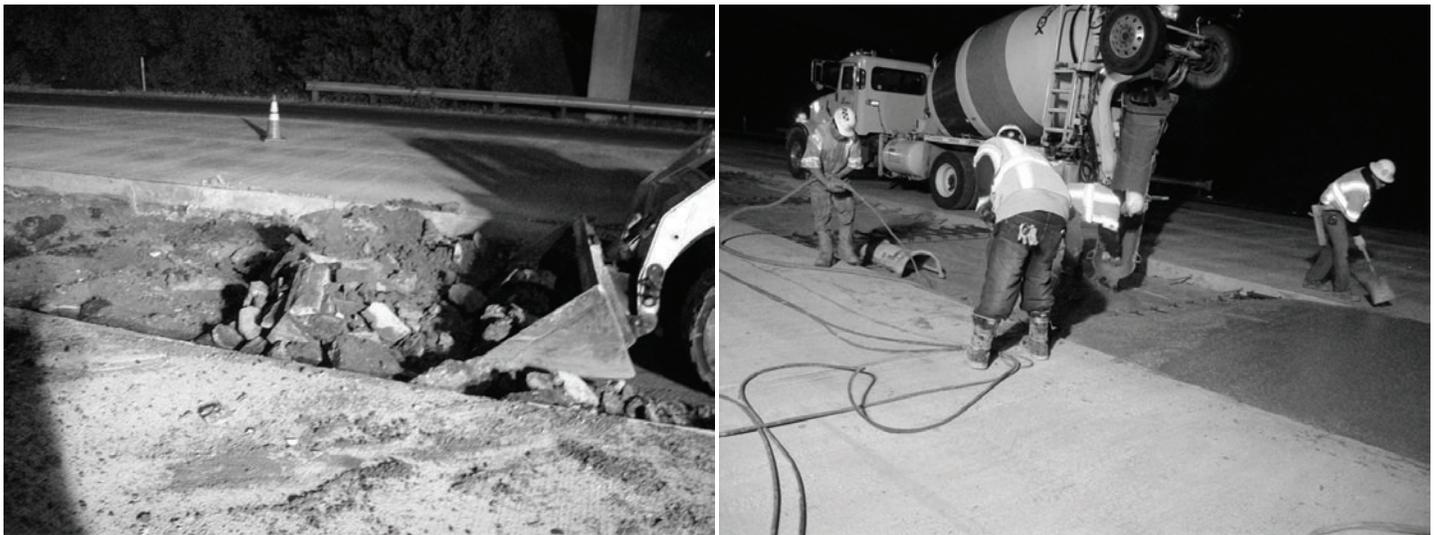
Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>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.

<sup>b</sup>Total may not add because of rounding.

As of June 11, California had awarded 23 contracts for a total of \$134 million. Of these, two contracts totaling \$71 million have begun construction. The first contract—funded solely with Recovery Act funds—is for a highway rehabilitation project on Interstate 80, located in Solano County (between Sacramento and San Francisco). (See fig. 2.) Construction on the project began in mid-May 2009 and is expected to be substantially completed in October 2009. The second contract will build 3 miles of six-lane freeway on State Route 905 in San Diego County.

**Figure 2: Road Rehabilitation on Interstate 80**



Removal of debris after demolition of a deteriorated pavement slab.

Placement and consolidation of rapid strength concrete in prepared roadbed.

Source: © 2009 California Department of Transportation.

Caltrans officials indicated that the state's current bidding environment is very competitive and should remain so until the economy rebounds. As of late May, Caltrans was receiving 8 to 10 bids per project, compared to 2 to 4 bids per project prior to the economic downturn. Additionally, Caltrans officials stated that low bids for Recovery Act projects are, on average, 30 percent under engineer estimates, and nearly all contracts are being awarded for less than obligated. For the Interstate 80 project, \$27.7 million was obligated initially, but following a competitive bid process, officials revised the project cost to \$19.6 million.<sup>12</sup> FHWA California Division Office de-obligated about \$8.2 million on June 1, 2009. According to Caltrans officials, the state currently has projects lined up to be funded with de-obligated funds from other projects. As of June 12, 11 projects totaling \$54 million have been approved to use these funds. Despite the difference between the original amount obligated and the revised project cost following the bid process, Caltrans officials stated that they do not plan to change estimating practices because estimations for state-level highway Recovery Act projects are already complete.

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**California Anticipates Being Able to Meet Requirements for Obligation of Funds, Economically Distressed Areas, and Maintenance of Effort**

Funds appropriated for highway infrastructure spending must conform to requirements of the Recovery Act. The states are required to do the following:

- Ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.<sup>13</sup> 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 (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.

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<sup>12</sup>The low bid for the project was approximately \$13.4 million. The \$19.6 million obligation includes a construction allotment of \$15.6 million that includes additional funds for unexpected costs plus approximately \$4 million for costs including traffic management, safety enhancement, and other support costs.

<sup>13</sup>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.

- 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 (referred to as maintenance of effort). As part of this certification, the Governor of each state is required to identify the amount of funds the state planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>14</sup>

California has met the 120-day obligation requirement. As of June 25, 2009, \$1.189 billion (66 percent) of the \$1.799 billion subject to the 50 percent requirement for the 120-day redistribution had been obligated.<sup>15</sup> Caltrans and FHWA California Division Office officials are confident that the state will also meet the 1-year obligation requirement.

Caltrans officials stated that they do not anticipate difficulty in meeting EDA requirements. Caltrans used unemployment data from January 2009 generated by the state's Employment Development Department and determined that 49 of the state's 58 counties meet the EDA threshold of having an unemployment rate of at least 1 percent more than the national unemployment average.<sup>16</sup> Caltrans officials told us that in selecting projects for funding they first considered how quickly the project could be started and its potential to create or retain jobs. Officials told us that they then considered the extent of need within each EDA.

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<sup>14</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of the each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

<sup>15</sup>Of the \$2.570 billion California received under the Recovery Act, the act allocates \$1.799 billion (70 percent) to state-level projects and another \$771 million (30 percent) to local projects. According to state sources, under a state law enacted in late March 2009, 62.5 percent of funds (\$1.606 billion) will go to local governments for projects of their selection. Of the remaining 37.5 percent (\$964 million), \$625 million will go to SHOPP projects for highway rehabilitation and eligible maintenance and repair, \$29 million will fund transportation enhancement projects, and \$310 million will be loaned to fund stalled capacity expansion projects. The state law does not change federal obligation requirements under the Recovery Act.

<sup>16</sup>Caltrans officials stated that county-level unemployment data generated by the Bureau of Labor Statistics were not sufficiently representative of the current unemployment situation in California because they were based on data from December 2006 through November 2008.

On March 5, California submitted its maintenance of effort certification. As we reported in our April report, California was one of the several states that qualified its certification, prompting the U.S. Department of Transportation to review these certifications to determine if they were consistent with the law. On April 20, 2009, the Secretary of Transportation informed California that conditional and explanatory certifications were not permitted, provided additional guidance, and gave the state the option of amending its certification by May 22, 2009. The department also indicated that California may need to amend the maintenance of effort amount because of the method of calculation and advised the state to resubmit the certification by May 22. The state resubmitted its certification on May 22, without a qualification and with a revised maintenance of effort calculation. According to U.S. Department of Transportation officials, the department has reviewed California's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. The department is currently evaluating whether the states' method of calculating the amounts they planned to expend for the covered programs is in compliance with DOT guidance. Caltrans officials told us that they do not anticipate difficulty in meeting maintenance of effort requirements.

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## U.S. Department of Education Recovery Act Funding Will Aid School Districts and Universities

As part of our review of Recovery Act funding supporting K-12 education and institutions of higher education (IHE), we looked at three programs administered by the U.S. Department of Education (Education), specifically, the State Fiscal Stabilization Fund (SFSF); Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA); and the Individuals with Disabilities Education Act (IDEA), Part B & C. During the course of our work, we met with officials at the California Department of Education (CDE) and two school districts—Los Angeles Unified School District (LA Unified) and San Bernardino City Unified School District (San Bernardino Unified). We selected these districts in part because they are among the largest 10 California districts in terms of their ESEA Title I Recovery Act fund allocations, they represent communities of varying size and population, and they have a high percentage of schools in improvement status.<sup>17</sup> Additionally, we met with officials from the state's

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<sup>17</sup>ESEA Title I requires that local education agencies identify for school improvement any elementary or secondary school that fails, for 2 consecutive years, to make adequate yearly progress as defined in its state's plan for academic standards, assessments, and accountability.

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4-year IHEs, specifically, the University of California (UC) and the California State University (CSU) systems.

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### California State Fiscal Stabilization Funds Are Being Used at the K-12 and University Levels to Help Avert Layoffs

The Recovery Act created the SFSF to be administered by Education. The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 maintain discretion in how funds are allocated 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 June 18, 2009, California had received about \$3.99 billion in SFSF funds, of its total \$5.96 billion allocation for SFSF. About \$3.27 billion of this amount for education stabilization and about \$727 million is for government services, which the Governor has proposed to be directed to public safety, specifically, corrections. Based on the state's current application, the state will allocate about 75 percent of the education stabilization funds to school districts and about 25 percent to IHEs. As of June 18, 2009 California has made \$2.5 billion available to school districts and \$323 million available to IHEs. As of June 18, districts had not obligated funding, and IHEs had obligated \$323 million. As part of a state's application for SFSF funds, it must include an assurance that the state will maintain support for education from fiscal year 2009 through fiscal year 2011 at least at the level it did in fiscal year 2006. California's application made this assurance.

The CDE had allocated a total of approximately \$2.57 billion of its education stabilization funds to support K-12 school districts. For the school districts that we visited, LA Unified was allocated about \$359.4 million in education stabilization funds, and San Bernardino Unified was allocated \$22.3 million. On our visits to LA Unified and San Bernardino Unified, officials told us that the K-12 education stabilization funds will be used to preserve jobs and services rather than start new programs. For example, LA Unified officials said they hope to reduce the number of layoffs by about 4,600 with the education stabilization funds. However, district officials recognize that if state budget conditions do not improve, they may face even more severe issues after education stabilization funds are used up. San Bernardino Unified officials told us that they were also struggling with budget shortages and potential teacher layoffs. However, San Bernardino Unified teachers and other staff have agreed to sacrifice several days pay through voluntary furloughs to save 72 jobs. District officials said they hope that the education stabilization funds along with retirements, normal staff attrition, and other cost saving efforts will allow them to retain 94 more positions. However, they are concerned that further budget cuts are forthcoming because of the continued deterioration of the state's fiscal condition.

The \$537 million of education stabilization funds allocated to higher education was divided equally between the UC and the CSU systems, with \$268.5 million allocated to each system.<sup>18</sup> UC and CSU officials told us that the funds will be used during the current fiscal year to help pay salaries at their universities. They said that at CSU, monthly payroll runs about \$290 million, so the education stabilization funds will pay for almost 1 month's payroll. As of May 29, the CSU system had drawn down \$130 million for payroll for May. CSU officials expected to draw down the remaining funds by June 30 for payroll. The CSU officials stated that using the funds in this way allowed them to partially mitigate the impact of anticipated cuts to their state general funds and help avert layoffs. Because the proposed cuts came so late in the fiscal year, officials said that if they had to make up for the reductions by tuition fee increases alone, tuition would have been increased far more than the approved 10 percent increase for school year 2009-10. CSU officials noted that the lead time needed to plan their enrollment, along with the state guarantee that a certain percentage of qualified graduating high school seniors be accepted

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<sup>18</sup>These two systems comprise multiple university campuses—UC with 10 campuses and CSU with 23.

at CSU, restricted their ability to reduce enrollment levels for the immediate future. UC officials said that they would use all of their \$268.5 million to help pay salaries at their universities and would help avert layoffs. In addition a senior budget official said that if this funding were not provided and fee increases were used to cover the shortfall, an additional 15 percent increase in mandatory systemwide fees would have been required on top of the approved 9.3 percent increase. This would have led to a 24.3 percent increase in one year.

California's initial allocation to higher education did not include any funds for the community college system because its budget had not been as severely cut as those for 4-year institutions. However, the worsening state economic conditions have caused the Governor to propose increased budget cuts to the community college system. As a result, the state may revise the higher education funds allocation to include the community college system if the proposed budget cuts are enacted.

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### School Districts We Visited Have Preliminary Plans for ESEA Title I, Part A, Funds

The Recovery Act provides \$10 billion to help local education agencies (LEA) educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A, of 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 their fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>19</sup> Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' ESEA Title I, Part A, funding available on April 1, 2009, with California receiving \$562 million of its approximately \$1.1 billion total allocation. As of June 12, 2009, CDE had drawn down about \$450 million.<sup>20</sup> For the two school districts that we visited, LA

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<sup>19</sup>School 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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

<sup>20</sup>As discussed later in the report, CDE has been cited in the Single Audit report and by Education's Office of Inspector General for weaknesses in its cash management system—including for ESEA Title I.

Unified was allocated \$312 million and San Bernardino Unified was allocated \$15.8 million. At the time of our review, an LA Unified official reported the district had received \$140.6 million and an official from San Bernardino Unified said the district had received \$7.1 million.

LA Unified and San Bernardino Unified officials told us they have preliminary plans for the Title I funding their schools will receive. LA Unified officials said they are planning to encourage schools to, for example, pursue efforts to reduce class size by rescinding teacher lay off notices, add coaches for teachers, and acquire special programs based on individual school needs. A San Bernardino Unified official said the district plans to use their funds to help finance implementation of recommendations in recent capacity study and a district improvement plan required by the CDE. These recommendations include support for learning centers at schools, more coaching for teachers, and monitoring individual students on a weekly basis.

CDE and school districts we visited plan to seek waivers from Education on the use of ESEA Title I funds.<sup>21</sup> CDE officials said they will probably request a waiver to allow school districts to carry funds over to the next fiscal year. LA Unified officials said they plan to ask for waivers to increase their flexibility in the use of Recovery Act funds. According to these officials, a carryover waiver would help the district meet spending requirements. San Bernardino Unified officials said they plan to seek a waiver for the transportation for public school choice requirement and for the maintenance of effort requirement if future budget decreases make it necessary.

Both CDE and district officials continue to voice concerns about the lack of specific guidance, particularly regarding reporting on their use of ESEA

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<sup>21</sup>Education will consider waiving the following requirements with respect to Recovery Act Title I funds: (1) a school in improvement's responsibility to spend 10 percent of its ESEA Title I funds on professional development; (2) a school district in improvement's responsibility to spend 10 percent of its ESEA Title I, Part A, Subpart 2, allocation on professional development; (3) a school district's obligation to spend an amount equal to at least 20 percent of its ESEA Title I, Part A, Subpart 2, allocation on transportation for public school choice and on supplemental education services such as tutoring; (4) a school district's responsibility to calculate the per-pupil amount for supplemental education services based on the district's fiscal year 2009 ESEA Title I, Part A, Subpart 2, allocation; (5) the prohibition on a state education agency's ability to grant to its districts waivers of the carryover limitation of 15 percent more than once every 3 years; and (6) the ESEA Title I, Part A, maintenance of effort requirements.

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Title I funds. CDE officials said that the only guidance they were providing to districts was what had been issued by Education. They said they do not want to issue their own guidance on acceptable uses of funds and then find out that these uses do not meet Education's guidance. Officials in both districts said that they were apprehensive about interpreting what they characterized as the general guidance they had received, and then finding out at a later date that CDE or Education had interpreted it differently.

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**School Districts We Visited Plan to Use IDEA Part B Funding to Help Increase Capacity, but California Does Not Plan to Apply for Part C Funding**

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of IDEA, the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure that preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit applications to Education in order to receive the initial Recovery Act funding for IDEA, Part B & C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

Education allocated the first half of states' IDEA allocations on April 1, 2009, with California receiving a total of \$661 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was

- \$21 million for Part B preschool grants,
- \$613 million for Part B grants to states for school-aged children and youth, and
- \$27 million for Part C grants to states for infants and families for early intervention services.

CDE has allocated funds through Local Assistance and Preschool grants to 125 special education local planning areas based on a federal three-part formula that considers 1999 special education enrollment, population (K-

12 enrollment public and private), and poverty (free and reduced meal counts K-12). Table 2 highlights how these funds were allocated at the districts we visited. District officials told us at the time of our visits, in May 2009, that CDE had issued IDEA grant award letters but had not transferred any funds to the two districts we visited.

**Table 2: IDEA Fund Allocations for the Two School Districts We Visited**

Dollars in millions

School district allocations	LA Unified	San Bernardino Unified
Part B – Preschool Local Entitlement	\$12.66	\$0.31
Part B – Special Education Preschool Grant	4.94	0.39
Part B – Local Assistance	133.98	11.34
<b>Total</b>	<b>\$151.58</b>	<b>\$12.04</b>

Source: CDE Recovery Act Web site.

Officials in both districts said they plan to use funds to hire coaches or other specialists who will help teachers and assistants increase their skills in meeting the special needs of children with disabilities. District officials said these uses are consistent with the goal of not creating an unsustainable program, because the coaches or specialists will be temporary positions that will expire when Recovery Act funds are spent. However, the skills learned will continue paying dividends for a long time after the funding has ceased.

The Department of Developmental Services administers IDEA Part C in California and is not requesting any IDEA Part C incentive funds to expand the state’s Part C program, which currently serves children up to age 3, to serve children up to age five. According to the state’s Part C Coordinator, the cost to expand the current statewide program to include children up to age five has been estimated at around \$300 million. Yet, the Coordinator said that only about \$14 million in Recovery Act funds are potentially available to the state to fund such an expansion. Nevertheless, the Coordinator has asked Education if it is possible to fund the expansion on a pilot basis only in region-specific programs; if this is allowed, the state may need to reconsider its decision not to seek Part C funds.

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## California Is Finalizing Plans for an Expected \$186 Million in Weatherization Assistance Program Funds

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>22</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating and air conditioning equipment. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its strategy for using the weatherization funds, metrics for measuring performance, and risk mitigation strategies. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE has allocated about \$186 million in total Recovery Act funds for California for the Weatherization Assistance Program for a 3-year period. California sent its application to DOE on March 31, 2009, and on April 1, 2009, DOE provided an initial 10 percent allocation, or about \$18.6 million, in Weatherization Assistance Program funds to California, which the state will use to "ramp up" the program, including training and equipment

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<sup>22</sup>DOE also allocates funds to Indian tribes and U.S. territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

purchases.<sup>23</sup> According to DOE, the initial funding could not provide for actual physical weatherization. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in the state Recovery Act plans. California's Department of Community Services and Development (CSD), the responsible state agency, developed a plan for the use of the Weatherization Assistance Program funds that was submitted to DOE on the May 12 deadline. California officials received the Recovery Act guidance to use in developing their plan and expected a quick review of their application. On June 18, the state announced that its weatherization plan was approved, and DOE provided an additional \$74.3 million.

The California state plan and application for Recovery Act funds estimated that 50,080 units will be weatherized and 250 units will be re-weatherized under the program, for a total of 50,330 units. The state plan and application also projected the creation of 1,017 administration and field jobs for the Recovery Act program. California's state plan shows that of the approximately \$186 million, \$18.6 million will be used for program administration and \$32.5 million will be used for training and technical assistance.

CSD plans to use its existing network of Weatherization Assistance Program subgrantees to provide services under the Recovery Act. The 2009 funding for DOE weatherization in California is about \$14.1 million, so Recovery Act funds represent over a 13-fold increase. According to testimony provided by the Director of CSD before a state legislative committee on May 13, 2009, CSD and its subgrantees have the capacity to administer the funds provided by the Recovery Act. CSD elected to administer all Weatherization Assistance Programs through the existing network that it uses for its Low-Income Home Energy Assistance Program. This subgrantee network comprises community action agencies or public or private nonprofit agencies that have many years of experience providing public assistance programs to the low-income clientele in their respective communities. According to the Director of CSD, the subgrantees are already geared up to handle the larger Low-Income Home

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<sup>23</sup>The California Department of Finance approved the use of these initial funds for program administration, and the California Joint Legislative Budget Committee approved \$10 million in expenditures for the current fiscal year. The \$10 million includes \$1.5 million to support state activities and \$8.5 million for local support. The remaining \$8.6 million will be expended in California's fiscal year 2009-10.

Energy Assistance Program, based on their prior experience managing the program, and should be able to handle the Weatherization Assistance Program as well. Additionally, CSD officials reported that they are not concerned about identifying eligible recipients since they can currently only serve about 1 in 10 eligible applicants. CSD officials told us that there is an extensive waiting list of eligible applicants.

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## California Is Planning to Use WIA Youth Recovery Act Funds to Provide Summer Youth Employment Activities

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low-income in-school and out-of-school youth ages 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the U.S. Department of Labor, and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act,<sup>24</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>25</sup>

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<sup>24</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>25</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies.

California received about \$187 million in Recovery Act funds for its WIA Youth program. On April 7, the state announced that it was distributing the remaining funds—about \$159 million after reserving 15 percent for statewide activities—to local areas not later than 30 days after being available, as required. As of June 30, about 4 percent of California’s Recovery Act WIA Youth funds had been spent, and about 89 percent obligated. We visited two local areas, Los Angeles and San Francisco, the former with a long-established summer program funded from local sources and the latter now establishing a program with Recovery Act funds (see table 3).

**Table 3: Description of WIA Youth Programs GAO Reviewed**

	City of Los Angeles	City and County of San Francisco
Recovery Act WIA funding allocation	\$20.3 million	\$2.3 million
Planned allocation for WIA Youth summer programs	\$13.1 million	\$1.0 million
Number of expected WIA summer program participants	6,550	450
Anticipated length of WIA Youth summer program	6-8 weeks – 3 phases from May through September	6-8 weeks
Plan to hire additional staff to administer program	No	Yes

Sources: California Employment Development Department, Los Angeles Community Development Department, and San Francisco Office of Economic and Workforce Development.

Note: Recovery Act WIA funding figures are from the California Employment Development Department. All other figures are from the Los Angeles Community Development Department and San Francisco Office of Economic and Workforce Development.

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 program design flexibility to implement stand alone summer youth employment activities with Recovery Act funds. 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. Accordingly, California Employment Development Department (EDD) officials told us that local areas are free to determine how much of these funds to spend on summer programs and how many participants to target. EDD officials remarked that based on their understanding of the congressional intent of the Recovery Act and Department of Labor guidance, their goal is for the local areas to spend

the majority of funds during the summer of 2009. They added that the 15 percent that can be retained for statewide activities is unlikely to be used for summer programs, although the state is still determining where to focus it. The California Workforce Association, a nonprofit membership organization that represents all the state's local workforce investment boards, estimates that over 47,000 youth will participate in Recovery Act-funded summer employment activities across the state in 2009.

State and local officials we contacted do not anticipate challenges identifying enough summer program participants. State officials also told us that the local areas' existing WIA partnerships with community-based youth service organizations providing year-round activities will mitigate the challenges of running a stand-alone summer program for the first time in a decade. State officials said that local boards could meet their requirement to include a summer youth employment component in the WIA program by extending the regular youth program a few weeks into the summer rather than have a stand-alone youth component.<sup>26</sup> Although officials expect a majority of the summer jobs to be in the public sector, a state official added that in light of the economy, they are concerned about locating enough employment opportunities because many local government agencies have currently implemented hiring freezes and may, therefore, need to take additional steps to secure the authority to add temporary positions. Los Angeles officials told us that they do not anticipate problems locating employment opportunities because they have historically had a surplus of work sites, nor do they believe that they need to advertise opportunities because of existing high demand for them.

Unlike San Francisco, which is developing a new summer youth employment program, Los Angeles already has a large program that is funded through various local sources, including the city's general fund. Los Angeles officials told us that the overall youth program currently serves 12,347 year-round participants. Therefore, the infrastructure, processes, and contracts with summer youth service providers are already in place. San Francisco officials told us that the city and its service

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<sup>26</sup>According to EDD officials, the Job Training Partnership Act, which WIA replaced about 10 years ago, funded a stand alone summer youth program. They explained that some local areas have continued to run self-funded summer programs, however, local areas have not typically placed an emphasis on these activities nor operated summer programs in isolation from other youth services.

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providers are in the process of developing work sites—about one-third are already in place, according to officials.<sup>27</sup>

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## California Has Received JAG Program Funds and Is Finalizing Plans for the Funds

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to local governments within the state.<sup>28</sup> The total JAG allocation for California state and local governments under the Recovery Act is about \$225.4 million, a significant increase from the previous fiscal year 2008 allocation of about \$17.1 million.

As of June 15, 2009, California has received its full state award of about \$135 million. An additional \$89 million will be made available directly to local governments from BJA through the local solicitation for a total of about \$225 million. The amount of JAG money awarded to California has been sharply reduced in the last few years. Officials with the California Emergency Management Agency (CalEMA), the state's administering agency, said that they believe the Recovery Act funds will help restore lost opportunities and provide jobs in law enforcement.

CalEMA officials said that they will be providing over 90 percent of the \$135.6 million to local law enforcement agencies. (They are required to provide at least 67.34 percent to local governments under Department of

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<sup>27</sup>San Francisco's existing network of youth program employers includes 250 nonprofit, community-based organizations and 27 city departments. Local officials estimate that about one-fifth of San Francisco's 2009 summer opportunities will be with private sector employers.

<sup>28</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

Justice guidelines.) According to California's application to the Department of Justice,

- \$122 million is to be allocated to local units of government and the state Bureau of Narcotics Enforcement to implement multi-jurisdictional task forces,
- \$11.4 million is to be allocated to local units of government and state law enforcement agencies to implement innovative new programs or enhance exiting programs to address emerging drug and crime trends (several programs are under consideration), and
- \$2 million is to be allocated to CalEMA as the state's administrative agency to pay for personnel, benefits, and overhead to administer the JAG program under the Recovery Act.<sup>29</sup>

According to the Department of Justice application for JAG money, states are strongly encouraged to develop and undertake a strategic planning process using a community-based engagement model in order to guide JAG spending under the Recovery Act and future fiscal year allocations. According to CalEMA officials, California's expenditure plan for use of the JAG funds provided by the Recovery Act was still in draft form as of June 30, 2009. The statewide expenditure plan has been approved by the California Council on Criminal Justice but has not yet been approved by the state legislature. As a result, CalEMA officials said that their final dollar amounts are not yet associated with each proposed project. A CalEMA official stated that the legislature can make changes to the planned use of funds associated with individual projects and may look toward retaining more funds at the state level. Once approved, all spending under the JAG program is expected to be in accordance with the statewide strategic plan and with the White House Office of National Drug Control Policy.

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<sup>29</sup> According to the Department of Justice application for the JAG money, a state administering agency may use up to 10 percent of the state award, including up to 10 percent of any accrued interest, for costs associated with administering JAG funds.

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## Most California Public Housing Capital Grant Funding Has Not Been Spent

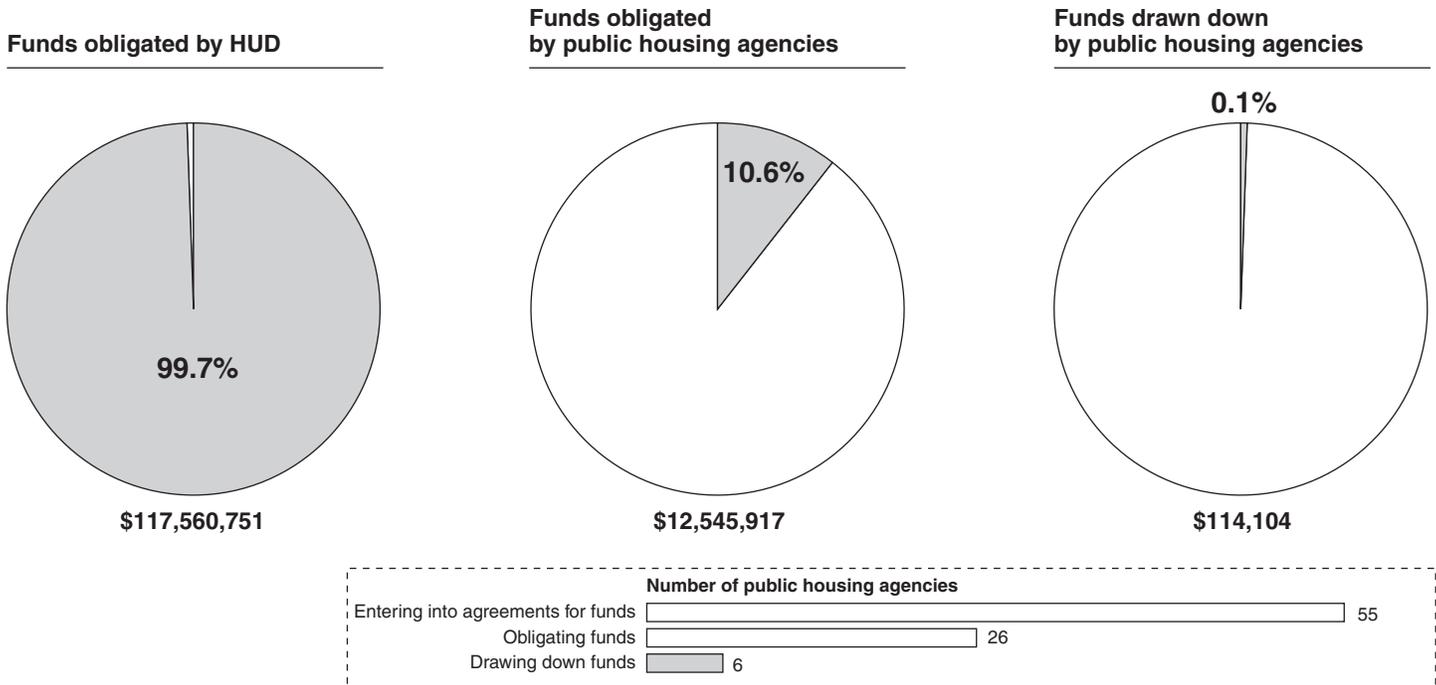
The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>30</sup> The Recovery Act 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 they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability, which describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>31</sup> As shown in figure 3, California has 55 public housing agencies that have received Recovery Act formula grant awards. In total these public housing agencies received \$117.56 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, 26 public housing agencies have obligated \$12.55 million and have expended \$114,104.

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<sup>30</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>31</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application and to funding limits.

**Figure 3: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in California**



Source: GAO analysis of HUD data.

Note: HUD allocated Capital Fund formula dollars from the Recovery Act to one additional public housing agency in California, but the housing agency either chose not to accept Recovery Act funding or no longer had eligible public housing projects that could utilize the funds. As a result, these funds have not been obligated by HUD.

GAO visited three public housing agencies in California: Area Housing Authority of the County of Ventura, Sacramento Housing and Redevelopment Agency, and San Francisco Housing Authority.<sup>32</sup> These public housing agencies received capital fund formula grants totaling \$25.61 million. As of June 20, 2009, these public housing agencies had obligated \$4.61 million, or 18.01 percent of the total award. They had drawn down \$9,500, or 0.04 percent of the total award.

<sup>32</sup>We selected these agencies based on the amounts of Recovery Act funds that were drawn down, our intention to follow up with the agency that we met with for our prior report, and other risk-based factors, such as San Francisco's troubled performer designation by HUD.

The Area Housing Authority of the County of Ventura<sup>33</sup> is the first public housing agency in California to draw down funds from HUD. Officials from the Ventura housing authority told us that they drew down \$9,500 on May 1, 2009, and obligated funds for architectural and engineering consulting expenditures. Ventura housing officials prioritized projects from those already included in their 5-year Capital Fund plan that could be awarded contracts based on bids within 120 days of funds being made available. They told us that they plan to use all of their allocated \$614,448 in Recovery Act funds to replace and install energy-efficient windows in their five public housing projects, which consist of 270 units.<sup>34</sup> The window replacements will enable both the housing authority and tenants to save money because of increased energy efficiency (see fig. 4). For the two of public housing projects we visited, officials estimated that work will begin in August 2009 and be completed in November 2009. Because of the small amount of Recovery Act funds received, and the straightforward nature of their projects, they do not foresee any issues related to the use of funds or implementation of their Recovery Act program.

Sacramento Housing and Redevelopment Agency<sup>35</sup> officials told us that they were allocated \$7.12 million in capital funds, which are ready to be drawn down from HUD. Officials told us that they prioritized projects in their 5-year capital fund plan, have several contracts out to bid, and expect to award contracts within 120 days from the date the funds were made available to them. They plan to use Recovery Act funds on 17 projects for 602 units. Plans for initial work include architectural and engineering work in early June 2009 on 41 of their vacant units. Recovery Act funding will be used mostly for exterior rehabilitation, such as painting and roofing work, which officials told us is needed and can create more jobs for contractors

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<sup>33</sup>The Area Housing Authority of the County of Ventura is an independent, nonprofit agency serving the residents of Camarillo, Fillmore, Moorpark, Ojai, Simi Valley, Thousand Oaks, and the unincorporated areas of Ventura County. The Area Housing Authority is governed by a 15-member Board of Commissioners.

<sup>34</sup>Ventura housing does not have any vacant units.

<sup>35</sup>The Sacramento Housing and Redevelopment Agency is a Joint Powers Authority created by the City and County of Sacramento to represent both jurisdictions for affordable housing and community redevelopment needs. The agency serves as the housing authority for the City and County of Sacramento and oversees residential and commercial revitalization activities in 14 redevelopment areas throughout the city and county. The agency has a fiscal year 2009 budget of \$294 million and approximately 291 employees. The agency owns and manages 3,144 units of public housing and is one of the largest landlords in Sacramento. The agency also administers approximately 11,000 rental assisted vouchers per month.

and subcontractors. Sacramento housing officials told us that for two of the public housing projects that we visited, they are leveraging Recovery Act funding with non-Recovery Act capital funds. For example, an elderly-only property will rely on Recovery Act funding for 75 percent of its funding. The two projects are estimated to be completed in November/December of 2009.

San Francisco Housing Authority<sup>36</sup> officials told us that they are waiting for HUD approval of the obligation submitted and are not yet able to draw down their capital fund allocation of \$17.87 million from HUD's ELOCCS. According to these officials, they are designated as a troubled performer under HUD's Public Housing Assessment System and are therefore required to submit additional documentation and obtain HUD approval before they are able to draw down Recovery Act funds.<sup>37</sup> Officials stated that they planned to use Recovery Act funds to fill critical financing gaps for 10 large public housing projects, which consist of 191 vacant units. They anticipate using Recovery Act funding for structural, exterior, and interior rehabilitation, such as painting, roofing, carpeting, and repairing electrical fixtures (see fig. 4). Additionally, in selecting public housing projects officials prioritized projects in their 5-year Capital Fund plan, those identified with high needs in their physical needs assessments, and feedback from their property management and resident advisory board. If they are able to draw down Recovery Act funding from HUD soon, most of their projects are estimated to begin by July 2009, and are estimated to be completed within 90 to 150 calendar days.

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<sup>36</sup>The San Francisco Housing Authority is the oldest housing authority in California. While the Mayor appoints the seven members of the authority's Board of Commissioners, the authority is an independent, state-chartered corporation. Two commissioners are authority residents who represent the families, seniors, and disabled persons who are residents. The Board of Commissioners appoints an executive director to lead the authority workforce of more than 400 employees in various executive, administrative, and craft occupations.

<sup>37</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies' public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring. HUD designated the San Francisco Housing Authority as troubled performer because of its score of less than 60 percent in the physical condition of its housing units.

Figure 4: Public Housing Project Rehabilitations Using Recovery Act Funding



Kitchen rehabilitation to be started in San Francisco.



Window soon to be replaced with energy-efficient, double-pane windows in Ventura.

Source: GAO.

## California Is Implementing Plans for Tracking and Oversight of Recovery Act Funds

California's Recovery Task Force (Task Force), which has overarching responsibility for ensuring that California's Recovery Act funds are spent efficiently and effectively, intends to use California's existing internal control and oversight structure, with some enhancements, to maintain accountability for Recovery Act funds. State agencies, housing agencies, and other local Recovery Act funding recipients we interviewed told us that using separate accounting codes within their existing accounting systems will enable them to effectively track Recovery Act funds. However, officials told us that accumulating this information at the statewide level will be difficult using existing mechanisms. The state, which is currently relying on lengthy manually updated spreadsheets, is awaiting additional Office of Management and Budget (OMB) guidance to design and implement a new system to effectively track and report statewide Recovery Act funds. Most state and local program officials told us that they will apply existing controls and oversight processes that they currently apply to other program funds to oversee Recovery Act funds.

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State Agencies and Other Fund Recipients Do Not Anticipate Problems Establishing Separate Accounting Codes within Existing Systems to Track Recovery Act Funds, but Subrecipient Capabilities Are Unknown

State agencies, housing agencies, and other local Recovery Act funding recipients that we spoke with plan to use, or are already using, separate accounting codes to track Recovery Act funds. Agencies we spoke with did not anticipate any problems with tracking their Recovery Act funds. For example, all three housing agencies we visited told us that they are capable of separately identifying and tracking Recovery Act funds. Similarly, state and local officials responsible for the WIA Youth program told us that using Recovery Act codes in their existing accounting systems will enable them to track Recovery Act-funded programs separately from previously existing programs. CSD officials said the same about their ability to use separate codes to track Recovery Act Weatherization Assistance Program funds within their accounting system. Additionally, CalEMA officials also told us that they plan to use a separate code for JAG money received under the Recovery Act and will continue to monitor the spending rate and obligation of funds for all grantees and subgrantees, including Recovery Act fund recipients, using CalEMA's existing systems.

Both Caltrans and CDE officials told us that they would be able to track Recovery Act funds at the state level using separate accounting codes assigned for Recovery Act funds. According to Caltrans officials, the ability of local agencies to track federal funds separately is assessed during the pre-award audit process; however, the extent to which local entities actively track Recovery Act highway infrastructure funds separately is unknown.<sup>38</sup> Officials from the City of Seaside stated that its Del Monte Boulevard pavement rehabilitation project will be easy to separately track because it is being funded solely by Recovery Act funds.

According to CDE, school districts, and higher education officials, tracking of funds will be conducted through existing accounting systems using separate Recovery Act accounting codes. While officials from the two school districts that we visited did not foresee any problems tracking Recovery Act funds, there are about 1,000 other California school districts that may receive Recovery Act funds that according to CDE officials, possess varying levels of sophistication in their accounting systems. CDE officials reported that all of these entities will be monitored using existing mechanisms, and they will report quarterly and annually on the use of the funds. However, there are some concerns about LEAs' ability to meet Recovery Act reporting requirements. For example, CDE's Deputy

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<sup>38</sup>Local entities will receive \$1.606 billion for projects of their selection, and how they will track these Recovery Act funds varies by locality.

Superintendent recently sent written comments to OMB raising concerns over the timing and the extent of information on the quarterly reporting required by section 1512 of the Recovery Act. Specifically, this section requires each recipient that receives Recovery Act funds to submit quarterly reports within 10 days after the end of the quarter that include

- the total amount of Recovery Act funds received from that agency;
- the amount of Recovery Act funds received that were expended or obligated to projects or activities;
- a detailed list of all projects or activities for which Recovery Act funds were expended or obligated; and
- detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of OMB.

According to CDE officials, at issue is whether the school districts have the ability to prepare accurate and timely reports on this type of information on a quarterly basis.

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### State Will Need New System to Effectively Track and Report Statewide Recovery Act Funds

Because California does not have a central accounting system with the capacity to track and report Recovery Act funds across agencies, the state is currently relying on a lengthy spreadsheet to manually accumulate Recovery Act funding information. The spreadsheet is periodically sent to Task Force members, who represent the various state agencies, to update with current information; the Department of Finance program budget managers subsequently verify the submitted information.<sup>39</sup> Task Force members and the office of the state's Chief Information Officer acknowledged that the spreadsheet is not an ideal means with which to account for statewide Recovery Act funds. The state issued a request for proposal on June 10 to purchase a database system that can track and report state Recovery Act funds. However, because data and reporting requirements provided by OMB could change, the request for proposal incorporates additional OMB guidance by reference. State officials plan to

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<sup>39</sup>The Task Force includes one representative from the administration for each of the state's main program areas through which the federal funding will flow, including: health and human services, transportation, housing, energy, environment/water quality, general government, education, labor, and broadband.

have the new system in place in time for the first report due to OMB in October 2009.

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### California Plans to Use Its Existing Internal Control and Oversight Structure, with Some Enhancements, to Maintain Accountability for Recovery Act Funds at the Statewide Level

As mentioned in our April report, the Task Force was established by the Governor to track Recovery Act funds that come into the state and ensure that those funds are spent efficiently and effectively.<sup>40</sup> The Task Force intends to rely on California's existing internal control framework to oversee Recovery Act funds, supplemented by additional oversight mechanisms. Several agencies and offices play key roles in overseeing state operations and helping ensure material compliance with state law and policy. The key agencies and their oversight and compliance roles are summarized below.

- **The Department of Finance** has general powers of supervision over all matters concerning the state's financial policies. The department is responsible for maintaining the state's uniform accounting system and providing directives to other departments regarding accounting procedures and reporting requirements. Within the department is the Office of State Audits and Evaluations (OSAE), which is responsible for internal controls at the state level. This includes compliance with the state's Financial Integrity and State Manager's Accountability Act of 1983 (FISMA),<sup>41</sup> which was enacted to reduce wasted resources and to strengthen accounting and administrative control.
- **The State Controller's Office**, the state's primary accounting and disbursing office maintains central accounts for each appropriation for all funds operating through the state treasury and provides monthly reports to departments to reconcile accounts. The office also audits claims for payments submitted by state agencies and provides internal audit services to some state agencies, such as Caltrans, for Recovery Act funds. It is also the state's repository for local and subrecipient Single Audit Act audits (Single Audits), which the State Controller's Office annually compiles and distributes to the responsible state agency.

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<sup>40</sup>The Task Force is also charged with working with the President's administration; helping cities, counties, nonprofits, and others access the available funding; and maintaining a Web site ([www.recovery.ca.gov](http://www.recovery.ca.gov)) that contains updated information about California's Recovery Act funds.

<sup>41</sup>Cal. Gov't Code § 13400–13407.

- **The Recovery Act Inspector General** was appointed on April 3, 2009, by the Governor to ensure that Recovery Act funds are spent as intended and identify instances of waste, fraud, and abuse. California's Recovery Act Inspector General is currently assessing the state's oversight needs, educating state officials and the public on her role—which includes conducting and reviewing audits—and helping integrate existing state and local oversight activities.
- **The State Auditor** is California's independent auditor who conducts the statewide Single Audit, a combined independent audit of the state's financial statement and state programs receiving federal funds.<sup>42</sup> The State Auditor also conducts performance audits as requested and approved by the California Joint Legislative Audit Committee or as mandated in statute.

To help carry out its charge of transparency, the Task Force is managing California's recovery Web site ([www.recovery.ca.gov](http://www.recovery.ca.gov)), the state's principal vehicle for reporting on the use and status of Recovery Act funds. In addition, in June 2009 the Governor signed an executive order to improve the transparency over state funds, including Recovery Act funds, by making all internal and external audits and all contracts over \$5,000 in value publicly available on another state Web site ([www.reportingtransparency.ca.gov](http://www.reportingtransparency.ca.gov)).<sup>43</sup> Internal financial, operational, compliance, and performance audits dating back to January 1, 2008, conducted by both internal auditors and outside auditors will be posted on the Web site. In addition, summary information on all state contracts reported to the Department of General Services, dating back to March 2009, will be posted on the Web site within 5 working days.

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<sup>42</sup>The Single Audit Act, 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.

<sup>43</sup>Executive Order S-08-09, June 4, 2009.

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## Internal Control Assessments Have Been Expanded to Include “Readiness Reviews” of Agencies Receiving Recovery Act Funds

OSAE has primary responsibility for reviewing whether state agencies receiving Recovery Act funds have established adequate systems of internal control to maintain accountability over those funds. According to state officials, OSAE has been using two primary approaches to assessing internal controls at agencies receiving Recovery Act funds—FISMA reviews (an existing internal control assessment tool) and readiness reviews (a new internal control assessment tool). Both the FISMA reviews and the readiness reviews rely primarily on information that is self-certified by agency officials.

FISMA reviews are an integral part of California’s existing statewide internal control structure. A key aspect of the FISMA review is to identify risk areas for state agencies. FISMA requires each state agency to maintain effective systems of internal accounting and administrative control, to evaluate the effectiveness of these controls on an ongoing basis, and to biennially review and prepare a report on the adequacy of the agency’s systems of internal accounting and administrative control. Agency heads are responsible for evaluating their respective agencies’ internal controls and systems and submitting reports to OSAE. Seventeen state agencies maintain internal audit units, which perform the FISMA reviews, while other agencies contract out these reviews to OSAE, the State Controller’s Office, or private audit firms. According to OSAE officials, FISMA reports vary in quality and thoroughness, and OSAE is in the process of meeting with all state agencies to improve the quality of the FISMA reviews. When deficiencies are identified in the reports, agencies are required to submit corrective action plans to OSAE every 6 months until the deficiencies are resolved.

As requested by the Task Force, OSAE has initiated readiness reviews of some state agencies due to receive Recovery Act funds, with specific emphasis on accountability and oversight processes. OSAE completed the first review on April 30, 2009, which focused on six departments. As of June 12, OSAE had completed nine readiness reviews. The readiness reviews have covered several agencies that are responsible for programs that we are reviewing, including Caltrans, EDD, CalEMA, and CSD. These reviews, which largely consist of self-reported information, concluded that Caltrans, EDD, and CalEMA have adequate oversight and accountability controls in place related to Recovery Act funding. However, the CSD review concluded that several concerns and recommendations identified

in the review need to be addressed in order to achieve adequate oversight and accountability readiness.<sup>44</sup>

As a result of these readiness reviews, the Task Force has recommended that all state agencies continue to coordinate with state and federal authorities to obtain clear guidance on allowable administrative and overhead expenses, oversight roles and responsibilities for direct funding to localities (if applicable), and additional specific Recovery Act reporting requirements. The Task Force has also identified four core readiness areas that state agencies expecting to receive Recovery Act funds must review and implement prior to receiving and distributing Recovery Act funds. (See table 4 for these four core readiness areas and related actions to be taken by agencies.)

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**Table 4: Core Readiness Areas for Agencies Receiving and Disbursing Recovery Act Funds**

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1. Oversight and fraud prevention
    - Agencies are to perform a Recovery Act-related risk assessment in order to identify and mitigate potential risks.
    - Agencies are to provide fraud awareness training to their employees and recipients to make them aware of potential vulnerabilities of Recovery Act funds to fraudulent use.
  2. Grants management and accountability
    - Agencies are to provide training to recipients regarding proper grant management and accountability.
    - Agencies are to develop standard grant templates with specific Recovery Act language and written guidance for recipients.
    - Agencies are to develop tracking mechanisms for specific Recovery Act data elements, including number of jobs created.
  3. Reporting requirements
    - Agencies must be prepared to separately track the receipt and disbursement of Recovery Act funds in their accounting systems.
    - Agencies must develop and maintain systems to track and identify administrative costs associated with administering Recovery Act funds.
  4. Transparency
    - Agencies are to develop clear and informative information reporting systems.
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Source: California Recovery Task Force Recovery Act Bulletin 09-01.

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<sup>44</sup>As discussed later, the State Auditor has also conducted recent reviews of four state agencies receiving Recovery Act funds, and has reported concerns over these departments' readiness to implement all of the applicable Recovery Act provisions.

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## New State Inspector General Function Is Still under Development

In addition to OSAE, California's Recovery Act Inspector General has oversight responsibility for Recovery Act funds. According to the Inspector General's office, her overarching objective is to protect the integrity and accountability of the expenditure of Recovery Act funds disbursed to California in a manner consistent with the Governor's executive order and the Recovery Act's core objective of promoting transparency and accountability. The Inspector General proposes to achieve this objective by developing the inspector general function in three phases: (1) assess California's Recovery Act oversight needs, educate government officials and the public, and assist in integrating the existing oversight capabilities of state and local government; (2) ensure that adequate controls exist over the management, distribution, expenditure, and reporting to detect and deter fraud, waste, and abuse of Recovery Act funds; and (3) disclose fraud, waste, and abuse in the handling and disbursement of Recovery Act funds and, as appropriate, refer and report matters involving suspected fraud, waste, and abuse to appropriate law enforcement officials and state executive and legislative officials for further action. The Inspector General is currently in the first phase of this plan.

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## State Auditor Is Expanding Single Audit Work and Conducting Special Reviews of Recovery Act Funds

The California State Auditor, as the state's independent auditor, is also responsible for oversight of Recovery Act funds. This responsibility is being carried out not only through the production of the Single Audit reports that encompass Recovery Act funds, but also through special targeted reviews of state agencies receiving Recovery Act funds. Because the State Auditor added California's system for administering federal Recovery Act funds to its list of statewide high-risk issue areas, the State Auditor will execute her authority to conduct audits and reviews of the state's and selected departments' readiness to comply with applicable Recovery Act requirements. According to the State Auditor, the state system's high-risk designation resulted from a number of concerns, including the amount of Recovery Act funds expected to be distributed to California, the extensive requirements the Recovery Act places on fund recipients, the risk of losing Recovery Act funds if the state fails to comply with requirements, and previously identified concerns related to certain state agencies' internal controls over their administration of federal programs.

The State Auditor issued her first Recovery Act funding-related review on June 24, 2009. This review, which covered CDE, the Department of Healthcare Services, EDD, and the Department of Social Services, concluded that none of the four departments is fully prepared to

implement all of the Recovery Act provisions. Specifically, the State Auditor noted in the report that each of the four departments generally planned to rely on existing internal controls for maintaining accountability and oversight of Recovery Act funds. While the report stated that this is a reasonable approach, the most recent Single Audit report identified 30 internal control weaknesses in programs within these departments that expect to receive Recovery Act funds. Of these, only 4 had been corrected, 22 were in the process of being corrected, and no action had been taken on the 4 remaining deficiencies. Consequently, the State Auditor concluded that without correcting these internal control deficiencies, relying on existing internal controls may not provide sufficient assurance that recipients of Recovery Act funds will comply with one or more of the various Recovery Act provisions.

The State Auditor also anticipates that the amount of Recovery Act funds will increase the number of programs covered by the statewide Single Audit report, and that most programs receiving Recovery Act funds will be covered by the audit. The most recent statewide Single Audit report was issued on May 27, 2009, and covered the fiscal year ending June 30, 2008.<sup>45</sup> More than half of the 138 findings in this report were also reported in the prior year's single audit report. The audit found that the state did not comply with certain federal requirements in 20 of the 39 major programs or program clusters that were audited. The Single Audit report also identified 234 material and significant deficiencies in internal controls. Identified internal control deficiencies that may be relevant to Recovery Act funds include the following:

- The state's automated accounting system does not identify expenditures of federal awards for each individual federal program.
- The state still does not have adequate written policies and procedures to accurately calculate federal and other interest liabilities by program as required in its cash management agreement with the federal government.
- The database the state uses to prepare its statewide cost allocation plan, which is used to recover a portion of the state's costs for administering federal programs, is problematic in that the

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<sup>45</sup>California State Auditor, *State of California: Internal Control and State and Federal Compliance Audit Report for the Fiscal Year Ended June 30, 2008*, Report 2008-002 (May 2009).

programming is difficult to understand and inadequately documented, and errors are difficult to identify and correct.

- The state cannot ensure that local governments are taking prompt and appropriate corrective action to address audit findings after it receives the local governments' audit reports.

The most recent Single Audit report identified a number of significant deficiencies or material weaknesses in several of the programs we reviewed. For example, the report cited continued problems with CDE ESEA Title I cash management, specifically that CDE routinely disburses Title I funds to districts without determining whether the LEAs need program cash at the time of the disbursement.<sup>46</sup> According to CDE officials, in response to these issues, CDE has developed a cash management improvement plan that involves LEAs reporting federal cash balances on a quarterly basis using a Web-based reporting system. In addition, officials stated that CDE has developed cash management fiscal monitoring procedures to verify LEAs' reported cash balances and to ensure their compliance with federal interest requirements. CDE plans to implement the new plan beginning with a pilot program, Title II Improving Teacher Quality, for the quarter ending October 31, 2009.<sup>47</sup> CDE was also cited for inadequate review and approval controls associated with the CDE ESEA Title I reporting, as well as several material control weaknesses and deficiencies with school district processes and controls that may pose compliance issues for some school districts.

The Single Audit report also cited concerns about CSD's contracts with local agencies to determine eligibility for certain programs. CSD, which is also responsible for the Weatherization Assistance Program, responded that it will update guidance provided to local agencies and continue its current practice of monitoring and providing assistance and training to local agencies. Additionally, both the 2007 and 2008 Single Audit reports identified material weaknesses in the state's Medicaid program. The 2007 Single Audit report for California identified a number of material

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<sup>46</sup>In March 2009, Education's Office of Inspector General also reported persistent Title I cash management problems at CDE, as well as material control weaknesses and deficiencies with school district processes and controls.

<sup>47</sup>According to CDE officials, once the pilot program is deemed to be working as intended, other federal programs, including Title I, will be phased into CDE's new cash management system and processes.

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weaknesses related to the Medicaid program, including insufficient documentation for provider and beneficiary eligibility determinations and the risk of noncompliance with allowable costs principles. The report indicates that state officials concurred with all the findings and noted that corrective actions would be taken. The 2008 Single Audit report identified some of these same weaknesses.

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**State Officials Express Concerns about the Lack of Clear Guidance on Reimbursement for Administrative and Oversight Activities**

California officials told us that while OMB's May 11, 2009, guidance that allows states to recover some of their administrative costs associated with Recovery Act activities is helpful, many questions remain as to what costs can be recovered and how they should structure their activities to ensure payment. Given that the state is largely relying on existing systems to manage and oversee Recovery Act funds, the guidance is not clear on how to segregate the administration of an increased workload for reimbursement. For example, the state hopes that the Recovery Act readiness reviews performed by OSAE, which is diverting resources from its regular internal control work, can be reimbursed so that it can hire additional staff to cover the increased workload. Similarly, the State Auditor's Office hopes that its increased workload can be reimbursed, but it believes that because it is an independent audit function, separate from the administration, there is no process through which this can occur. Finally, the Task Force and the Chief Information Officer both expressed hope that the new data platform they are purchasing to track and report Recovery Act funds can be reimbursed with Recovery Act funds but are uncertain if they have to locate the system within one of the program agencies to be eligible for reimbursement. The Task Force has sought, but not yet received, clarification on cost reimbursement issues from OMB.

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State Agencies, Housing Authorities, and Subrecipients We Interviewed Generally Plan to Use Existing Internal Control Processes to Oversee Recovery Act Funds

State agencies, public housing authorities, and various subrecipients we met with plan to use existing internal control systems and resources to oversee Recovery Act funds.<sup>48</sup> For example, both the FHWA California Division Office and Caltrans reported plans to conduct oversight activities on a subset of projects, based either on random sample or other criteria. Caltrans District Office staff will use existing systems and resources to conduct contract administration and construction inspection oversight for the Interstate 80 project in Solano County and will meet with city contract engineers to ensure adequate record keeping (i.e., completion of daily logs and quality assurance) during the construction period for the Del Monte Boulevard pavement rehabilitation project in the City of Seaside.<sup>49</sup>

Likewise, CDE and school district officials said that they plan to rely on existing internal controls and automated and manual processes to track the receipt and expenditure of education-related Recovery Act funds. Additionally, they each said they have other oversight entities in place that could specifically monitor Recovery Act activities. For example:

- LA Unified has its own Office of Inspector General that helps the school board oversee district funds. Recently, the Inspector General recommended that the district establish a task force to communicate Recovery Act requirements, establish monitoring mechanisms, and ensure that such mechanisms function as intended. The school district subsequently established a Recovery Act task force, comprising budget, fiscal, and program personnel.
- San Bernardino Unified administratively falls under the San Bernardino County Schools Superintendent's Office, which has its own internal audit function. According to San Bernardino Unified officials, the district's Recovery Act activities are subject to review by the county.

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<sup>48</sup>As previously discussed, the State Auditor's recent report on four agencies receiving Recovery Act funds concluded that without correcting existing internal control deficiencies, CDE, the Department of Health Services, EDD, and the Department of Social Services may not be in a position to rely on existing internal controls to provide sufficient assurance that they will be able to comply with the applicable requirements of the Recovery Act.

<sup>49</sup>In the past, FHWA has reported that there are risks associated with local implementation of federal regulations, including difficulty maintaining compliance with these federal regulations.

Additionally, CSD officials stated that they have internal controls at the agency and subgrantee levels, including four in-house auditors and one retired annuitant who perform desk audits of the subgrantees. For Recovery Act weatherization funds, it is anticipated that the auditors will also perform annual site audits. Similarly, CalEMA has three in-house audit staff plus a chief of staff who monitor internal controls of all aspects of CalEMA, including the JAG program and its subgrantees. CalEMA officials told us they plan to hire five program specialists to monitor the projects (including conducting site visits) for compliance with JAG guidelines for projects funded by the Recovery Act. For the WIA Youth program, EDD officials told us that federal regulations already require the department to conduct fiscal and program reviews of whether local areas are meeting WIA requirements, although they noted that they are uncertain if they will be able to review all 2009 summer programs on their own or in conjunction with U.S. Department of Labor.<sup>50</sup> EDD officials also told us that they plan to have tools in place in July 2009 to address the monitoring requirements of the Recovery Act and that they plan to begin oversight at that time.

Officials from several state agencies also told us that they will use subrecipient Single Audit report results as an additional oversight mechanism. For example, the Caltrans Office of Audits and Investigations uses findings from Single Audit reports and its own audits of local agencies to identify any issues and track corrective actions. If a locality fails to act on an identified problem, the Office of Audits and Investigations can recommend that its Division of Local Assistance designate the locality as high risk, which then requires the locality to pass several conditions, audits, or both to be removed from the high-risk list. Similarly, CDE has an Audit Resolution Unit that reviews LEA Single Audit reports to identify unresolved findings. According to Audit Resolution staff, such unresolved audit findings are entered into an access database that is used to track the status until the finding is resolved. Unit staff send follow-up letters to LEAs with unresolved findings that request corrective action plans. If a response is not received within a month, unit staff will make follow-up contact until an adequate response is received. Officials at LA Unified and San Bernardino Unified confirmed that CDE is following up with them on Single Audit report findings. For WIA Youth programs,

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<sup>50</sup>Program reviews include interviews with local officials, service providers, and participants; reviews of applicable policies and procedures; and reviews of sample expenditures, procurements, and participant case files.

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EDD officials also reported that they routinely monitor Single Audit report results for local areas and work with the state Workforce Investment Board to resolve findings and help local areas develop corrective action plans. Officials reported that in-house audit staff are responsible for follow-up on Single Audit report findings.

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## State Officials and Local Recipients Continue to Express Concerns about the Lack of Clear Guidance on Measuring Impacts of Recovery Act Funds

Several state agency officials, subrecipients, and housing authorities believe that additional guidance is needed from OMB and other federal agencies before they can fully address the issues of impact and jobs assessments.<sup>51</sup> The first required quarterly report containing estimates of the number of jobs created and retained by projects or activities supported by Recovery Act funds is due October 10, 2009. The Task Force is planning to rely on each state agency to collect and report information on job creation for the recipient programs and subrecipient organizations.<sup>52</sup> Several officials reiterated that they anticipate it will be difficult to separate the specific impacts of Recovery Act funds when those funds are combined with other federal, state, or local funds, as they will be in many situations. Additionally, officials expressed concerns about the potential for inconsistent reporting among subrecipients or contractors. For example:

- CSD officials told us that they would like to see guidance from DOE on how to measure the creation of jobs related to the Recovery Act. CSD officials reported that they are currently preparing their best estimates without the benefit of any guidance.
- CDE and school district officials told us that additional guidance is needed on the specific requirements for reporting on the number of jobs retained or created. The lack of guidance could result in reporting inconsistent data to CDE. Additionally, officials told us that assessing the effects of Recovery Act funds will be difficult because the state's extreme budget cuts and reduction in funding for education programs and staffing will only be partially mitigated by Recovery Act stabilization funds, and many jobs will still be lost. Consequently,

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<sup>51</sup>On June 22, 2009, OMB issued implementing guidance for the reporting on the use of Recovery Act funds (M-09-21).

<sup>52</sup>As previously discussed, the state plans to use agency and subrecipient reporting to collect information on Recovery Act funds, including impacts, but has not yet purchased the data platform to achieve this and is awaiting further guidance on data standards from OMB.

officials generally reported that they will be measuring the number of jobs retained rather than jobs created, but they have not received guidance for measuring such impacts.

- EDD officials told us that they would like clarification from the U.S. Department of Labor on how to assess and measure jobs preserved and created as a result of increased WIA funding. California Workforce Investment Board and EDD officials stated that WIA Youth programs promote job creation, but do not necessarily create jobs themselves. Also, they noted that WIA prohibits the use of funds for economic-generating activities not tied to participants, and therefore its programs are unlikely to be used to create jobs other than for program participants. These officials told us that the state's existing system can track the number of youth placed into employment, but it is not designed to track jobs created or retained because of Recovery Act funding.
- Caltrans officials said that contracts will require contractors to report the number of workers and payroll amounts, among other things, to Caltrans on a monthly basis. Caltrans will then provide the data to the FHWA California Division Office, which, in turn, will provide it to FHWA Headquarters. Using the data provided, FHWA Headquarters plans to calculate the number of direct, indirect, and induced jobs. The contract for the Interstate 80 project, for example, included this type of reporting requirement, and the contractor reported May 2009 data to Caltrans in early June 2009. However, as of June 12, 2009, no formal training or guidance on job reporting requirements had been provided to contractors or local officials. A Caltrans official told us that they will be working with contractors to answer questions that arise about job reporting requirements and to ensure that the numbers reported match reporting criteria.
- Local housing officials expressed concern with the lack of guidance from OMB on measuring job creation. They told us that they would take measures to meet OMB's guidance when it becomes available. Housing officials generally told us that they plan to track jobs created by obtaining feedback and certified payroll information from contractors and subcontractors.

Aside from job creation, many of the recipient agencies that we spoke with are also developing and implementing plans to evaluate other effects of Recovery Act funds. For example:

- According to CalEMA officials, their primary challenge will be timely reporting on new performance measures that the Department of

Justice's BJA provided in draft on May 11, 2009, including for the JAG funds provided under the Recovery Act. The 71 separate performance measures are to be assessed each quarter by local law enforcement agencies and submitted to CalEMA for reporting to BJA within 30 days after the quarter ends. According to officials, these measures are far more complex and numerous than those currently required for this program. Additionally, CalEMA officials anticipate that it will be a challenge to get all participants to report within these time frames. CalEMA officials are looking to develop a secure Web site to help obtain the required information in an efficient and timely manner. According to Office of Justice Programs (OJP) officials in the Department of Justice, JAG grant recipients are to begin reporting on these updated measures in January 2010. OJP is also in the process of developing an online performance measurement tool for JAG grantees to use to report these data, which it expects to be finalized by October 2009.

- According to school district officials, no new evaluations or studies are planned just for Recovery Act activities or funding. Nevertheless, officials told us that they plan to perform a variety of evaluations and studies that could assist them in reporting Recovery Act impacts. For example, LA Unified's Special Education program, which is operating under a modified consent decree, is monitoring 18 performance-based outcomes as part of that decree, which could provide useful data for reporting on Recovery Act impacts. For example, an outcome already met was having at least 95 percent of students with disabilities in state-identified grade levels participate in the statewide assessment program with no accommodations or standard accommodations. Similarly, officials from San Bernardino Unified said that assessments and studies called for in the district's Special Education Master Plan could help report on Recovery Act impacts.
- The Recovery Act provides that work readiness is the only indicator to be used for youth who only participate in WIA summer employment activities. However, for reporting to EDD, local areas will also be required to track the number of participants enrolled in summer employment and the completion rate of those in summer employment programs. For example, San Francisco's program is requiring service providers to track the number of youth provided work experience opportunities, those receiving training and academic enrichment activities, and other data.

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## State Comments on This Summary

We provided the Governor of California with a draft of this appendix on June 19, 2009.

In general, California state officials 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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# Appendix III: Colorado

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> spending in Colorado. 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/>.

**Use of Funds:** Our work in Colorado focused on eight federal programs,<sup>2</sup> selected primarily because these programs have begun disbursing funds to states and include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, and new programs. Colorado estimates that it will receive a total of \$3.5 billion in Recovery Act funds, and is targeting funds to help restore the state's budget and to meet key program needs during the current budget crisis. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **U.S. Department of Education (Education) State Fiscal Stabilization Fund.** Education has awarded Colorado \$509 million, or about 67 percent of the state's total State Fiscal Stabilization Fund (SFSF) allocation of \$760 million. Colorado had obligated a total of almost \$176 million of the funds as of June 30, 2009.<sup>3</sup> Colorado is using these funds primarily to support its higher education system; without the funds, according to state officials, budget cuts could have resulted in the closure of some institutions and increased tuition at others. Local education officials we spoke with stated that their districts do not yet have specific plans for the funds, but anticipate using them to retain teachers and reduce the potential for layoffs.
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$404 million in Recovery Act funds to Colorado, of which 30 percent was suballocated to metropolitan and other areas. As of June 25, 2009, the federal government's obligation was \$244 million, and Colorado had awarded 29 projects. Colorado plans 92 projects

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

<sup>2</sup>In some states, GAO also reviewed a ninth program receiving funds under the Recovery Act, the Workforce Investment Act Youth Program. GAO did not review this program in Colorado.

<sup>3</sup>Obligation, as used by the state, refers to funds that have been encumbered with a contract or other agreement.

using Recovery Act funds, with the initial projects consisting primarily of routine paving projects and later projects involving highway construction and bridge replacement. For example, one ongoing project in central Colorado involves paving 12.5 miles of highway, while a planned project in the Denver metro area will replace two bridges on Interstate 76.

- **Funds made available as a result of increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, Colorado had received almost \$241 million in increased FMAP grant awards, of which it had drawn down more than \$197 million, or almost 82 percent of funds. Colorado reported using funds made available as a result of the increased FMAP to offset the state budget deficit<sup>4</sup> in an effort to avoid or mitigate Medicaid benefit cuts and provider rate cuts resulting from the state's economic conditions.<sup>5</sup>
- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education has provided Colorado \$80.5 million in Recovery Act IDEA Part B and C funds, or 50 percent of the state's total allocation of \$161 million. These funds, which are managed by two different state departments in Colorado, are targeted for, among other things, assistive technology for students with disabilities and professional development for special education teachers. As of June 29, 2009, Colorado's Department of Education had reimbursed school districts more than \$3.9 million for Part B and had obligated an additional \$156,000. As of June 30, 2009, the Department of Human Services had obligated more than \$3.3 million for contracts with service providers under Part C.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded Colorado \$55.6 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total

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<sup>4</sup>Colorado officials noted that the use of the words budget deficit is not necessarily applicable, because the state's constitution requires it to have a balanced budget annually and does not permit a budget deficit. Therefore, while Medicaid officials' response to our data collection instrument indicated that the funds made available as a result of the increased FMAP were being used to offset the state budget deficit, officials believe that a more accurate description of the use of these funds is that they are allowing the state to minimize needed program cuts and provider rate cuts.

<sup>5</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

allocation of \$111 million. As of June 29, 2009, Colorado had reimbursed individual school districts about \$279,000. Planned uses of the funds in Colorado include preschool education, family literacy improvements, and teacher development.

- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$79.5 million in Recovery Act weatherization funding to Colorado. As of June 30, 2009, DOE had provided \$7.95 million to the state and Colorado had obligated \$5.25 million of these funds, of which almost \$1 million had been spent. Colorado plans to hire additional staff and purchase equipment to help it weatherize more than 16,000 housing units using Recovery Act funds.
- **Edward Byrne Memorial Justice Assistance Grant Program.** The Department of Justice's Bureau of Justice Assistance has allocated a total of \$29.9 million for state and local governments in Colorado. As of June 26, 2009, Colorado had received its full state award of \$18.3 million and had obligated and spent about \$13,700 of these funds.<sup>6</sup> The Colorado Department of Public Safety, which administers these grants for the state, received nearly 200 applications from state and local entities for grant funds, and will select applications for funding in July 2009, for award beginning October 1, 2009. Of available funds, 60 percent will be awarded to local government entities while 40 percent will be awarded to state agencies.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development (HUD) has allocated almost \$17 million in Recovery Act funding to 43 public housing agencies in Colorado. Based on information available as of June 20, 2009, about \$2.4 million (14 percent) had been obligated by those agencies and about \$201,000 (1 percent) had been spent. At the three housing authorities we visited, this money, which flows directly from HUD to public housing agencies, is being used for various projects including construction of new units, rehabilitation of existing units, and smaller-scale projects such as fence and window replacement at rural housing units.

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<sup>6</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

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## Safeguards and Internal Controls

Colorado has, since our April 2009 report,<sup>7</sup> developed a coding structure to account for Recovery Act funds separately from non-Recovery Act funds, addressing officials' concerns that tracking the funds might be difficult with the state's aging central accounting system. The responsibility for tracking and monitoring of, and exercising internal controls over, Recovery Act funds has largely been delegated to the individual state departments, which will generally use existing systems and internal control procedures. Although the State Controller initially expressed concerns that the state does not have a centralized process for monitoring the effectiveness of state departments' internal controls, that office has taken steps to address these concerns. In addition, the state departments use their Single Audit Act audits (Single Audit), among other information, as a source of information to assess program risks and monitor funds.<sup>8</sup> The Office of the State Auditor (which is responsible for conducting the state's Single Audit) had concerns about the lack of timely guidance from the Office of Management and Budget (OMB) on specific audit requirements related to state departments' expenditures of Recovery Act funds. In addition, the office noted that additional funding will be needed to cover the cost of the Recovery Act audit work. State officials told us that the state might be able to provide Recovery Act funds to cover these audit costs, consistent with OMB guidance on using Recovery Act funds to cover certain administrative costs associated with implementing the act, but that no proposal has been developed.<sup>9</sup>

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## Assessing the Effects of Recovery Act Spending

While it is still too early to assess the impacts of Colorado's Recovery Act funding, state officials are planning to track and monitor centrally the results of this spending, including identifying the number of jobs created and retained through Recovery Act spending. Officials with the Colorado

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<sup>7</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009).

<sup>8</sup>The 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 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.

<sup>9</sup>See OMB Memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities*.

Recovery office said that they are still evaluating whether they will modify and use an existing system or acquire a new system to track and monitor effects. The state plans to report data centrally on jobs created and retained, but some state department officials said that reporting guidelines have not yet been finalized and that they need guidance, particularly on counting jobs created and retained.

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## Colorado Is Relying on Recovery Act Funds to Help Stabilize Its Budget and to Meet Various Program Needs across the State

In the face of declining tax revenues and large proposed cuts in the previous and current fiscal years' budgets, Colorado is using Recovery Act funding to help it continue providing services in key programs such as higher education and Medicaid, according to state budget officials, as well as to maintain funding in other programs. Colorado's budget situation continues to worsen; the Governor signed a balanced budget on May 1, 2009, based on then-current legislative estimates showing general fund revenues declining \$800 million in fiscal year 2008-2009 from the previous fiscal year and declining an additional \$100 million from fiscal year 2008-2009 to fiscal year 2009-2010 (out of an operating budget of about \$18 billion).<sup>10</sup> The actions taken by the state to balance the budget—which it is constitutionally required to do—included transferring reserves from cash funds (special funds created from the collection of fees, such as waste disposal fees, for specific purposes) into the general fund, cutting programs, establishing a state hiring freeze and imposing 4 furlough days on nonessential state employees, and spending half the state's 4 percent budget reserve.<sup>11</sup> The state's subsequent June 22, 2009, revenue forecast showed an additional shortfall of almost \$250 million in revenues for fiscal years 2008-2009, which the state addressed by transferring additional cash reserves that had been designated to balance the 2009-2010 budget.<sup>12</sup> The state will then need to take action to balance the 2009-2010 budget, although the need for this action may be mitigated by a slight increase in general fund revenues (\$85 million) predicted by the June forecast in contrast to the decline in revenues predicted in the March forecast.

The Recovery Act helped the state avoid more severe actions, including proposals to cut as much as 60 percent of the state's contribution to its

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<sup>10</sup>The estimate is from the state's March 20, 2009, legislative council forecast.

<sup>11</sup>According to budget officials, the General Assembly passed legislation to allow the reserve to be reduced to zero in fiscal year 2008-2009 and to settle at 2 percent in fiscal year 2009-2010.

<sup>12</sup>The estimate is from the state's June 22, 2009, legislative council forecast.

higher education system; according to the state budget officials, the most important sources of Recovery Act funds in alleviating the state's budget crisis are the increased FMAP award for Medicaid, which has allowed the state to maintain a level of service that it would not have without Recovery Act funds, and the SFSF, which will be used to support higher education and, to a lesser degree, K-12 education programs. State budget officials said that their future year budget plans anticipate continued weak revenues as well as the phasing out of Recovery Act funds. In balancing budgets over the next few years, the officials noted that although the state will have less flexibility to transfer cash fund reserves because the excess in the funds was largely used in balancing the fiscal year 2008-2009 budget, the state passed legislation that allows it to set aside larger amounts of reserves to be used in future years.<sup>13</sup> When revenues recover, the state's ability to restore cuts will be aided by recently passed legislation removing restrictions on how state revenues can be allocated.

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## State Fiscal Stabilization Fund

The Recovery Act created the SFSF to be administered by the U.S. Department of Education. The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial SFSF award requires each state to submit an application to Education that provides several assurances. These include 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. Furthermore, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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

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<sup>13</sup>Prior to this legislation the state was permitted to retain as a reserve 4 percent of the amount appropriated for the general fund for fiscal years 2007-2008 and after. This legislation permits Colorado to retain 4.5 percent for fiscal year 2012-2013, and that percentage increases by one-half percent each fiscal year to 6.5 percent in fiscal year 2016-2017. After fiscal year 2016-2017 it remains at 6.5 percent. 2009 Colo. Sess. Laws 2254.

higher education (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

Under the Recovery Act, Colorado was allocated more than \$760 million in SFSF funds, \$622 million of which will be used as education stabilization funds and \$138 million of which will be used as government services funds. The state sent its application for the stabilization funds to Education on May 29, 2009; after receiving questions from Education, the state revised the application and resubmitted it on June 8, 2009. Education approved the application and awarded Colorado \$509 million, or about 67 percent of the total, on June 10, 2009. As of June 30, 2009, the state had obligated a total of \$175.6 million of these funds: \$150.7 million of the education stabilization funds and \$24.9 million of the government services funds. The state plans to spend the majority of the SFSF education stabilization funds—\$452 million—for higher education, while allocating the remaining \$170 million to the state’s K-12 system. This focus on using Recovery Act funds for higher education is a result of the state’s constitutional requirement to maintain its level of funding for K-12 programs, according to state officials. The requirement is for the state to increase its share of K-12 education funding by an amount equal to inflation plus 1 percent annually through fiscal year 2010-2011. As a result of this requirement, Colorado’s K-12 programs were not jeopardized to the same extent as higher education when the state was considering budget cuts, and thus local school districts will receive a lower amount from the SFSF program.

The \$452 million for higher education will be spent in increments of roughly \$150 million per year over the next 3 years, beginning in fiscal year 2008-2009 and has been designated for the state’s 4-year, 2-year, and vocational institutions. According to state officials, without the State Fiscal Stabilization Fund, the state’s general fund contribution to higher education could have been cut by 60 percent, with the effect of drastically restructuring the system of higher education. According to officials, during budget debates, cuts of anywhere from \$30 million to about \$450 million in general fund contributions to higher education were discussed. Although the effects of such cuts are unknown because they did not occur, officials told us that if the larger amount had been cut, some schools could have become privately funded, others could have been closed, and tuition could have been raised significantly. The state plans on having higher education institutions apply for the funds, as provided for in Education’s guidance

for the Recovery Act, and having the institutions sign a letter stating that the funds will be used to mitigate tuition increases if they are accepted. State officials said they do not anticipate institutions declining to apply.

The \$170 million in K-12 funding will be spent over 2 fiscal years. The state will allocate the funds to schools based on the state's school finance formula, which provides a per-pupil amount of money plus additional money to recognize variation among districts created by cost of living, personnel costs, size, and pupils at risk. This includes, for example, a total of \$10.4 million for Denver County School District 1 and \$14.8 million for Jefferson County School District R-1, two school districts we visited during our work.<sup>14</sup> Officials at the two school districts said that they are waiting for instructions from the state on what requirements they must meet to apply for stabilization funds and, as such, do not yet have formal plans for the use of the funds. However, the officials stated that, in part, they intend to use the funds to retain teachers, reduce the potential for layoffs, and restore funding cuts to programs. Denver County School District 1 officials added that they would likely use the funds to improve the academic achievement of low performing students and sustain existing programs to increase teacher effectiveness and the distribution of highly qualified teachers. According to state officials, school districts will need to apply for their funds by signing a letter supporting the four education assurances outlined in the Recovery Act, specifically (1) improving equity in teacher distribution; (2) improving collection and use of data; (3) enhancing the quality of academic standards and assessments; and (4) supporting struggling schools.

Colorado officials applied \$70 million of the \$138 million in SFSF government services funds to the state's general fund to avoid cuts to government services in the Department of Corrections. In addition, the state plans to use \$10 million to pay for education incentives such as Race to the Top, a competitive grant to improve education quality and results statewide. State officials said that they have not decided how to use the remaining \$58 million of government services funds. One possible use, according to officials, could be to pay for administrative costs associated

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<sup>14</sup>We selected these two school districts for inclusion in our work because (1) they are receiving large amounts of Recovery Act funding relative to other school districts in the state; (2) they were both identified as districts having several schools in improvement status, which, according to Department of Education guidance, is a formal acknowledgement that the school is not meeting the challenge of successfully teaching all of its students; and (3) they represent both urban and suburban districts.

with Recovery Act funds. We previously reported that Colorado officials were concerned about how they could pay for the management and oversight of Recovery Act funds. State officials are still concerned that state offices that have oversight over Recovery Act funds, such as the Office of State Controller, the State Auditor's office, and the Governor's Recovery office, did not receive direct funds for their Recovery Act work and were not sure how this work would be funded. State officials said that the state is considering whether to use a portion of the remaining government services funds to pay for administrative costs, or whether to use the 0.5 percent of total Recovery Act funds received by the state that may be used for such costs, as described in OMB guidance issued May 11, 2009.

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## Highway Infrastructure Investment

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 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 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 generally 80 percent.

As we previously reported, \$403,924,130 was apportioned to Colorado in March 2009 for highway or other eligible projects in Colorado. As of June 25, 2009, \$243,910,077 had been obligated. The U.S. Department of Transportation (USDOT) 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 June 25, 2009, \$40,938 had been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

According to officials with the Colorado Department of Transportation (CDOT), 92 Recovery Act projects are planned throughout the state. While the initial set of projects under contract are mostly routine pavement preservation and improvement projects, CDOT also plans to use Recovery Act funds for highway construction, bridge replacement, and other more complex projects. For example, one planned project in the Denver

metropolitan area will replace two bridges on Interstate 76. For types of projects which have had funds obligated as of June 25, 2009, see table 1.

**Table 1: Highway Obligations for Colorado by Project Type as of June 25, 2009**

Dollars in millions								
	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$4	\$134	\$70	\$0	\$17	\$0	\$19	<b>\$244.0</b>
Percent of total obligations <sup>b</sup>	1.5	55.1	28.8	0.0	6.9	0.0	7.6	<b>100.0</b>

Source: GAO analysis of FHWA data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

<sup>b</sup>Total does not add to 100 due to rounding.

As of June 26, 2009, CDOT had awarded contracts on 29 projects and, as of June 29, had completed construction on 1 project. GAO reviewed two projects with awarded contracts, including a \$5.2 million repaving project along US-24/US-285 in Chaffee County, an economically distressed rural area in central Colorado,<sup>15</sup> and a \$700,000 repaving project on Belleview Avenue in Arapahoe County, in the Denver metropolitan area.<sup>16</sup> Although conditions along Belleview Avenue had deteriorated beyond the point at which routine maintenance would be useful, CDOT officials reported that without Recovery Act funds, the project would likely not have been completed until 2010 or 2011. With Recovery Act funds, the project was completed by June 29, 2009. Similarly, despite poor road conditions along US-24/US-285, that project would not have been scheduled for construction until fiscal year 2011, but will likely be completed by October 2009 with Recovery Act funds.

<sup>15</sup>Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended.

<sup>16</sup>In selecting Recovery Act highway projects for further review, we looked for projects that were (1) of varying size, (2) in areas with varying economic characteristics, and (3) under contract or construction. Because no locally-administered projects were under contract at the time of our review, we used the list of 10 CDOT-administered projects under contract as of May 11 as the basis for our selection. The projects we selected consisted of one relatively small project in a large urban area (the Belleview Avenue project in metropolitan Denver) and one relatively large project in an economically distressed area (the US 24/US-285 project in Chaffee County).

CDOT officials reported that bids for the initial Recovery Act projects had come in lower than the engineers' estimates, freeing up funds for other projects. The awarded bid on the Belleview Avenue project was 30 percent below CDOT's estimate, partially due to low asphalt prices,<sup>17</sup> which came in at \$53 per ton, compared to the engineers' estimate of \$90 per ton. Similar cost savings on the US-24/US-285 project allowed CDOT to add an additional 4 miles of repaving to the project, increasing the total project length to 12.5 miles. CDOT officials attributed the low bids to the economic recession, with many contractors in need of work, as well as to downward trends in the prices of certain key commodities such as asphalt. Officials stated that they did not know how long this bidding climate would continue, but the department has adjusted its cost estimates to account for it. Consequently, bids on more recently advertised projects have come in closer to engineers' estimates. As of June 26, 2009, Colorado had total bid savings of \$26,653,841—that is, the cumulative difference between engineers' estimates and the awarded contract amounts. FHWA has been deobligating funds as a result of contracts being awarded for less than originally estimated, but CDOT has chosen to wait to use these funds until it knows whether it will need them for any projects with higher than anticipated bid amounts, or whether it will be able to allocate funds to additional projects in targeted areas.

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.<sup>18</sup> The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated by any state within these time frames. Under the act, the states are to give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas. The states are also to 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 planned to expend from state sources as of February 17,

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<sup>17</sup>Asphalt is a material used to pave roads.

<sup>18</sup>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.

2009, for the period beginning on that date and extending through September 30, 2010.<sup>19</sup>

In Colorado, as of June 25, 2009, 74.5 percent of the \$283 million that FHWA has determined is subject to the 50 percent rule for the 120-day redistribution had been obligated, thereby meeting the 50 percent obligation requirement. According to officials with both CDOT and FHWA, Colorado plans to expend all Recovery Act highway funds within 3 years. While a few projects with multiple funding sources may extend beyond 3 years, CDOT is planning to expend Recovery Act funds first in these cases.

Although the Recovery Act directs states to prioritize projects in economically distressed areas, CDOT and its local partners began planning in anticipation of the Recovery Act in December of 2008, before the Recovery Act was passed—and, as a result, selecting projects in economically distressed areas was not initially one of CDOT's top priorities. CDOT officials stated that, in selecting projects, they prioritized those that (1) would create construction jobs, (2) would be shovel ready, and (3) could meet obligation and completion timeframes; in addition, CDOT selected projects using existing agreements to share transportation funds equitably across the state. Nevertheless, in keeping with the Recovery Act's direction on economically distressed areas, CDOT officials said they have since encouraged their local partners to prioritize projects in economically distressed areas when selecting additional projects, and together they have selected 36 projects in economically distressed areas within the state.

On March 19, 2009, Colorado submitted its required maintenance-of-effort certification to USDOT. CDOT determined its maintenance of effort using the amount of state dollars planned, as of February 17, 2009, for expenditure during the remainder of fiscal year 2008-2009, all of 2009-2010, and a portion of 2010-2011. In our April report, we noted that USDOT was reviewing conditional and explanatory certifications, such as the one submitted by Colorado, to determine whether they were consistent with

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<sup>19</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

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the law. The Secretary of Transportation informed Colorado on April 20, 2009, that conditional and explanatory certifications were not permitted, and gave Colorado the option of amending its certification by May 22, 2009, which the state did. According to USDOT officials, USDOT is reviewing Colorado's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. USDOT is currently evaluating whether the state's method of calculating the amounts it planned to expend for the covered program is in compliance with USDOT guidance.

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## Medicaid FMAP

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the FMAP, which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>20</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>21</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

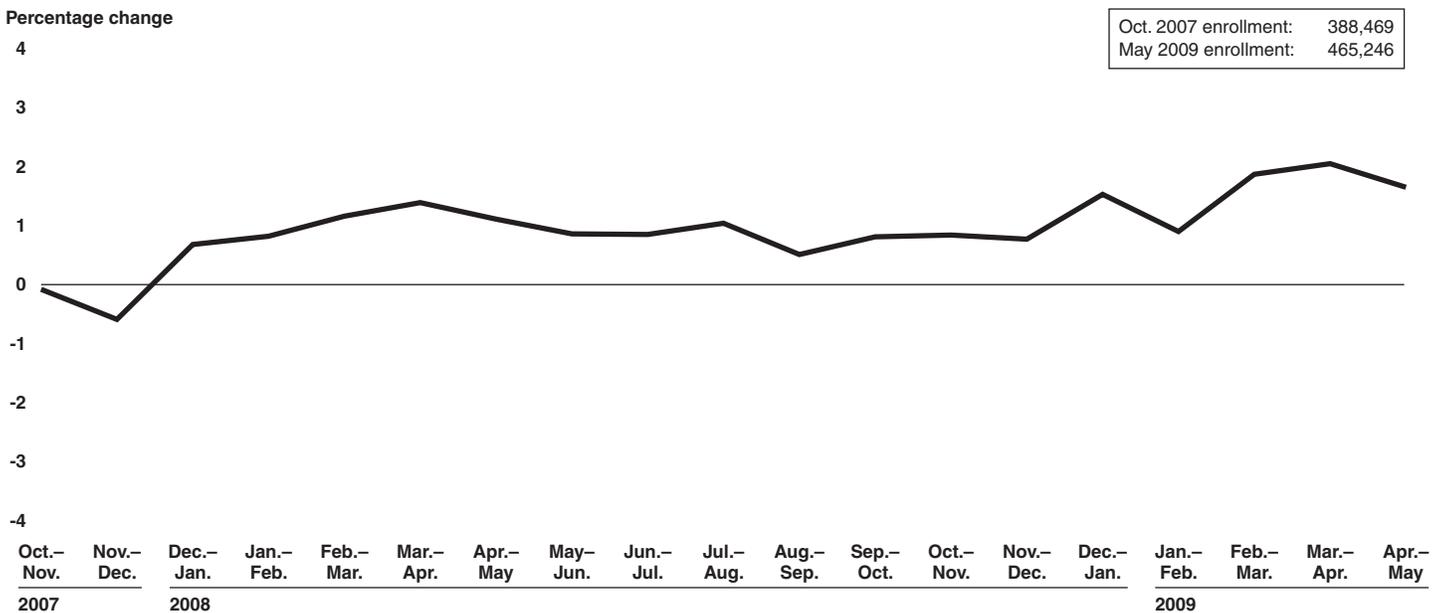
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<sup>20</sup>See Recovery Act, div. B, title V, §5001.

<sup>21</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

From October 2007 to May 2009, the state’s Medicaid enrollment grew from 388,469 to 465,246, an increase of 20 percent.<sup>22</sup> The increase in enrollment was generally gradual during this period, and most of the increase in enrollment was attributable to the population group of children and families. (See fig. 1.)

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Colorado, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment for May 2009.

As of June 29, 2009, Colorado had drawn down \$197,034,548 in increased FMAP grant awards, which is almost 82 percent of its awards to date.<sup>23</sup> Of the states we studied, Colorado was the only state that had not drawn

<sup>22</sup>The state provided projected Medicaid enrollment for May 2009.

<sup>23</sup>Colorado received increased FMAP grant awards of almost \$241 million for the first three quarters of federal fiscal year 2009.

down increased FMAP funds as of GAO's first report in April 2009.<sup>24</sup> Colorado officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit—specifically, to avoid or mitigate Medicaid benefit cuts and provider rate cuts resulting from the state's economic conditions.<sup>25</sup> Officials noted that in December 2008, the Colorado legislature realized that significant provider rate cuts would be necessary in light of the state's economic climate. While the Medicaid program cut rates by 2 percent, the funds made available as a result of the increased FMAP allowed the state to forgo a more substantial reduction in rates of 4 percent—which officials noted would have had a severe impact on access to services for Medicaid beneficiaries. Additionally, Colorado Medicaid officials noted that without funds made available as a result of the increased FMAP, the state would have explored more stringent cuts in addition to provider rates, such as prescription drugs.

In using the increased FMAP, Colorado officials reported that the Medicaid program has incurred additional costs related to

- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP;
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP; and
- personnel associated with routine administration of the state's Medicaid program.<sup>26</sup>

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<sup>24</sup>Colorado officials said that the delay in drawing down increased FMAP was a result of two issues: (1) the state's extensive review of the five attestations that accompanied the increased FMAP and the development of the state's responses to these attestations to ensure compliance and (2) the state's coordination with the Office of the State Controller and other state departments on the development of a statewide coding and reporting mechanism for funds received through the Recovery Act.

<sup>25</sup>As noted above, Colorado officials said the use of the words budget deficit is not necessarily applicable, because the state's constitution requires it to have a balanced budget annually and does not permit a budget deficit. Officials believe that a more accurate description of the use of these funds is that they are allowing the state to minimize needed program cuts and provider rate cuts.

<sup>26</sup>According to Colorado Office of State Planning and Budgeting officials, the department of Health Care Policy and Financing (HCPF) has not received approval to hire any new personnel, and therefore increased FMAP has resulted in an increase in workload for HCPF rather than an increase in personnel.

Officials told us that the delay in drawing down increased FMAP funds was partially due to the state needing to implement coding requirements that were established by the Office of the State Controller on a statewide basis for funding from the Recovery Act. The coding requirements were established on a statewide basis to track and report on the increased FMAP funds per OMB guidelines. Specifically, new funds and legislative line items were created on a statewide basis to assist the Office of the State Controller with the tracking and reporting of funding from ARRA. Official guidance on the use of these funds and budget line items was provided by the Office of the State Controller. In addition, new grant budget lines were created to track and report the receipt of increased FMAP dollars separately from regular FMAP dollars at the department level and a reconciliation process was created to reconcile increased FMAP expenditures to the additional FMAP grant awards. With the completion of these modifications, the state officials noted that they do not have concerns regarding the state's ability to maintain eligibility for the increased FMAP.<sup>27</sup>

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**Individuals with Disabilities Education Act, (Parts B and C)**

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 special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

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<sup>27</sup>In their technical comments to us, Colorado officials said that the implementation of the processes for the tracking and reporting of increased FMAP expenditures do not directly relate to the state's ability to maintain eligibility for the increased FMAP. It is the state's responses to the five attestations that ensure the state's ability to maintain eligibility for the increased FMAP. Quarterly updates will help the state ensure compliance with the five attestations and its eligibility for increased FMAP.

The Department of Education made available the first half of states' IDEA allocations on April 1, 2009, with Colorado receiving a total of \$80.5 for all IDEA programs of its approximately \$161 million allocation. As of June 29, 2009, Colorado had reimbursed \$3,943,067 in Part B funds to individual school districts and had obligated an additional \$156,050. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The first half of the state's allocation consisted of:

- \$2.6 million in Part B preschool grants,
- \$74.4 million in Part B grants to states for school-aged children and youth, and
- \$3.5 million in Part C grants for infants and families for early intervention services.

States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. Denver County School District 1 officials stated that they have drafted a plan for the use of funds, and that it provides intensive professional development for special education teachers who focus on innovative and proven strategies in reading, math, writing, and science. It also proposes obtaining state-of-the-art assistive technology devices and associated training to enhance access to the general curriculum for students with disabilities. Jefferson County School District R-1 officials said they have not completed a plan for how to use funds; however, one proposal they are considering is the retention of about 88 paraprofessional staff to support teachers. Additionally, they intend to use their IDEA Recovery Act funds to provide professional development in the areas of transition planning, literacy, and math as well as to obtain state-of-the-art assistive technology devices.

In Colorado, the Department of Human Services is responsible for managing IDEA Part C. The department, which received the first half of its allocation, or \$3.5 million, had obligated \$3,336,454 as of June 30, 2009. State officials said that the funds would generally go to contracts with community centered boards and some universities that provide professional and paraprofessional development as well as technology and services, such as video equipment, speech and occupational therapy, and transitional assistance needed to provide service to preschool children and their families.

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Elementary and Secondary  
Education Act, Title I,  
Part A

The Recovery Act provides \$10 billion to help local educational agencies educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA). The Recovery Act requires these additional funds to be distributed through states to local education agencies using existing federal funding formulae, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, local educational agencies are required to comply with current statutory and regulatory requirements, and must obligate 85 percent of their fiscal year 2009 funds (including Recovery Act) by September 30, 2010.<sup>28</sup>

The U.S. Department of Education made the first half of states' Title I, Part A Recovery Act funds available on April 1, 2009, with Colorado awarded \$55.6 million of its approximately \$111 million total allocation, with actual distributions subject to reimbursement requests. As of June 29, 2009, Colorado had reimbursed districts a total of \$278,962. The Colorado Department of Education is urging local districts to use these funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The two school districts we visited, Denver County School District 1 and Jefferson County School District R-1, received the first half of their allocation, or \$15.7 million and \$4.7 million, respectively. Denver County School District 1 officials said they plan to use the funds for professional development activities that will expand student intervention programs, parent and community engagement, teacher standards and evaluations, and use of data and assessment tools. Jefferson County School District R-1 officials said that funds will be disbursed across all Title I schools ensuring they have an increased Title I allocation for the next two years. Among others, they intend to use the funds to improve the district's Home Instruction for Parents of Preschool Youngsters program, which is aimed at improving family literacy, and for instructional coaches in elementary and secondary schools to provide professional development to teachers, particularly in reading and math.

The state will require school districts to apply for their Title I funds, and the districts we visited told us they are in the process of applying. The

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<sup>28</sup>Local education agencies 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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

Colorado Department of Education summarized federal guidance to assist the school districts as they develop their applications. Specifically, the state informed the districts they should address the extent to which their proposed use of funds will (1) drive improved results for students in poverty, (2) increase educators' long-term capacity to improve results, (3) accelerate reform and school improvement plans, (4) avoid the funding cliff effect (resulting from the expiration of Recovery Act funds) and improve productivity, and (5) foster continuous improvement through measurement of results. State and local education officials have expressed concern about avoiding the funding cliff, which is described as the degree to which proposed uses of funding avoid recurring costs that districts and schools are unprepared to assume when this funding ends. State officials also emphasized the importance of investing Recovery Act funds in ways that increase the long-term capacity of local schools to develop high achieving students. Officials at both school districts we visited indicated they are considering employing teachers on a temporary basis with the expectation that by the time Recovery Act money runs out, attrition will allow employment of some teachers on a permanent basis.

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**U.S. Department of Energy  
Recovery Act  
Weatherization Assistance  
Program**

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and Washington, D.C.<sup>29</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and Washington D.C., using a formula based on low-income households, climate

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<sup>29</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Nation, and the Northern Arapahoe tribe.

conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE allocated about \$79.5 million in Recovery Act weatherization funding to Colorado for a 3-year period. In Colorado, the Governor's Energy Office is responsible for administering the program. Colorado applied for the initial 10 percent allocation (about \$7.9 million) on March 17, 2009, and DOE provided the funds to the office on April 1, 2009. According to officials, DOE advised the Governor's Energy Office to use these funds for ramp-up purposes, such as hiring and training new staff and purchasing materials and equipment. DOE guidance issued on April 1, 2009, prohibited using the initial allocation for production of weatherized homes; however, DOE subsequently issued guidance on June 9, 2009, that lifted this limitation.<sup>30</sup> Officials said they are using these funds to, among other things, hire new personnel, provide training and technical assistance, and purchase new equipment. The Governor's Energy Office also committed almost \$7.4 million or about 93 percent of this initial allocation to its subgrantees (the agencies that contract for weatherization services in 10 regions around the state). As of June 30, 2009, the Governor's Energy Office had obligated \$5,252,506 or 66 percent of its initial allocation, of which about \$997,873 had been spent.

The Governor's Energy Office undertook a planning process to develop its Weatherization Program Plan, which it submitted to DOE on May 8, 2009. To guide development of state plans, DOE issued a Funding Opportunity Announcement on March 12, 2009, which provided registration and submission requirements, and also issued additional guidance on accessing weatherization funds under the Recovery Act, such as providing

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<sup>30</sup>DOE's June 9, 2009, guidance lifted this limitation for local agencies that previously provided services and are included in the state's Recovery Act plan. New providers, however, remain subject to the limitation until the state's plan is approved.

revised eligibility provisions. Officials from the Governor's Energy Office said that Colorado's plan is expected to be approved by DOE on July 1, 2009, the timing of which concerned the officials because the office plans to begin its program and contracts with subgrantees on July 1, 2009.

With the Recovery Act funds, the Governor's Energy Office plans to weatherize 16,280 units and increase its number of weatherization subgrantees and areas of coverage. In developing the state plan for spending Recovery Act funds, officials from the Governor's Energy Office talked to their subgrantees to determine how much additional weatherization funding the subgrantees believed they could reasonably spend—in 2008, Colorado received almost \$5.5 million from DOE for the program, compared to almost \$80 million allocated under the Recovery Act—and, in doing so, recognized that not all subgrantees may be equipped to handle the influx of funds. In compiling the numbers from the subgrantees, officials at the Governor's Energy Office determined that there was a gap between available Recovery Act funds and the amount of work the subgrantees believed they could deliver, so the Governor's Energy Office initiated two new requests for proposals to identify entities who could fill in the gaps to conduct weatherization work in certain regions of the state. The Governor's Energy Office also plans to initiate two statewide requests for proposals.

In the fall of 2008, before the Recovery Act passed, the Governor's Energy Office conducted a comprehensive assessment of its Weatherization Assistance Program, which officials said helped position Colorado to handle the influx of Recovery Act funds. The assessment included a review of internal operations, tracking mechanisms, and oversight of subgrantees and their performance. As a result of this assessment, the Governor's Energy Office hired additional staff, including an additional quality assurance staff member, a new client manager, an outreach manager, and an information technology specialist.

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### Edward Byrne Memorial Justice Assistance Grant Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants is available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is

determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state. The total JAG allocation for Colorado's state and local governments under the Recovery Act is about \$29.9 million, a significant increase from the fiscal year 2008 allocation of about \$2.2 million.

As of June 26, 2009, Colorado had received its full state award of \$18.3 million<sup>31</sup> and had spent \$13,743 for computers and staff time to support the program, according to state officials. The state Department of Public Safety administers the JAG program in Colorado and plans to use 10 percent of the full award for administrative costs as allowed for under the JAG program. The department plans to allocate the remainder of the full award to be consistent with the JAG pass-through requirements (which are based on a formula that takes into account a state's crime expenditures). As a result, approximately 60 percent of the remaining funds are to be awarded to local government entities and 40 percent to state entities.

The department intends to allocate these funds through a competitive process, for which it solicited applications starting on March 27, 2009. The department is now evaluating the 193 applications that it received by the May 1, 2009, deadline. Department of Public Safety program managers are reviewing the applications for thoroughness, completeness, ability to report in a timely way, and other information. According to the department's application, final awards should be made to applicants whose proposals, among other things, have an ability to create and preserve jobs, clearly address a priority area, and clearly address a funding need through the use of statistics, among other criteria. The priority areas for awarding JAG funds include, among other programs, community and neighborhood programs that assist in preventing and controlling crime; planning, evaluation, and technology improvement programs; and law enforcement programs, in particular those focusing on the integration of services so that law enforcement agencies can better prioritize service requests.

After its review, the department plans to present the applications, the week of July 6, 2009, to the JAG Board, a group of individuals appointed by

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<sup>31</sup>Due to rounding, this number does not exactly equal 60 percent of the total JAG award.

the Governor to represent state and local levels of the state's criminal justice system, including, among others, police chiefs, prosecutors, adult and juvenile corrections representatives, and mental health and substance abuse treatment providers. The board will discuss, score, and select applications for funding. After an appeals process in August, the Department of Public Safety will then finalize the grant documents and provide awards for funding to begin on October 1, 2009. Monitoring of those awarded funds will be conducted by program staff and additional temporary staff the department has hired specifically to be responsible for Recovery Act funds. The department plans to conduct monitoring through review of the quarterly reports submitted by subgrantees, and as well, to conduct a site visit of each subgrantee receiving Recovery Act funds.

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## Public Housing Capital Grants

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies for improving the physical condition of their properties; developing, financing, and modernizing public housing; and improving management.<sup>32</sup> 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 they are made available to public housing agencies for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already underway or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and timeframes for submitting applications.<sup>33</sup>

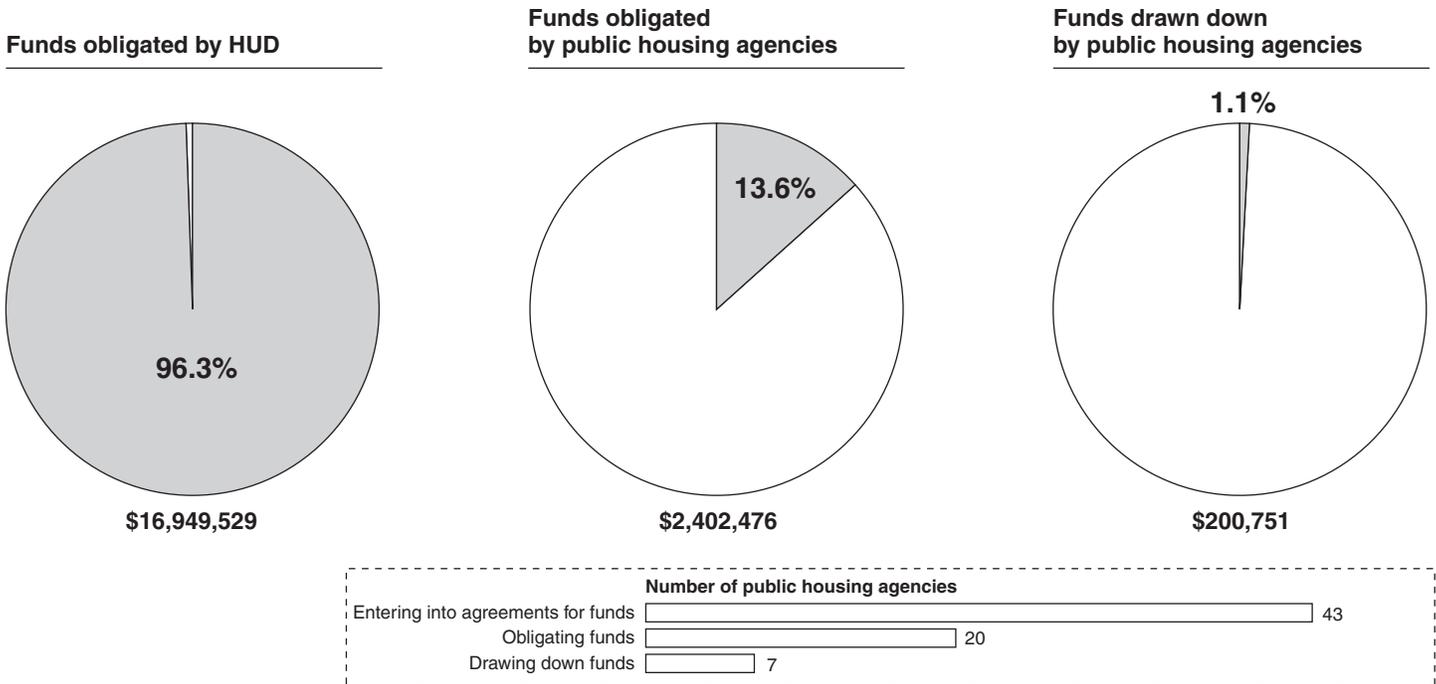
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<sup>32</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>33</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and timeframes for application, and to funding limits.

Colorado has 43 public housing agencies that have received Recovery Act formula grant awards. In total these public housing agencies received \$16,949,529 from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, the state’s public housing agencies had obligated \$2,402,476 (14 percent) and spent \$200,751 (1 percent). (See fig. 2.) Officials from the Housing Authority of the City and County of Denver told us the authority has been slow to spend Recovery Act funds because of regulatory requirements that must be met, including amending its 5-year plan, completing environmental clearances, and getting projects approved by its board of commissioners.

**Figure 2: Percent of Public Housing Capital Funds Allocated by HUD that Have Been Obligated and Drawn Down in Colorado**



Source: GAO analysis of HUD data.

Note: HUD allocated \$653,763 in Capital Fund formula grants from the Recovery Act to four additional public housing agencies in Colorado, but these housing agencies either chose not to accept Recovery Act funding or no longer had eligible public housing projects that could utilize the funds. As a result, these funds have not been obligated by HUD.

The three public housing agencies we visited in Colorado—the Housing Authority of the City and County of Denver, Holyoke Housing Authority,

and Housing Authority of the Town of Kersey—received Capital Fund formula grants totaling almost \$7.9 million.<sup>34</sup> HUD allocated \$7,799,206 in formula capital funds to the Housing Authority of the City and County of Denver, \$59,934 to the Holyoke Housing Authority, and \$29,193 to the Housing Authority of the Town of Kersey. As of June 20, 2009, the Housing Authority of the City and County of Denver had obligated about \$14,000 and had not drawn down any Recovery Act funds, the Holyoke Housing Authority had obligated about \$32,000 and drawn down about \$21,000, and the Housing Authority of the Town of Kersey had not obligated or drawn down any Recovery Act funds.

The Housing Authority of the City and County of Denver—a large, urban housing authority—plans to use its Capital Fund formula grants to build 90 new housing units<sup>35</sup> and rehabilitate 389 housing units across three projects.<sup>36</sup> For example, one project planned by the Housing Authority is to use about \$250,000 in Capital Fund formula grants to replace existing water heaters in 200 units with energy-efficient water heaters and to complete exterior painting. According to Denver officials, this project is scheduled to begin in June 2009 and will be completed by December 2009. The Housing Authorities of Holyoke and the Town of Kersey are small, rural housing authorities that have used or are planning to use Recovery Act funds for smaller-scale projects. For example, the Holyoke Housing Authority plans to use about \$14,000 in Recovery Act funds to replace wooden patio fences at 30 units with vinyl fences and attached solar lights. This project began in June 2009 and is scheduled to be completed in July 2009. Figure 3 shows before and after views of two adjacent units whose fences were replaced early in the project. The Housing Authority of the Town of Kersey plans to use some of its Recovery Act funds to replace

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<sup>34</sup>We selected three housing agencies throughout the state that received varying amounts of Recovery Act funds and were of varying sizes; the Housing Authority of the City and County of Denver is a large housing authority that received almost \$7.8 million in Recovery Act funds whereas the Housing Authorities of Holyoke and the Town of Kersey are very small housing authorities that each received well under \$100,000 in Recovery Act funds. We also selected these housing agencies because one had already spent Recovery Act funds at the time of our visit while the other two had not.

<sup>35</sup>The 90 new units that the Housing Authority of the City and County of Denver plans to build will include public housing and low-income housing tax credit units.

<sup>36</sup>These projects include one that is currently not on the Housing Authority's list of projects to fund with Capital Fund formula grants. However, officials expect to be able to fund it with Capital Fund formula grants because they expect to fund other projects with competitive grants, therefore making formula grants available to fund this project.

older windows in 18 units with energy-efficient windows. This project is scheduled to begin in July 2009 and be completed in September 2009. Figure 4 shows a housing unit at the Kersey housing authority; the lower windows have already been replaced with energy-efficient windows (using past Capital Fund formula dollars) while the four upper windows are original, single-pane windows that the Kersey housing authority plans to replace using Recovery Act funds.

**Figure 3: Two Public Housing Units at the Holyoke, Colorado Housing Authority Before and After New Fences Were Installed**



Source: GAO.  
Before



Source: Holyoke Housing Authority.  
After

**Figure 4: One Public Housing Unit at the Kersey, Colorado Housing Authority Before New Energy-Efficient Windows Were Installed (Upper Windows)**



Source: GAO.

Officials from the three housing authorities we visited said that they selected projects to fund with Capital Fund formula grants based on needs assessments and their 5-year project plans. As noted, the Recovery Act directs housing agencies to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, projects that rehabilitate vacant rental units, and capital projects that are already underway or are included in the 5-year capital funds plans. According to officials from the Housing Authority of the City and County of Denver, in prioritizing projects to fund with Capital Fund formula grants, they mainly focused on ongoing and planned projects, including projects that were already through the design phase and one that was already under contract. The Housing Authority of the City and County of Denver has a very low vacancy rate, so rehabilitating vacant rental units was not a key concern, according to officials, although they do plan to address two long-term vacant units using Recovery Act funds. Officials from the Housing Authorities of Holyoke and the Town of Kersey said that they also focused on ongoing or planned projects to fund with Recovery Act formula grants; these housing authorities also have few vacant units. Once the housing authorities' project lists were compiled, they had to be approved by each authority's board of commissioners.

Officials from the three housing authorities we visited did not anticipate any challenges in accessing Capital Fund formula grants or in meeting accelerated time frames for spending Recovery Act funds. Officials from the Housing Authority of the City and County of Denver said that they had already begun the environmental clearance process for the projects they plan to fund with Recovery Act funds. In addition, one of the projects they plan to fund with Recovery Act funds was already under contract when the project was selected, so the officials said that they were able to change the contract to add in elements that they originally did not have the funds to complete. Officials from the Housing Authorities of Holyoke and the Town of Kersey said that they planned to spend all Recovery Act funds by the end of 2009.

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## Colorado Will Track Recovery Act Funds Separately, but Officials Continue to Have Concerns about the State's Capacity to Audit Recovery Act Funds

Since we last reported, Colorado has implemented a separate coding structure in its state accounting system, the Colorado Financial Reporting System (COFRS), to identify and track Recovery Act funds. The unique coding will allow the state to track and report on state departments' use of Recovery Act funds. During the current reporting cycle, we discussed internal controls with state and local officials. Historically, the state's internal controls over funds have been decentralized, in that the state relies on its departments to ensure that funds are properly tracked and appropriate internal controls are in place; furthermore, according to the Controller, the state does not have responsibility for local entities' internal controls. With the additional reporting requirements in the Recovery Act, the Controller believes it is necessary to begin monitoring the departments' internal controls to help them ensure their internal controls are sound. In addition, state departments and local entities rely on internal and external audits, including their Single Audit reports, to identify weaknesses in their fund management. However, state officials continue to express concerns about having resources to cover the potentially increased audit workload associated with the Recovery Act, particularly in fiscal year 2009-2010 when the bulk of the funds will be spent. State officials have considered providing additional funding to the State Auditor's office to cover this workload but have not made a final proposal or decision.

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Colorado Has Established  
a Coding Structure to  
Track and Report  
Recovery Act Funds  
Separately

Colorado officials continue to modify their accounting system and processes to meet requirements for tracking Recovery Act funds. In April, we reported that state officials were concerned that COFRS's age might make it difficult to use the system to track Recovery Act funds in a timely way, and that some individual state departments do not use the COFRS grant module and therefore must manually post aggregated revenue and expenditure data to the system. In particular, the Colorado Department of Transportation and the state's institutions of higher education have their own accounting systems. We also reported that state officials had concerns about the tracking and reporting of funds received by local entities directly from federal agencies without passing through the state.

Since our April 2009 report, the Controller has integrated a new coding structure in COFRS that allows the state's departments and agencies to distinguish Recovery Act funds from other federal funds. The Controller issued guidance on May 13, 2009, that established unique coding for Recovery Act grants that will allow the state to segregate Recovery Act funds from regular federal funds in reporting operating revenues and expenditures, financial statements, and grant activity. In addition, the guidance requires state departments that use COFRS as their main accounting system to also use the COFRS grant management module to separately track Recovery Act grants. According to the Controller, reporting requirements will be worked out with the Colorado Department of Transportation and the state's institutions of higher education.

This new coding structure will not affect local entities that receive Recovery Act funds directly from federal agencies. These local entities have their own accounting systems and are responsible for tracking and reporting their Recovery Act activities to the federal government directly. For example, the three public housing authorities we visited will use their established systems to track Recovery Act funds separately from other funds.

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Colorado's Internal Control Responsibilities Are Traditionally Decentralized, but the State Controller Is Taking Action to Provide More Central Oversight of Recovery Act Funds

Colorado's internal control structure is decentralized, in that the Controller's office manages the state's fiscal policies and procedures while each department is responsible for ensuring that its programs have sufficient internal controls. Under Colorado law, each principal department of the executive branch of the state government must maintain systems of internal accounting and administrative control for all agencies in the department. These systems of internal accounting and administrative control must provide for, among other things, (1) adequate authorization and record-keeping procedures to provide effective control over state assets, liabilities, revenues, and expenditures; and (2) an effective process of internal review and adjustments for changes in condition.<sup>37</sup> The head of each principal department of the state is to file a written statement that the department's system of internal accounting and control either does or does not fully comply with the specified requirements.<sup>38</sup> Although the Controller's office ensures that these statements are filed every year, historically, the Controller has not had the resources to ensure that proper internal controls are in place.

Overall, state departments and local entities will use their existing internal controls to manage Recovery Act funds and programs. For example, CDOT officials said that they are using the department's existing processes to manage Recovery Act funds and projects. The processes include accounting and project management controls throughout all phases of a project. CDOT processes all payments through a secure software system that reports data down to the unit level and requires at least two people to be involved in all payments. CDOT prepares independent cost estimates before accepting bids and allows only pre-qualified contractors to submit bids; it also uses a computer program that checks for bid collusion. During the construction phase, contractors must comply with detailed specifications and keep daily diaries of work accomplished. CDOT project personnel remain on site to ensure that the project is built in accordance with the contract requirements. During final review, a CDOT engineer who was not involved in the design or construction phases reviews the final project documentation. Moreover, Recovery Act projects are receiving additional oversight. For example, CDOT assigned a manager to ensure

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<sup>37</sup> Colo. Rev. Stat. § 24-17-102.

<sup>38</sup> Colo. Rev. Stat. § 24-17-103. In the event that a statement is filed that indicates that the systems employed by the department are not in compliance with the applicable requirements, the statement must further detail specific weaknesses known to exist, together with plans and schedules for correcting any such weaknesses.

and coordinate CDOT's compliance with the Recovery Act at all levels and is increasing site visits, holding weekly progress reviews, and requiring more documentation at all levels for Recovery Act projects.

Similarly, the housing authorities we visited are using their established internal controls to oversee Recovery Act funds and projects. For example, officials from these housing authorities said that they already monitor projects funded with Capital Fund formula grants on a regular basis and did not plan to increase site visits to Recovery Act projects. The offices for the two small housing authorities we visited were located on site with the housing authorities' units, so officials said that it is easy to monitor all projects. Officials from the Housing Authority of the City and County of Denver said that they do regular site visits to monitor projects, although an official from this authority said that they may increase their monitoring to ensure compliance with the Buy American provision of the Recovery Act,<sup>39</sup> depending on reporting guidance received from OMB.

Some state officials expressed concerns that some programs might be at increased risk for improper use of, and reporting on, Recovery Act funds due to long standing material weaknesses or inadequate accounting systems. One of these programs, Medicaid, is operated by the Department of Health Care Policy and Financing and audits have identified areas of significant risk related to state expenditures of Medicaid funds. Both the fiscal year 2007 and fiscal year 2008 Single Audits identified material weaknesses in the state's Medicaid program. The 2007 Single Audit found that Colorado Medicaid did not process initial applications or eligibility redeterminations in a timely manner and that the program lacked documentation to support its eligibility decisions. Program officials agreed with nearly all of the material weaknesses that were identified and proposed corrective actions for each. The 2008 Single Audit found similar themes as those raised in 2007, as well as additional issues related to items such as cash management, provider licensing, and training of staff. The Legislative Audit Committee held a hearing on the program in the spring of 2009 and the State Auditor subsequently requested that the Department of Health Care Policy and Financing develop a plan to correct its problems. In May 2009, the Department issued a corrective action plan addressing the identified material weaknesses.

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<sup>39</sup>With certain exceptions, Recovery Act funds may not be used for construction, alteration, maintenance, or repair of a public building or public work unless all the iron, steel, and manufactured goods used in the project are produced in the United States. Recovery Act, div. A, title XVI, § 1605.

Another program that some state officials said was at increased risk for improper use of, and reporting on, Recovery Act funds is the weatherization program because of the large increase in federal funds that it is receiving under the Recovery Act. Officials in the Governor's Energy Office stated that they plan to conduct monthly visits of all subgrantees, in contrast to the semiannual or annual visits they made before the Recovery Act passed. Officials further stated that putting all reports online—which will be done through a new Web-based tracking system—will enable them to monitor subgrantee performance in real time. As a result, they hope to be able to identify problems at their inception. For example, subgrantees have monthly performance requirements laid out in their contracts. By monitoring performance in real time, officials with the Governor's Energy Office should immediately become aware of any underperformance by subgrantees and can take proactive measures, such as providing help or additional expertise to that subgrantee.

According to the Controller, the Recovery Act's emphasis on accountability and transparency heightens the need for the state to have a centralized process for monitoring the effectiveness of state departments' internal controls. According to the Controller, his office has not historically had the resources to carry out that role. Given the increased need for and attention to the state's internal controls, the Controller's office is developing an internal control toolkit that will provide state departments information on internal control systems and checklists to formalize and improve their existing processes and identify potential weaknesses. In addition, the Controller's office is in the process of filling its internal auditor position, which has been vacant for over 2 years. According to the Controller, the auditor will work with state departments to promote and monitor internal controls, as well as monitor proper tracking and reporting of Recovery Act funds.

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**State Officials Are Concerned about Capacity to Audit Recovery Act Funds**

Under the Single Audit Act, any nonfederal entity that spends over \$500,000 in federal awards in one fiscal year is required to have a Single Audit. In Colorado, the State Auditor's office is responsible for carrying out, or contracting portions of, the state's annual Single Audit of state departments. (Local entities, such as the school districts we visited, which exceed the \$500,000 amount, are required to have a Single Audit separate from the state audit.) The State Auditor's office, in conducting its annual

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Single Audit, must plan to provide adequate audit coverage each year.<sup>40</sup> We reported in April that state officials were concerned about the increasing need for internal and external audit coverage of Recovery Act funds, including coverage by the State Auditor's office.

Effective Single Audit coverage is important because state department officials told us that they use their Single Audit reports to identify and correct weaknesses in their internal controls. As noted above, for example, the Department of Health Care Policy and Financing was identified in statewide Single Audit reports as having significant weaknesses. In addition, CDOT uses the Single Audit reports submitted by localities to identify areas of high risk that could affect their transportation programs. Most of the time, local entities do not conduct audit testing on transportation projects they manage because the expenditures on these projects are relatively small. For this reason, CDOT's audit division reviews local entities' Single Audit reports to assess those entities' controls, and may require corrective action plans if weaknesses are found. Further, CDOT requires full documentation of expenses for localities managing transportation projects unless they provide CDOT with evidence that they have sufficient controls to manage projects with less oversight. Finally, the Colorado Department of Education relies on audits from the local school districts to assess and determine if there are weaknesses in a district's management of federal funds. They also use audits to identify districts that may receive a site visit from department staff.

At the local level, the Denver housing authority's management of federal funds has been reviewed through its annual Single Audit and other audits. Because no material weaknesses related to the housing authority's financial systems have been identified, housing authority officials do not anticipate any challenges or system changes related to Recovery Act funds. Similarly, each of the two rural housing authorities we visited is audited each year by external auditors.

While state departments and local entities use their Single Audit reports to identify weaknesses in their management of federal funds, state officials continued to express concerns about the state's capacity to handle the potential increase in internal and external audit workload associated with

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<sup>40</sup>The office develops an annual audit plan that includes about 35 to 40 financial and 20 to 25 performance audits, and considers three key components when developing the plan: (1) audits required by law or other legal requirements; (2) audits requested; and (3) audits identified by the office on the basis of risk.

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Recovery Act funds and additional reporting requirements. The Office of the State Auditor is currently performing the Single Audit for fiscal year 2008-2009 and, according to officials, they will be able to adjust their audit plan to include audit work for Recovery Act funds expended by state departments in this fiscal year. At the same time, they are developing the audit plan for fiscal year 2009-2010, the period when the bulk of Recovery Act funds will be spent. Officials with the Office of the State Auditor said that without OMB guidance on audit and reporting requirements, they cannot finalize the plan and therefore do not know what resources they will need to carry it out. However, they expect the workload to increase beyond the resources available. State officials have discussed using administrative funds to cover some of the costs of additional audit work by the State Auditor's office, but no proposal or decision has been made about the use of these funds.

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## Colorado May Use Additional Data Gathering Systems to Assess the Effect of Recovery Act Dollars in the State, But State Officials Said Guidance on Job Creation and Retention Is Needed

Although it is still too early to assess the impacts of Colorado's Recovery Act funding, state officials are planning to centrally track and monitor the results of this spending.<sup>41</sup> State Recovery office officials said they are still evaluating whether to modify an existing system or acquire a new system to report on the effects of Recovery Act funds. The state will gather data including the number of jobs created and retained by the funds. However, some state department officials said that reporting guidelines have not yet been finalized and that they need guidance, particularly guidance on counting jobs created and retained.<sup>42</sup>

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## Colorado Is Assessing Systems to Track and Report on the Effects of Recovery Act Funding

State officials said that they plan to centrally track and report nonfinancial information to demonstrate the effects of Recovery Act spending across Colorado. To accomplish this, the state Recovery office is still assessing whether it will modify and use an existing state system or acquire an off-the-shelf system available from private companies. This decision will be made during the next few months; the state plans to participate in OMB's July 10, 2009, reporting effort and assess that effort and the options available to report Recovery Act information, although officials said that they have not heard from OMB regarding the state's participation.<sup>43</sup> The state is awaiting additional OMB guidance on reporting requirements to

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<sup>41</sup>On June 11, 2009, the state issued a status report on Recovery Act funds and will update this report periodically. The report is: Governor's Economy Recovery Team, *The American Recovery and Reinvestment Act: A Colorado Status Report* (Denver, Colo., 2009), <http://www.colorado.gov/governor/press/pdf/ColoradoStatusReport.pdf> (accessed June 12, 2009).

<sup>42</sup>As noted on the following pages, several state and local officials told us that they were seeking additional guidance on how to report on Recovery Act funds. OMB provided such guidance on June 22, 2009; however, we did not subsequently discuss the guidance with officials to determine whether it met their needs. See OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

<sup>43</sup>In July 2009, OMB and the Recovery Accountability and Transparency Board plans to conduct a small-scale pilot test of the reporting procedures and data collection system developed for recipient reporting. Actual required reporting will begin October 10, 2009, for the quarter ending September 30, 2009.

make a determination about what it will need to report, according to state and department officials.

Some state agencies, such as the state Departments of Education and Transportation, plan to use their existing systems to track and report performance information. At least one state agency may modify a recently developed system to track Recovery Act results, while another state department will use a federal system to gather program results. The Governor's Energy Office developed a new Web-based tracking system, which it plans to roll out on July 1, 2009, that will facilitate real-time reporting of program performance. The system compares costs across the program and monitors certain performance measures, such as installations of energy conservation measures and units. The state already reports to DOE on progress and funding, but officials from the Governor's Energy Office said that until they receive additional guidance from OMB, they will not know whether additional data may need to be collected. However, these officials noted that because they developed their tracking system in house, they can customize it to track any additional requirements provided by DOE or OMB.

Officials at the Colorado Department of Public Safety said that they will need to report on new JAG-specific programmatic performance measures created by BJA, and will need to report more frequently than in the past. The officials said that BJA is developing a system to gather and report information on these measures, but that depending on the system's capabilities and BJA's reporting requirements, the department may develop an electronic reporting system for subgrantees to report to the state. The department is concerned about the accuracy of the data reported by subgrantees directly to the federal government because the measures are new and complex. Officials stated that the data would be more accurate if the reporting time frames were lengthened—from the 30 days required by BJA for JAG-specific measures to a minimum of 45 days—to provide the state time to review the information and work with the subgrantees to refine it.

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### Some State Departments Said Guidance Is Needed to Report Jobs Created and Retained

State departments and local entities plan to track and report on the number of jobs created and retained, but some officials said that they are waiting for OMB guidance on how to count these positions. For example, some state and local education officials told us they need clear guidance on the information they will be required to report, so that they can adjust their existing monitoring and reporting processes and systems accordingly. Similarly, officials from the Housing Authority of the City and

County of Denver said that they track certain information on housing projects, such as occupancy rates, resident complaints, section 3 employment,<sup>44</sup> and women and minority business goals, and were awaiting guidance on how to track data on jobs created or retained. They noted that they may reserve some funds to do an assessment of their projects' effects on the economy and job creation. Officials from the two rural housing authorities we visited said that they do not currently track any performance measures, other than ensuring work is completed. They noted that because of the size of their projects, the projects funded with Recovery Act funds would not result in substantial job creation, other than creating short-term work for some contractors.

Finally, Department of Public Safety officials continued to have concerns about reporting jobs data, as we reported in our April 2009 report. Although officials said that the applicants' ability to report will be one way of scoring the applications for funding, they are still concerned that the requirement to report jobs data 10 calendar days after the quarter will be difficult for the state and subgrantees to meet. The officials said they are also awaiting guidance from OMB on how to count jobs created and retained. In particular, the officials questioned how jobs should be counted from one quarterly report to the next and were concerned about avoiding duplication in counting jobs.

On the other hand, CDOT has received guidance on measuring jobs created or retained from the U.S. Department of Transportation and has directed local entities and contractors to gather specific data. Although only a few of Colorado's Recovery Act-funded highway projects have begun construction, CDOT does not anticipate any difficulties in reporting jobs created or retained. However, officials added that it would be difficult for them to report these categories separately if required to in the future. Officials stated that the information contractors are being asked to provide under the Recovery Act is similar to information already reported by contractors for other purposes. In particular, contractors have experience providing data about workers on CDOT-funded construction sites because they must submit certified payroll records to CDOT for themselves and their subcontractors to comply with Davis-Bacon Act reporting

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<sup>44</sup>Under section 3 of the Housing and Urban Development Act of 1968, employment and other opportunities generated by federal financial assistance for housing and community development programs are to be directed, to the greatest extent possible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. 12 U.S.C. § 1701u.

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requirements.<sup>45</sup> On June 12, 2009, CDOT submitted its second monthly employment report to the U.S. Department of Transportation. In total, CDOT has reported 65 direct on-project jobs created or retained as a result of Recovery Act funding.

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## 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 on June 19, 2009. State officials generally agreed with this summary of Colorado's recovery efforts to date. The officials also provided technical comments, which were incorporated, as appropriate.

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## Staff Acknowledgments

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<sup>45</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

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# Appendix IV: Florida

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## Overview

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

**Use of funds:** GAO's work focused on nine federal programs, selected primarily because they have begun disbursing funds to states, and includes existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, and new programs. Program funds are being directed to helping Florida stabilize its budget and support local governments, particularly school districts, and are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, Florida has drawn down almost \$1.3 billion in increased FMAP grant awards, which is almost 91 percent of its awards to date.<sup>2</sup> Florida is using freed up state funds made available as a result of the increased FMAP to cover the state's increased Medicaid caseload, and maintain current Medicaid populations, and level of benefits and offset the state budget deficit.<sup>3</sup>
- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** Florida's request for stabilization funds was approved on May 12, 2009, and the state received \$1.8 billion of its total SFSF allocation of \$2.7 billion. Almost \$1.5 billion is for education stabilization, and \$329 million is for government services. Based on Florida's approved application, it will allocate 79 percent of the education stabilization funds to local education agencies (LEA) and 21 percent to institutions of higher education (IHE). Florida will make the funds available to LEAs and IHEs on July 1, 2009, the beginning of the school budgeting year. Florida will be using these funds to restore state aid to LEAs,

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

<sup>2</sup>Florida received increased FMAP grant awards of about \$1.4 billion for the first three quarters of federal fiscal year 2009.

<sup>3</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

helping to stabilize their budgets and, among other uses, retain staff. For example, Miami-Dade school district officials estimate that the Recovery Act funds will allow them to save 1,919 positions or 10 percent of the district's teacher workforce.

- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** The Department of Education (Education) has awarded Florida \$245 million in Recovery Act ESEA Title I, Part A, funds, or 50 percent of its total allocation of \$490 million. Of these funds, the state has allocated state LEAs \$231 million, as of June 25, 2009. Florida made these funds available to LEAs after April 1, 2009, to help them educate disadvantaged youth. For example, Miami-Dade school district officials reported that they are using the Recovery Act funds to deploy reading coaches to high-poverty, low-performing schools, and to provide supplemental, enrichment services to students enrolled in prekindergarten in schools implementing the Title I School-wide Program.
- **Individuals with Disabilities Act (IDEA), Parts B and C.** Education has awarded \$335 million in Recovery Act IDEA, Parts B and C, funds, or 50 percent of its total allocation of \$670 million. Florida has received \$9.8 million of Part B funds for preschool grants and \$313.6 million of Part B funds for school-aged children and youth. Florida made these funds available to LEAs upon receipt of an approved application, to support special education and related services for infants, toddlers, children, and youth with disabilities. The Florida Department of Health received \$11.5 million of Part C funds for infants and families for early intervention services, and it has allocated \$7 million of the funds across 15 contracts to local organizations for service delivery for its Early Steps Program, as of July 1, 2009.
- **Workforce Investment Act (WIA) Youth Program.** The U.S. Department of Labor allotted about \$43 million of Recovery Act funds for the WIA Youth program. The state has allocated all of the funds to local workforce boards, based on information available on June 30, 2009. The Florida workforce boards' summer youth programs plan to create about 16,000 to 20,000 summer jobs for Florida youth.
- **Edward Byrne Memorial Justice Assistance Grants.** The Department of Justice's Bureau of Justice Assistance has awarded \$81.5 million directly to Florida in Recovery Act funding, of which about 65 percent—about \$53 million—is to be allocated by the state to

eligible local jurisdictions.<sup>4</sup> As of June 30, 2009, the state has obligated and expended \$8,300 for administrative expenses. Grant funds coming to the state of Florida will be used mostly to expand existing drug court programs. The remaining funds will be used for providing detention and treatment services for youth, purchasing radio equipment upgrades for the Department of Corrections, and developing a new seaport access database.

- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$86 million in Recovery Act funding to 82 public housing agencies in Florida. Based on information available as of June 20, 2009, about \$12 million (14 percent) had been obligated by 35 of those agencies. At the three housing agencies we visited—Venice Housing Authority, Tampa Housing Authority, Tallahassee Housing Authority—these funds, which flow directly to public housing agencies, are being used for various capital improvements, including modifying kitchens, replacing roofs and windows, and improving energy efficiency.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$176 million in Recovery Act weatherization funding to Florida for a 3-year period. As of June 30, 2009, DOE has provided about \$88 million to Florida, and the Department of Community Affairs (DCA) will have obligated almost \$113,000 and expended about \$77,000 of the initial program funds for such expenses as payroll for DCA staff, contract services, and travel and supplies. Florida also plans on using its initial funding to hire additional staff to monitor the program, prepare subgrantee agreements with its 29 local service providers, and provide start-up training for new agency staff and subgrantees. The additional 40 percent of the Recovery Act weatherization funds received on June 18, 2009, will be used to begin weatherizing at least 19,000 homes.
- **Highway Infrastructure Investment Funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$1.4 billion in Recovery Act funds to Florida. As of June 25, 2009, the federal government obligated about \$1 billion. According to Florida Department of Transportation officials, the state has

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<sup>4</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's (BJA) solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

received bids for nine highway construction projects, and is currently advertising 39 additional Recovery Act projects—funded with \$555 million in Recovery Act funds and \$945 million in other federal, state, and local funds. Funding from the first round of FHWA obligations are being used for resurfacing projects, bridge repairs, and new construction. For example, in Hillsborough County, a major interstate project—costing over \$445 million and using over \$105 million in Recovery Act funds—will connect a major expressway to Florida’s Interstate 4 to improve the flow of traffic and create a truck-only lane to provide direct access to the Port of Tampa.

**Safeguards and transparency:** Florida’s accounting system will be used to separately track Recovery Act funds that flow through the state government, using selected identifiers such as a grant number or project number. The local entities that we visited have tracking systems in place, or are in the process of establishing tracking systems for Recovery Act funds, whether those funds are passed-through from the state agency or are directly awarded from a federal agency. While Florida law requires state agencies to establish and maintain internal controls, the state oversight agencies are preparing for the infusion of Recovery Act funds into the state. The Florida Department of Financial Services is planning to obtain separate agency representation letters from agency heads that say internal controls are in place for Recovery Act funds. Florida’s Chief Inspector General established a communitywide working group of agency Inspectors General to address risk assessment, fraud prevention and awareness, and training. The Auditor General is monitoring the state’s plans for accounting for and expending Recovery Act funds and tracking the expected changes in the Office of Management and Budget’s (OMB) implementing guidance for the Single Audit Act’s requirements.

**Assessing the effects of spending:** Florida agencies continue to have some concerns about the lack of clear federal guidance on assessing the results of Recovery Act spending and were awaiting final OMB and federal agency guidance on reporting on jobs retained and created. The recovery czar reported participating in conference calls with OMB regarding the guidance and having input into its development. On June 22, 2009, OMB issued additional guidance on reporting on the use of Recovery Act funds.<sup>5</sup> Florida is in the process of developing an automated Web-based system to

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<sup>5</sup>OMB 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).

collect data and report on Recovery Act requirements for funds that flow through state agencies. In addition, since most state agencies have yet to obligate or expend Recovery Act funds, little, if any, data on actual jobs retained or created is available for Florida. Instead, some state agencies have estimated the number of jobs retained or created. For example, officials from one university stated that the Recovery Act stabilization funds would be used exclusively to retain about 400 of their 1,100 adjunct instructors.

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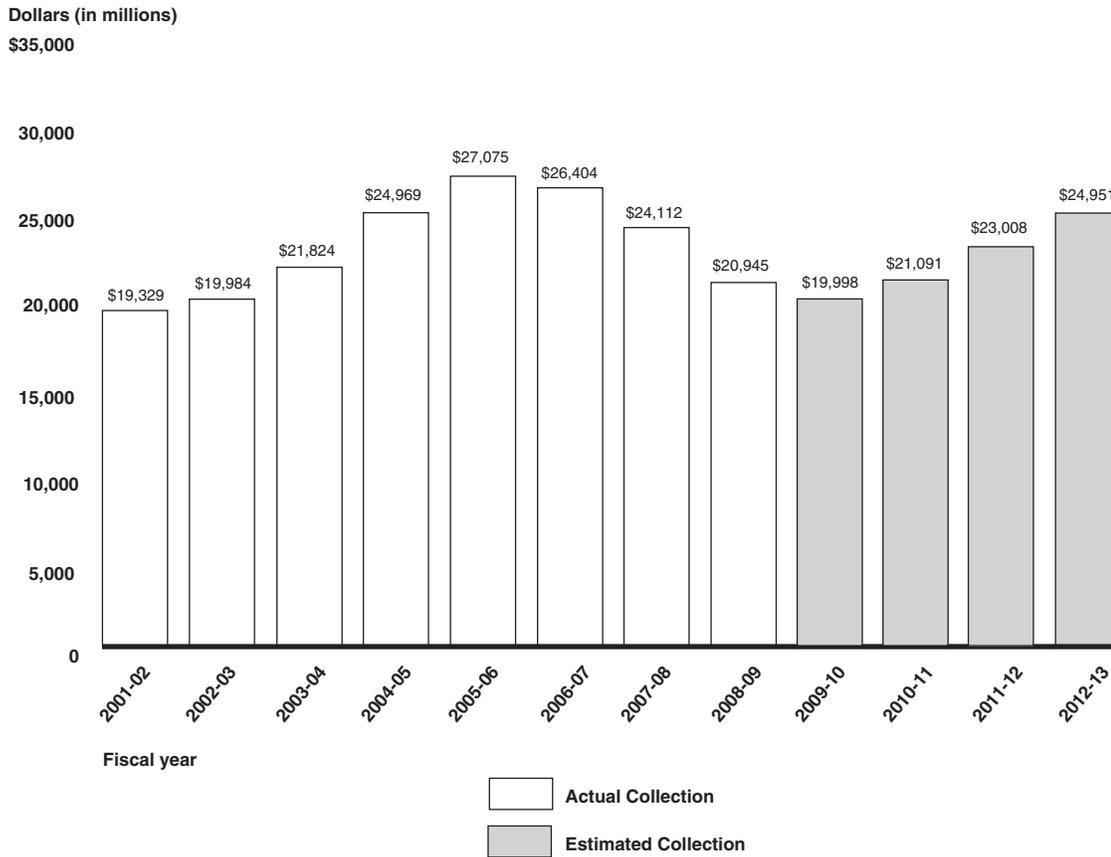
## Florida Will Use Recovery Act Funds in Conjunction with Other Revenue-Producing Activities to Address Budget Gap

On May 27, 2009, Florida passed a \$66.5 billion budget for the state's 2009-2010 fiscal year. While developing this budget, officials noted that the state was facing a projected \$4.8 billion gap in general revenue funds. This general revenue gap is due to the state's declining general revenue receipts, which have been decreasing over the past 3 years. For example, Florida's general revenue is estimated to be \$21 billion for fiscal year 2009 and \$20 billion for fiscal year 2010. To assist in closing the gap, \$1.6 billion of Recovery Act funding will be used primarily from the State Fiscal Stabilization Fund (SFSF), and child support funds, in the form of increased federal matching funds. Funds made available as a result of the increased FMAP will also be used. For 2009-2010, Florida has budgeted a total of \$5.3 billion in Recovery Act funds. We reported in April that the state planned to use about \$3 billion in Recovery Act funds to reduce the state's budget shortfall for state fiscal year 2009-2010.<sup>6</sup> As shown in figure 1, the state is expecting over a 26 percent decrease in revenues between fiscal year 2005-06 and 2009-10.

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<sup>6</sup>*Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009).

**Figure 1: Florida's General Revenue, Fiscal Years 2002-2013**

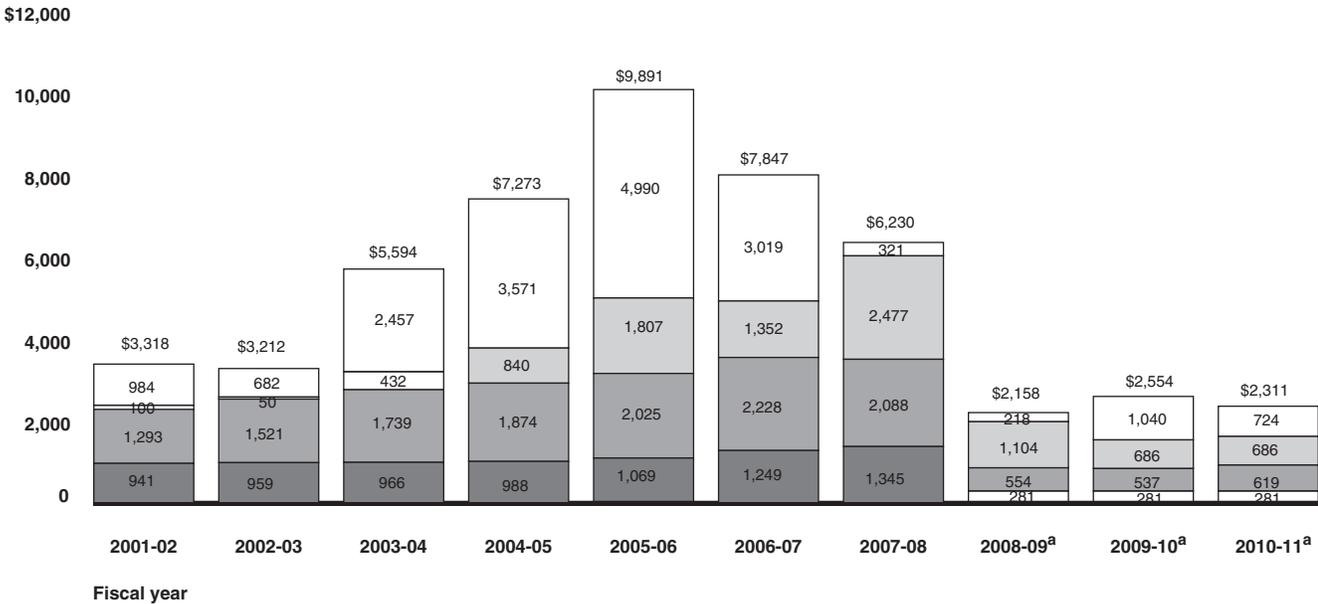


Source: GAO analysis of Florida Office of Policy and Budget Data.

The state has also substantially reduced its reserve funds to counter the decreases in general revenues. If Florida did not receive or use Recovery Act funds, the state would have potentially needed to consider options such as additional budgetary cuts, revenue enhancements, or further trust fund reductions. For example, in 2008, Florida had a reserve fund balance of \$6.2 billion, while the current reserve balance is about \$2.2 billion. As shown in figure 2, the state's reserve funds are estimated to substantially decrease in 2009.

**Figure 2: Florida’s Revenue Reserves, Fiscal Years 2002-2011**

Dollars (in millions)



- Unencumbered general revenue (nonrecurring)
- Trust Funds
- Tobacco Reserves
- Budget Stabilization Fund

Source: GAO analysis of Florida Office of Policy and Budget data.

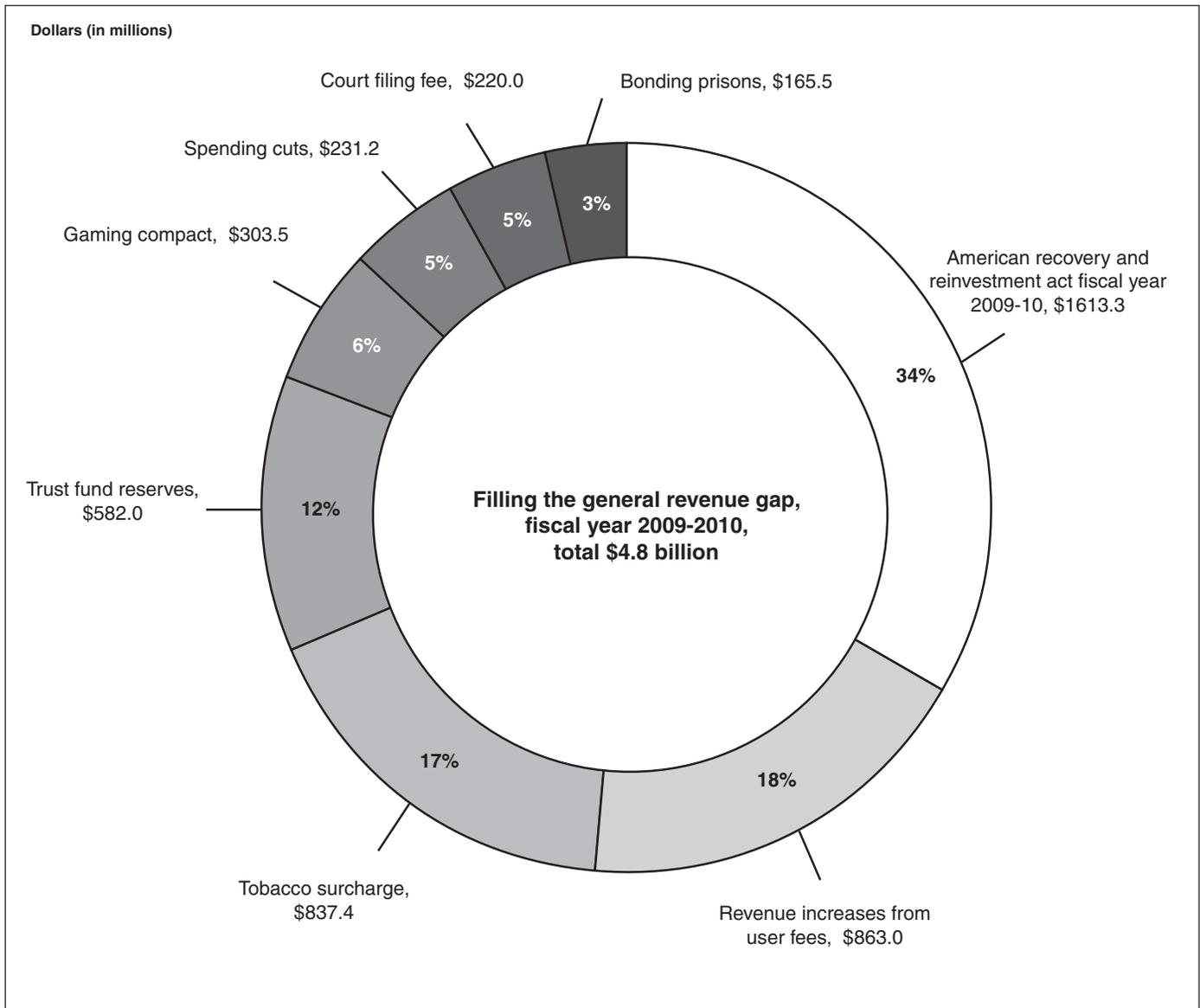
<sup>a</sup>Estimated.

The state has also experienced an increase in demand for some services with the downturn in the economy. For example, the number of unemployed people in the state has increased, which in turn increases the demand for unemployment compensation and other social services, such as food stamps. Other state-funded programs, such as higher-education institutions, have recently seen increasing enrollment of people trying to increase their marketable skills. This increased enrollment has strained institutions, which are also struggling with budget cuts. Other agencies—such as school districts—have laid off staff to meet the budget demands. According to state officials, these layoffs would have been significantly worse without Recovery Act funding.

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However, Florida officials are not planning to continually rely on funding from the federal government to sustain Florida's budget for future years. Instead, Florida's legislature and Governor recently passed a number of new revenue-producing initiatives to help close the state's budget gap, as shown in figure 3. For example, according to state officials, the recently passed legislation, once ratified by the Seminole Tribe, will tax certain gambling profits on the Seminole Indian reservations and is estimated to produce about \$170 million in revenue for the state on an annual basis. Other initiatives include levying a tobacco surcharge of \$1 per pack, increasing motor vehicle fees, "trust fund sweeps" which move funds from department trust funds to general revenue, and saving \$165 million in general revenue funds by financing the construction of new prisons with bond proceeds. State officials currently estimate these revenue generating actions will produce more than \$2.0 billion in new general revenues.

**Figure 3: Florida's Plan for Filling the General Revenue Gap**



Source: GAO analysis of Florida Office of Policy and Budget Data.

Florida's capacity to oversee the recovery act funds may be strained due to the current budget situation and the potential increases in auditing requirements from the Office of Management and Budget's (OMB) guidance for implementing the Single Audit Act. The Florida Offices of Inspector General (OIG) currently estimates that there are 34 full-time

employees available to work on Recovery Act–related activities, with 7 of these positions solely dedicated to Recovery Act funding oversight. The OIG has also determined that the Inspector General community may require additional resources to fully accomplish its total oversight activities through 2010; however, exact estimates are not available at this time. On the other hand, officials in the Auditor General’s office stated that their office has adequate staffing to conduct the Single Audit reviews for the programs affected in the state. However, if the auditor’s office will be required to monitor internal controls in the state agencies on an accelerated time frame and increase the number of programs that must be audited, then the auditor’s office is unsure of its staffing needs, absent more specific direction on OMB’s expectations.

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## Florida Medicaid Enrollment Has Increased 18 Percent since October 2007

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state’s per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>7</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>8</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states’ prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states’ FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise

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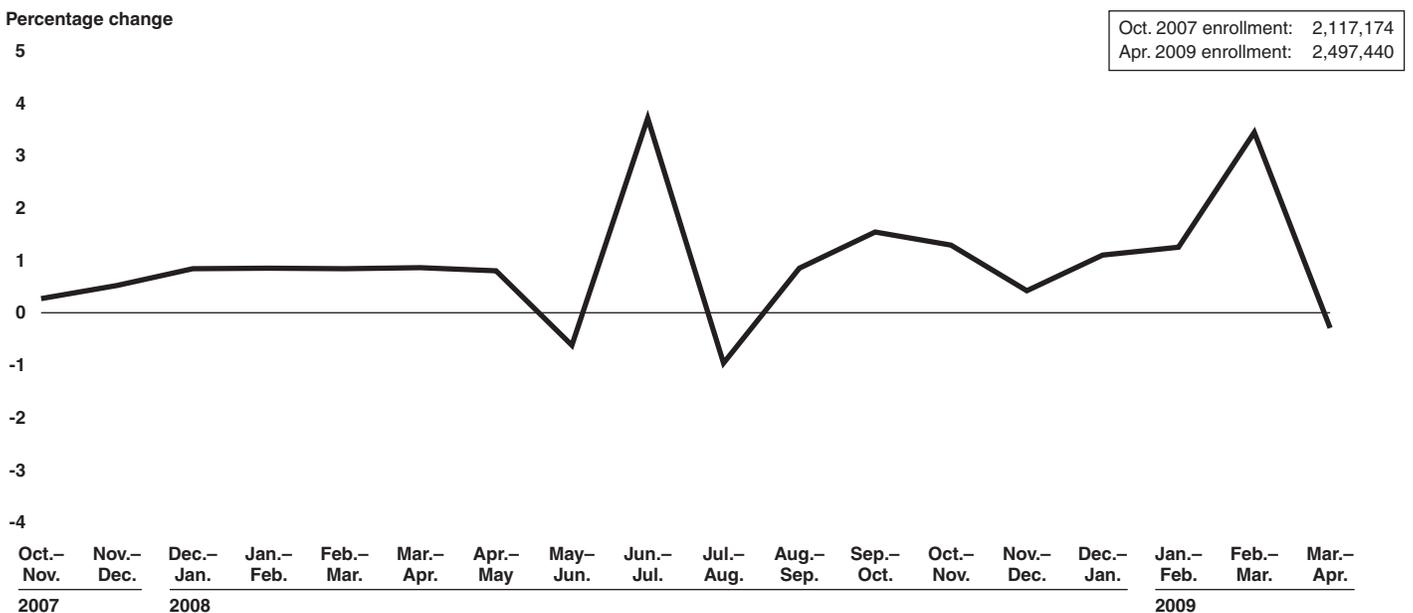
<sup>7</sup>Recovery Act, div. B, title V, §5001.

<sup>8</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to April 2009, the state’s Medicaid enrollment grew from 2,117,174 to 2,497,440, an increase of 18 percent. While the increase in enrollment was generally gradual during this period, larger increases occurred between June and July 2008 and February and March 2009. (See fig. 4.) Most of the increase in enrollment was attributable to the children and families population group.

**Figure 4: Monthly Percentage Change in Medicaid Enrollment for Florida, October 2007 to April 2009**



Source: GAO analysis of state reported data.

As of June 29, 2009, Florida has drawn down almost \$1.3 billion in increased FMAP grant awards, which is almost 91 percent of its awards to date.<sup>9</sup> Florida officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit, cover the state’s increased Medicaid caseload, and maintain the state’s current Medicaid populations and benefits.

<sup>9</sup>Florida received increased FMAP grant awards of about \$1.4 billion for the first three quarters of federal fiscal year 2009.

According to state officials, the availability of the increased FMAP provided Florida with the ability to maintain existing services and eligibility requirements in the state's Medicaid program, despite decreases in revenues. In particular, Medicaid funding for two population groups—certain low-income individuals and medically needy individuals—had relied on nonrecurring state revenues for the state fiscal year 2008-2009, but with funds made available as a result of increased FMAP, the funding is now augmented by Recovery Act funds and will continue at least through the end of calendar year 2010. State officials noted that continuing to cover these populations is a requirement for the state to maintain eligibility for increased FMAP funds. In addition, the state had lowered reimbursement rates to institutional providers over the last couple of years as part of an annual review of program size, populations, and cost—due in part to the shortage of these nonrecurring state revenue sources. Florida officials said it is difficult to speculate on how the legislature will use funds made available as the result of increased FMAP to build the Medicaid budget for the coming state fiscal year. They further noted that the Medicaid program had incurred no additional costs related to the administrative and reporting requirements associated with use of these funds.

Regarding the tracking of increased FMAP, state officials said that they will rely on an internal software program to track standard and increased FMAP funds separately in their existing accounting system. The internal software allows state officials to track increased FMAP by appropriation and expenditure. Florida officials said the state has internal controls in place, including periodic reconciliation processes, to ensure that the amount of adjudicated Medicaid claims that Florida processes equals the state's drawdown of FMAP funds. Florida officials said that regarding the use of FMAP funds, the state's internal controls do distinguish between regular and increased FMAP and that all FMAP funds are only used for Medicaid purposes. Auditors from the state's Medicaid Program Integrity Division within the Office of the Inspector General routinely review the state's Medicaid program for instances of fraud, waste, and abuse, and will continue to use existing protocols to review use of funds made available as the result of increased FMAP.

Due to concerns that the method the state uses to determine prompt payment could violate the Recovery Act,<sup>10</sup> Florida officials made several changes to the state's payment methodology and implemented system enhancements to comply with the Recovery Act's requirement. Regarding the Single Audit, the 2007 and 2008 audits each identified one material weakness in the state's Medicaid program, which was related to insufficient documentation that data exchanges to verify eligibility were performed.<sup>11</sup> The 2008 Single Audit also raised additional concerns related to the documentation of eligibility decisions.

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## School Districts and Colleges Report Plans to Use State Fiscal Stabilization Funds to Retain Teaching Staff and Establish Systems to Track Funds

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education

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<sup>10</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

<sup>11</sup>The 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 Office of Management and Budget (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.

stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or institutions of higher education (IHEs). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

Florida's request for stabilization funds was approved in May 2009, and it received \$1.8 billion of its total \$2.7 billion SFSF allocation. Almost \$1.5 billion is for education stabilization, and \$329 million is for government services. Based on the state's approved application, the state will allocate 79 percent of the education stabilization funds to local education agencies (LEAs) and 21 percent to IHEs. Florida will make the funds available to LEAs and IHEs on July 1, 2009, the beginning of the school budgeting year. Florida submitted a waiver for its maintenance-of-effort requirement, and a state official told us it was approved May 12, 2009.

We selected the Miami-Dade and Hillsborough County school districts to visit because they are the first and third largest local school districts in the state with regard to Recovery Act funding and student population, respectively. Both school districts reported decreases in state funding for the upcoming 2009-2010 school year. Miami-Dade and Hillsborough County school district officials cited budget shortfalls of \$173 million and \$77 million respectively, for school year 2009-2010 and said they will use their SFSF allocations of \$119 million and \$66 million respectively, to partially fill those gaps. The amount of funds allocated was determined by the state's formula for base funding, and the funds will be made available to the local school districts through the Florida Education Finance Program on July 1, 2009. Local school districts have to apply to the Florida Department of Education for the funds, and those applications were received June 8, 2009.

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### Selected School Districts' Planned Use of Stabilization Funds and Monitoring

The Miami-Dade and Hillsborough school districts will place the stabilization funds in their general funds, and they plan to use them primarily to help the school districts retain positions, or create new jobs, or both. The Florida Department of Education published strategies and guidance for all Recovery Act education funding streams on its Web site, and there are 21 recommended strategies for spending stabilization funds. The local school district officials we spoke to told us they were establishing systems and processes to track the stabilization funds and report on their uses to the state.

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Miami-Dade: Miami-Dade school district officials estimate that the stabilization funds will help them save 1,919 positions, or 10 percent of the district's teacher workforce.<sup>12</sup> In addition to retaining positions, they said that they plan to use some of the SFSF funds to focus on more professional development and the continued hiring of Teach for America teachers. Moreover, Miami-Dade officials said its controller is setting up unique accounting codes for its funds and programs as required by the state to track and report on their usage.

Hillsborough: Hillsborough County school district officials estimate that the funds will save roughly 1,100 positions. These officials reported that they have created accounting codes for their Recovery Act funds that will allow them to track the funds on specific projects. They plan to oversee their use of funds via the quarterly reports that must be filed with the state Department of Education as well as through their annual self-evaluation.

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## Stabilization Funds Will Allow Institutions of Higher Education to Maintain Staff and Will Mitigate Tuition Increases

All three of the IHEs we visited in Florida have reported decreases in state funding that they will compensate for with stabilization funds. The SFSF they receive will not fill the gaps completely. (See table 1.)

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<sup>12</sup>These estimates may be understated because they are based on average salaries and the positions eliminated would most likely be lower-cost, newer hires.

**Table 1: Decreases in State Funding and Stabilization Funds Received by Institutions of Higher Education We Visited**

School	Decrease in state funds (dollars in millions)	Stabilization funds received (dollars in millions)	Stabilization funds as a percent of decrease
Hillsborough Community College (HCC)	\$6 <sup>a</sup>	\$3.9	65%
University of South Florida (USF)	36 <sup>b</sup>	15.1	42
Florida Agricultural and Mechanical University (FAMU)	16.2 <sup>b</sup>	7.9	49

Source: HCC, USF, FAMU.

Notes: Figures were provided by program officials at HCC, USF, FAMU.

<sup>a</sup>Decrease was in the state’s 2008-2009 fiscal year.

<sup>b</sup>Decrease is for state’s 2009-2010 fiscal year, which began July 1.

While the schools we visited were still deciding on what and when the funds will be spent—their budgets were finalized July 1, 2009—all three of these institutions reported that they will use stabilization funds to retain teaching staff or create new jobs, or both. With regard to retaining teaching staff, Hillsborough Community College (HCC) reported that it would use stabilization funds exclusively to retain about 400 of its 1,100 adjunct instructors. A University of South Florida (USF) official said the university would use the funds to hire a sufficient number of short-term adjunct professors to maintain delivery of academic programs, so that students could make progress toward graduation. Florida Agricultural and Mechanical University (FAMU) officials said that stabilization funds would enable the university to retain instructional faculty to provide courses. With regard to creating new jobs, USF officials said they would hire postdoctoral fellows to stimulate research and additional staff members to address reporting requirements and compliance. FAMU officials said they would hire both undergraduates and graduates for assistantships.

State officials who oversee the systems that govern the state’s college and university systems said that stabilization funds helped mitigate tuition increases. According to state officials, the state legislature sets tuition for the system and increased tuition by 8 percent for the 2009-2010 school year. Officials estimated that without stabilization funds the increase in tuition necessary to compensate for decreases in state funding would have been 21 percent for students at community colleges and 35 percent for students at universities.

All of the IHEs we visited will be required to submit an application by June 15, 2009, to receive SFSF. The application requires program-specific assurances related to distribution and use of the funds (e.g., spend funds quickly to save and create jobs) and prohibited uses of the funds (e.g., to increase university endowment), and required a budget narrative that provided descriptions of costs, jobs created, and jobs continued. Officials at all three IHEs said they had received substantive guidance on allowable uses and tracking, but only two of the three said they had received substantive guidance on reporting of SFSF.

All three institutions we visited said that they can track SFSF funds separately, but only one could articulate plans to track jobs created and saved. All three schools said they would add codes to their accounting systems to distinguish SFSF funds from others. However, only FAMU said that it could link jobs created or saved back to stabilizations funds. According to FAMU officials, program administrators will be asked to identify which positions would have been cut without SFSF and are being continued or created because of them. Both HCC and USF acknowledged that they had not yet resolved this issue.

**Districts We Visited Did Not Anticipate Any Challenges Meeting Their Required Elementary and Secondary Education Act Title I Funds Spending Time Frames and Are Modifying Systems to Ensure Adequate Controls and Compliance**

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 formula, 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 their fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>13</sup> Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education allocated the first half of states' ESEA Title I, Part A, allocations on April 1, 2009, with Florida receiving \$245 million of its approximately \$490 million total allocation. Of these funds, the state has allocated \$231 million to LEAs, as of June 25, 2009.

The Florida Department of Education published strategies and guidance for all education-related Recovery Act funding streams on its Web site. Of the 21 strategies, 18 applied to ESEA Title I funding. In its Recovery Act, ESEA Title I application, the state required the districts to identify how each line of the budget narrative aligned with one of the four principles suggested by Education for Recovery Act funding (e.g., spend the funds quickly to save and create jobs).

The two school districts we visited received their Recovery Act, ESEA Title I allocations. Miami-Dade and Hillsborough County schools districts received \$48 million and \$17 million, respectively. Miami-Dade has begun obligating and expending these funds for reading coaches, for supplemental, enrichment services to prekindergarten students, and for supplemental, core subject-area teachers allocated to schools. Hillsborough County school district officials reported they would begin obligating and expending funds in June. Officials from both districts reported that they did not anticipate any challenges meeting their required spending time frames. Miami-Dade school district officials told us that the

<sup>13</sup>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 all of their funds by September 30, 2011. This is referred to as a carryover limitation.

state had requested a waiver from Education for the maintenance of effort requirement on behalf of the 67 school districts in Florida.

Miami-Dade County school district officials told us they will be adding 104 public and 50 nonpublic schools<sup>14</sup> to its ESEA Title I program, and they anticipate challenges providing monitoring and oversight, especially to these 104 new public schools adding additional staff in order to process and meet set-aside requirements to spend a specific amount of funds on a particular activity,<sup>15</sup> and needing thorough and strategic planning to minimize the funding cliff effect at the end of the grant period.

Hillsborough County school district is adding one school to its ESEA Title I program and does not anticipate any additional challenges. State officials told us that they repeatedly stressed the importance of avoiding the funding cliff by using the ESEA Title I funds in the most effective and efficient manner, and planning for long-term impact with short-term funds.

Both school districts plan on using the funds for instruction, technology, and other purposes such as supporting parental involvement.<sup>16</sup> For preschools, Miami-Dade plans to use the funds for supplemental, enrichment educational services at schools implementing the ESEA Title I Schoolwide Program, which allows ESEA Title I funds to be used to benefit all students in certain schools, and for at-home instructional services for parents of preschool children through the Home Instructional Program for Parents of Preschool Youngsters. For secondary schools, officials said they will use the funds for guidance and support services from the Student Services (i.e., College Advisors Program) staff for students in high schools, for supplemental, core subject-area teachers, and for reading coaches. Hillsborough County school districts plan to use the preschool funds to provide additional instructional resources and technology for each of its preschool classes. The funds for secondary schools will be used for the purposes of technology, parent involvement

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<sup>14</sup>Under ESEA Title I, Part A, LEAs are required to provide services for eligible private school students, as well as eligible public school students.

<sup>15</sup>ESEA Title I, Part A, has several requirements under which an LEA must spend a specific amount of funds on activities such as professional development.

<sup>16</sup>Miami-Dade school district officials told us the Florida Department of Education encouraged the local school districts to use additional ESEA Title I funds for preschool and secondary schools by means of technical assistance meetings, conference phone calls, and printed materials.

resources, incentive pay, staff development, and supporting leadership development.

Both districts are required to report to the Florida Department of Education on the use of the Recovery Act ESEA Title I funds and modify their systems to help ensure adequate internal controls and compliance. Hillsborough County school district has created accounting codes for their funds that will allow them to tag funds to a project so, for example, it will be able to report how much is spent on guidance counseling using Recovery Act ESEA, Title I, Part A funds. School district officials also told us that they will have project managers and fund managers who will have knowledge across their program areas, and they will hire program managers, who in turn, will hire people to go to schools to ensure monitoring is being done and data collected. In addition, they will also have a fiscal compliance and reporting person to ensure that the funds they are spending is meeting Recovery Act goals. To help ensure its oversight, Miami-Dade school district has identified and redeployed the additional staff needed to process and meet set-aside requirements for its much larger funding amounts, and it has developed a strategic planning process for the evaluation of all program initiatives and activities. This approach was used to maximize effectiveness and efficiency in the use of the funds and to minimize the cliff effect at the end of the grant period.

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**Officials Reported  
Individuals with  
Disabilities Act  
Funding Guidance  
Met Their Needs and  
They Documented  
Their Planned  
Activities for Funds in  
Applications**

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 special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

Education allocated the first half of states' total IDEA allocations on April 1, 2009, with Florida receiving \$335 million of its \$670 million total allocation for all IDEA programs. The largest share of IDEA funding is for the Part B, school-aged program for children and youth. The state's initial allocation was

- \$9.8 million for Part B preschool grants,
- \$313.6 million for Part B grants for school-aged children and youth, and
- \$11.5 million for Part C grants for infants and families for early intervention services.

Officials at the Miami-Dade and Hillsborough County school districts said that the Recovery Act, IDEA guidance they received met their needs. The Florida Department of Education published strategies and guidance on all Recovery Act education-related funding streams on its Web site, and 15 of the 21 strategies dealt with IDEA funding. In addition, the department conducted a series of teleconference calls with local school districts as well as providing supplementary written materials. Officials from the Miami-Dade and Hillsborough County school districts told us they did not anticipate any challenges with respect to using the IDEA Recovery Act funds.

Florida required local school districts to submit project applications for IDEA funds that list the activities and the strategy they are aligned with, positions saved and created, and the funding for the project. In the application, the school district has to agree to six specific assurances the state has required for Recovery Act funds, such as one pertaining to using funds quickly to create and save jobs. Both school districts have received their project award notifications from the state. Officials from both school districts reported that they will be measuring and reporting on the impact of their IDEA funds to the state Department of Education and that they would conduct program evaluations on key activities and initiatives funded with IDEA funds. Table 2 provides some examples of how they plan to spend their IDEA funds in accordance with each of five usages.

**Table 2: Selected Examples of Miami-Dade and Hillsborough County School Districts' IDEA Spending Plans**

Miami-Dade County School District	Hillsborough County School District
Use 1: Expand Inclusive Placement Options for Preschoolers with Disabilities	
Training will be provided on Social Emotional Competence to prekindergarten teachers to build capacity for serving pre-K children with challenging behaviors, and funds will be provided to prekindergarten teachers to purchase materials and equipment.	The school district wants to increase its early intervening services to children not identified as having a disability. The hiring staff is continuing to complete evaluations in a timely manner (The goal is to place children into school by 3rd birthday); They are looking to support this with assessment teams. Additionally, they are exploring opportunities with voluntary pre-K programs.
Use 2: Develop or Expand the Capacity to Collect and Use Data to Improve Teaching and Learning	
The school district will be working with its Information Technology Services group to expand existing systems to collect, report and provide easy access to data that will help improve teaching and learning.	The school district wants to upgrade technology for computer access to create a structure to include student data storage capacity for curriculum, student work, and a reporting data system to analyze learner outcomes.
Use 3: Provide Professional Development for Teachers to Improve Outcomes for Students with Disabilities	
A Response to Intervention Institute will offer professional development for teachers, social workers, psychologists, administrators and other professionals to expand capacity in effectively addressing the assessment, instruction, and interventions needed by students.	The school district will provide professional development for teachers, support staff, bus drivers, and so forth, to enhance knowledge of state or local procedures, policies, curriculum, behavior strategies, and access points.
Use 4: Obtain Job Placements for Youths with Disabilities	
Expansion of transition services and programs for students in the 18-22 age brackets are planned. For example, they plan to increase and expand capacity of on-the-job training programs whereby students are provided on-the-job training and supported employment at business sites in the community.	The school district will employ career specialists to assist with training of employable skills, job training, and employment of students with disabilities.
Use 5: Acquire Assistive Technology Devices	
The district has developed a Five-Year Plan to increase capacity and infrastructure to address the assistive technology needs of its students. Plans for 2009-10 IDEA Recovery Act funds includes purchasing a wider variety of computer and assistive technology equipment and devices for students, and providing funding for hourly personnel to conduct evaluations to determine a student's need for assistive technology.	The school district is pursuing opportunities to enhance adaptive technology and do additional testing (e.g., communication skills).

Source: Miami-Dade and Hillsborough County School District Officials.

Miami-Dade school district officials said they will avoid the cliff effect after the funding expires by using the funds to support expansion of programs that can be sustained, by limiting the number of jobs created to a minimum, holding firm with the current district hiring freeze, and covering salaries for individuals who are currently in the Florida Deferred Option Retirement Program and have 2 years left of employment. Hillsborough County school district officials told us they will avoid unsustainable, continuing commitments by only allocating these funds to one time expenditures during the time period allowed.

The Florida Department of Health received \$11.5 million of Part C funds for infants and families for early intervention services. It has allocated \$7 million of the funds across 15 contracts to local organizations for service delivery for its Early Steps Program, based on information available as of July 1, 2009.

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## Workforce Boards Were Working to Fill Available Slots for Summer Youth Employment Activities Combining Work Readiness and On-Site Job Experiences

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low-income, in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work-readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor, and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act,<sup>17</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>18</sup>

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<sup>17</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>18</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher standard applies.

In Florida, a 45-member board appointed by the Governor oversees and monitors the administration of the state’s workforce policy, programs, and services. These programs and services are carried out by the 24 business-led Regional Workforce Boards and the Agency for Workforce Innovation. Direct services are provided at nearly 100 One-Stop Centers with locations in every county in the state. We selected three regional workforce boards—South Florida Workforce (Miami-Dade County), Workforce One, Employment Solutions (Broward County), and the Tampa Bay Workforce Alliance (Hillsborough County)—because they were among the largest recipients of Recovery Act dollars and were among those programs with the largest anticipated participation. In addition, they represented different geographic regions of the state.

The state of Florida received \$42,873,265 for WIA Youth activities under the Recovery Act and set the goal of creating roughly 16,000 to 20,000 summer jobs in 2009 through its WIA Youth program. The state does not plan to use any of the 15 percent of Recovery Act youth funds that can be retained for statewide activities. All of the workforce boards in Florida have procurement agreement plans approved by the state workforce board so that they can contract with service providers; in addition, the state sought and was given two waivers by the Department of Labor: one that allowed workforce boards to expand contracts with existing service providers rather than make existing providers go through a competitive bidding process and another that allowed them to collect only one performance measure—readiness for work—for youth who participate in summer youth programs and continue on in work experience.

Programs have begun to draw down funds. (See table 3 for the amounts they received and the amounts they have expended.)

**Table 3: Allocations Workforce Boards Received and Funds Expended As-of Dates**

Workforce board	Funds received	Funds expended	As-of date
Miami-Dade County	\$7,200,000	\$25,892 <sup>a</sup>	April 30, 2009
Hillsborough County (Tampa)	2,534,737	150,000	April 30, 2009
Broward County	2,362,791	108,977	May 29, 2009

Source: Workforce boards.

<sup>a</sup>Miami-Dade County reported this figure as the year-to-date Recovery Act youth expenditures.

Each of the three local areas will offer work-readiness training and on-site job experiences that incorporate green jobs. Hillsborough County was the only site we visited where the activities differed for older versus younger

youth. Specifically, all youth will participate in work-readiness activities, but 20- to 24-year-olds will work at work sites and 17- to 19-year-olds will participate in a business simulation where they create and work on an on-line magazine.<sup>19</sup> Hillsborough officials estimated that between 60 to 80 youth ages 20- to 24 would participate. All three counties said that they will assess participants' learning through pre- and posttesting and collect feedback from businesses and work site supervisors. All plan to include green jobs in some way. In Broward County, for example, some participants will do clerical work at a roofing company that installs roofing materials with integrated solar circuits for heating and cooling; others will help dismantle computer components that are sold to a company that recycles components.

Each of the local areas either has or is working to ensure that it has an adequate number of entities to provide job-readiness training, employers to provide jobs, and participants to fill available slots. Miami-Dade County, with a target of 4,000 participants, already has in place its three service providers—Miami-Dade County Public School System, the Monroe County Public School System, and the Florida Keys Community College—that will provide the work-readiness training and on-site job experience. As of May 20, 2009, the board has identified 3,000 jobs. Miami-Dade has more eligible participants than slots. It has an on-line application system that automatically determines eligibility. It has so many applicants it will use a lottery to fill slots. Hillsborough County, with a target of 940 participants, also has in place enough community and faith-based organizations to provide work-readiness training. Its program has enrolled 436 youth: 276 are 17- to 19-year-olds, and 160 are 20- to 24-year-olds. They have secured a corresponding number of jobs for the 20-24 year olds. Broward County, with a target of 725 participants, has its service provider in place, has enrolled about 880 participants, and has secured a corresponding number of jobs.

The challenges workforce boards faced getting their summer youth programs up and running seemed to depend, in part, on their previous experience with such programs. Miami-Dade County officials reported no challenges. Officials there noted that they had had a large summer youth program in the summer of 2008 funded from a charitable trust. One of their service providers that summer was the Miami-Dade County Public School System, which will serve again as a service provider this summer. In

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<sup>19</sup>The 17- to 19-year-olds receive a stipend for participating in the business simulations.

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contrast, Hillsborough County, which did not have a separate, stand-alone summer youth program in 2008, reported that enrolling youth posed their greatest challenge. Hillsborough officials said that for the 2009 summer program, they anticipated a rush that did not happen. To boost enrollment, they have taken a number of steps, including buying advertising in local movie theaters, radio spots, and mass mailings to targeted groups. Other challenges reported by the three local areas included: time frames for setting up programs; demands on existing staff before additional staff could be hired; the volume of paper work; the need to collect documentation required for eligibility determination, and determining what constituted a “green” job.

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**The Majority of Florida’s State-Retained Byrne Justice Assistance Grants Will Be Used for Drug Court Programs, while State Officials Expect Local Entities Will Use Funds for Equipment Purchases**

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice’s Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information-sharing initiatives, and victims’ services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state’s JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>20</sup> The total JAG allocation for Florida state and local governments under the Recovery Act is about \$135.1 million, a significant increase from the previous fiscal year 2008 allocation of about \$10.1 million. About \$81.5 million of the total JAG allocation is included in the Florida state budget, with the remaining \$53.6 million allocated directly by BJA to local governments throughout the state. The Florida Department of Law Enforcement (FDLE) is the state administering agency for the JAG program.

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<sup>20</sup>We did not review these funds awarded directly to local governments in this report because BJA’s solicitation for local governments closed on June 17, 2009.

As of June 30, 2009, Florida has received its full state award of about \$81.5 million.<sup>21</sup> Of this amount, about \$29 million, or 35 percent, will be retained for state criminal justice agencies, and about \$53 million, or 65 percent, will be passed through to local governments—counties and cities.<sup>22</sup> As of June 30, 2009, the state has obligated and expended \$8,300 for FDLE administrative expenses.

Almost 75 percent of the state retained JAG program funds are to be used by the Florida courts, state attorneys, and public defenders for drug court programs. The remaining funds are to be used by the Department of Juvenile Justice for detention and treatment services for youth, by the Department of Corrections to purchase radio equipment upgrades, and by FDLE to develop a database that enables seaport security authorities to determine if individuals meet Florida statutory requirements to enter secure or restricted areas of the seaport. The funds for the drug court programs are for a significant expansion of existing drug court programs, while the funds for the juvenile justice programs, radio equipment, and seaport database are for new JAG programs. Even though the state legislature authorized the Recovery Act JAG program funding for the state agencies related to the state-retained funds, each state criminal agency is required to submit an application to FDLE with a detailed description of the project, budget, and related performance measures. At this time, FDLE cannot establish an application submission date for the Recovery Act funds allocated to the drug court programs until they receive additional information from the joint Legislative Budget Commission.<sup>23</sup> Applications for the three remaining programs are due to FDLE by June 30, 2009. For the state-retained funds that are going to be used for drug-based court programs, juvenile justice programs, and the seaport database, a FDLE

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<sup>21</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

<sup>22</sup>While the Recovery Act, JAG program allows the state administering agency to retain 10 percent of the funds for administrative costs, FDLE plans to only retain about 1.1 percent of the \$81.5 million for administrative purposes. Some of these funds maybe used to hire temporary staff to assist in the increased workload due to the additional Recovery Act funds.

<sup>23</sup>While the Florida budget authorized over \$21 million for the drug court programs, it did not provide detailed information on how the funds would be allocated among the different courts, state attorneys and public defenders' offices. Florida appropriation act language requires the Chief Justice to develop a plan, including a budget that allocates the funds among the different drug court programs and offices. The Legislative Budget Commission must approve the plan before the drug court program funds can be expended. No deadline has been set to complete the plan nor a date set for the Legislative Budget Commission to meet and approve the plan.

official said that the vast majority of the funds would result in job retention and creation with very little going for equipment other than some computers and office equipment. The funds for the Department of Corrections are to be used primarily for the purchase of new equipment.

The JAG program applications for the \$52.5 million that is passed through the state to the local governments are due to FDLE by June 12, 2009. Each local application will also include a detailed description of each project to be funded along with a detailed budget and performance measures. Each local application must represent agreement on expenditure of grant funds among a majority of the local units of government that also represents a majority of the population within the geographic boundaries of the applicant's county.<sup>24</sup> Once the applications are approved, the local entities can begin using the funds. However, FDLE officials did not believe that local entities would begin drawing down funds before October 1, 2009. For local projects, FDLE officials stated that they do not yet have a sense of the extent to which JAG program funds will contribute to job creation or retention, and that it is likely most of the funds will be used by the local entities for equipment purchases. Thus, it may be difficult to identify the number of jobs retained and created. FDLE officials also said that some of the local JAG program funds maybe used to retain personnel on special tasks forces.

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<sup>24</sup>If a majority of the local units of government are unable to agree upon the expenditure of funds, then the funds are to be distributed at the discretion of the FDLE. Fla. Admin. Code 11D-9.002.

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## Selected Housing Authorities We Visited Plan to Meet Accelerated Obligation and Expenditure Time Frames and Have Systems in Place to Assess Results

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties for the development, financing, and modernization of public housing developments, and for management improvements.<sup>25</sup> The Recovery Act requires the 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 they are made available to public housing agencies for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already underway, or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation, and retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>26</sup>

As described in figure 5, Florida has 82 public housing agencies that have received Recovery Act formula grant awards. In total, these public housing agencies received about \$86 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, 35 of the state's public housing agencies have obligated about \$12 million, and 7 have expended \$628,890. We visited three public housing agencies in Florida. These are: the Venice Housing Authority, the Tampa Housing Authority, and the Tallahassee Housing Authority. We selected the Venice Housing Authority because it is a small public housing agency with a \$99,008 capital fund allocation and is

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<sup>25</sup>Public housing agencies receive funds directly from HUD. Funds awarded to the public housing agencies do not pass through the state budget.

<sup>26</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application, and to funding limits.

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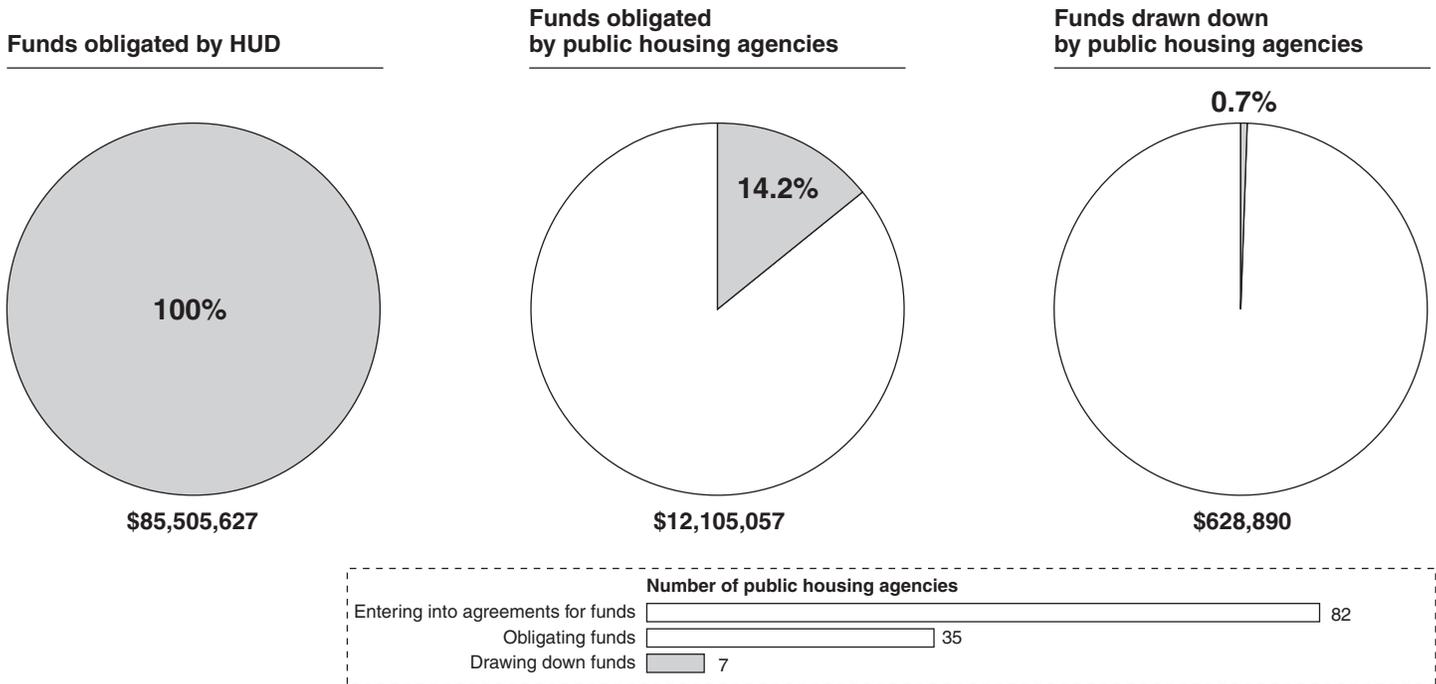
currently designated “troubled”<sup>27</sup> by HUD. We selected the Tampa Housing Authority because it received the second-largest capital fund allocation in Florida—\$10.5 million.<sup>28</sup> Lastly, we selected the Tallahassee Housing Authority with a \$1.4 million capital fund allocation, because it was visited for the first 60-day report. These housing authorities’ grants were awarded on the basis of the Public Housing Capital Fund formula used for awards made in fiscal year 2008.

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<sup>27</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, physical condition of the housing agencies’ public housing programs, and the residents’ assessment (through a resident survey) of the housing agencies’ performance. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring.

<sup>28</sup>While the Miami-Dade Housing Authority received the largest allocation, we chose Tampa because the HUD Inspector General is currently reviewing Miami-Dade.

**Figure 5: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Florida**



Source: GAO analysis of HUD data.

As of June 20, 2009, of the three housing authorities we visited, only Tampa had obligated and expended any Recovery Act funding. One of the housing authorities is engaged in the construction of new units, another is engaged in both the construction of new units and the rehabilitation of old ones, and the third is solely engaged in rehabilitation. These housing authorities prioritized projects based on whether they were part of their plans, shovel-ready, and urgent.

**The Venice Housing Authority Will Completely Rebuild with Recovery Act and Other Funding and Has Systems in Place to Monitor Results**

The Venice Housing Authority, which received \$99,008, has not obligated or expended any Recovery Act funds because it is in the process of finalizing its infrastructure and demolition plans. The housing agency consists of only one project with 50 housing units. (See fig. 6). It plans to demolish all 50 units and construct 117 rental units consisting of a 60-unit building for senior citizens and 57 family housing units. Currently all of the units are vacant. The housing agency plans to expend all of its Recovery Act funds by the end of 2009 and entirely complete the project by the end of 2013. The housing agency will first use Recovery Act funding to demolish the existing housing, and once the funds are expended, it will

use other funding—Community Development Block Grant and tax credits—to complete the project. Housing agency officials said that they have been planning this initiative for years and only recently did the planning and financing come together.

**Figure 6: Front and Back View of Vacant Rental Units Scheduled for Demolition by Venice Housing Authority**



Source: GAO.

Venice tracks demolition, site preparation, and infrastructure work with development reports and through project-manager oversight. The housing agency uses QuickBooks<sup>29</sup> to capture fund expenditures as well as to produce reports that are sent to HUD, the county, and the state. According to a Venice Housing Authority official, goals and performance measures have been included in the housing agency's development contract and will be monitored closely by the project manager and the housing authority board of directors. Job creation and retention will be tracked by the project manager as well as by reports provided by the developer, which are part of the authority's standard project-management process. The data will also be captured by in-house documentation using spreadsheets and memorandums.

<sup>29</sup>QuickBooks is small-business financial-management software.

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**The Tampa Housing Authority Will Rehabilitate Existing Units with Recovery Act Funding and Has Systems to Track Results**

While the Tampa Housing Authority has awarded all of its Recovery Act projects, as of June 20, 2009, it has only obligated \$3,733,365 of the \$10,540,573 it was allocated, and expended \$346,871. According to a housing agency official, funds are expended as work is completed. The Tampa Housing Authority will build a new 69-unit development with a portion of its Recovery Act allocation and rehabilitate 18 existing projects, consisting of 2,770 units. The initiatives will focus on (1) improving energy efficiency, such as installing windows with double panes, and replacing inefficient heating and air conditioning systems, (2) life safety concerns, such as replacing deteriorated roofs, and floors, and (3) curb appeal such as improving sidewalks, parking lots, and landscaping. The housing agency identified its projects through a physical needs assessment, brainstorming with responsible departments, resident meetings and feedback, and a review of its 5-year plan. It based its priorities on whether the projects were shovel-ready—able to be contracted within 90 to 120 days. One example of a current project is roof replacement at the North Boulevard Homes development. (See fig. 7.) The \$550,715 project will involve the replacement of deteriorated roofs on 33 buildings. The project started on April 4, 2009, and was scheduled to be completed on June 5, 2009. In addition, the housing agency plans to rehabilitate all 34 of its vacant units with Recovery Act funding. All of the projects that were underway as of the date of our visit are scheduled to be completed by the end of 2009.

**Figure 7: Workers Repairing Roof at Public Housing Development for Tampa Housing Authority**



Source: GAO.

Tampa tracks grants, budgets, costs, work progress, progress payments, and several other factors with Yardi Systems software.<sup>30</sup> According to a Tampa Housing Authority official, the housing agency will ensure credible results through site visits, progress meetings, city inspections, and reviews of project schedules, scope of work, specifications, shop drawings, code compliance, and progress payments. Progress payments will be made as progress is achieved with a 10 percent withholding until the project is completed. In addition, the housing agency will conduct resident surveys as part of its measurement process. It will also track the number of jobs created with Recovery Act funding on a real-time basis and the contracts awarded to minority business enterprises and Section 3 contractors (low-income residents in the area).

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<sup>30</sup>Yardi Systems is real-estate investment and property-management software.

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## The Tallahassee Housing Authority's Budget Has Not Yet Been Approved

The Tallahassee Housing Authority has not obligated or expended any of its \$1,392,275 Capital Fund grant because it is waiting for the HUD field office to approve its budget. HUD asked for more detail in certain line items. The housing agency will rehabilitate three projects consisting of 296 units, including 5 vacant units, with Recovery Act funds. These are estimated to begin before July 2009 and be completed by March 2010. The initiatives include new roofs, damaged driveway and walkway replacements, siding replacements, energy-efficient window installations, and kitchen upgrades. The housing agency selected the projects from its 2008, 5-year plan. According to a Tallahassee official, it gave priority to projects that were shovel-ready and considered to be urgent, such as roof replacements. Additionally, the housing agency selected 33 "scattered site units"—single family homes that are scattered throughout the community—for upgrades, because of the difficulty in obtaining funding for those units.

Tallahassee's Modernization Director utilizes the TEN MAST software spreadsheet function to track costs by project and unit.<sup>31</sup> This software also enables the housing agency to capture detailed information on work orders and funds spent by project. In addition, the housing agency plans to use current project-management procedures and practices to track project cost, timeliness, and quality. It will also use standard project documentation to track the number of jobs created, retained, and contracted with Recovery Act funding.

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<sup>31</sup>TEN MAST, a public housing software, is used for managing tenant and financial data, tracking maintenance activities, performing unit inspections, and producing standard HUD and agency-specific reports and data reporting.

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### Housing Agencies Use Electronic Line of Credit Control System as Their Internal Control

All housing authorities access HUD's Electronic Line of Credit Control System (eLOCCS)<sup>32</sup> to track Recovery Act grants and draw down funds for expenditure. According to a Tampa Housing Authority official, the system is a control in itself because it precludes housing authorities from drawing down Recovery Act funds for non-Recovery Act projects. With the exception of perhaps hiring additional project-management staff, the three housing authorities we visited anticipate no changes to their internal controls to accommodate the infusion of Recovery Act funding.

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### Housing Authorities Believe They Can Meet Accelerated Time Frames

While, of the housing authorities we visited, only the Tampa Housing Authority had obligated and expended Recovery Act funding, none considered meeting the accelerated obligation and expenditure time frames a problem. For example, the Tampa Housing Authority fast-tracked the award and obligation of most of its Recovery Act projects through Job Order Contracting (JOC). According to Tampa Housing Authority officials, JOC minimizes unnecessary engineering, design, and other procurement processes by awarding long-term contracts for a wide array of project improvements and renovations. Similarly, the Tallahassee Housing Authority utilizes a "small works roster list," which is a list of contractors that the housing agency has already approved for specific services such as painting. The list enables the housing agency to get rehabilitation projects underway quickly because it obviates the need for formal advertising. The list is reviewed and updated annually. When asked about the application of prevailing wage rates as required by the Davis-Bacon Act,<sup>33</sup> a Tampa Housing Authority official indicated that it is a nonissue because Florida's minimum wage is higher than Davis-Bacon requirements.

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<sup>32</sup>The Line of Credit Control System (LOCCS) is the U.S. Department of Housing and Urban Development's (HUD) primary grant disbursement system, handling disbursements for the majority of HUD programs. Previously, the only access by grantees to LOCCS was through the Voice Response System (VRS), which allows touchtone telephone access to LOCCS for query and drawdown purposes. eLOCCS is the Internet version of LOCCS VRS, providing drawdown and significantly more query and reporting capability. Introduced in October 2001, eLOCCS access is currently limited to public housing authorities. Query access is available for all public housing authority supported program areas, but drawdown activity is limited to program areas supported by eLOCCS. For those program areas not supported by eLOCCS, voucher draws must be done through LOCCS VRS.

<sup>33</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

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## The State Plans to Weatherize about 19,000 Homes and Hire a Contractor to Implement an Inspection Plan for Recovery Act Weatherization Projects

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>34</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more-pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, the state's plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with Recovery Act's reporting and other requirements.

DOE allocated to Florida about \$176 million in funding for the Recovery Act Weatherization Assistance Program for a 3-year period. Florida's Department of Community Affairs (DCA) is responsible for administering the program. DCA received a DOE Funding Opportunity Announcement on March 12, 2009, along with a Weatherization Program Notice 09-1B<sup>35</sup> and subsequently received additional guidance on using the initial 10 percent allocation and in developing the state weatherization program

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<sup>34</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

<sup>35</sup>Grant Guidance to Administer the American Recovery and Reinvestment Act of 2009 Funding.

plan by means of e-mail, FedConnect,<sup>36</sup> and regional conference calls. After DCA submitted its initial application for funding on March 23, 2009, to DOE, it continued its planning and finalized its 2009-2012 Weatherization Assistance Program State Plan, which it submitted to DOE on May 11, 2009. DOE approved the state plan on June 18, 2009. DCA officials stated that they are still waiting for guidance from DOE on the application of the Davis-Bacon Act. DCA officials also stated that their state weatherization plan includes, and the contracts with subgrantees will require, that workers are paid prevailing wage rates for the different skill sets based on the county where the project is located.

On April 10, 2009, DOE provided the initial 10 percent allocation (approximately \$18 million) to Florida. According to DCA officials, the department will be using the initial 10 percent funding to hire additional DCA staff to monitor the program, prepare initial subgrantee agreements with its 29 local service providers,<sup>37</sup> and provide start-up training for new DCA staff and subgrantees. As of June 30, 2009, DCA will have obligated almost \$113,000 and expended about \$77,000 of the initial program funds for such expenses as payroll for DCA staff, contract services, and travel and supplies. On June 18, 2009, DOE approved Florida's state weatherization plan and provided an additional \$70 million. Florida plans to use these funds to implement actual weatherization projects.

As stated in its state plan, DCA's goals include weatherizing at least 19,090 dwellings. According to a DCA official, DOE estimates that each household receiving weatherization services could realize about \$300 to \$350 of savings on their utility bill annually, which 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 is about \$137 million for weatherization production including about \$34 million for multifamily housing, and about \$30 million for training and technical assistance. Initially, most of the training and technical assistance funds will be retained by DCA for monitoring, oversight, and training of subgrantees. For example, DCA is working with the Florida Solar Energy Center to

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<sup>36</sup>FedConnect is an online marketplace where federal agencies post opportunities and make awards via the Web site. Registered users also have the ability to electronically submit applications or questions to DOE directly through this site. [www.fedconnect.net](http://www.fedconnect.net).

<sup>37</sup>Local providers include community action agencies, local governments, nonprofit housing agencies, and urban leagues.

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develop a weatherization inspector training curriculum that all new hires will be required to attend and pass.

A recent DCA Inspector General audit identified some internal control weakness in monitoring of Florida's weatherization assistance program.<sup>38</sup> For example, one of the three subgrantees reviewed could not provide complete and accurate supporting documentation for incurred expenses reimbursed by DCA and submitted final status reports prior to completion of the work on the weatherized homes. The DCA Inspector General stated that the findings in this audit would also be applicable to Recovery Act weatherization funds. However, the Inspector General believed that the DCA's plan to hire a contractor to implement an inspection plan for Recovery Act weatherization projects should correct this control weakness. The contractor will have field inspectors stationed across the state to inspect homes weatherized with Recovery Act funds and to check subgrantees' files to ensure they contain sufficient supporting financial and programmatic documentation, such as invoices, building permits, and income eligibility, before DCA reimburses the subgrantee.

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## Recovery Act Funds Have Been Obligated for Highway 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 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 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.

Florida was apportioned \$1.4 billion in Recovery Act funds for highway infrastructure and other eligible projects. As of June 25, about \$1 billion in apportioned funds had been obligated. The U.S. Department of Transportation (DOT) has interpreted the term "obligation of funds" to mean the federal government's contractual commitment to pay for the

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<sup>38</sup>Department of Community Affairs, Office of Inspector General, *Audit Report: Weatherization Assistance Program*, ACN: 08-A401 (Tallahassee, FL: June 30, 2009).

federal share of the project. This commitment occurs at the time the federal government signs a project agreement and the project agreement is executed. As of June 25, 2009, no funds had been reimbursed by Federal Highway Administration (FHWA). States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

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## Florida Will Use Recovery Act Funds for Resurfacing Projects, Bridge Repairs, and New Construction

In Florida, the largest percentage of the Recovery Act funds are being used on a few high-dollar statewide projects to increase capacity. Over 47 percent of the funds or \$494 million, are dedicated to such projects. For example, in Hillsborough County, a major interstate project—costing over \$445 million and using over \$105 million in Recovery Act funds—will connect a major expressway to the Florida's Interstate 4 to improve the flow of traffic and create a truck-only lane to provide direct access to the Port of Tampa. According to state officials, these new construction projects will accelerate the completion of some of the state's long-term interstate projects, given that some Recovery Act-funded projects had previously been approved and included in the department's 5-year work program, but were removed due to a lack of funding.

A smaller portion of the remaining Recovery Act funds—9 percent or \$93 million—are being used for multiple small-dollar projects, primarily resurfacing projects, in rural economically distressed areas (EDA). Of the 524 highway projects that Florida has selected for Recovery Act funding, approximately 193 or 37 percent are resurfacing projects. The cost of these resurfacing projects varies, ranging from about \$4,000 to \$13 million. The resurfacing highway projects were largely approved for locally administered projects and projects located in rural EDAs. Florida Department of Transportation (FDOT) and local county officials stated that in addition to other factors, these resurfacing projects were selected primarily because the highways were in need of repair and a larger number of projects could be started and completed quickly. For example, in two of the three EDAs we visited—Citrus and Hernando—where recovery funds totaling \$14 million will be used for 17 of the 20 locally administered Recovery Act funded projects—county officials stated the resurfacing projects should be completed within 3 years and have an immediate impact on the local economy and create jobs quickly.

As shown in table 4, as of June 25, 2009, about 78 percent of Florida's Recovery Act funds have been obligated. According to FDOT, the state has received bids for nine highway construction projects, and is currently advertising 39 additional Recovery Act projects—funded with \$555 million

in Recovery Act funds and \$945 million in other federal, state, and local funds.

**Table 4: Highway Obligations for Florida by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$140	\$93	\$494	\$140	\$0	\$54	\$128	<b>\$1,049</b>
Percent of total obligations	13.4	8.9	47.1	13.3	0.0	5.1	12.2	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects, such as improving safety at railroad grade crossings, transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

## Florida Expects to Meet Recovery Act's Requirements

The Recovery Act includes a number of specific requirements for highway infrastructure spending. First, the states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. FDOT officials stated that the state is on track to meet all of the Recovery Act's requirements for transportation funds. As of June 25, 2009, 93 percent of the \$943 million that FHWA has determined is subject to the 50 percent rule for the 120-day redistribution had been obligated. FDOT officials expect that all of the remaining funds will be obligated within the 1-year limit.

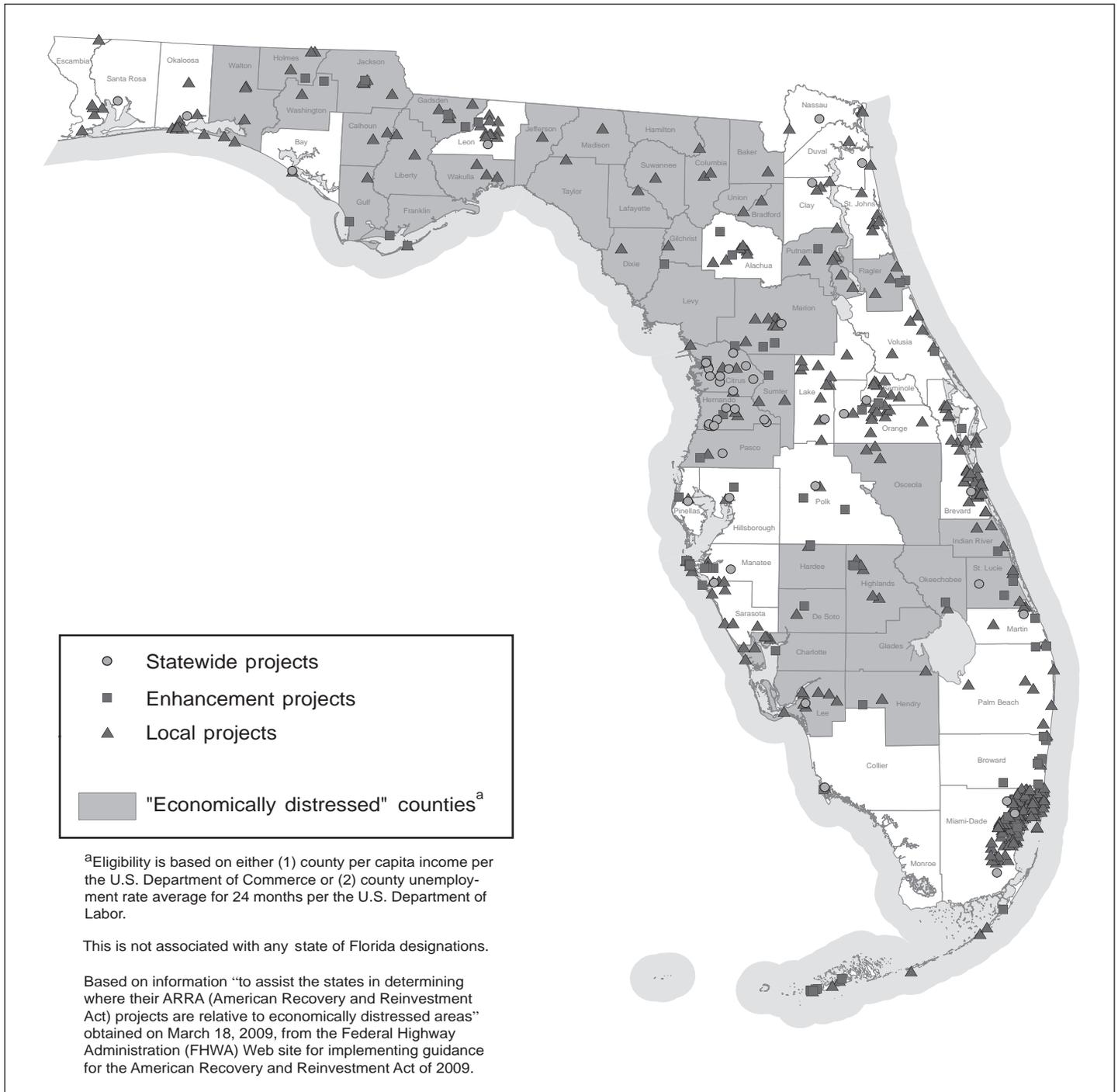
Second, the Recovery Act requires states to give priority to projects located in EDA<sup>39</sup> and projects that can be completed within 3 years. In selecting highway projects to recommend for Recovery Act funding, state officials took steps to ensure at least one Recovery Act-funded highway project was approved for each county identified as an EDA. Over 60

<sup>39</sup>What constitutes an EDA is defined by the Public Works and Economic Development Act of 1965, as amended.

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percent of Florida's 67 counties—41 counties—have been designated as EDAs. Figure 8 shows a map of statewide, local, and transportation enhancement projects throughout the state, and EDAs. However, there seemed to be confusion on the Recovery Act 3-year-completion requirement—completion of the construction highway project versus expenditure of the Recovery Act funds. Officials we interviewed in three EDA counties—Citrus, Hernando, and Pasco—considered the 3-year completion of highway project as a requirement for Recovery Act funding. However, FDOT officials stated that the actual construction of the highway projects does not have to be completed within 3 years, just those expenditures being paid for with Recovery Act funds. For example, a multimillion dollar 5-year interstate highway project will be built with both Recovery Act and state funds. Recovery Act funds will be used first and are anticipated to be expended within the first 3 years of the project.

Figure 8: Map of Florida Showing Projects Recommended for Recovery Act Funding, as of April 15, 2009



Source: Florida Department of Transportation.

Third, the Recovery Act required the governor of each state to certify that the state would maintain the level of spending for the types of transportation projects funded by the Recovery Act that the state had planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state had to identify the amount of funds the state planned to expend from its sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>40</sup> On March 19, 2009, Florida submitted its maintenance-of-effort certification to DOT. As we reported in our April report, the state submitted a “conditional” maintenance-of-effort certification, meaning that the certification was subject to conditions or assumptions, future legislative action, future revenues, or other conditions. Specifically Florida stated that funds were derived from dedicated funding sources by Florida law and were subject to fluctuations resulting from economic conditions; however, the sources remain dedicated to transportation projects and the funding mechanisms will remain unchanged. On April 22, 2009, DOT Secretary informed states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave states the option of amending their certifications by May 22, 2009. Florida removed the conditions and resubmitted its certification on May 22, 2009. The DOT has reviewed Florida’s resubmitted certification letter and has concluded that the form of the letter is consistent with the additional guidance. The DOT is currently evaluating whether the states method of calculating the amounts they planned to expend for the covered programs is in compliance with DOT guidance. Although state officials are optimistic about the state being able to maintain its level of effort, the fiscal strength of Florida’s economy remains a key factor in the state’s ability to meet the Recovery Act’s maintenance-of-effort requirement.

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<sup>40</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

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## Florida Has Tracking Systems in Place and Is Developing Oversight Plans for the Recovery Act

According to officials from Florida's Department of Financial Services, once the governor's office submits authorized budget releases to the Department of Financial Services for Recovery Act funds that were separately appropriated, this information will be loaded into the state's accounting system—Florida Accounting Information Resource (FLAIR)—which will be used to track Recovery Act funds that flow through the state government. The state agencies will also record the Recovery Act funds separately from other state and federal funds in their systems using selected identifiers in FLAIR such as a grant number or project number.

The local entities that we visited have tracking systems in place, or are in the process of establishing tracking systems for Recovery Act funds, whether those funds are passed-through from the state agency, or are directly awarded from a federal agency. For instance:

- Officials from all three of the IHEs that we visited in Florida said that they can track stabilization funds separately by adding codes to their accounting systems to distinguish stabilization funds from others.
- Officials from two local school districts that we visited told us they were establishing systems and processes to track the stabilization funds and report on their uses to the state.
- Officials from the three public housing agencies we interviewed told us that they use HUD's eLOCCS to separately code and track Recovery Act Public Housing Capital Fund grants. Additionally, they all have their own in-house systems used for tracking expenditures.

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## Plans for Statewide Monitoring and Oversight Activities Are Underway

Florida law requires that each state agency establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliable records and reports; and the safeguarding of assets.<sup>41</sup> However, while Florida law requires state agencies to have such internal controls, the state oversight agencies are preparing for the infusion of Recovery Act funds into the state.

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<sup>41</sup>Fla. Stat. §215.86.

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## Florida Is Increasing Financial Management over Recovery Act Disbursements

The Florida Department of Financial Services is responsible for settling the state's expenditures and the reporting of financial information. Currently, it obtains a representation letter every year from each agency head stating that they are responsible for establishing and maintaining effective controls over financial reporting and preventing and detecting fraud for all funds administered by their agency. However, Department of Financial Services officials stated that, this year, they will ask the agency heads to also to sign a separate representation letter for Recovery Act funds that says internal controls are in place for Recovery Act funds and that these funds will be tracked separately from other funds. They are also drafting a Chief Financial Officer memorandum that they plan to send to state agencies before the end of June establishing the requirements for processing Recovery Act revenues and expenditures. For the next fiscal year (July 1, 2009 to June 30, 2010), the Department of Financial Services' Bureau of Auditing will include methodologies for sampling and testing Recovery Act expenditures in its audit plan.

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## Inspectors General Are Conducting Risk Assessments of Recovery Act Funds

Each state agency has an OIG that is responsible for conducting audits, investigations, and technical assistance, and promoting accountability, integrity, and efficiency in the state government. In response to the Recovery Act, Florida's Chief Inspector General established a communitywide working group of agency Inspectors General to address risk assessment, fraud prevention and awareness, and training.

For risk assessments, the OIGs surveyed state agencies to determine if they will receive Recovery Act funds, if they have completed a 2009-2010 risk assessment, and if the risk assessment for Recovery Act funds will be included as part of their annual risk assessment or as a separate risk assessment. Currently, 21 of the 33 state agencies surveyed indicated that they should be receiving Recovery Act funds, while 8 will not receive any funds, and 4 agencies are unsure if they will receive Recovery Act funds that will flow through the state. The OIGs are now in the process of administering a more-detailed risk-assessment survey on agency programs that receive Recovery Act funds to identify, among other things, whether there are systems in place to capture performance measurements, staff in place to perform program oversight, and what is the resolution of findings from past audit reports. Finally, the OIGs have developed a document for agencies to record monitoring and oversight activities for programs that will receive Recovery Act funds.

The OIG community has established a Recovery Act Fraud Deterrence Committee that is developing a number of activities centered on fraud

prevention and detection. For example, the committee is developing a template for fraud awareness briefings that OIGs can customize when giving briefings to both external partners and agency officials. The Fraud Deterrence Committee is also in the process of developing interagency fraud alerts by collecting and sharing examples of contractor fraud violations since some contractors may be doing business with more than one agency. The Fraud Deterrence Committee also contacted the Florida Institute of Certified Public Accountants, which is allowing the committee to post information on the institute's Web site for their members who conduct audits of recipients receiving Recovery Act funds to make them aware of the oversight and accountability provisions of the act. In addition, the FDOT OIG is producing a fraud awareness video that will be used at pre-construction conferences as well as being posted on the OIG Web site.

The OIG community also has a reporting committee that has conducted and is continuing to conduct work in three primary areas, which includes conducting and reporting on agency workforce assessment surveys, succession planning, and developing a Florida OIG Recovery Act Web site. The survey and report on agency workforce assessment showed that the OIG community needs to plan for successions: of the 31 respondents, 8 of the Inspectors General are eligible to retire. The reporting committee is also developing an OIG Web site that will provide visibility of all OIG Recovery Act initiatives as well as links to other state and federal Recovery Act Web sites. According to OIG officials, the Web site will be accessible by both agency staff and the public and became operational at the end of June 2009.<sup>42</sup>

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## State Auditor Expects the Recovery Act to Impact Florida's Annual Single Audit

The Auditor General is appointed by Florida's legislature and serves as the state's independent auditor for the annual Single Audit. The Single Audit includes determining if federal expenditures are in compliance with significant applicable laws and regulations and assessing the effectiveness of key internal controls. The auditing of federal awards, including grant funds, administered by state and local governments and nonprofit organizations is intended to be a key accountability mechanism over the

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<sup>42</sup>[www.floridaoig.org](http://www.floridaoig.org).

proper use of federal funding.<sup>43</sup> Given that the Recovery Act imposes new transparency and accountability requirements on federal awarding agencies and their recipients, the Auditor General is anticipating the new requirements to have some impact on the Single Audit and is preparing to adapt to this new environment. In preparation for the Single Audits for 2008-2009, the Auditor General is monitoring the state's plans for accounting for and expending Recovery Act funds and tracking the expected changes in OMB's guidance for implementing the Single Audit Act's requirements. OMB issued updated guidance on April 3, 2009, and is scheduled to issue additional auditing guidance by June 30, 2009.

Even though the Auditor General expects the number of major federal programs<sup>44</sup> in Florida to increase as a result of the large infusion of Recovery Act funds into the state, and thus be included as part of the state's annual Single Audit, officials from the Auditor General's office noted that they have enough resources to conduct the audit. Additionally, they also stated that they have the option of shifting staff around if deemed necessary to address issues related to the Recovery Act.

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## Single Audit Results Used by Various State Officials for Oversight Activities

Under current Single Audit Act requirements, non-federal recipients of federal awards are required to follow up and take corrective action on audit findings.<sup>45</sup> According to Florida officials, corrective action is monitored by the OIGs serving in the agencies that receive financial assistance. Officials from both of Florida's OIGs for FDOT and the Florida Department of Education outlined how they use Single Audit results.

To address Single Audit results, the OIG for FDOT has a Single Audit Coordinator and eight Single Audit District Liaisons, which have been in place in excess of 5 years and approximately 2 years, respectively. The Single Audit Coordinator performs single audit compliance reviews; advises the FDOT district and central offices' program and project

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<sup>43</sup>The Single Audit Act, as amended, requires each reporting entity that expends \$500,000 or more in federal awards, including grants and other assistance, in a fiscal year to obtain an annual "single audit," which includes an audit of the entity's financial statements and a schedule of the expenditure of federal awards, and review of related internal controls.

<sup>44</sup>The auditor uses a risk-based approach to determine which federal programs are considered major programs. The risk-based approach includes consideration of current and prior audit experience, oversight by federal agencies and pass-through entities, and the inherent risk of the federal program.

<sup>45</sup>31 U.S.C § 7502(i)

managers on Single Audit issues and audit findings; provides feedback and concerns about subrecipient's audit findings and questioned costs; utilizes an automated system to track Single Audit and monitoring efforts; and routinely communicates with program managers through phone, e-mails, and newsletters to share Single Audit information. The Single Audit District Liaison serves as a point of contact within each of the eight districts and works with the 100 program managers to address and ensure accountability for Single Audit issues. State and district office program managers review Single Audit reports and determine whether there are any reported questioned costs or material findings. When there are, the program manager requests and reviews subrecipients' corrective action plans and in doing so, works with the Single Audit District Liaison.<sup>46</sup>

Officials for the Florida Education Department's OIG said they use Single Audit results in the risk assessment for all audits they perform of contractors and grant subrecipients to identify areas to cover in their audit procedures. They also said that they inquire about results of Single Audits when performing the annual risk assessment of the department and to develop annual and long-range audit plans. Within the Florida Department of Education, there is an Audit Resolution and Monitoring Unit that oversees the resolution of Single Audit findings and program fiscal audit findings for the department's subrecipients of federal and state funds. This office works with the LEAs and program staff to resolve each finding applicable to the identified programs. State program managers are provided copies of all Single Audit reports with findings related to the program areas as well the resolution of those findings.

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<sup>46</sup>The program manager must contact the subrecipient in writing to either accept the corrective action plan or make further recommendations. This response must occur within 6 months of receipt of the audit report.

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## While Little Data on the Effects of Recovery Act Spending Is Currently Available, Florida Is Developing a Tracking System

While Florida state officials had concerns about the lack of clear federal guidance on assessing results of Recovery Act spending especially in the area of jobs, they provided input on OMB's guidance issued June 22, 2009. On April 3, 2009, OMB issued guidance indicating that it would be developing a comprehensive system to collect information, including jobs retained and created, on Recovery Act funds sent to all recipients. Florida officials endorsed the idea of a single uniform system for data reporting as outlined in this guidance. Florida's recovery czar, as part of an informal working group, participated in two conference calls with OMB staff working on the reporting requirements and provided input on them. Based on this, the czar said he expected that Florida's reporting system will be consistent with OMB's reporting requirements. OMB's June guidance provides additional information on reporting on the use of Recovery Act funds, including a methodology for calculating the number of jobs created or retained and additional information on subrecipient and vendor reporting. The new guidance also includes a supplement that contains a recipient reporting template and data dictionary.<sup>47</sup> OMB plans to continue to foster a series of forums, meetings, and small-scale data collection pilots during the month of July 2009. This will provide an opportunity for federal agencies and recipients to clarify such items as logistics surrounding the October 10, 2009, reporting of data; troubleshoot potential data-reporting challenges by fostering a common understanding of data definitions, reporting instructions, and data quality responsibilities; and to share best practices for planning and implementing the Recovery Act reporting requirements. However, according to the Florida recovery czar, the guidance does not specify how non-recipients with oversight responsibility, such as recovery czars, will be able to have access to information submitted by recipients in their state.

During our visits to Florida, program officials were also still in the early stages of developing plans to assess the effects of the Recovery Act spending, because they were waiting for the final guidance from OMB and their federal agency on how to measure jobs retained and created with Recovery Act funds. For example, FDOT officials stated that contractors would document the number of workers retained and hired to build a road resurfacing project, but it would be difficult to determine the number of indirect jobs created or saved as a result of this project, such as the jobs retained and created by the company that provided the asphalt for the roads. FDOT officials said the state will not be responsible for providing

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<sup>47</sup>OMB Supplement 2, *Recipient Reporting Data Model*, V2.0.1 (June 22, 2009).

information on indirect jobs created. Instead, FHWA will develop the methodology for counting and reporting the number of indirect jobs created as a result of Recovery Act funding.

Florida is in the process of developing an automated Web-based system to report on Recovery Act requirements for funds that flow through state agencies. According to the recovery czar, they have taken the OMB reporting elements from the April 3, 2009, guidance, added some of their own reporting requirements, and developed the first draft of the architecture for the state's reporting database. As of June, they have populated the database with information from three programs and completed the pilot test of the system. Currently the database has 11 data sets that would allow them to analyze data in various ways, including for example, by congressional district, geographic area, and zip code.

Although Florida is only required to collect data on jobs created and retained with Recovery Act funds for which Florida is the recipient, Florida officials plan to include data on the state Recovery Act Web site on all jobs retained and created with Recovery Act funds in Florida. The state has requested that OMB allow it to obtain data relevant to Florida collected by the national reporting system on all jobs retained and created with Recovery Act funds. According to Florida officials, this will reduce duplication and increase the efficiency of their reporting.

Some state agencies have estimated the number of jobs that will be created or retained as a result of Recovery Act funds. For example, one university stated that the Recovery Act stabilization funds would be used exclusively to retain about 400 of their 1,100 adjunct instructors. Two local school districts estimated that the education stabilization funds will fund over 3,000 teacher positions. While the state has not estimated the number of jobs that would be created as the result of the Recovery Act weatherization funds, the state estimates that it would be able to weatherize at least 19,000 low-income homes and could save as much as \$5.7 million annually in energy costs.

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## State Comments on This Summary

We provided the Governor of Florida with a draft of this appendix on June 18, 2009. The Special Advisor to Governor Charlie Christ, Florida Office of Economic Recovery, responded for the Governor on June 22, 2009. In general, the Florida official concurred with the information in the appendix. The official also provided technical suggestions that were incorporated, as appropriate.

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## Staff Acknowledgments

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# Appendix IV: Georgia

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act) spending in Georgia.<sup>1</sup> 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/>.

**Use of funds:** GAO's work focused on nine federal programs, selected primarily because they have begun disbursing funds to states. The programs include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, and new programs. Program funds are being directed to helping Georgia stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds made available as a result of increased Medicaid Federal Medical Assistance Percentage (FMAP).**<sup>2</sup> As of June 29, 2009, Georgia had received more than \$541 million in increased FMAP grant awards, of which it had drawn down about \$498 million, or 92 percent. Georgia officials reported they are using funds made available as a result of the increased FMAP to offset the state budget deficit. State officials also reported they are planning to use these funds to cover the state's increased caseload, to maintain current Medicaid populations and benefits, and avoid cuts to eligibility, pending state approval to do so.
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$932 million in Recovery Act funds to Georgia. As of June 25, 2009, the federal government's obligation for Georgia was \$449 million. Georgia has selected the first phase of projects to be completed with Recovery Act funds and has awarded 44 contracts totaling \$88 million. The projects selected include a bridge-widening project in Gwinnett County and a road-widening and -expansion project in Henry County.

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education has awarded Georgia its entire \$1 billion initial allocation. As of June 30, 2009, the state had allocated \$698 million of these funds to local education agencies and institutions of higher education. These entities plan to use the funds to stabilize their budgets and retain staff. For example, the University of Georgia plans to use its \$19 million allocation for fiscal year 2010 to retain approximately 160 full-time faculty positions.
- **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965.** The U.S. Department of Education has awarded Georgia about \$176 million in Recovery Act ESEA Title I, Part A funds, or 50 percent of its total allocation of approximately \$351 million. The state allocated all of these funds to the local education agencies within the state in late April 2009. Local education agencies plan to use these funds to help educate disadvantaged youth by, among other things, providing training and other professional development opportunities for teachers. For example, the Richmond County School System plans to use its funds to expand services to 23 additional elementary, middle, and high schools.
- **Individuals with Disabilities Education Act, Part B and C.** The U.S. Department of Education has awarded Georgia about \$169 million in Recovery Act IDEA, Part B and C funds, or 50 percent of its total allocation of about \$339 million. Georgia allocated all of its IDEA, Part B funds to the local education agencies within the state in late April 2009. Local education agencies plan to use these funds to support special education and related services for preschool and school-aged children with disabilities. For instance, the Atlanta Public Schools plans to use its funds to provide training for its staff and retain 49 special education paraprofessionals.
- **Workforce Investment Act Youth Program.** The U.S. Department of Labor allotted to Georgia about \$31.3 million in Workforce Investment Act Youth Recovery Act funds. As of June 30, 2009, the state had allocated \$26.7 million of these funds to local workforce boards. As of June 19, 2009, about 8,700 youth were enrolled in summer youth programs statewide. Overall, the state expects the funds to create more than 10,000 summer jobs for its youth.
- **Edward Byrne Memorial Justice Assistance grants.** The U.S. Department of Justice's Bureau of Justice Assistance has awarded \$36 million in Recovery Act funding directly to Georgia. As of June 25, 2009, none of these funds had been obligated by the Georgia Criminal

Justice Coordinating Council, which administers these grants for the state.<sup>3</sup> The state plans to use these funds to support positions at state agencies with criminal justice missions and fund assistance for victims of crime, among other things.

- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated to Georgia about \$125 million in Recovery Act weatherization funding for a 3-year period. As of June 26, 2009, DOE had provided \$62.5 million to Georgia, and the state had obligated none of these funds. Georgia plans to get weatherization activities under way in August 2009 and ultimately weatherize about 13,600 homes owned by low-income families.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$113 million in Recovery Act funding to 184 public housing agencies in Georgia. As of June 20, 2009, these public housing agencies had obligated about \$8 million (7.5 percent). At the two public housing agencies we visited (Atlanta and Athens), these funds—which flow directly to public housing authorities—will be used for various capital improvements, including modifying bathrooms and kitchens and replacing roofs, windows, and elevators.

**Safeguarding and transparency:** Georgia has issued unique accounting codes to track Recovery Act funds separately. In addition, the Governor's Office of Planning and Budget has issued a risk management handbook that requires each agency that is a direct recipient of Recovery Act funding to prepare a risk mitigation plan. The State Auditor has provided internal controls training to state agency personnel but is awaiting additional federal guidance on targeting its risk assessments to include programs receiving Recovery Act funding. In addition, the individual state agencies that administer Recovery Act funds have implemented internal controls, such as risk assessments and monitoring plans.

**Assessing the effects of spending:** While waiting for additional federal guidance, the state proceeded with plans to adapt an automated system used for financial management to meet Recovery Act reporting

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance grants awarded directly to local governments in this report because the Bureau of Justice Assistance's (BJA) solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

requirements. The system is operational, and the state has begun collecting data on jobs created and retained.

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## Georgia Is Using Recovery Act Funds to Offset Declining Revenues

To offset declining revenue, Georgia included Recovery Act funding in both its amended fiscal year 2009 budget and its fiscal year 2010 budget. Our work, which focused on nine selected federal programs, indicated that Georgia has started spending its Recovery Act funds. The nine programs on which we focused included the Medicaid program, three education programs, and the federal-aid highway program.

During fiscal year 2009, Georgia took a number of cost-saving measures due to its declining fiscal condition:

- A few agencies furloughed staff. For instance, the Georgia Department of Transportation required all full-time employees to take 1 furlough day during the months of April, May, and June 2009 and plans to continue the furloughs in fiscal year 2010. The Georgia Department of Education required all employees to take 1 furlough day from November 17, 2008, through February 13, 2009.
- A number of programs were cut or eliminated. For instance, the primary funding mechanism for elementary and secondary education was reduced by approximately \$550 million in the amended fiscal year 2009 budget and by about \$431 million in the fiscal year 2010 budget. At the Georgia Department of Human Services, a reduction of \$16 million impacted the level of service staff could provide in the food stamp, Medicaid, and child protective services programs. The Georgia Department of Community Affairs saw a reduction of \$76 million in its amended fiscal year 2009 budget and \$74 million in its fiscal year 2010 budget. These reductions will impact programs that provide grants and assistance to rural areas of the state and state-funded community development programs that assist homeless families in achieving housing stability, among other things.
- Some agencies canceled or delayed contracts. For example, when funding for the Georgia Department of Corrections' general operations was reduced by \$25 million, the department decreased its procurement of goods and services, among other things. In addition, budget cuts at the Georgia Department of Administrative Services delayed the full implementation of an upgrade of the state's procurement system.

Georgia's amended fiscal year 2009 budget and its fiscal year 2010 budget were signed by the Governor on March 13, 2009, and May 13, 2009, respectively. According to state budget officials, the inclusion of Recovery Act funds in both budgets reduced the number of cuts required to balance the budgets. The amended fiscal year 2009 budget included \$477 million in Recovery Act funds for Medicaid. The fiscal year 2010 budget included \$727 million for Medicaid, \$521 million in State Fiscal Stabilization Funds for education stabilization, and \$140 million in State Fiscal Stabilization Funds for government services (such as staffing costs at state prisons and the state's forensic laboratory system).<sup>4</sup>

Since the amended fiscal year 2009 budget was signed in March 2009, the state's revenue projections have continued to decline. The state's net revenue collections for May 2009 were 14.4 percent less than they were in May 2008, representing a decrease of approximately \$212 million in total tax and other collections. On May 28, 2009, the lower-than-expected revenue projections led the Governor to instruct the Office of Planning and Budget to reduce available funds by 25 percent for the month of June (the last month of fiscal year 2009).

The lower-than-expected revenue numbers also caused Georgia to use more Recovery Act funds in fiscal year 2009 than it had anticipated using. In addition to using the Recovery Act Medicaid funds approved in its amended fiscal year 2009 budget, it used \$177 million in education stabilization funds and approximately \$12 million in government services funds. Further, the state used more of its reserves in fiscal year 2009 than originally planned. Instead of the \$200 million it planned to use from its Revenue Shortfall Reserve, or "rainy day" fund, in fiscal year 2009, the state may use up to \$650 million.<sup>5</sup> The state also has budgeted an additional \$259 million in fiscal year 2010, further depleting Georgia's rainy-day fund.

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<sup>4</sup>The Recovery Act created a State Fiscal Stabilization Fund to be administered by the U.S. Department of Education. States must allocate 81.8 percent of their State Fiscal Stabilization Funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services funds).

<sup>5</sup>The fiscal year 2009 amount is an estimate based on fiscal year 2009 revenue collections that have not been finalized or audited and does not reflect agency surplus funds.

The Governor's office has required state agencies to spend funds judiciously and develop action plans that recognize that the funding is temporary. However, Georgia is still in the process of developing a strategy for winding down its use of Recovery Act funds. In part, such a strategy is dependent on revenue and expenditure projections, which will be updated as part of the fiscal year 2011 budget planning process. In addition, risk mitigation plans currently being developed by state agencies may impact the state's exit strategy.

State resources for oversight of Recovery Act funds continue to be limited. The State Auditor highlighted the need for increased staffing to complete single audits for fiscal years 2009–2011. Approximately 140 of his current staff will have some Recovery Act auditing responsibilities. To meet additional auditing responsibilities, the State Auditor estimated that his office would need 7 to 8 additional staff for the fiscal year 2009 audits, at least 16 additional auditors over current staffing levels for the fiscal year 2010 audits, and at least 10 auditors over current staffing levels for the fiscal year 2011 audits. The Georgia Inspector General's office currently has 4 staff, 2 of which have Recovery Act responsibilities. According to the Inspector General, the office needs about 5 more staff in order to monitor compliance with Recovery Act provisions. These staff would be responsible for overseeing and monitoring the state agencies' distribution of funds, reviewing contracts, and investigating allegations of wrongdoing related to the funds.

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## Increased FMAP Funds Are Allowing Georgia to Maintain Its Medicaid Program

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>6</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to

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<sup>6</sup>See Recovery Act, div. B, title V, §5001.

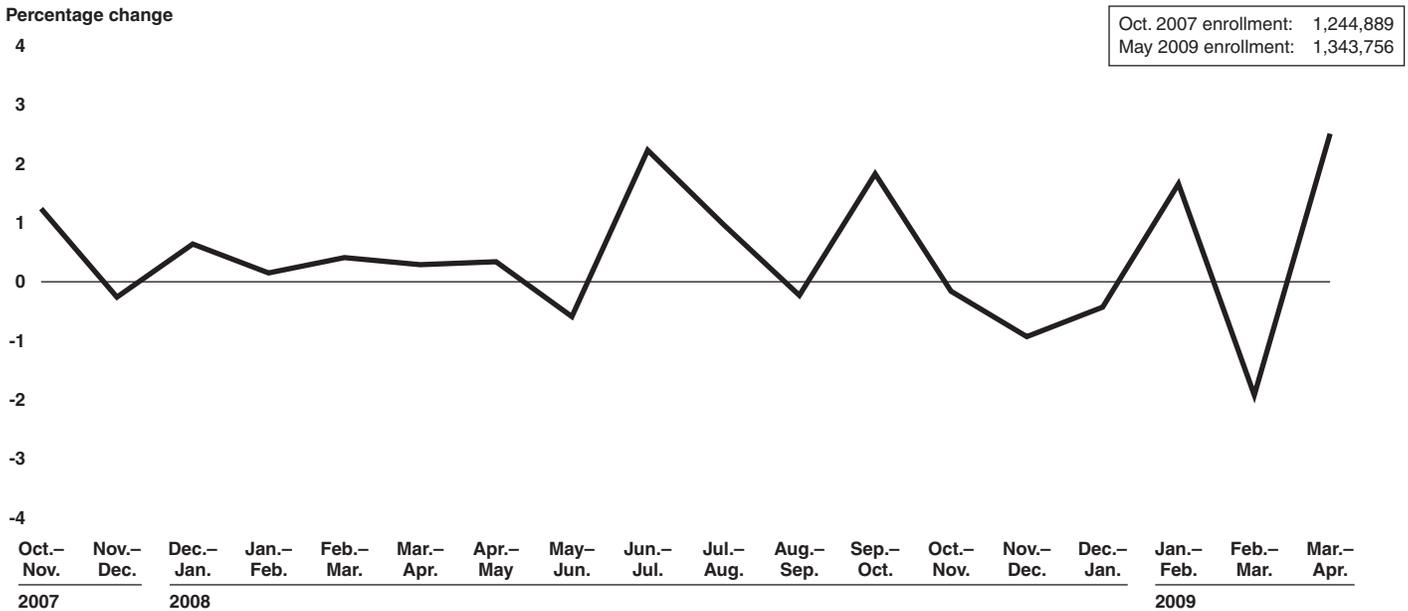
the effective date of the Recovery Act.<sup>7</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to April 2009, the state's Medicaid enrollment grew from 1,244,889 to 1,343,756, an increase of almost 8 percent. Enrollment during this period varied, and there were several months where enrollment decreased (see fig. 1). The increase in enrollment was mostly attributable to the population group of children and families, and there was a decline in the disabled individuals' population group.

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<sup>7</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Georgia, October 2007 to April 2009**



Source: GAO analysis of state reported data.

As of June 29, 2009, Georgia had drawn down about \$498 million in increased FMAP grant awards, which is about 92 percent of its awards to date.<sup>8</sup> Georgia officials reported they are using funds made available as a result of the increased FMAP to offset the state budget deficit. State officials also reported they are planning to use these funds to cover the state’s increased caseload, to maintain current Medicaid populations and benefits, and avoid cuts to eligibility, pending state approval to do so.

As a result of Georgia’s economic climate in the fall of 2008, the state had delayed provider rate increases and began exploring options that would avoid potential cuts to the program, such as to certain eligibility categories and optional Medicaid benefits. An official noted that with the increased FMAP funds, Georgia has been able to maintain its Medicaid eligibility categories and benefits. In using the increased FMAP, Georgia officials reported that the Medicaid program has incurred additional costs related to

<sup>8</sup>Georgia received increased FMAP grant awards of more than \$541 million for the first three quarters of federal fiscal year 2009.

- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP,
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP, and
- the administrative processes devoted to project management and the creation of communication avenues for internal and external tracking of the use of stimulus funds.

Georgia officials said they did not have any concerns about maintaining eligibility for increased FMAP. The state was not considering any changes to program eligibility and was already in compliance with the prompt pay requirements.<sup>9,10</sup> In terms of tracking the use of these funds, the state relies on an existing accounting system to track the use of increased FMAP and uses unique identifiers for these funds, which are tracked separately from regular FMAP. State officials also noted that the state separately codes expenditure transactions related to the increased FMAP and conducts reconciliations to ensure correctness. In addition, the officials noted that the Governor's office has appointed an individual to work with the state audit and accounting offices to generate a weekly report on both receipts and expenditures related to the increased FMAP. To further ensure correctness, a staff person independently reviews the details of services for which increased FMAP was obtained, according to officials.

Regarding the Single Audit, both the 2007 and 2008 audits identified material weaknesses in the state's Medicaid program. The 2007 Single Audit for Georgia identified one material weakness related to the Medicaid

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<sup>9</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

<sup>10</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

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program.<sup>11</sup> Specifically, the audit found examples of where fee-for-service payments and capitation payments were made for the same services. These double payments were estimated to total \$52.7 million. The state concurred with the finding, noting that the double payment was the result of an imperfect transmittal of a member database update from the Medicaid Management Information System. The state implemented corrective action procedures, which included efforts to improve monitoring. The 2008 Single Audit identified concerns related to documentation of eligibility and problems in calculating and reconciling accounts receivable.

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## Funds Have Been Obligated for Georgia Federal-Aid Highway 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 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 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 generally 80 percent.

As we reported in April 2009, \$932 million was apportioned to Georgia in March for highway infrastructure and other eligible projects. As of June 25, 2009, \$449 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 signs a project agreement. As of June 25, 2009, no funds had been

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<sup>11</sup>The 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 Office of Management and Budget (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.

reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.<sup>12</sup>

**Status of Planning for Highway Infrastructure Spending**

As of June 12, 2009, the Governor had certified three rounds of projects to be funded with Recovery Act funds, completing the Georgia Department of Transportation’s first phase of planning. The selection process for the second phase of projects was to be completed by the end of June 2009. According to FHWA data, the majority of the funds that had been obligated as of June 25, 2009, were for pavement projects (see table 1).

**Table 1: Highway Obligations for Georgia by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects				Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
	\$80	\$200	\$12	\$0	\$41	\$0	\$116	<b>\$449</b>
Percent of total obligations	17.8	44.6	2.6	0.0	9.2	0.0	25.8	<b>100</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

As of June 12, 2009, the Georgia Department of Transportation had awarded 44 contracts, for a total of \$88 million.<sup>13</sup> Most of these contracts were awarded for an amount that was less than originally estimated. According to Georgia Department of Transportation officials, bids have been coming in lower than expected due to current economic conditions. The first of these contracts is estimated to be completed by December 2009. The majority of the remaining phase one projects are expected to be bid on in June or July 2009.

<sup>12</sup>FHWA Georgia division officials explained the reason for the difference in funds obligated and reimbursed is largely due to the time needed for the contracting process, which includes bidding, awarding, and billing, and can take 9 weeks or more.

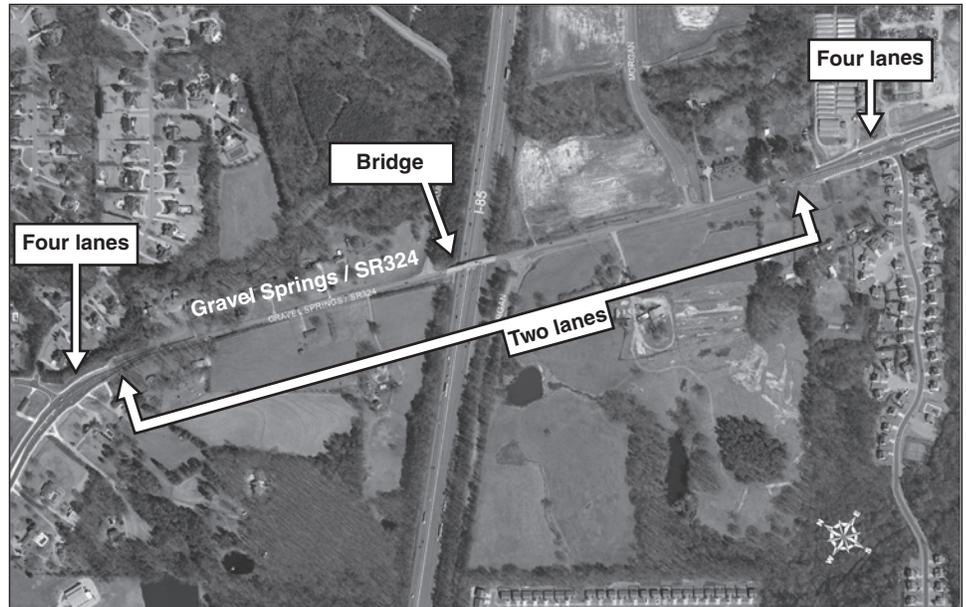
<sup>13</sup>This amount represents just those contracts awarded by the Georgia Department of Transportation. Some localities within Georgia also may have awarded contracts with Recovery Act funds.

We visited the Gwinnett County and Henry County Departments of Transportation to discuss their Recovery Act highway projects.<sup>14</sup> During phase one, seven projects totaling \$81 million were selected in Gwinnett County. Of these, the Gwinnett County Department of Transportation will administer two projects that aim to manage traffic more effectively through the use of surveillance equipment and remote traffic signal controls. Gwinnett County expects to award the contracts in August 2009 and complete the projects in 2010. The remainder of the projects in Gwinnett County will be administered by the Georgia Department of Transportation. For example, the state has budgeted about \$13 million for a bridge-widening project in Gwinnett County. Gwinnett County officials stated that the project was “shovel ready” because the county had invested about \$33 million in widening the road on either side of the bridge and engineering and land acquisition costs. (See fig. 2 for a picture of the bridge to be widened.) County officials noted that if the state had not received Recovery Act funds, this project might have been moved to the long-range project list and not started until 2014 at the earliest.

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<sup>14</sup>We selected these two counties because of the amount of funds the counties were awarded and because they will be administering some of the Recovery Act projects themselves. (The majority of the state’s Recovery Act projects will be administered by the Georgia Department of Transportation.) In addition, we factored in the proposed timing of the contract award and the location—that is, whether a project was located in an economically distressed area.

**Figure 2: Bridge-Widening Project in Gwinnett County, Georgia, to Be Funded with Recovery Act Funds**



Source: Gwinnett County Department of Transportation.

Section of road and bridge that will be expanded from two lanes to four.

During phase one, three projects totaling about \$37 million were selected in Henry County, an economically distressed area. Of these, Henry County will administer one road-widening and -expansion project. Henry County officials noted that this project had been identified on the Transportation Improvement Program as high priority to help alleviate congestion and encourage economic development in the area. The proposed cost of the project is about \$34 million. Henry County expects to award the contracts for this project by October 2009 and complete it in 2012.

## Recovery Act Requirements for Highway Infrastructure Spending

The Recovery Act includes a number of specific requirements for highway infrastructure spending. First, states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated

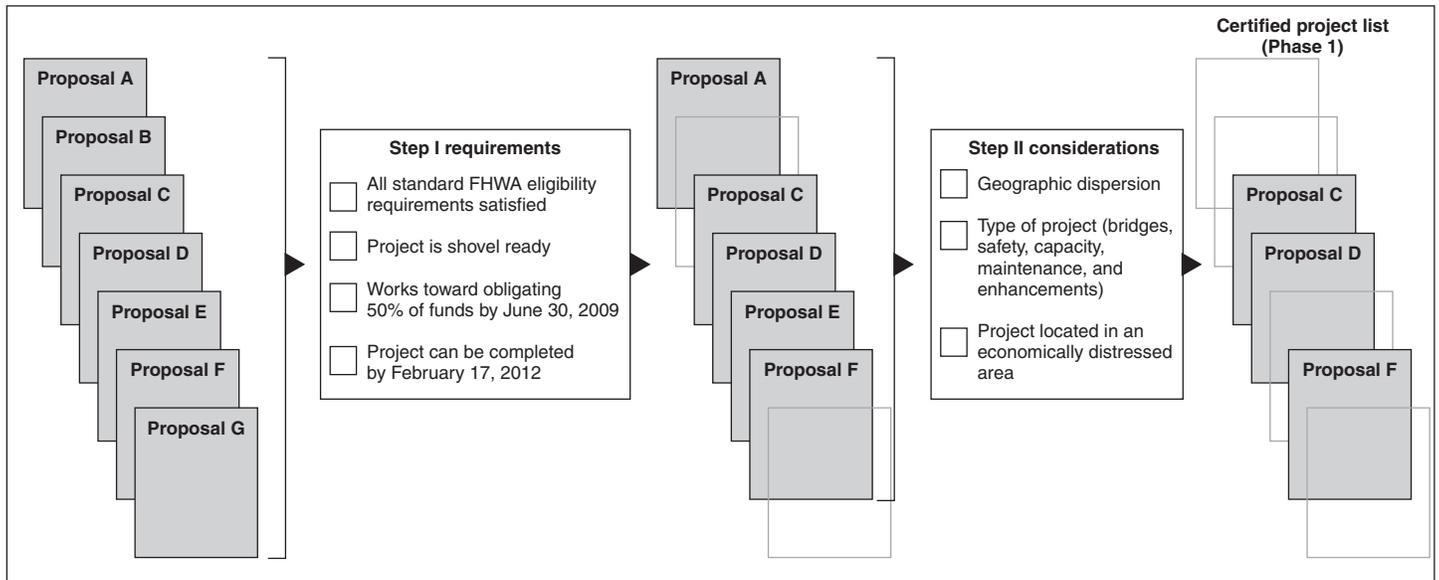
within these time frames. As of June 25, 2009, 59 percent of the \$652 million that is subject to the 50 percent rule for the 120-day redistribution had been obligated.

Second, the Recovery Act requires states to give priority to projects that can be completed within 3 years and projects located in “economically distressed areas.” Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended.<sup>15</sup> As shown in figure 3, the Georgia Department of Transportation considered a number of different factors when selecting its first phase of projects in order to ensure that it met the act’s requirements. Specifically, the department considered whether projects were “shovel ready” and could be completed within 3 years. Of the Recovery Act projects selected to date, the department expects all but one to be completed by February 2012. The Georgia Department of Transportation also took into account the location of the potential projects—that is, whether they were in an economically distressed area, as identified by FHWA. Its goal was for 50 percent of the projects it selected to be located in these areas. Of the 138 projects selected during phase one, 77 (or about 56 percent) are located in economically distressed areas.

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<sup>15</sup>FHWA has published a map on its Web site showing the areas in each state that meet the statutory criteria.

**Figure 3: Georgia Department of Transportation’s Process for Selecting Highway Projects That Qualify for Recovery Act Funds**



Source: GAO.

Note: According to state transportation officials, Georgia law requires highway funding to be distributed equally among the state’s congressional districts. However, the Georgia Board of Transportation waived this requirement for the first phase of Recovery Act projects, and transportation officials expect the board to waive it for the second phase of projects, as well.

Third, the Recovery Act required the governor of each state to certify that the state would maintain the level of spending for the types of transportation projects funded by the Recovery Act at the level planned the day the Recovery Act was enacted. As part of this “maintenance of effort” certification, the governor is required to identify the amount of funds the state planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>16</sup> On March 18, 2009, Georgia submitted its maintenance-of-effort certification. As we reported in April, Georgia was

<sup>16</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have their apportioned funds obligated by the end of the federal fiscal year (Sept. 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

one of several states that qualified its certification, prompting the U.S. Department of Transportation to review these certifications to determine if they were consistent with the law.<sup>17</sup> On April 22, 2009, the Secretary of Transportation informed states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave states the option of amending their certifications by May 22, 2009. Georgia resubmitted its certification on May 20, 2009. In addition to deleting the conditional statement, the Georgia Department of Transportation recalculated its maintenance of effort based on April guidance from FHWA.<sup>18</sup> According to U.S. Department of Transportation officials, the department is reviewing Georgia's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. The U.S. Department of Transportation is currently evaluating whether the states' method of calculating the amounts they planned to expend for the covered programs is in compliance with its guidance.

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## Georgia Has Started Expending Recovery Act Funds for Education

The Recovery Act makes funds available for education under three different programs. The first program—the State Fiscal Stabilization Fund—provides funding for education, as well as public safety and other government services. The other two programs provide funding to improve the academic achievements of disadvantaged youth and for special education. Georgia has begun using these funds to retain instructors at all levels and is making plans to provide additional services to disadvantaged youth and disabled students.

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## State Fiscal Stabilization Funds

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include assurances that the state will meet

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<sup>17</sup>Georgia qualified its maintenance-of-effort certification by noting that the Georgia General Assembly still was considering the Georgia Department of Transportation's fiscal year 2010 budget, which could impact the state's highway spending plans for that year.

<sup>18</sup>The Georgia Department of Transportation calculated its maintenance of effort by taking 10 weeks of actual expenditures and extrapolating them to the 84-week period covered by the certification.

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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

Georgia has received its entire \$1 billion initial allocation for SFSF. Of that amount, \$845 million is for education stabilization and \$188 million is for government services. Based on the state's current application (which was approved in May 2009), the state will allocate approximately 74 percent of the education stabilization funds to local education agencies (LEA) and approximately 26 percent to IHEs. As of June 10, 2009, the state had made \$177 million available to LEAs and IHEs, and the LEAs and IHEs had expended the entire amount. The state's application provided assurance that the state will maintain state support for education at least at fiscal year 2006 levels.

As previously mentioned, the state used \$177 million in education stabilization funds and \$12 million in government services funds to help offset budget shortfalls at the end of fiscal year 2009. As of June 10, 2009, all \$189 million had been expended. The state's budget for fiscal year 2010 includes \$521 million in education stabilization funds and \$140 million in government services funds. Georgia plans to use the government services funds to help maintain safe staffing levels at state prisons, appropriately staff the state's forensic laboratory system, and avoid cuts in the number of state troopers.

The Georgia Department of Education received \$413 million in education stabilization funds for fiscal year 2010. The department utilized the state's

primary funding formula for elementary and secondary education to determine allocations of funds for the LEAs in the state and suggested that the funds be used for personnel, teachers, and benefits.<sup>19</sup> In order to receive these funds, LEAs must submit an application via the state's consolidated application that includes planned uses for the funds in fiscal year 2010, detailed budget data such as jobs created and saved, and program-specific assurances such as agreeing to track and account for education stabilization funds separately and to avoid prohibited uses of the funds (for example, payment of maintenance costs and restoring or supplementing a "rainy day" fund).<sup>20</sup> The Georgia Department of Education has not set a specific deadline for these applications, and LEAs whose applications are approved must then submit a detailed budget. As of June 8, 2009, 106 of the 186 LEAs in the state had successfully submitted applications and were developing their budgets; however, no budgets had been approved.

We visited two LEAs—Atlanta Public Schools and the Richmond County School System—that had been allocated about \$8 million and \$9 million, respectively, in education stabilization funds for fiscal year 2010.<sup>21</sup> Both school districts will add the funds to their general funds. The Atlanta Public Schools plans to use the majority of the funds for curriculum instruction. The Richmond County School System plans to use the funds to save jobs. Officials reported that the district will target positions that support its schools, such as teachers, paraprofessionals, nurses, media specialists, and guidance counselors. For both school districts, the funds have helped address budget shortfalls. The Atlanta Board of Education adopted a budget for the 2009-2010 school year that was \$9 million less than the previous year's budget. According to district officials, the budget cuts would have been even greater had it not been for Recovery Act funds. In Richmond County, the education stabilization funds will be used to help fill an initial funding gap of about \$24 million for the 2009-2010 school

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<sup>19</sup>Essentially, this funding formula multiplies enrollment by the cost of educating a student to calculate the total funding needed to educate public school students in the state.

<sup>20</sup>The Georgia Department of Education's consolidated application allows LEAs to submit one comprehensive application for funding for several federal and state programs.

<sup>21</sup>We selected Atlanta Public Schools and the Richmond County School System because both districts had a number of schools categorized as Needs Improvement and because Atlanta Public Schools is considered a high-risk district by the Georgia Department of Education. In school year 2008-2009, Atlanta Public Schools had a student population of 49,142. The Richmond County School System had a student population of 33,030 in school year 2008-2009.

year. According to Richmond County officials, even with the inclusion of stabilization funds in the budget proposal, they will have to cut salaries, eliminate programs, and reduce staff.

The Georgia Board of Regents received about \$93 million in education stabilization funds for the state's universities and colleges to use in fiscal year 2010.<sup>22</sup> In April 2009, the board allocated these funds to each of the 35 institutions in the state's university system based on the degree to which each institution's budget had been cut. The Board of Regents encouraged the institutions to use the funds to cover faculty costs. It required all state institutions to submit applications that included a description of the planned use of education stabilization funds, affirmation that the funds would not be spent on prohibited uses, a list of any research and capital projects applied for under other Recovery Act programs, and a description of accounting and tracking mechanisms in place. These applications had to be signed by the President of each college or university and submitted by May 20, 2009. According to state officials, all 35 institutions' applications have been approved.

The two IHEs we visited—the University of Georgia and Georgia Perimeter College—stated that they would be using the education stabilization funds to retain full-time and part-time faculty.<sup>23</sup> Specifically, the University of Georgia plans to use its \$19 million allocation to retain approximately 160 full-time faculty positions in various departments.<sup>24</sup> Georgia Perimeter College intends to use its \$3 million allocation to retain 51 full-time and 17 part-time positions in its Science department. According to college officials, this funding was critical because, in fiscal year 2009, approximately 41 vacant positions were cut because of a \$7.6 million budget reduction.

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<sup>22</sup>In addition, the Technical College System of Georgia received about \$15 million in education stabilization funds for the state's 27 technical colleges.

<sup>23</sup>We selected the University of Georgia because it received the largest allocation of education stabilization funds among 4-year institutions and Georgia Perimeter College because it received the largest allocation of any 2-year institution.

<sup>24</sup>Estimates of jobs saved for the University of Georgia and Georgia Perimeter College were based on each individual school's accounting system. However, there is no statewide baseline on how to appropriately measure jobs created or saved to date.

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Title I, Part A of the  
Elementary and Secondary  
Education Act of 1965

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 its fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>25</sup> The U.S. Department of Education is advising LEAs to use the funds in ways that will build their 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' ESEA Title I, Part A funding available on April 1, 2009, with Georgia receiving about \$176 million of its approximately \$351 million total allocation.

On April 28, 2009, the Georgia State Board of Education approved the allocations of Recovery Act ESEA Title I, Part A funds to LEAs in Georgia.<sup>26</sup> Prior to receiving their Recovery Act ESEA Title I funds, LEAs must submit a seven-point addendum to their comprehensive local improvement plan via the state's consolidated application. This addendum serves as a joint application for ESEA Title I, Part A and funds under the Individuals with Disabilities Education Act (IDEA), Part B. The first five points apply to both programs and cover topics such as how the LEA plans to use the funds, how the funds will be used to create and save jobs, and what type of internal controls the LEA has in place for the funds. One of the final two points is specific to ESEA Title I and covers how the district will expand support to schools that it has not previously served.<sup>27</sup> The department has not set a specific application deadline. Once their applications are approved, LEAs will be asked to submit their budgets for fiscal year 2010 and cannot draw down their allocated funds until their

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<sup>25</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

<sup>26</sup>ESEA Title I funds are allocated to LEAs based on the number of children from low-income families. Included in this number are children from families below the poverty level based upon the most recent Census Bureau data; from families above the poverty level receiving assistance under the Temporary Assistance for Needy Families program; living in foster homes; and residing in local institutions for neglected children.

<sup>27</sup>The final point relates to IDEA funds, which we discuss later in this appendix.

budgets have been approved. As of June 17, 2009, 78 of the 186 LEAs had submitted their applications, and 52 had been approved. As of the same date, no funds had been expended.

The Georgia Department of Education has provided a great deal of guidance to LEAs on how to obtain and use this type of Recovery Act funding. In addition to issuing guidance applicable to all LEAs, the department formed cross-functional teams comprising ESEA Title I and IDEA staff to develop specific recommendations for each LEA. According to department officials, this was the first time staff from both programs had worked together to develop comprehensive strategies for improving student achievement. The teams met with each school superintendent to discuss their findings and recommendations, including the following:

- funding activities to provide intensive support for dropout prevention at the middle and high school levels;
- providing intensive training and professional learning for general education teachers in the areas of math and reading;
- identifying literacy specialists in middle schools to provide professional development; and
- providing professional learning opportunities for all teachers at middle and high schools.

The two LEAs we visited plan to use their Recovery Act ESEA Title I funds in different ways. The Atlanta Public Schools plans to use its \$16.9 million allocation to enhance the services already provided to the ESEA Title I schools in its district. Specifically, ESEA Title I funds will be utilized to retain 11 instructional mentor positions (7 high school and 4 middle school) and 5 middle school counselor positions.<sup>28</sup> In addition, three additional instructional mentor positions will be created at the high school level using ESEA Title I funds. Funding will also be used to expand professional development opportunities for district staff. Because all of the schools in the district currently eligible for ESEA Title I funds receive such funds, the district will not be providing support to an additional

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<sup>28</sup>Instructional mentors provide individualized mentoring and coaching support designed to increase teacher effectiveness.

number of schools.<sup>29</sup> The Richmond County School System plans to use its \$7.3 million allocation to fund 23 additional elementary, middle, and high schools. School officials stated these funds will allow them to expand ESEA Title I, Part A services to all schools in the district except the one that is not eligible.

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**Individuals with  
Disabilities Education Act  
(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 special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to the U.S. Department of Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to the U.S. Department of Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

The U.S. Department of Education allocated the first half of states' IDEA allocations on April 1, 2009, with Georgia receiving a total of about \$169 million for all IDEA programs.<sup>30</sup> The largest share of IDEA funding is for the Part B school-aged program for children and youth.<sup>31</sup> The state's initial allocation was

- \$5 million in Part B preschool grants,

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<sup>29</sup>Due to limited funding, some school systems cannot provide support to all of the schools in the district that qualify for ESEA Title I, Part A funds.

<sup>30</sup>Georgia's total allocation of Recovery Act IDEA funds is about \$339 million.

<sup>31</sup>Because the vast majority of IDEA funds are for Part B, that is the focus of this appendix.

- \$157 million in Part B grants to states for school-aged children and youth, and
- \$7 million in Part C grants for infants and families.

On April 28, 2009, the Georgia State Board of Education approved the allocations of Recovery Act IDEA, Part B funds to LEAs in Georgia.<sup>32</sup> Prior to receiving their Recovery Act IDEA funds, LEAs must submit a seven-point addendum to their comprehensive local improvement plan via the state's consolidated application. As previously discussed, this addendum serves as a joint application for Recovery Act IDEA and ESEA Title I, Part A funds. The department has not set a specific application deadline. One question on the application regarding plans to expand services in the preschool program is unique to IDEA. Upon approval of their applications, LEAs will be asked to submit their budgets for fiscal year 2010 and cannot draw down their allocated funds until their budgets have been approved. As of June 17, 2009, 78 of the state's 186 LEAs had submitted their applications, and 52 had been approved. As of the same date, no funds had been drawn down.

The Georgia Department of Education has provided specific recommendations to LEAs regarding the use of Recovery Act IDEA funds. Some of the recommendations made to individual LEAs suggested using these funds to

- provide for additional special education coaches;
- allocate an assistive technology specialist to train teachers and paraprofessionals in assistive technology tools;
- identify a full-time dedicated lead teacher for special education at every school to facilitate compliance and support, consistent professional development, appropriate instruction, and teacher monitoring and feedback; and
- ensure that all middle- and high-school graduation coaches are working with students with disabilities.

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<sup>32</sup>The allocation of IDEA funds is based on a statutory formula utilized by the U.S. Department of Education's Office of Special Education Programs. For fiscal year 2009, the allocation was divided between regular fiscal year 2009 IDEA funds and Recovery Act IDEA funds.

The two school districts we visited have applied for their IDEA funds, and their applications have been approved by the Georgia Department of Education. Atlanta Public Schools plans to use its \$5 million allocation to build capacity through training for paraprofessional staff and professional development seminars.<sup>33</sup> IDEA Recovery Act funds will also allow the district to retain 49 special education paraprofessional positions. Finally, Atlanta Public Schools plans to create a position for an assistive technology specialist to train teachers and paraprofessionals in assistive technology tools. The Richmond County School System plans to use its approximately \$3 million allocation to add more professional development opportunities in areas such as co-teaching and progress monitoring of a students' performance plan.<sup>34</sup> It also plans to conduct additional training and purchase equipment to assist preschoolers and those students that need additional assistance in math and reading.

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## Workforce Investment Act Summer Youth Programs Will Serve a Significant Number of Youth in Georgia

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the Recovery Act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor, and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act, the conferees stated

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<sup>33</sup>Atlanta Public Schools' students with disabilities population is 4,383, or 2.44 percent of the state's total number of students with disabilities.

<sup>34</sup>The Richmond County School System's students with disabilities population is 3,166, which accounts for 1.76 percent of the state's total number of students with disabilities.

they were particularly interested in states using these funds to create summer employment opportunities for youth.<sup>35</sup> Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal and state wage laws.<sup>36</sup>

The Georgia Department of Labor administers the state’s WIA Youth program, but program implementation is delegated to local areas, as required by the Workforce Investment Act. Georgia’s 159 counties are divided into 20 workforce investment areas (local areas), ranging in size from 1 county to 17 counties.<sup>37</sup> Each of the 20 areas has a local workforce investment board, appointed by local elected officials. While the Georgia Department of Labor recommends employment priorities, the local areas make determinations on how they will use their funding. The Georgia Department of Labor plans to monitor the use of Recovery Act funds on a weekly basis by tracking progress on a variety of factors, such as youth enrollment, job types, and number of active participants.

Georgia received approximately \$31.3 million in Recovery Act funds for the WIA Youth program. In 2008, the state reserved \$919,000 of its own funds for summer youth programs that served 968 young people. With the Recovery Act WIA Youth program funds, the state expects to serve more than 10,000 youth in summer programs. The 15 percent (or \$4.7 million) reserved for the state’s use will be spent on activities such as program administration and oversight. The Georgia Department of Labor has allocated the remaining \$26.7 million directly to local areas for youth programs. According to department officials, recruiting additional providers and processing numerous applications in such a short period of time will be the greatest challenges facing the local areas in the state. The local areas must ensure that applicants meet the WIA eligibility criteria by

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<sup>35</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>36</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies.

<sup>37</sup>The Macon-Bibb Office of Workforce Development provides services to one county. The Heart of Georgia Altamaha Regional Development Center provides services to 17 counties.

documenting information such as family income. As of June 19, 2009, about 8,700 youth had been enrolled in summer youth programs statewide.

The WIA Youth program is being implemented in a variety of ways across the state. We visited two local areas, the Atlanta Regional Workforce Board and the Richmond/Burke Job Training Authority.<sup>38</sup> The Atlanta Regional Workforce Board received an allocation of more than \$3 million in Recovery Act WIA Youth funds (an increase from the \$66,000 in state funds it received for summer youth employment activities in 2008). The Atlanta Regional Workforce Board anticipates serving 1,200 to 1,300 youth this summer with Recovery Act funds, a significant increase over the 105 youth it served in 2008 with the state-provided funds for summer youth employment activities. To meet the anticipated demand, the Atlanta Regional Workforce Board submitted a request to the Georgia Department of Labor to use the 10 providers with which it already had contracts and issued a request for proposals to obtain additional providers. In addition, it contracted with a company to manage its payroll and workers compensation. The Atlanta Regional Workforce Board has identified a variety of summer work opportunities for youth at private businesses and organizations such as county school systems and the Georgia Department of Family and Children Services. Additionally, work sites have been identified that provide green job opportunities and training in green technology. For example, Gwinnett Technical College is offering a summer work experience in water quality and environmental management.<sup>39</sup> As of June 19, 2009, the Atlanta Regional Workforce Board had enrolled 1,103 youth.

The Richmond/Burke Job Training Authority received an allocation of approximately \$1 million in Recovery Act WIA Youth funds (an increase from the approximately \$38,000 in state funds it received for summer youth employment activities in 2008). It expects to serve 375 youth this summer with Recovery Act funds, a significant increase over the 28 youth it served in 2008 with the state-provided funds for summer youth employment activities. The Richmond/Burke Job Training Authority plans to expand its existing contracts to meet the increased demand. It has

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<sup>38</sup>These local areas were selected based on the amount of WIA Youth funds they received and geographic distribution.

<sup>39</sup>Gwinnett Technical College is a partner in the Innovation Crescent Initiative, a coalition of counties and life science and economic development entities located in metropolitan Atlanta and Athens, Georgia.

identified a variety of summer work opportunities for youth at organizations such as city and county governments and local libraries. According to the officials we interviewed, recruiting businesses and identifying green jobs and training in green technology have been challenges. Identifying green jobs has been difficult in part because its definition was not clear. As of June 19, 2009, the Richmond/Burke Job Training Authority had enrolled 350 youth.

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## Edward Byrne Memorial Justice Assistance Grants (JAG) Are in Planning Stages at the State and Local Level

The JAG program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, courts, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>40</sup> The total JAG allocation for Georgia state and local governments under the Recovery Act is nearly \$59 million, a significant increase from the fiscal year 2008 allocation of \$4.3 million.

As of June 30, 2009, Georgia had received its full state award of \$36 million.<sup>41</sup> The Georgia Criminal Justice Coordinating Council (CJCC) plans to use \$3.6 million for administrative purposes, such as the development of a Web-based grants information system, statewide planning efforts, and research and evaluation projects. The council intends to award 40 percent of the remaining funds to state agencies. Proposed state initiatives include funding for state troopers, crime lab specialists, public safety training instructors, and juvenile probation and parole specialists. The plans for the state-level funds will be finalized during a July 2009 board meeting.

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<sup>40</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>41</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

To award the remaining 60 percent of funds to local agencies, the council has adopted a multifaceted approach. First, it has worked with numerous partners, such as representatives of chiefs of police, county commissioners, district attorneys, judges, and sheriffs, to alert them to the availability of JAG funds and solicit their input into the decision-making process for the allocation of the local funds. Second, the council has set aside \$1.5 million for governmental organizations that serve victims of crime, including violence against women and child and elder abuse. Third, the council seeks to award funds to planning groups from each of Georgia's 49 judicial circuits. The council requested that each judicial circuit form a planning group and submit a joint letter of intent to apply for predetermined grant allocations, followed by a joint proposal and spending plan. Letters of intent to apply for the funds were due from the judicial circuits by June 1, and the council had received 35 letters as of June 16, 2009. The council has provided applications to those circuits with one planning group and plans to issue awards on a rolling basis as applications are received and approved. A solicitation seeking competitive applications from circuits with multiple letters of intent will be released on August 1, 2009. All applications are due on September 1, 2009.

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## Georgia Planning for the Use of Weatherization Assistance Program Funds Is Still Under Way

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia. This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its State Plan, which outlines, among other things, its plans for

using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

The U.S. Department of Energy allocated to Georgia about \$125 million for the Recovery Act Weatherization Assistance Program for a 3-year period, an increase from its fiscal year 2009 allocation of \$8 million. The Georgia Environmental Facilities Authority (GEFA)—the state agency responsible for administering the program—received a Funding Opportunity Announcement from DOE on March 12, 2009, identifying and explaining the initial application process and submitted its application for funding on March 23, 2009. GEFA subsequently received additional guidance via phone, e-mail, and regional conference calls on developing its weatherization plan, which it then developed and submitted to DOE on May 12, 2009.

On April 20, 2009, DOE provided the initial 10 percent allocation (approximately \$12.5 million) to Georgia. However, the state has not yet authorized GEFA to spend the initial allocation because the action plan required by the Governor is still under review.<sup>42</sup> In the meantime, the state has approved additional staff to help oversee the program. GEFA has issued two requests for proposals to provide assistance with the monitoring of local service providers and weatherization training, and it is in the process of awarding the contract. On June 26, 2009, DOE approved Georgia's weatherization plan and provided an additional 40 percent of its allocation (approximately \$50 million).

As stated in the plan submitted to DOE, the state will use about \$103 million for weatherization production and about \$22 million for training and technical assistance, oversight, and reporting. GEFA plans to disseminate funds through 22 organizations, which include community action agencies, local governments, and a nonprofit. It expects to enter into contracts with these local service providers and get work under way by August 2009. GEFA's goal is to weatherize approximately 13,600 homes and reduce energy usage. According to state officials, 11,000 to 14,000

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<sup>42</sup>The Governor requires state agencies to submit action plans and risk assessments prior to the state's release of Recovery Act funds.

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homes have been eligible for weatherization assistance each year, but the agency has only been able to serve approximately 2,500 homes. The state plans to use the Recovery Act funds to provide services to the approximately 9,000 homes that have been on the waiting list.

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## Public Housing Capital Grants Are Beginning to Be Expended in Georgia

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>43</sup> 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 they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in the required 5-year Capital Fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>44</sup>

In Georgia, 184 public housing agencies received a total of \$113 million in Recovery Act formula grant awards. As of June 20, 2009, 47 of the state's public housing agencies had obligated about \$8 million and expended about \$627,000 (see fig. 4). We visited two public housing agencies in Georgia: the Housing Authority of the City of Atlanta (Atlanta Housing

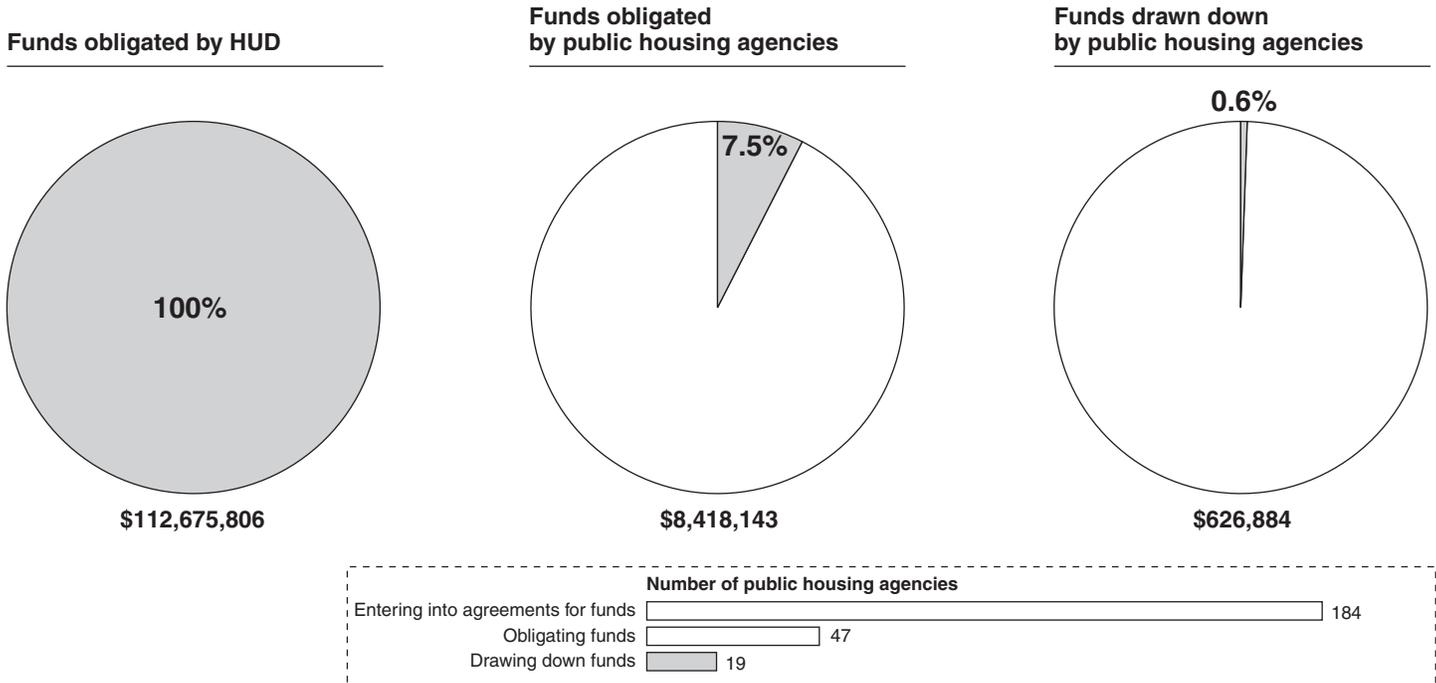
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<sup>43</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to public housing agencies do not pass through the state budget.

<sup>44</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application and to funding limits.

Authority) and the Housing Authority of the City of Athens (Athens Housing Authority).<sup>45</sup>

**Figure 4: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Georgia**



Source: GAO analysis of HUD data.

The Atlanta Housing Authority received about \$27 million in Recovery Act formula grant awards. As of June 20, 2009, the agency had not obligated or drawn down any funds. According to agency officials, they expect to begin drawing down funds in July 2009 after contracts have been awarded. The agency does not expect to have problems obligating 100 percent of the funds within the year after the funds become available (Mar. 18, 2009) because they will be considered obligated once the agency has amended the contracts it has with the private companies it uses to manage its properties. It expects to amend these contracts within 120 days of the funds' release for use.

<sup>45</sup>We selected the public housing agencies we visited based on their size. The Atlanta Housing Authority is the largest in the state, and the Athens Housing Authority is a medium-size public housing agency.

The Atlanta Housing Authority plans to use about \$19 million of its Recovery Act funds to rehabilitate 13 properties containing a total of 1,953 units. For example, it will use about \$2.4 million to renovate a 162-unit property for seniors by, among other things, replacing the windows, repairing the roof, and renovating the lobby and common area. At another 150-unit property for seniors, the agency will use about \$2.2 million to complete renovations such as apartment upgrades (including paint, cabinets, and carpet), window replacement, and the expansion of common sitting areas. Figure 5 shows one of the common sitting areas that will be expanded. The agency will use the remaining \$8 million to demolish four properties.

**Figure 5: Common Sitting Area That Atlanta Housing Authority Plans to Expand with Recovery Act Funds**



Source: GAO.

Common sitting area that will be expanded to include the area that is currently the balcony.

The Athens Housing Authority received about \$2.6 million in Recovery Act formula grant awards. As of June 20, 2009, the agency had not obligated or drawn down any funds because HUD had just approved its plan for

spending the funds on June 2, 2009. The agency does not expect to have problems obligating 100 percent of the funds within 1 year of the date that the funds became available (Mar. 18, 2009).

The Athens Housing Authority plans to use the majority of its funds (75 percent) on three projects. First, it plans to use about \$1.6 million to gut and rebuild the interiors of 23 scattered sites. This work will include reframing the walls, replacing the plumbing and water heater, replacing kitchen cabinets, and installing new fixtures and floor tile in the bathrooms (see fig. 6). Second, the authority plans to use \$330,000 to replace the elevators in a senior high-rise. Third, it intends to use \$55,000 to replace the roofs on 40 units. The remaining funds will be spent on renovations such as site work (e.g., sidewalk repairs and landscaping), new kitchen countertops, and new windows at other properties.

**Figure 6: Unit the Athens Housing Authority Plans to Renovate with Recovery Act Funds**



Source: GAO.

Single space heater to be replaced with central heat (left) and kitchen (right).

According to the officials we interviewed, both public housing agencies gave priority to projects that could award contracts based on bids within 120 days of the date the funds were released for use. According to Atlanta Housing Authority officials, the agency's planned work falls into two

categories: (1) work that is straightforward and does not require services by a design professional and (2) work that requires design work and other preparation. It hopes to complete the straightforward work within 60 to 120 days of amending the contracts with its private management companies. For the work that requires design, it expects to award contracts and get the work under way in early 2010. Similarly, the Athens Housing Authority has work that can begin quickly. According to Athens Housing Authority officials, the largest project to be undertaken by the agency with Recovery Act funds is the last phase of a multiphase renovation effort. Therefore, the design work has been completed, and work can begin quickly. According to officials from the agency, the contract was awarded on June 17, 2009, and work will begin in late July or early August.

The officials we interviewed also stated that they had given priority to projects in their Capital Fund plans. We reviewed the Atlanta Housing Authority's fiscal year 2010 annual plan and found that the projects targeted to receive Recovery Act funds were in the plan.<sup>46</sup> Similarly, we reviewed the Athens Housing Authority's 5-year Capital Fund plan, which was approved in May 2009, and found that all of its Recovery Act projects were in the plan. Regarding giving priority to projects that rehabilitate vacant units, neither public housing agency has a substantial number of vacant units that need to be renovated. Only 4 of the 1,953 units that the Atlanta Housing Authority plans to renovate are vacant. According to Athens Housing Authority officials, their units are typically at least 98 percent occupied, with the few vacancies being attributable to turnover.

Both public housing agencies have internal controls in place for the Recovery Act funds. The Atlanta Housing Authority has established a separate account for its Recovery Act Capital Funds, which will enable it to track them separately from other funds. The agency monitors projects undertaken by its private management companies by visiting project sites on a monthly basis and reviewing payment applications for accuracy and completeness. It plans to require its private management companies to submit information on jobs created and retained with each payment

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<sup>46</sup>As a Moving to Work agency, the Atlanta Housing Authority is required to submit a Moving to Work annual plan to HUD in lieu of the 5-year plan and annual plan traditionally required by Section 5A of the U. S. Housing Act of 1937, as amended. Moving to Work is a demonstration program established by Congress and administered by HUD, giving participating public housing agencies the flexibility to design and test various approaches to facilitating and providing quality affordable housing opportunities in their localities.

application. Similarly, the Athens Housing Authority has established a separate fund in its general ledger to track Recovery Act funds separately from other funds. The agency has established internal controls for cash disbursements and procurement and plans to monitor its Recovery Act projects by having a construction inspector on site daily. Although it is waiting for additional reporting guidance from HUD, the agency expects to rely on its contractors to certify jobs created and retained.

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## Georgia Is Implementing Safeguards and Internal Controls at the State and Agency Level

Georgia has taken a number of steps to implement statewide internal controls for Recovery Act funds. For instance, it has started tracking Recovery Act funds separately from the other funds it receives and issued a risk management handbook that requires each agency that is a direct recipient of Recovery Act funding to prepare a risk mitigation plan. According to state officials, the individual state agencies that administer Recovery Act funds also have implemented internal controls, such as risk assessments and monitoring plans.

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## Georgia Has Started Tracking Recovery Act Funds Separately

On March 12, 2009, the State Accounting Office issued an accounting directive that contained guidance on accounting for Recovery Act funds separately from other funds. The directive requires state agencies to segregate funds through a set of unique Recovery Act fund sources in the state's financial accounting system. The guidance states that state agencies such as the Georgia Department of Labor that do not use the state's financial accounting system must ensure that the data are maintained in accordance with all Recovery Act financial reporting requirements, which include tracking Recovery Act funds separately. As of June 15, 2009, the State Accounting Office had issued 52 unique Recovery Act funding codes to 16 agencies.

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## Georgia Is Implementing Internal Controls at the State and Program Level

Recognizing the importance of accounting for and monitoring Recovery Act funds, Georgia is taking steps to safeguard them at the state and program level. At the state level, Georgia has established a Recovery Act Accountability and Transparency Support Team comprising of representatives from the Office of Planning and Budget, State Accounting Office, and Department of Administrative Services (the department responsible for procurement). Since our last report, members of this team have implemented the following additional safeguards:

- In May 2009, the Georgia Office of Planning and Budget issued a risk management handbook to all state agencies. Its purpose is to provide a

process that allows agencies to identify potential Recovery Act risk areas and develop risk mitigation strategies for each individual funding source. The handbook requires each agency that is a direct recipient of Recovery Act funding to complete the following steps: (1) identify problem areas by reviewing each of the 12 compliance categories contained in Office of Management and Budget (OMB) Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations and the requirements in the Recovery Act;<sup>47</sup> (2) develop risk mitigation categories by completing an internal control worksheet for each risk area identified; and (3) assign a risk level of red, yellow, or green (with green being the lowest level of risk) for each risk area identified. All affected agencies were to submit their risk mitigation plans to the Office of Planning and Budget by June 19, 2009. The Georgia Department of Transportation has already drafted its risk mitigation plan. It used these techniques to identify risks associated with subrecipient monitoring and plans to mitigate these risks by, among other things, conducting monthly field audits and reviewing subrecipients' Single Audit reports.

- The State Accounting Office developed an agency self-assessment questionnaire that accompanied the risk management handbook. This survey included questions about compiling Recovery Act data for reporting purposes, the specific contracting requirements in the Recovery Act that are not current agency practices, and agency internal controls. It plans to use the results to target its audit efforts.
- The Georgia Department of Administrative Services issued two Recovery Act purchasing directives. The first directive, issued in May 2009, states that each state agency receiving Recovery Act funds has an obligation to ensure they are used in a way that helps meet the stated purposes of the Recovery Act. The directive also provides guidance on specific procurement considerations included in the Recovery Act. The second directive, issued in June 2009, provides information from the U.S. Small Business Administration on small business participation in Recovery Act programs.

Oversight at the state level is the responsibility of the State Auditor and Inspector General. Since our last report, the State Auditor has taken the following steps:

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<sup>47</sup>The 12 compliance categories include cash management, eligibility, reporting, and subrecipient monitoring, among other things.

- In late April 2009, the State Auditor provided two 1-day internal control training seminars for state agency personnel. The training discussed basic internal controls, the designing and implementing of internal controls for Recovery Act programs, best practices in contract monitoring, and reporting on Recovery Act funds. As part of the training, the class participated in an exercise to identify risks associated with the Recovery Act requirement that agencies determine and report on the number of jobs created with the funding. The class identified 13 risks and established 13 respective control procedures to mitigate those risks.
- The State Auditor continues to await additional audit guidance from OMB on targeting its risk assessments to include programs receiving Recovery Act funding. The State Auditor conducts routine statewide risk assessments as a means of identifying high-risk programs and determining where best to focus audit resources.<sup>48</sup> According to the State Auditor, the OMB Circular No. A-133 Compliance Supplement, issued in late May 2009, did not provide all of the guidance needed.<sup>49</sup> For example, it did not include a list of programs to be “clustered.” OMB requires that auditors group, or “cluster,” closely related programs that share common compliance requirements and consider them as one program when selecting programs for testing.

While actions have been taken at the state level to establish internal controls for Recovery Act funds, each agency in Georgia is responsible for its operations, management, accounting, and reporting. Accordingly, each agency is responsible for implementing and monitoring effective internal controls over compliance with applicable laws, regulations, contracts, and grants, as well as those controls over financial reporting. Table 2 describes some of the steps state agencies have taken or plan to take to assess risk and monitor the use of Recovery Act funds.

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<sup>48</sup>The risk assessments evaluate a program’s previous audit findings, internal controls, and material weaknesses based on pre-established criteria.

<sup>49</sup>OMB 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. The A-133 Compliance Supplement is issued annually to guide auditors on the program requirements that should be tested for programs audited as part of the Single Audit.

**Table 2: State Agencies' Internal Controls over Recovery Act Funds**

Program	Risk Assessment	Monitoring
Federal-Aid Highway Surface Transportation Program	The Georgia Department of Transportation completed a risk assessment form that identifies risks associated with Recovery Act funds and controls to mitigate these risks.	<p>The Georgia Department of Transportation's Internal Audit Department has developed a Recovery Act audit program that includes requiring subrecipients to complete an internal control questionnaire and performing compliance testing on selected contracts.</p> <p>Contract engineers will perform monthly construction audits on all Recovery Act projects.</p> <p>On-site inspectors will review project progress daily.</p>
State Fiscal Stabilization Fund	<p>The Georgia Department of Education assesses the risk posed by each local education agency (LEA) annually using 20 risk factors (including the number of financial statement findings, whether the district has a deficit, and the tenure of the superintendent).</p> <p>The Georgia Board of Regents will require each institution to complete the self-assessment questionnaire developed by the State Accounting Office.</p>	<p>Because the program is new, the Georgia Department of Education is still developing a monitoring protocol.</p> <p>In fiscal year 2010, the Georgia Board of Regents will complete financial and operational audits, conduct systemwide project improvement audits, and provide Recovery Act support to institutions.</p>
Title I, Part A of the Elementary and Secondary Education Act of 1965	The same risk-assessment procedures used by the Georgia Department of Education for the State Fiscal Stabilization Fund apply.	Each LEA is reviewed once every 3 years. Those not reviewed in a given year are required to complete a self-assessment checklist.
Individuals With Disabilities Education Act, Part B	The same risk-assessment procedures used by the Georgia Department of Education for the State Fiscal Stabilization Fund apply.	The Georgia Department of Education plans to use the state's current monitoring process to ensure LEAs are meeting IDEA performance indicators through annual reviews. In addition, LEAs complete self-assessments to determine each system's strengths and weaknesses. Using these findings, the school system can develop or revise its improvement activities.
Workforce Investment Act Summer Youth Programs	The Georgia Department of Labor visited all 20 local areas in May 2009 to assess their readiness and provide technical assistance. The department started with the local areas that have new directors.	The Georgia Department of Labor plans to revisit all 20 local areas in the state by September 30, 2009, to review program and financial records, provide technical assistance, and monitor fund expenditures.

Program	Risk Assessment	Monitoring
Weatherization Assistance Program	The Georgia Environmental Facilities Authority assesses the level of performance at each of the 22 agencies through which it disseminates funds and rates their performance as high, standard, or at risk. At-risk agencies include those that have specific audit findings or are not in compliance with policies and procedures.	Due to the significant increase in funds for the weatherization program, the Georgia Environmental Facilities Authority plans to contract out its monitoring activities. The selected contractor will be responsible for all monitoring activities, including on-site visits and reports. Each of the 22 agencies implementing the weatherization program will be monitored at least once a month, with 10 percent of the completed weatherized units inspected for overall effectiveness, workmanship, and compliance with installation standards. Prior to the Recovery Act, the Georgia Environmental Facilities Authority only monitored the agencies once a year.
Edward Byrne Memorial Justice Assistance Grant Program	The Georgia Criminal Justice Coordinating Council is developing a risk assessment tool to identify subrecipients that may require increased monitoring.	The Georgia Criminal Justice Coordinating Council plans to conduct biannual on-site visits to assess compliance with grant guidelines and to verify that funds are being used for their intended purpose.

Source: GAO.

## Georgia Is Following Up on Single Audit Findings

As discussed in our April 2009 report, Georgia’s most recent Single Audit findings indicate that the state may have difficulty accounting for some Recovery Act funds. Its fiscal year 2008 Single Audit report identified 28 financial material weaknesses and 7 compliance weaknesses. To help ensure that the affected state agencies address these material weaknesses, the State Accounting Office has started monitoring corrective action plans developed in response to the Single Audit report. The office has drafted an accounting directive that it plans to send to all state agencies outlining rules for addressing Single Audit findings. The draft directive requires affected agencies to submit to the State Accounting Office and State Auditor a corrective action plan within 15 working days of the date of the auditor’s report. The corrective action plan must contain a statement of concurrence or nonconcurrence, specific deliverables, and an anticipated completion date. The State Accounting Office will require the affected agencies to report on the status of the corrective action plan on a quarterly basis until the finding is resolved.

The Georgia Department of Transportation, Georgia Department of Education, and Georgia Board of Regents use Single Audit results as part

of their risk assessment and monitoring.<sup>50</sup> The state Department of Transportation's internal auditor reviews each subrecipient's Single Audit report and prepares a schedule summarizing all findings. The internal auditor plans to use this schedule of findings to assess risks and determine which subrecipients to audit in the future. The state's Department of Education annually assesses the risk level for each LEA in the state using 20 identified risk factors, including Single Audit findings. The department assigns points to each identified risk and determines if the LEA is low, medium, or high risk. The Board of Regents rates the state's universities and colleges from 1 (the best) to 5 (the worst) based on their audit findings.

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## Georgia Is Moving Forward with Plans to Assess the Effects of Recovery Act Spending

While waiting for additional federal reporting guidance, since issued by OMB on June 22, 2009, Georgia moved forward with plans for Recovery Act reporting.<sup>51</sup> The State Auditor has adapted an existing system (used to fulfill its Single Audit Act responsibilities) to help the state report on Recovery Act funds. The statewide Web-based system will include

- federal program data—program name, award amount, award date, and Recovery Act fund source;
- project or activity data—project description, allocation amount, and overall status (complete or active); and
- expenditure data—expensed amount, obligated amount, jobs created, jobs retained, and project status (percentage completed).

The system will be administered by the State Accounting Office.<sup>52</sup> To help ensure the validity of the data, the office plans to contract with accounting firms to conduct on-site audits of the data submitted. All state agencies

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<sup>50</sup>Other state agencies may use Single Audit results as part of their risk assessment and monitoring, but we focused on the Departments of Education and Transportation and the Board of Regents because of the number of subrecipients they monitor.

<sup>51</sup>After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

<sup>52</sup>The director of the State Accounting Office is Georgia's designated Recovery Act reporting officer.

that have received Recovery Act funds were required to enter data into the system for the first time by May 15, 2009. As of June 17, 2009, 78 entities had entered data into the system. However, State Accounting Office officials stressed that the data are preliminary because they are in the process of developing a validation mechanism for the data reported.

Because data must be entered manually into the current Web-based system, Georgia is looking for a long-term reporting solution that involves electronic data transfer. Accordingly, the state has formed two interagency reporting working groups—a technology group and a policy and procedures group. The purpose of these groups is to establish a structured and consistent approach to federal compliance reporting under the Recovery Act. Among the items these teams are to address are documentation of reporting requirements and overall process flows, data definitions, and governance matters. The teams' goals include automating data entry and ensuring that information is reported consistently. These groups started meeting in early June 2009.

The state agencies and localities we visited plan to use a variety of methods to collect information on jobs created and retained. For example, the Georgia Department of Transportation plans to rely on its contractors to report monthly employment. The contractors will be required to submit a monthly report containing, for their firm and each subcontractor used, the number of employees, total hours worked, and wages paid for the work on the project each month. The Georgia Department of Labor has developed a form that it will use to collect weekly data from the 20 workforce areas in Georgia on jobs created and retained. Some of the state agencies and localities we met with provided estimates of jobs saved and retained. The Georgia Board of Regents estimated that fiscal year 2010 Recovery Act funds would fund 822 faculty members who will reach almost 113,000 students. The University of Georgia estimated that State Fiscal Stabilization Funds would help to retain 160 full-time faculty. The Georgia Environmental Facilities Authority estimated that the Weatherization Assistance Program would create at least 180 jobs.

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## Georgia's Comments on this Summary

We provided the Governor of Georgia with a draft of this appendix on June 19, 2009, and a representative from the Governor's office responded on June 23, 2009. In general, the official agreed with our draft, stating that it accurately reflects the current status of the Recovery Act program in Georgia. The official also provided technical suggestions that were incorporated, as appropriate.

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**Staff  
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# Appendix VI: Illinois

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## Overview

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

**Use of funds:** Our work in Illinois focused on nine selected federal programs, selected primarily because they have begun disbursing funds to states and include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding. Program funds are being directed to help Illinois stabilize its budget and to support local governments, particularly school districts, and are also supporting existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of the Increased Medicaid Federal Medical Assistance Percentage (FMAP).**<sup>2</sup> As of June 29, 2009, Illinois had received just over \$1.0 billion in increased FMAP grant awards, of which it has drawn down almost \$868 million, or over 83 percent. Illinois officials reported that they are using the funds made available as a result of the increased FMAP to ensure that Recovery Act prompt payment requirements are met. These officials further reported that, if approved by the state, the plan for the funds made available as a result of the increased FMAP is to cover the cost of the state's increased Medicaid caseload, maintain current populations and benefits, and to use the freed up state funds to offset the state budget deficit.
- **Highway Infrastructure Investment funds.** Approximately \$936 million in Recovery Act funds was apportioned to Illinois. As of June 25, 2009, \$671 million had been obligated, and Illinois had contracted for projects worth \$460 million. Illinois is using its funding for shovel-ready projects that largely involve road paving. For example, \$3.1 million has been obligated for resurfacing of 11 miles of IL Route 47 in Grundy County—a 2.5-month project that has not yet started.

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education (Education) has awarded Illinois about \$1.4 billion, or about 67 percent of the state's total SFSF allocation of \$2.1 billion. Illinois had obligated approximately \$1.0 billion in SFSF as of June 30, 2009. Illinois is using these funds to restore general state aid to local educational agencies, which would retain staff and services that might otherwise have been cut in the absence of state funding.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded Illinois about \$210 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$420 million. Of these funds, Illinois has obligated \$120,476 to local education agencies, based on information available as of June 30, 2009. Illinois has made the funds it received available to local educational agencies and schools with high concentrations of students from families that live in poverty to help improve student achievement and reduce the achievement gap. For example, Waukegan Public School District 60 plans to focus its funds on improving mathematics instruction in its ESEA Title I schools.
- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education has awarded Illinois about \$271 million in Recovery Act IDEA Part B and C funds, or 50 percent of its total allocation of just over \$542 million. Of these funds, Illinois had obligated approximately \$1.4 million in IDEA Part B funds to local educational agencies, and the state had expended its entire initial IDEA Part C award of nearly \$8.8 million as of June 30, 2009. Illinois has made the IDEA Part B funds, which will expand existing programs, available to local educational agencies to enhance educational programs for students with disabilities. Chicago Public Schools, for instance, plans to use its funds to collect assessment data for individual schools and subgroups to determine which practices produce the best outcomes for special education students. The state used its initial IDEA Part C award to provide early intervention and related services for infants and toddlers with disabilities and their families, which officials report has helped the state avert caseload cuts of 7 to 8 percent.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$243 million in Recovery Act Weatherization Program funding to Illinois for a 3-year period. Based on information available as of June 30, 2009, DOE had provided approximately \$121.3 million to Illinois and the state had not obligated any of these funds. Illinois plans to begin expending its funds, which

will expand an existing program significantly, later in fiscal year 2010 to weatherize over 27,000 low-income residents' homes.

- **Workforce Investment Act Youth Program.** The U.S. Department of Labor (DOL) allotted about \$62 million to Illinois in Workforce Investment Act Youth Recovery Act funds. Based on information available as of June 30, 2009, 85 percent of the state's Recovery Act youth funds had been allocated to local workforce investment areas. Illinois plans to use \$50 million in Recovery Act funds under this program to create about 15,000 summer jobs in 2009 for its youth. Employment activities will include positions at park districts, community colleges, and other local institutions.
- **Edward Byrne Memorial Justice Assistance Grant Program.** The Department of Justice's (DOJ) Bureau of Justice Assistance has awarded \$50.2 million directly to Illinois in Recovery Act funding. As of June 30, 2009, \$12.4 million (about 25 percent) of these funds have been obligated by the Illinois Criminal Justice Information Authority, which administers these grants for the state.<sup>3</sup> Illinois plans to use funds under this program to support several priorities across the state, such as programs that pursue violent and predatory criminals, combat and disrupt criminal drug networks, and provide substance abuse treatment.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development (HUD) has allocated about \$221 million in Recovery Act funding to 99 public housing agencies in Illinois. Based on information available as of June 20, 2009, about \$60 million (or 27 percent) had been obligated by these agencies. These funds flow directly from the federal government to local public housing authorities. At the two housing authorities we visited, the Chicago Housing Authority and the Housing Authority for LaSalle County, these funds were being used for various capital improvements, including the rehabilitation of vacant units, modernization of kitchens and bathrooms, improvements to common areas, and enhanced security features.

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

**Safeguarding and transparency:** Illinois is continuing to track Recovery Act funds separately from other sources of funding by assigning them unique codes. Further, in addition to having formed an Executive Committee to broadly oversee implementation of the Recovery Act, Illinois has formed subcommittees for specific areas related to implementation and oversight of the act, including budget and fiscal issues, the auditing of Recovery Act funds, and matters related to assessing performance and outcomes through the use of Recovery Act funds. As of June 22, 2009, the Illinois Office of Internal Audit had completed preliminary risk assessments on 19 of 22 state agencies administering Recovery Act funds and identified 9 of the agencies assessed as high risk, largely due to the amount of funds the agencies were receiving or the potential for inadequate monitoring of subrecipients. Office of Internal Audit officials noted that the volume of information on the Recovery Act that requires tracking from a variety of sources, and the speed by which funding is flowing to the state, is presenting challenges to agency and administration staff. The office is conducting more detailed analysis on the 9 high-risk agencies, including further evaluating agency internal control mechanisms as well as their capacity to monitor subrecipients, as part of conducting more detailed analysis on the 22 state agencies. The office is also prioritizing the more detailed analysis based on the anticipated expenditure dates of the federal funding by state agencies.

**Assessing the effects of spending:** Illinois recently issued initial guidance to state agencies on collecting data related to the effects of the Recovery Act, including instructions on how to capture jobs created or retained through the use of Recovery Act funds. Some state and local agencies told us that they are creating or modifying their systems to track this type of information. However, other state and local officials expressed concerns with the lack of clear federal guidance in several areas, and indicated that challenges remain in assessing the effects of Recovery Act spending. For example, two challenges that officials mentioned were the time frames for reporting information and the lack of clear guidance on measuring jobs.<sup>4</sup>

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<sup>4</sup>After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

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## Recovery Act Funds Help Offset Illinois's Projected Revenue Shortfall, but Additional Measures Are Necessary to Close the Gap

Budget officials indicated that Recovery Act funding will help offset Illinois's projected revenue shortfall for fiscal years 2009 and 2010, though additional measures are needed to balance the budget. Due to worsening economic conditions, state budget officials estimated that state sales tax, income tax, and corporate tax revenues in fiscal year 2009 would decline by about \$2.5 billion from those in the previous year to \$27.2 billion. According to the Governor's March 2009 budget report, growing costs related to Medicaid, social services, and employee benefits were largely responsible for the state's projected increase in expenditures from \$31.5 billion in fiscal year 2009 to \$34.3 billion in fiscal year 2010, as reflected in the state's base budget. As a result of anticipated declines in revenue and increases in expenditures, the Governor at that time projected operating budget deficits totaling \$11.6 billion for fiscal years 2009 and 2010—\$4.3 billion and \$7.3 billion, respectively—unless substantial actions were taken to balance the budget. The state legislature is required by Article VIII, Section 2 of the Illinois Constitution to pass a balanced budget. Budget officials stated that reserve funds would not be used to balance the fiscal year 2010 budget. The state issued a total of \$1 billion in bond obligations in May 2009 to help address the anticipated shortfall as the Governor and General Assembly deliberate additional measures to fill the remaining gap. State officials stated that as of June 30, 2009, the Governor and General Assembly continued to deliberate measures to close the existing budget gap in fiscal year 2010.

The Governor's proposed fiscal year 2010 budget differed from the budget that the Illinois General Assembly recently passed.<sup>5</sup> The Governor's budget projected revenues of about \$33 billion and expenditures of about \$30 billion. This budget combined an income tax increase with spending cuts, pension reform, and other budget-balancing mechanisms to arrive at the \$33 billion in revenues. State officials said that revenues exceeding expenses in fiscal year 2010 would be used to pay for short-term borrowing costs and to reduce the deficit carried over from fiscal year 2009. The General Assembly's recently passed budget would result in operating expenditures greater than operating revenues. Specifically, the budget, which state officials said did not include a tax increase, projected \$27.3 billion in revenues and \$28.5 billion in expenditures.

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<sup>5</sup>According to state officials, on June 1, 2009, the General Assembly passed a budget that relied primarily on reductions in spending without tax increases in an attempt to balance the fiscal year 2010 budget. Officials noted that the Governor did not sign the budget because of ongoing negotiations regarding tax increases, and that a significant portion of the budget was held for reconsideration by the Illinois Senate.

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As negotiations continue regarding the fiscal year 2010 budget, the extent to which Recovery Act funds will be used to fill budget gaps is uncertain. Illinois budget officials suggested that the Recovery Act would likely provide the state with more than the \$9 billion described in our April 2009 report,<sup>6</sup> potentially as much as \$14 billion. Of this, the Office of the Governor has identified approximately \$4.0 billion that the state expects to use to address the operating budget shortfall for fiscal years 2009 and 2010. Most of the state's Recovery Act funds will be used to sustain education and Medicaid programs. For example, Illinois expects to apply approximately \$1.0 billion in State Fiscal Stabilization Funds in both fiscal year 2009 and 2010 to fill a gap in state education spending for school districts. In addition, the state is using increases of \$1.4 billion in fiscal year 2009 and \$631 million in fiscal year 2010 in Illinois's FMAP funds to fill a Medicaid budget gap. This will permit the state to move from a 90-day payment cycle to a 30-day cycle for all of its providers, including payments to hospitals and nursing homes. Additionally, state officials reported that the use of Recovery Act funding could help mitigate the severity of proposed tax increases, and would allow the state to avoid cuts in child care and services to people with developmental disabilities, in addition to the previously mentioned aid to education and Medicaid programs.

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### Plans for Funding Programs after Recovery Act Allocations Have Been Spent Are on Hold

Budget officials said that plans for phasing out Recovery Act funding have been deferred due to ongoing budget negotiations. While the state recognizes the need to prepare for the expiration of Recovery Act funds, budget officials reported that working with the General Assembly to pass a balanced budget for fiscal year 2010 is a higher priority. Once the budget is passed, the state plans to convene a working group to assess state agencies' level of preparedness for planning for the end of Recovery Act funding. In addition, the state will develop a series of communications tools to facilitate discussions with agency officials. Budget officials stated that they have provided guidance to state agencies regarding the use of the funds and have encouraged agencies to submit hiring plans containing provisions that mitigate the risk of layoffs, such as hiring temporary employees and contractors.

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<sup>6</sup>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).

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## Increased FMAP Funds Have Allowed Illinois to Make More Timely Payments to Providers

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the FMAP, which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008 through December 31, 2010.<sup>7</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>8</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the state's Medicaid enrollment grew from 2,155,353 to 2,283,131, an increase of 6 percent.<sup>9</sup> The enrollment increase was generally gradual during this period, although enrollment decreased between March and May 2009. (fig. 1). Most of the increase in enrollment was attributable to the population group of children and families and nondisabled, nonelderly adults.

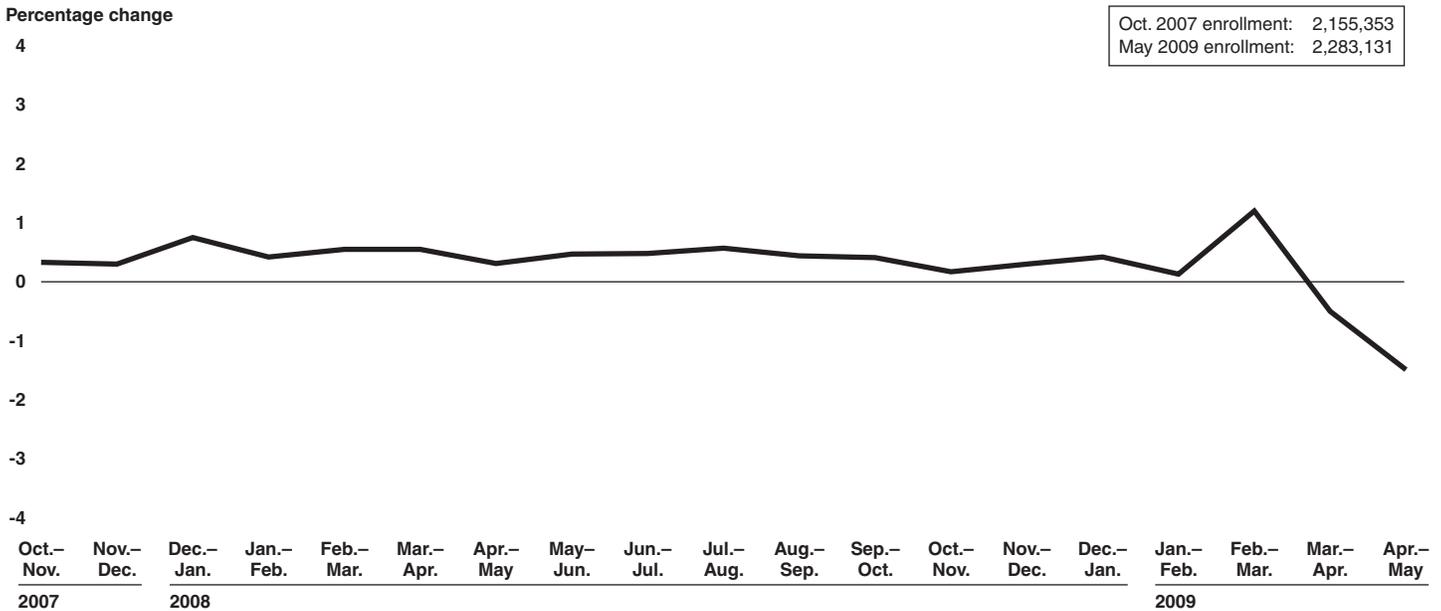
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<sup>7</sup>See Recovery Act, div. B, title V, §5001.

<sup>8</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>9</sup>The state provided projected Medicaid enrollment data for May 2009.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Illinois, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Illinois had drawn down almost \$868 million in increased FMAP grant awards, which is over 83 percent of its awards to date.<sup>10</sup> Illinois officials reported that the state is using the funds made available as a result of the increased FMAP to ensure that Recovery Act prompt payment requirements are met.<sup>11</sup> These officials further reported that the state is planning to use these funds to offset the state budget deficit, cover the state’s increased Medicaid caseload, and to maintain current populations and benefits, if approved by the state.

<sup>10</sup>Illinois received increased FMAP grant awards of just over \$1.0 billion for the first three quarters of federal fiscal year 2009.

<sup>11</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

The Illinois Medicaid official we interviewed noted that, since enactment of the Recovery Act, the state has used 100 percent of the funds made available as a result of the increased FMAP to meet the financial obligations of the state's Medicaid program and to reduce the payment cycle to Medicaid providers in order to meet the prompt payment requirement. The officials added that to support the state's initiative to improve the payment cycle to Medicaid providers, the Illinois legislature passed a state fiscal year 2009 supplemental appropriation to pay nursing homes and hospitals in 30 days and also initiated short term borrowing to meet the requirement. The official also noted that without the increased FMAP funds, the state Medicaid program would have been subject to cuts in eligibility and services. In using the increased FMAP, the Illinois officials reported that the Medicaid program has incurred additional costs related to

- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP;
- the development of new systems or the adjustment of existing reporting systems associated with these funds; and
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP.

Despite the difficult economic times, the Illinois Medicaid official we interviewed indicated that the state is not considering any reductions in Medicaid eligibility at the time of the Governor's budget introduction and does not currently have concerns regarding its ability to maintain eligibility for the increased FMAP. Regarding the state's efforts to track increased FMAP it receives, the state official said that the state modified its existing accounting systems and applies special codes to all Medicaid revenues and expenditures related to the Recovery Act. In addition, the state will use an existing process to track dollars received from the increased FMAP. Specifically, through an established reconciliation process, which is a labor-intensive manual process, the state links amounts drawn into funds with dollars paid to providers. The state official also said that the state will use existing processes to report on a quarterly basis to CMS all Medicaid expenditures related to the Recovery Act.

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The 2007 Single Audit<sup>12</sup> for Illinois identified material weaknesses related to the Medicaid program, including weaknesses related to the timeliness of eligibility redeterminations and the maintenance of case files. Although the state developed a corrective action plan to address the maintenance of case files, it disagreed with the audit recommendation to review its process for performing annual eligibility redeterminations. Specifically, the state contended that its redetermination rate, which was 96 percent for fiscal year 2007, complied with federal regulations.

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## Illinois Recovery Act Highway Infrastructure Projects Are Under Way

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 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 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, \$936 million was apportioned to Illinois for highway infrastructure and other eligible projects. As of June 25, \$671 million of those funds had been obligated. The U.S. Department of Transportation (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. As of June 25, \$47.6 million had been reimbursed by FHWA. States request reimbursement from FHWA as they make payments to contractors working on approved projects.

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<sup>12</sup>The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or non-profit 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 (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.

**Illinois Is Using Highway Infrastructure Funds Largely for Pavement Improvements**

Illinois is mainly using the state’s share of the apportioned funds to conduct pavement improvements, because pavement projects can be completed quickly and can create jobs immediately, according to an Illinois Department of Transportation official. For example, \$3.1 million has been obligated for resurfacing of 11 miles of IL Route 47 in Grundy County—a 2.5-month project that has not yet started. A state official also told us that the state will continue to emphasize these types of shovel-ready projects as funds become available. FHWA officials we spoke with told us that Illinois has consistently chosen projects that could be completed quickly—mainly pavement resurfacing and bridge deck repairs. According to FHWA data, more than 70 percent of Illinois’s funds that had been obligated as of June 25, 2009, were for pavement improvement projects (see table 1).

**Table 1: Highway Obligations for Illinois by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$19	\$495	\$5	\$6	\$16	\$49	\$80	<b>\$671</b>
Percent of total obligations <sup>b</sup>	2.9	73.8	0.8	0.9	2.4	7.3	12.0	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

<sup>b</sup>Totals may not add due to rounding.

As of June 25, 2009, Illinois had awarded 204 contracts representing \$460 million dollars. Initially, contracts for Illinois Recovery Act projects were being awarded for less than the estimated and obligated amounts. According to FHWA officials, the first round of bids for Illinois projects was about 13 percent below state price estimates. An Illinois Department of Transportation official told us that bids were coming in under the estimated costs due to a climate in which contractors were willing to accept less money for projects. This official also stated that the current bidding climate was not expected to continue, so Illinois was not planning to change its estimating practices. The state expects that excess funds from projects whose costs were below estimates will be used for other projects. FHWA officials stated that, as of May 2009, they had de-obligated \$42 million which they expected to obligate for subsequent contracts.

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Illinois Met Highway Spending Requirements, and Expects to Meet Maintenance of Effort Requirements, but Used Its Own Criteria for Economically Distressed Areas

The Recovery Act includes a number of specific requirements for highway infrastructure spending. First, the states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. The 50 percent rule applies only to the 70 percent of funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be allocated, primarily based on population, for metropolitan, regional and local areas. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. As of June 25, 2009, 91 percent of the \$655 million that is subject to the 50 percent rule for the 120-day redistribution had been obligated in Illinois. An Illinois transportation official told us that Illinois expects to expend most of its apportioned funds by the end of federal fiscal year 2010.

Second, the Recovery Act required the governor of each state to 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 must identify the amount of funds the state planned to expend from its sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>13</sup> Illinois expects to fully comply with the Recovery Act's highway-related maintenance of effort provisions, and the state, at DOT's request, amended its initial certification.<sup>14</sup> According to DOT officials, the department has

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<sup>13</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, the FHWA assesses the ability of each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

<sup>14</sup>As we reported in April, Illinois submitted its maintenance of effort certification on March 18, 2009, indicating that the certification was based on the "best available information." On April 22, the DOT Secretary informed some states, including Illinois, that "conditional and explanatory" certifications were not permitted. U.S. DOT indicated that the explanatory language that Illinois had used was not authorized and that Illinois's maintenance of effort method also required revision, and that Illinois must resubmit any revisions to its certification by May 22, 2009. Illinois resubmitted its certification on May 20, 2009. The new Illinois certification took out the explanatory language that had been in the earlier certification and adjusted the maintenance of effort method in response to the DOT guidance. Specifically, Illinois adjusted the highway expenditure amount to include \$4 million for bond-financed projects, as per DOT's April 22 guidance.

reviewed Illinois's amended certification letter and concluded that the form of the certification was consistent with DOT guidance. DOT is currently evaluating whether the state's method of calculating the amounts Illinois planned to expand for covered programs is in compliance with DOT guidance.<sup>15</sup>

Third, the Recovery Act requires states to give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas (EDA). Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended.<sup>16</sup> Illinois applied its own criteria in designating economically distressed areas. The state based its EDA classification on the basis of (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. Illinois designated 85 of the state's 102 counties as economically distressed. According to data provided by FHWA, 72 of Illinois's counties were EDAs as defined by the Public Works and Economic Development Act of 1965, as amended. The FHWA approved Illinois's action, asserting that it represents a good faith effort on the part of the Illinois Department of Transportation, uses current data, is defensible, and forms a reliable basis for determining which counties have exhibited economic distress. Illinois's use of alternate criteria resulted in a net increase of 13 counties being identified as EDAs that would not have been so classified following the act's guidance.<sup>17</sup> Among the EDA counties added under Illinois's criteria were some of the most populous ones in the state, for example, Cook County and five surrounding suburban Chicago counties in northeastern Illinois. To demonstrate that the state was giving priority to projects in economically distressed areas, Illinois reported that over 90 percent of its scheduled highway projects would be placed in EDAs. As of

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<sup>15</sup>An Illinois Department of Transportation official said he foresees no changes that would prevent the state from meeting its level of effort certification, as the state plans to fully comply with its maintenance-of-effort commitment. However, this may depend on passage of the state's capital plan and budget, neither of which had been enacted as of June 30, 2009.

<sup>16</sup>FHWA has published a map on its Web site showing the areas in each state that meet the statutory criteria.

<sup>17</sup>Illinois's criteria resulted in 21 counties being classified as EDAs by the state that were not classified as EDAs by FHWA, and 8 counties that FHWA classified as EDAs that were not EDAs using Illinois's criteria.



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## Illinois Is Using State Fiscal Stabilization Funds to Maintain Funding for Elementary and Secondary Education

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but they do maintain discretion in how funds are allocated 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 Illinois Office of the Governor's application for SFSF funds was approved by Education on April 20, and as of June 30, 2009 Illinois had received \$1.4 billion of its total allocation of about \$2.1 billion for SFSF. Of the total allocation, 81.8 percent or approximately \$1.7 billion must be for education stabilization funds and the remaining 18.2 percent or about \$374 million must be for government services funds. Illinois has determined it will use all SFSF funds for education services, with most initially going to local educational agencies (school districts). Based on Illinois's SFSF application, the state will allocate 97.6 percent of the education stabilization funds to local educational agencies and 2.4 percent to institutions of higher education.<sup>18</sup> As of June 30, 2009, Illinois had

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<sup>18</sup>In addition, the state will allocate 79 percent of the government services funds to local educational agencies and 21 percent to IHEs.

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disbursed approximately \$1.0 billion to local educational agencies and none to IHEs.

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**Local Educational Agencies Have Received and Are Spending SFSF Funding as Though It Were General State Aid**

The local educational agencies we visited reported that they were using SFSF monies they had received for general educational purposes. We visited two local educational agencies—Chicago Public Schools and Waukegan Public School District 60—based on the amount of their Recovery Act funding allocations and their different statuses as urban and suburban school districts. Officials from these school districts reported projected budget deficits for fiscal years 2009 and 2010 due to a decreasing tax base, increasing pension and health care costs, and increasing inflation. Although their school districts had received SFSF funds, officials indicated the funds had not affected their fiscal year 2009 budgets or planned fiscal year 2010 budgets because the funds represented a direct replacement of general state aid (the state’s formula-based support for general educational purposes). Local officials reported that they were using these funds as they would have used the general state aid, that is, for general educational purposes. Officials from the Illinois State Board of Education reported that they have a draft version of a matrix to track reporting metrics under each of the SFSF assurances.

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**Institutions of Higher Education Expect to Receive SFSF Funds in Fiscal Year 2010**

According to state officials and the state’s SFSF application, Illinois will begin directing SFSF funds to IHEs in fiscal year 2010. Illinois will use the SFSF funds to partially restore state support for public universities and community colleges. According to the application, each public university will receive a proportion of the education stabilization funds equal to its relative share of fiscal year 2006 state support levels, while the Illinois Community College Board will distribute these funds to community colleges in accordance with established state formulas.

The Illinois Board of Higher Education, which, among other responsibilities, conducts planning, administers state and federal higher education grant programs, approves and reviews programs, and maintains data for IHEs in the state, reported that IHEs must use their SFSF funds for personal services (i.e., employee salaries). Illinois Board of Higher Education officials expect this use of the SFSF to help schools retain jobs and mitigate tuition increases. Officials at the University of Illinois, which we interviewed because it has the largest student population of all public universities in the state, reported that in addition to contributing to job retention, SFSF funds may help to mitigate a potentially large tuition increase. In comparison to 9 or 9.5 percent tuition increases in recent

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years, the university expects to raise tuition by 4 to 5 percent in fiscal year 2010. University officials attributed this mitigation in part to receipt of the SFSF funds.

Although the numbers were not yet final, as of June 2009, the Illinois Community College Board, the coordinating board for the state's 48 community colleges and one multi-community college center, expected to receive a total allocation of approximately \$15.6 million in SFSF funds in fiscal year 2010. These funds will primarily come from the government services fund. The Illinois Community College Board will pass through 100 percent of these funds to the community colleges, with the goal of mitigating tuition increases and retaining jobs that otherwise would have been lost. The board officials stated that some tuition increases and job losses will still occur, but to a lesser extent than they would have without the SFSF funds.

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## Most ESEA Title, I Part A Funds Will Begin Flowing to Local Educational Agencies in Fiscal Year 2010

The Recovery Act provides new funds to help local school districts 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 school districts using existing federal funding formulae, which target funds based on such factors as high concentrations of students from families living in poverty. Local educational agencies must obligate 85 percent of these funds by September 30, 2010. Education is urging local districts to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers.

Education allocated the first half of states' ESEA Title I, Part A Recovery Act funding on April 1, 2009, with Illinois receiving about \$210 million of its total \$420 million allocation. Local educational agencies can apply to the Illinois State Board of Education to receive ESEA Title I, Part A Recovery Act funds in fiscal years 2009 and 2010, although most of the state's 870 local educational agencies have opted to begin receiving funds in fiscal year 2010. Illinois State Board of Education officials reported that they received seven applications for fiscal year 2009 ESEA Title I, Part A Recovery Act funding; as of June 30, 2009, they had approved two applications. Officials from Chicago Public Schools mentioned the state's use of a lengthy paper application as contributing to their decision not to

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apply for ESEA Title I, Part A Recovery Act funds in fiscal year 2009. Waukegan Public School District 60<sup>19</sup> officials also noted that the full amount of their allocated Recovery Act funds would still be available to them in fiscal year 2010. As of June 30, 2009, \$120,476 of the ESEA Title I, Part A Recovery Act funds had been obligated and expended by the Illinois State Board of Education.

In late May, the Illinois State Board of Education issued guidance to local educational agencies on allowable uses for the ESEA Title I, Part A funding under the Recovery Act. Officials stated that they had encouraged districts to develop staff with a focus on providing better services with effects that can be observed in the short term, and to avoid using the funds for purposes that will require long-term staffing commitments. They reported that they will conduct careful reviews of local educational agencies' ESEA Title I applications to ensure that planned uses of the funds comply with Recovery Act requirements.

Officials at Chicago Public Schools and Waukegan Public School District 60 told us they plan to use their ESEA Title I, Part A Recovery Act funds to provide expanded and enhanced services. At Waukegan Public School District 60, officials reported that they plan to use the Recovery Act funds to improve mathematics instruction at ESEA Title I schools. The district, recognizing that Recovery Act funds are limited to a certain time period, plans to hire new teachers for this work but will specify 1- or 2-year terms of employment. They plan to phase in positions under regular ESEA Title I funds later, if the budget allows. Chicago Public Schools tentatively plans to use the funds for summer school, after-school, bilingual education, and pre-kindergarten programs, and professional development in fiscal year 2010. They will avoid hiring new staff and, instead, will temporarily increase existing employees' salaries to build on current programs.

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<sup>19</sup> Among other factors, we selected Chicago Public Schools and Waukegan Public School District 60 based on their different statuses as urban and suburban school districts; Title I, Part A Recovery Act allocations; and the number of Title I schools in improvement status.

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## Most IDEA, Part B Funds Are Not Yet Flowing to Local Educational Agencies, but Illinois Has Spent Part C Funds

The Recovery Act provided supplemental funding for programs authorized by the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. IDEA programs receiving this funding include those that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education (Part B) and that provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability, and their families (Part C). States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act).<sup>20</sup>

Education allocated the first half of states' IDEA Part B and Part C funding on April 1, 2009, with Illinois receiving \$253.2 million in IDEA Part B grants to states, \$9.2 million in IDEA Part B preschool grants, and \$8.8 million in IDEA Part C grants to infants and families. As with the ESEA Title I funds under the Recovery Act, the Recovery Act IDEA Part B grants represent funding above and beyond local educational agencies' normal allocations, with most agencies opting to begin receiving funds in fiscal year 2010. According to Illinois State Board of Education officials, few local educational agencies in Illinois applied for Recovery Act IDEA Part B funds for May and June 2009. The Illinois State Board of Education received and approved 12 applications for fiscal year 2009. As of June 30, 2009, approximately \$1.4 million of the Recovery Act IDEA Part B grants to states had been obligated and expended by the Illinois State Board of Education.

According to the Illinois State Board of Education, the flexibility surrounding the reduction of maintenance of effort has been a source of concern for the state and for local educational agencies in planning for the use of the IDEA Part B Recovery Act funds. The Illinois State Board of Education reported that 159 local educational agencies—nearly 20 percent of the state total—had not qualified for flexibility to reduce their local spending, based on the state's determination of their performance toward

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<sup>20</sup>All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

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meeting targets in the state's performance plan.<sup>21</sup> The number of local educational agencies that did not meet requirements was originally 321, but the state revised its determinations based on new guidance from Education's Office of Special Education Programs.

The two local educational agencies we visited plan various uses of their IDEA Part B Recovery Act funds in fiscal year 2010, including covering increased special education costs, if allowed. Waukegan Public School District 60 tentatively plans to use the funds for the following activities:

- expanding outreach and enrollment for special education students in its preschool program;
- collecting data on student learning;
- expanding professional development for special education teachers;
- expanding student exposure to jobs and the job application process; and
- enhancing its use of computerized learning intervention tools for special education students.

Waukegan officials noted that, to the extent possible, new hires under the Recovery Act IDEA Part B funds will be hired on a limited term basis. Also subject to approval, Chicago Public Schools officials told us that they would like to use their Recovery Act funds to cover the increases in the agency's special education costs, which had recently increased by \$45 to \$50 million per year on an \$800 million annual budget. However, they told us they were seeking guidance on whether this is an allowable use of the funds. They would target the funds for the following purposes:

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<sup>21</sup>Education guidance for IDEA Part B Recovery Act funds states that, under certain circumstances, in accordance with IDEA section 613(a)(2)(C), in any fiscal year that a local educational agency's total subgrant allocation exceeds the amount that the agency received in the previous fiscal year, that agency may reduce the level of local, or state and local, expenditures otherwise required by the local educational agency maintenance of effort requirements (in IDEA, section 613(a)(2)) by up to 50 percent of the increase in the local educational agency's subgrant allocation. The guidance further states that the local agency must spend the freed-up local, or state and local, funds on activities that are authorized under the ESEA. For local educational agencies to qualify for this reduction in local effort, the state educational agency (in Illinois's case, the Illinois State Board of Education) must annually determine that the local agency is meeting the requirements of Part B, including meeting targets in the state's performance plan. Although this 50 percent reduction provision has always been a component of IDEA Part B, the large influx of program funds through the Recovery Act has increased the number of local educational agencies that could potentially be eligible to benefit.

- enhancing their ability to collect assessment data on individual subgroups and schools to focus on achieving better results for special education students; and
- increasing collaboration between special education and general education programs when possible to leverage resources and produce better academic outcomes.

Officials from the Illinois Department of Human Services, which administers the IDEA Part C program, told us that IDEA Part C funds under the Recovery Act had been used to avert caseload cuts for services to infants and toddlers with disabilities and their families. As of June 2009, the agency had already received and expended its initial grant of \$8.8 million. Because IDEA Part C operates on a reimbursement basis, the Recovery Act funds were used to cover expenses incurred in March and April 2009. The department did not have to submit an application for the first round of funding, although officials reported that they may be required to do so to receive future funds (an additional \$8.8 million) under the Recovery Act. Officials at the Department of Human Services reported that they used the IDEA Part C Recovery Act funds entirely for services to infants and toddlers and their families. According to officials, with the funds, they were able to avert a 7 to 8 percent cut in their caseload.

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## Illinois Is Receiving a Large Influx of Recovery Act Weatherization Funds

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>22</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

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<sup>22</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of its Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE allocated to Illinois a total of approximately \$242.5 million in Recovery Act funding for the Weatherization Assistance Program for a 3-year period. This represents approximately 10 times the amount of the state's annual DOE funding. The Illinois Department of Commerce and Economic Opportunity, Office of Energy Assistance, which is responsible for administering the program, will disburse most of these funds through 35 local administering agencies, which implement its current weatherization activities. According to a state weatherization official, Illinois submitted its initial application for funding on March 24, 2009, in response to a DOE Funding Opportunity Announcement. On April 1, 2009, DOE provided the initial 10 percent allocation (approximately \$24.3 million) to Illinois. The Department of Commerce and Economic Opportunity subsequently used DOE's March 12 guidance on administering Recovery Act funding, in conjunction with other program guidance, to develop its comprehensive application for the use of its Recovery Act allocation.<sup>23</sup> The agency initially submitted its plan on May 1, 2009, then, in response to feedback from DOE, made minor corrections and resubmitted it on May 12. On June 26, 2009, DOE approved Illinois's plan and awarded the state an additional \$97.0 million, or 40 percent of its total allocation.

Department of Commerce and Economic Opportunity officials reported that they are waiting to spend Recovery Act funds until they have more

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<sup>23</sup>See Department of Energy Weatherization Program Notice 09-1B, effective March 12, 2009. See also Weatherization Program Notices 09-1A and 09-1, dated October 27, 2008 and November 17, 2008, respectively.

guidance on wage issues. They stated that the agency chose to wait until July 1, 2009, to begin spending its Recovery Act funds because it received guidance prohibiting funds from being used for weatherization production activities before that time.<sup>24</sup> As of June 11, state officials were still awaiting additional guidance from DOE and the Department of Labor regarding paying prevailing wages to weatherization workers. While the normal weatherization program is not subject to Davis-Bacon Act requirements, the Recovery Act requires states to pay prevailing wages to certain employees performing weatherization activities.<sup>25</sup> State officials reported that they require clarification on issues such as paying different wages for the same types of weatherization work based on the funding source, and paying the same employees or contractors different wages based on the prevailing wages in the counties in which their work is conducted. Officials explained that the local agencies already bid all of their contracts for fiscal year 2010 and will have to re-bid them to comply with prevailing wage requirements. Although the state had planned to spend its weatherization Recovery Act funds before spending its regularly appropriated funds, officials now plan to spend the state's regular appropriation first, allowing local agencies to re-bid contracts for Recovery Act-funded work without causing an interruption in scheduled weatherization activities.

Because the Recovery Act funds will represent a substantial increase in the state's annual weatherization appropriation, the agency and executive directors from the local agencies decided to ramp up the program gradually by spending approximately 40 percent of the Recovery Act funds in fiscal year 2010 and the remaining 60 percent in fiscal year 2011. The Department of Commerce and Economic Opportunity's fiscal year 2010 budget includes requests for 21 additional, permanent employees at the state level to conduct fiscal and program monitoring; approximately 300 additional local agency staff, comprised of 127 employees to perform assessments of homes' energy saving needs, 34 employees to conduct final inspections of homes that have been weatherized, and 135 local

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<sup>24</sup>However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans.

<sup>25</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

administrative staff. The budget also requests an additional 354 contractors to conduct weatherization activities. State weatherization officials explained that their program has been understaffed for a long time, and the influx of Recovery Act funds will allow the Department of Commerce and Economic Opportunity to achieve the necessary staffing levels for carrying out the program.

As stated in the plan submitted to DOE, the Recovery Act funds will permit the weatherization of at least 27,181 houses over 2 years, saving a total of at least 538,184 MBTUs.<sup>26</sup> The agency plans to use the Recovery Act funds in combination with its regular and supplemental DOE allocations to conduct basic weatherization activities.<sup>27</sup> Department of Commerce and Economic Opportunity officials also told us that they are working closely with Workforce Investment Act Program staff within the agency to establish a training certification program for the state's 35 local agencies and the contractors that conduct weatherization activities. They expect this collaboration to result in a standard baseline of knowledge and quality control for weatherization work and a growth track for green jobs.

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<sup>26</sup>MBTU stands for one million British thermal units. The BTU is a unit of energy used for power, steam generation, heating, and air conditioning measurement. It represents the quantity of heat required to raise the temperature of 1 pound of liquid water by 1 degree Fahrenheit at the temperature at which water has its greatest density (approximately 39 degrees Fahrenheit). Officials from the Department of Commerce and Economic Opportunity could not say what this would equate to in terms of cost savings for low-income families, but they plan to rehire a former employee who can compute these types of impact measurements.

<sup>27</sup>According to DOE, in fall 2008, the President signed into law the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, which provided a supplemental appropriation of \$250 million for weatherization assistance for fiscal year 2009, with funds to remain available until expended. Illinois's total supplemental allocation was approximately \$14.7 million. Pub. L. No. 110-329, 122 Stat. 3574, 3579 (Sept. 30, 2008).

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## Illinois WIA Youth Summer Employment Activities Are Expected to Create Opportunities for About 15,000 Youth in 2009

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the Recovery Act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains.<sup>28</sup> The program is administered by the Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act, the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth.<sup>29</sup> Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The worksites must meet safety guidelines and federal/state wage laws.<sup>30</sup>

The Illinois Department of Commerce and Economic Opportunity administers Illinois's workforce development system, including the WIA Youth Program. There are a total of 26 local workforce investment areas in Illinois, most of which administer funds in multiple counties. In the greater

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<sup>28</sup>In Illinois, state workforce agency officials explained that local areas will be using a specific tool—the Illinois workNet portal—to provide comprehensive assessment and activities to meet the work readiness measure.

<sup>29</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>30</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where Federal and state law have different minimum wage rates, the higher standard applies.

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Chicago metropolitan region, most local workforce investment areas administer funds in only one county.

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### Illinois Has Allocated WIA Youth Funds, and Workforce Investment Areas Have Started Enrolling Youth

Illinois received about \$62 million in Recovery Act funds for the WIA Youth program. The Department of Commerce and Economic Opportunity set aside 15 percent of this amount for statewide activities and allocated the remaining funds to the local workforce investment areas. Overall, the department and the local workforce investment areas have targeted approximately \$50 million to be spent on youth employment activities this summer. Prior to implementation of the Recovery Act WIA Youth program, state officials reported that 276 youth participated in WIA summer employment opportunities statewide in 2008 as part of the WIA year-round program. The total number of youth planned to participate in Recovery Act funded WIA youth summer employment opportunities during the summer of 2009 is about 15,000. The department issued guidance on May 29, 2009, advising local workforce investment areas to balance the need to expend the Recovery Act funds quickly in order to stimulate the economy with ensuring that quality programs are in place for youth served with Recovery Act funds. The guidance specifically instructed local workforce investment areas to expend significant Recovery Act funds in the summer of 2009, so long as the necessary infrastructure is in place to quickly implement programming for youth served with the Recovery Act funds.

We visited two local workforce investment areas and both had plans in place for summer employment activities. The Chicago local workforce investment area is targeting more than 7,000 youth to participate in these employment activities.<sup>31</sup> The WIA Youth Program for Chicago is implemented by the Chicago Department of Family and Support Services in coordination with the Chicago Workforce Investment Board, which serves as an oversight committee for all WIA funds allocated to Chicago. According to the department officials we spoke with, the summer youth activities will include employment at institutions such as the Chicago Park District, the Chicago Housing Authority, and the City Colleges of Chicago. The program will also target green jobs, such as positions in recycling, and employment at local farmers markets. As of June 19, the Department of

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<sup>31</sup>We visited the Chicago local workforce investment area because it is receiving the most funds of any area in the state, accounting for about one-third of the funds that have been allocated to all Illinois local workforce investment areas.

Family and Support Services had received over 74,000 applications for youth employment and had started enrolling youth.

We also visited the Grundy-Livingston-Kankakee local workforce investment area, which was allocated about \$900,000 in Recovery Act funds for the WIA Youth Program, and is targeting 300 youth for employment this summer by utilizing approximately two-thirds of its allocation.<sup>32</sup> According to one program official, job experiences for this summer will include employment at hospitals, the local park district, and the local chamber of commerce. Green jobs, including recycling positions, will also be included. As of June 22, a total of 285 youth had been enrolled in summer work experience in the Grundy-Livingston-Kankakee local workforce investment area. Both the Chicago and Grundy-Livingston-Kankakee local workforce investment areas plan to conduct a work readiness evaluation at the end of the summer and will also conduct an evaluation of the participating worksites.

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**Officials at Local Workforce Investment Areas We Visited Stated That Challenges Exist in Implementing the Program**

Officials from both the Chicago and the Grundy-Livingston-Kankakee local workforce investment areas stated that challenges exist in providing youth summer employment activities. They stated that expending the Recovery Act funds quickly requires additional staff to be hired in a very short time. For example, Chicago Department of Family and Support Services officials stated that, despite having had experience in implementing a stand alone summer program, they found implementing WIA summer youth employment activities challenging since they have had to utilize other employees within the department in order to adequately staff the implementation of these activities. An official from the Grundy-Livingston-Kankakee local workforce investment area stated that additional staff will need to be hired to implement the program—particularly to ensure that all youth applications are reviewed and the funds targeted for this summer are expended. Additionally, officials from both local workforce investment areas stated that challenges exist in the youth recruitment process since documentation must be obtained through an application process that requires youth to submit evidence, allowing officials to determine that they meet the statutory eligibility requirements of the WIA Youth program.

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<sup>32</sup>We visited the Grundy-Livingston-Kankakee local workforce investment area because it received an allocation amount that was approximately in the middle of what local workforce investment areas in Illinois received and allowed us to capture additional geographic diversity in our sample of localities we visited in the state across the various programs we are reporting on.

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## Illinois Has Identified Priority Areas for Edward Byrne Memorial Justice Assistance Grant Program Funding

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program within the Department of Justice's (DOJ) Bureau of Justice Assistance provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by the Bureau of Justice Assistance directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by the Bureau of Justice Assistance to eligible units of local government within the state.<sup>33</sup> The Illinois Criminal Justice Information Authority administers JAG funds for the state. The total JAG allocation for Illinois state and local governments under the Recovery Act is about \$83.7 million, a significant increase from its previous fiscal year 2008 allocation of about \$6.3 million.

As of June 30, 2009, Illinois had received its full state award of \$50.2 million.<sup>34</sup> Illinois Criminal Justice Information Authority officials stated that Recovery Act funds will assist in supporting several priorities across the state. The agency has identified 11 priority areas for the \$50.2 million in Recovery Act JAG funds designated to the state. Among others, these include: programs which pursue violent and predatory criminals; efforts which focus on prosecuting violent and predatory criminals and drug offenders; juvenile and adult re-entry programs and programs that enhance jail or correctional facility security and safety; and programs that combat and disrupt criminal drug networks and provide substance abuse treatment. The agency plans to begin soliciting applications for funding from local law enforcement agencies starting in the first part of July and has plans to notify applicants of funding recommendations by early August.

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<sup>33</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>34</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

In order to adequately monitor grants to subgrantees, the Illinois Criminal Justice Information Authority will require information to be submitted by subgrantees on a monthly basis and is planning to hire additional staff. Specifically, the agency plans to require that subgrantees submit monthly fiscal and progress reports within 5 days of the end of each month to allow the agency time to aggregate the data and report it to the Bureau of Justice Assistance before the end of each quarter. Further, agency officials stated they plan to hire an additional 15 staff—a total of 8 grant monitors, 3 administrative staff, 2 lawyers, and 2 researchers—to assist with implementing Recovery Act funded JAG grants. They stated that a total of 18 staff currently oversee implementation of the JAG grants.

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## Illinois Public Housing Agencies Have Obligated Recovery Act Funds for a Variety of Projects

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>35</sup> 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 they are made available to public housing agencies, expend at least 60 percent of funds within two years of that date, and expend 100 percent of the funds within three years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already underway or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and timeframes for submitting applications.<sup>36</sup>

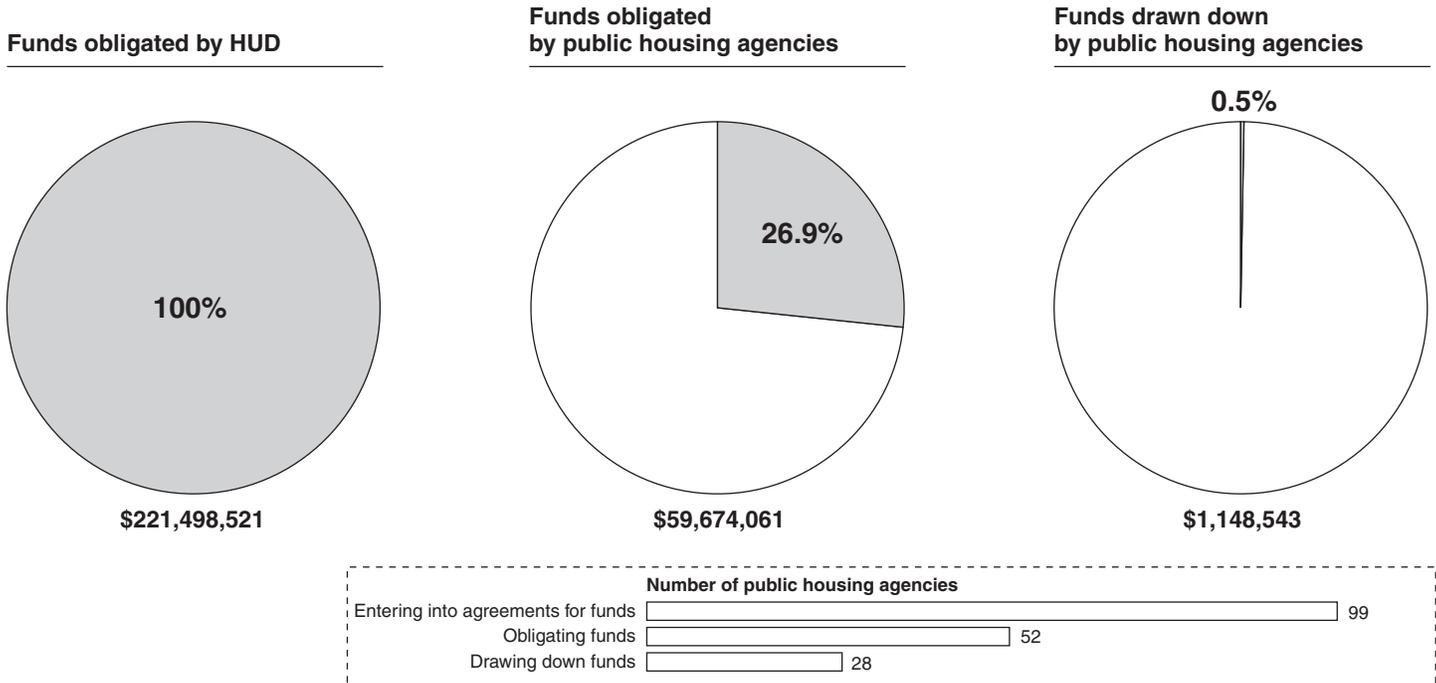
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<sup>35</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>36</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and timeframes for application, and to funding limits.

Illinois has 99 public housing agencies that have received Recovery Act formula grant awards. In total, these public housing agencies received about \$221 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, the state's 99 Public housing agencies have obligated about \$60 million and expended approximately \$1.1 million. We visited two public housing agencies in Illinois: the Chicago Housing Authority and the Housing Authority for LaSalle County.<sup>37</sup>

**Figure 3: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Illinois**



Source: GAO analysis of HUD data.

<sup>37</sup>We visited the Chicago Housing Authority because it received the largest allocation of any public housing authority in the state, and the third largest allocation among all public housing authorities receiving Recovery Act Capital Fund Formula dollars. We visited the Housing Authority for LaSalle County primarily because, at the time of our selection, it had drawn down Recovery Act funds.

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## Public Housing Agencies We Visited Have Selected and Started to Obligate Funds for Recovery Act Projects

The two public housing agencies we visited in Illinois received Capital Fund formula grants totaling \$146 million. As of June 20, these public housing agencies had obligated about \$47 million, or roughly 32 percent of the total award. They had drawn down about \$76,000, or .05 percent of the total award. Specifically, the Chicago Housing Authority had obligated about \$46.8 million and the Housing Authority for LaSalle County had obligated a little less than \$400,000. The Chicago Housing Authority had not drawn down any Recovery Act funds, and the Housing Authority for LaSalle County had drawn down about \$76,000.

The Chicago Housing Authority and the Housing Authority for LaSalle County have both identified the projects that the agencies will fund through the Recovery Act Capital Fund formula grant awards. The Chicago Housing Authority has identified a total of 12 projects to be funded, half of which will include the rehabilitation of units. The remaining 6 projects will consist of 3 demolition projects, 1 project for the installation of security camera systems scattered throughout the authority's portfolio, 1 project for a facade restoration, and 1 project that consists of upgrades to units to meet requirements in the Americans with Disabilities Act. All 12 projects are estimated to be completed by the end of 2010. The Housing Authority for LaSalle County has identified a total of 11 projects that it will fund through Recovery Act formula funding. The projects include improving common areas such as entrances and public hallways, upgrading boiler valves, and performing elevator code updates at several buildings. One project will also include the rehabilitation of units, including modernization of kitchens and bathrooms, and another will include the replacement of a retaining wall. Officials estimated that all projects will be completed in 4 to 6 months from when they begin, but some may not begin until August or September of this year, and will be completed in early 2010.

Officials at both the Chicago Housing Authority and the Housing Authority for LaSalle County explained that they prioritized projects based on requirements in the Recovery Act. For example, Chicago Housing Authority officials explained that they specifically selected projects that consisted of rehabilitating units, especially vacant units. A total of 668 units are planned for rehabilitation, 484 of which are vacant, through six projects. Two of the rehabilitation projects are projected to account for almost \$60 million of the \$143 million in Recovery Act formula funds that the authority received, and are expected to rehabilitate about 250 units. Furthermore, 5 of the 12 projects that the authority selected were ready to begin prior to HUD allocating Recovery Act funds to the authority, and all 12 were included in the agency's 5-year plan. Officials stated that the

agency is in the process of hiring additional procurement staff to help expedite the contracting process. Housing Authority for LaSalle County officials explained that they prioritized projects that could award contracts within 120 days of when funds were made available to the agency, and all projects to be funded with Recovery Act funds were on the agency's 5-year plan.

Another major component of HUD Recovery Act funding for federal public housing is the competitive grants program with \$1 billion available nationally for projects characterized by priority public housing investments intended to leverage private sector funds for renovations and energy conservation, and for projects addressing the needs of the elderly or persons with disabilities. Chicago Housing Authority officials told us they plan to apply for this funding and have identified proposed projects that include rehabilitation and revitalization of public housing developments, including one senior housing development. Housing Authority for LaSalle County officials told us that they may apply for competitive funds in order to fund one project that will involve replacing windows for energy improvement purposes, but would likely not have other projects that would be eligible based on the competitive criteria and the needs of the housing authority.

Both the Chicago Housing Authority and Housing Authority for LaSalle County have created unique accounting codes to track and monitor Recovery Act Capital Fund formula grants separately from regular Capital Fund grants. In addition, the Chicago Housing Authority has created a Recovery Act Working Group that will include an audit and compliance position to be externally hired by the agency. This individual will be responsible for tracking the use of Recovery Act funds and will also monitor the progress of projects funded with Recovery Act dollars. Officials at the LaSalle County Housing Authority told us that they will track Recovery Act funded projects in the same manner as they track their current Capital Fund projects, and will be obtaining weekly observation reports on projects.

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## Illinois Is Taking Action to Track Recovery Act Funds Separately, Implement Internal Controls, and Has Conducted Preliminary Risk Assessments of 19 State Agencies

Illinois continues to take steps to account for Recovery Act funds by tracking the funds separately from other funds received and spent by the state. The Illinois Office of the Comptroller and state agencies we met with are using unique codes to track funds. The state also continues to develop oversight mechanisms related to various areas of Recovery Act implementation, and is implementing internal control measures including conducting risk assessments and an assessment of staffing needs to implement the Recovery Act.

Illinois is tracking Recovery Act funds separately from other sources of funding to account for, and report specifically on, the use of these funds. State and local agencies we met with are using unique codes in order to track funds separately. For example,

- The Illinois Office of the Comptroller is using unique codes to identify both Recovery Act expenditures and receipts statewide. It is also requiring state agencies to provide specific Catalog of Federal Domestic Assistance numbers on cash receipts and cash refunds, as well as for expenditures.
- The Illinois Department of Commerce and Economic Opportunity tracks Recovery Act funds separately through the agency's general ledger system, which reports obligations, costs, and fund balances for programs receiving Recovery Act funds. The agency is using specific codes to account for the receipt and use of WIA Recovery Act funds.
- Illinois State Board of Education officials reported that they updated the accounting requirements for local educational agencies to help ensure compliance with Recovery Act requirements. The revised requirements state that records of expenditures shall identify the source of the Recovery Act funds by using specified account numbers, as well as the applicable funds, functions, and object classes.

At the two local educational agencies we visited, officials told us they will comply with Recovery Act requirements for tracking SFSF funds. However, these officials expressed concern over how they will be required to report on their use of the SFSF funds, since the funds are directly replacing general state aid and the state has not previously required them to report on their use of general state aid funds. Chicago Public Schools officials stated that they may attach the SFSF funds to a certain cost center, such as a group of teachers at a cluster of schools, to ease the separate tracking and reporting burden.

Illinois Office of Internal Audit officials noted that, overall, the volume of information on the Recovery Act that requires tracking from a variety of sources, and the speed by which funding is flowing to the state, presents challenges to agency and administration staff. They reported that this was a recurring theme in discussions with state agencies about the Recovery Act, and in their efforts to prepare and implement processes to comply with the requirements.

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### Illinois Is Implementing Recovery Act Oversight and Internal Control Measures, Including Assessing Risk across State Agencies

Illinois is implementing oversight measures it developed to safeguard Recovery Act Funds, including forming specific groups to oversee various parts of Recovery Act implementation, continuing to conduct Recovery Act Working Group meetings, and requiring agencies to submit weekly reports. Specifically:

- In addition to having formed an Executive Committee to broadly oversee implementation of the act, the state has formed subcommittees for specific areas related to implementation and oversight.<sup>38</sup> These subcommittees address budget and fiscal issues, the auditing of Recovery Act funds, and matters related to assessing performance and outcomes of programs receiving Recovery Act funds.
- The state has continued to conduct Recovery Act Working Group meetings once a week in an effort to receive updates from agencies that have spent Recovery Act funds, address fiscal reporting and tracking questions, and discuss grant deadlines, among other Recovery Act related matters.<sup>39</sup>
- The state is also requiring agencies to submit weekly reports detailing the status of funds—for example, whether they have been received or not, the amount received or expected to be received, and the award date if funds have been received—and any delays in spending plans along with possible solutions. State agencies are also required to

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<sup>38</sup>We reported on the establishment of Illinois's Executive Committee in our last report ([GAO-09-580](#)). The 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.

<sup>39</sup>The Recovery Act Working Group consists of a contact point for each state agency for Recovery Act related matters, and officials from the Office of the Governor, including the Deputy Chief of Staff for Economic Recovery.

submit time lines for spending Recovery Act funds in the weekly reports.

The Illinois Office of Internal Audit is implementing internal control measures, specifically by focusing on assessing risk at state agencies administering Recovery Act funds. The office plans to conduct risk assessments for 22 key state agencies administering Recovery Act funds, and had completed 19 of those assessments as of June 22, 2009.<sup>40</sup> The risk assessments considered factors such as the amount of Recovery Act funding the agency is receiving or administering, the speed by which Recovery Act funding is disbursed to the agency (an example of a new risk), the number of subrecipients or contractors that will be receiving funds (an example of external risk), the extent to which guidance had been provided by federal oversight agencies, previous audit findings, and the staffing needs required to properly expend and oversee Recovery Act funds (an example of internal risk). Based on these and other similar factors, the Office of Internal Audit designated agencies as low, moderate, or high risk, or a combination of these categories, such as low-to-moderate risk. A total of nine agencies were classified as high risk, six as moderate risk, and four were classified as low or low-to-moderate risk. See table 2.

**Table 2: Illinois Office of Internal Audit Risk Designations for State Agencies Administering Recovery Act Funds, Based on Preliminary Risk Assessments Conducted as of June 22, 2009**

Risk designation	State agency or department
Low	Children and Family Services; Arts Council
Low-to-moderate	Employment Security; Environmental Protection Agency
Moderate	Commerce and Economic Opportunity; Veteran’s Affairs; Criminal Justice Information Authority; Public Health; Housing Development Authority; and Capital Development Board
High	Transportation; Human Services; Board of Education; Healthcare and Family Services; Aging; Corrections; Juvenile Justice; State Police; and Natural Resources

Source: Illinois Office of Internal Audit Recovery Act Risk Assessment Summary.

All nine high-risk agencies were classified as high risk largely due to one or more of the following factors: the agency is receiving a significant amount of Recovery Act funding, there are potential issues with

<sup>40</sup>At the time of our review, the Illinois Office of Internal Audit was working on the risk assessments for the remaining three agencies: the Illinois Department of Central Management Services, the Illinois Board of Higher Education, and the Illinois Community College Board.

monitoring subrecipients, or the agency lacks sufficient staff or adequate plans to oversee Recovery Act funds and implementation. For example, the Illinois Department of Transportation and Illinois State Board of Education, two agencies that are administering a significant amount of Recovery Act funding, were on the high risk list due to the amount of funds the agencies are receiving and concerns over subrecipient monitoring. Illinois Office of Internal Audit officials told us that for the agencies classified as high-risk, they are in the process of beginning detailed reviews to further identify and evaluate internal control mechanisms, as well as procedures for monitoring subrecipients, as part of conducting more detailed analysis on the 22 state agencies. The office is also prioritizing this additional analysis based on the anticipated expenditure dates of Recovery Act funding by state agencies.

The Illinois Office of Internal Audit's risk assessment also identified recurring themes for oversight of Recovery Act funds. These included concerns about the extent of subrecipient monitoring required by federal auditors, the number of new subrecipients who may participate in Recovery-Act funded programs, and questions about agencies' ability to hire adequate numbers of sufficiently qualified staff, in the time frames necessary, to implement and monitor programs. The state has conducted a staffing inquiry to assess the needs of agencies in implementing the Recovery Act and to gather information on how many positions will be required statewide. As of June 1, the Governor's Office of Management and Budget had approved a total of 717 staff to be hired across state agencies for implementation of the Recovery Act. Although the majority of these positions are expected to be temporary positions to assist with workload associated with implementing the Recovery Act, the purpose of some of these positions will be to conduct subrecipient monitoring for agencies. As of June 1, Illinois was in the process of hiring 211 of the 717 approved positions.

The Office of Internal Audit also reviewed the results of the state's fiscal year 2007 Single Audit in developing additional internal control measures.<sup>41</sup> The office evaluated the Single Audit's findings as part of its risk assessments, summarized the findings, and incorporated them into the designation of agencies into risk categories. Officials stated that they continue to follow up on findings from the audit and plan to continue monitoring agencies' corrective action plans. Officials with the Illinois

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<sup>41</sup>As of June 30, the Illinois fiscal year 2008 statewide Single Audit had not been released.

Auditor General's Office told us that they are waiting for additional Office of Management and Budget (OMB) guidance in planning future Recovery Act audit work as part of their statewide Single Audit process. They indicated that after receiving the guidance, they will work with their contractor for the statewide Single Audit to determine what changes, if any, need to be made to their audit approach.

In our meetings with state and local agencies, we found other examples of internal control mechanisms being developed or implemented. These were

- The Illinois Department of Transportation hired contractors to conduct a risk assessment on the department's internal control procedures related to Recovery Act funding and to assist in developing a plan to mitigate any risks identified. The risk assessment, while not yet final, identified preliminary general risks, including monitoring subrecipients during a short-term increase in the number of subrecipients to monitor. Agency officials stated that they are currently addressing risks by evaluating both their short-term and long-term staffing needs, hiring a contractor to support subrecipient monitoring, and assigning a project team to oversee Recovery Act reporting and implementation. For subrecipient monitoring specifically, the agency has plans for a three-tiered monitoring system that samples 25 percent of state-administered projects, 40 percent of jointly administered (state and local) projects, and 100 percent of locally let projects for compliance with procedures and protocols.
- The Chicago Housing Authority has created a Recovery Act Working Group that will include an audit-compliance position to be externally hired by the agency. This individual will be responsible for tracking the use of Recovery Act funds and will also monitor the progress of projects funded with Recovery Act dollars.

In addition, the state hosted a conference focused on fraud prevention and detection for all state agencies receiving Recovery Act funds. The conference focused on lessons learned from past experiences, as well as examples of controls related to the prevention and detection of fraud.

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## Illinois Has Issued Guidance on Measuring the Effects of Recovery Act Funds, but Challenges Remain

In late April, the Illinois Office of the Governor disseminated guidance to state agencies on collecting data related to job creation and job retention. Further, some state and local agencies told us that they are creating or modifying systems to track this type of information. However, challenges remain in assessing the effects of Recovery Act spending, and state officials indicated that additional federal guidance is needed.

Illinois has taken steps to assist state agencies in assessing and measuring the impact of the Recovery Act. Based on an interpretation of existing guidance (including federal guidance), Illinois has disseminated preliminary guidance to state agencies concerning the definitions and tracking of job creation and job retention for reporting purposes. The guidance defined “jobs created” as new positions created and filled, or previously existing unfilled positions that are filled, as a result of Recovery Act funding. The guidance defined “jobs retained” as existing jobs that would have been terminated without Recovery Act funds. The guidance also requires, for reporting purposes, that all state bid and grant recipients define the number of jobs created and retained as a result of the Recovery Act. Finally, the guidance stated that these state guidelines should only be followed to the extent that they do not conflict with federal requirements.

In some cases, agencies we spoke with were modifying or creating systems to track the impact of Recovery Act spending. For example,

- Illinois State Board of Education officials told us that they are creating their own database to track the type and number of jobs created and retained through use of Recovery Act funds. They stated that they created this database based on their review of state and federal guidance on tracking jobs created and retained.
- Officials at the two institutions for higher education that we visited told us that they could likely estimate the number of jobs created with the State Fiscal Stabilization Funds. Officials from the University of Illinois noted that the Illinois Board of Higher Education is creating a statewide methodology to estimate jobs retained and created. The university will follow this methodology once it is finalized. College of DuPage officials reported that they are currently tracking graduates and surveying them about their job prospects, wages, and other indicators, so officials suggested they could potentially attribute future differences in graduates’ status to Recovery Act funds.
- Officials with Chicago’s Department of Family and Support Services (the agency that is implementing the WIA Youth program in Chicago)

told us that they are also currently making adjustments to the systems they use to track jobs created.

However, some state and local agencies also indicated that challenges remain in assessing the impact of Recovery Act expenditures. For example,

- Illinois State Board of Education officials we spoke with told us that in order to meet reporting requirements for use of Recovery Act funds, they will need to obtain data from the local educational agencies within 5 to 7 days after the end of each quarter, which may not be a sufficient amount of time to ensure complete, accurate data.
- Officials we spoke with at two local educational agencies in the state told us that SFSF funds that they receive will not create new jobs, as these funds are simply filling a gap in the budget that would otherwise have been covered by general state aid funds. As such, measuring the impact of these funds will likely be limited to measuring jobs retained.<sup>42</sup>
- Officials at both the Chicago Housing Authority and the Housing Authority for LaSalle County stated that they have not seen any additional guidance from HUD on measuring jobs, but expect that measuring the number of jobs directly created by hiring a contractor for a project can be achieved. However, they stated that capturing indirect jobs—those created through services or products that a contractor procures in support of work on a project—will be difficult. Chicago Housing Authority officials also stated that they are examining ways to track the impact on residents affected by projects funded with Recovery Act funds, including measuring, for example, the effect on family self-sufficiency.

The Illinois Office of Internal Audit's summary of its Recovery Act risk assessments of state agencies stated that a general lack of finalized federal guidance on Recovery Act reporting hampers efforts, particularly in

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<sup>42</sup>An Illinois State Board of Education official noted that the state was facing a backlog of approximately \$1.0 billion in payments to local educational agencies. The SFSF funds made it possible for the state to continue making general state aid payments and for jobs to be retained in the school districts. The official indicated that not all school districts may have been aware of the extent to which the state's cash flow issues potentially impacted general state aid and other payments they would typically receive.

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determining how to modify systems to collect data. An official in the Office of the Governor also told us that additional guidance from federal agencies is needed with respect to collecting information on jobs created or retained.<sup>43</sup>

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## State Comments on This Summary

We provided the Office of the Governor of Illinois with a draft of this appendix on June 22, 2009. The Deputy Chief Of Staff responded for the Governor on June 24, 2009. In general, the state concurred with our statements and observations. The official also provided technical suggestions that were incorporated, as appropriate.

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## Staff Acknowledgments

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<sup>43</sup>After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

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# Appendix VII: Iowa

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## Overview

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

**Use of funds:** Our work in Iowa focused on eight federal programs, selected primarily because they have begun disbursing funds to the state. These include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding. Program funds are being used to help Iowa stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through the state or directly to localities. The funds include the following:

- **Funds made available as a result of increased Medicaid Federal Medical Assistance Percentage (FMAP).**<sup>2</sup> As of June 29, 2009, Iowa has received about \$136 million in increased FMAP grant awards, of which it has drawn down almost \$127 million, or over 93 percent. As a result, Iowa is using funds to offset the state budget deficit, cover the state's increased Medicaid caseload, and maintain current populations and benefits, and it is planning to use these funds to expand Medicaid eligibility.
- **Highway Infrastructure Investment funds.** On March 2, 2009, the U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned almost \$358 million in Recovery Act funds to Iowa. As of June 25, 2009, \$319 million has been obligated for 165 highway projects.
- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** Iowa was allocated about \$472 million in SFSF funds, of which \$386 million is for education stabilization. As of June 30, 2009, the Iowa Department of Education had disbursed \$40 million of these funds to school districts. The Iowa Department of Education plans to

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. The receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

use these funds to maintain spending for higher education at fiscal year 2009 levels for fiscal year 2010 and for previously approved increases for grades K-12 for fiscal year 2010, with remaining funds to be used in fiscal year 2011.

- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** As of June 30, 2009, Iowa received about \$26 million in Recovery Act ESEA Title I, Part A, funds, or one-half of its estimated \$51 million total allocation and had disbursed about \$8 million of these funds to school districts. The Iowa Department of Education has provided guidance to school districts regarding uses and reporting of these funds to develop a capacity to serve disadvantaged youth by, for example, providing professional development to teachers.
- **Individuals with Disabilities Education Act (IDEA), Part B.** As of June 30, 2009, Iowa was allocated about \$63 million in Recovery Act IDEA, Part B funds, or one-half of its estimated \$126 million total allocation and the Iowa Department of Education had disbursed about \$25 million of these funds to school districts and area education agencies. These funds will be used to support special education and related services for children and youth with disabilities. For example, one Iowa area education agency plans to use IDEA, Part B funds to hire speech pathologists and purchase hearing evaluation equipment.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated almost \$81 million in Recovery Act weatherization funding to Iowa for 3 years. In March 2009, DOE provided about \$8.1 million to Iowa, and as of June 30, 2009, Iowa's Department of Human Rights, Division of Community Action Agencies obligated at least \$5 million for "ramp up" activities. Iowa plans to weatherize about 7,200 homes by, for example, installing insulation, sealing leaks around doors and windows, and modernizing heating and air equipment.
- **Edward Byrne Memorial Justice Assistance Grants (JAG).** The Department of Justice's Bureau of Justice Assistance (BJA) has awarded about \$12 million directly to Iowa in Recovery Act funding. Based on information available as of June 30, 2009, none of these funds have been obligated by the Office of Drug Control Policy, which

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administers these grants for the state.<sup>3</sup> Iowa's Office of Drug Control Policy plans to provide grant funds, on a competitive basis, to local and state units of government and nonprofit organizations to address priorities set forth in Iowa's Drug Control Strategy. The focus will be on creating and preserving jobs in such areas as law enforcement, correctional and substance abuse treatment, and prevention services.

- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development (HUD) has allocated almost \$8 million in Recovery Act funding to 48 public housing agencies in Iowa. Based on information available as of June 20, 2009, approximately \$1.6 million (or 22 percent) has been obligated by those agencies. Projects undertaken by local public housing authorities and funded by the Recovery Act involve a variety of tasks, such as reroofing buildings; replacing plumbing and air-conditioning systems; installing new carpet, countertops, and appliances in individual units; and repairing concrete on sidewalks and in parking lots.

**Safeguarding and transparency:** Iowa will use existing, as well as enhanced, safeguards and controls for Recovery Act programs and is considering ways to show Recovery Act spending by localities. For example, state accounting officials have developed unique accounting codes to track Recovery Act funds and have entered into cooperative agreements with other state agencies to document each agency's responsibility to review expenditures for compliance with laws and regulations and ensure that expenditures are supported by appropriate documentation. However, a few agencies do not report transactions through the state system. For example, Recovery Act funds that the Iowa Department of Transportation and Board of Regents receive are not itemized at the same level of detail as other state agencies. Furthermore, the centralized accounting system does not include some Recovery Act funds that the Iowa Finance Authority and the Department of Natural Resources receive directly. The Iowa state accounting system does not account for Recovery Act funds that cities, counties, and local governments receive directly. State accounting officials told us they are working with all of these entities to establish procedures for financial oversight.

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance grants awarded directly to local governments in this report because BJA's solicitation for local governments closed on June 17, 2009; therefore, not all of these funds have been awarded.

Other mechanisms in the state to monitor the expenditure of Recovery Act funds include the Office of the State Auditor, which audits state and local entities, and the Governor's newly created Iowa Accountability and Transparency Board (Iowa Board), which will assess existing practices to prevent fraud, waste, and abuse, as well as oversee real-time audits and reporting and make recommendations to ensure that best practices are implemented. The Iowa Board plans to assess and report on existing state practices to prevent waste, fraud, and abuse of Recovery Act funds by (1) reviewing Single Audit reports for all state agencies, (2) implementing and reviewing risk profile surveys for all agencies, and (3) determining risk levels for individual agencies.

**Assessing the effects of spending:** While Iowa state agencies await federal guidance on how to assess the results of Recovery Act spending, most agencies continue to consider various approaches to measure outcomes. Some state agencies collect data that may be used to identify the number of jobs created and saved from the use of Recovery Act funds, such as tracking worker hours for construction contracts. Other agencies have developed their own methodologies to measure results, such as tracking lease rates for vacant units following renovations that use Recovery Act funds. Some agencies said they have the accounting systems in place to measure outcomes. Although they are not required to report through the state, some local agencies also have plans to track results of Recovery Act spending. However, in the absence of specific guidance, most state agency officials continue to question how to accurately calculate and report results based on Recovery Act funds, including how to track outcomes separately from other recovery initiatives. For example, Iowa's Infrastructure Investment Initiative, or I-JOBS, will provide funding for a variety of infrastructure programs, in addition to funding provided by the Recovery Act.

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## Recovery Act Funds Helped Iowa Respond to Declining Revenues and Balance Its Budget for Fiscal Years 2009 and 2010

Iowa is using approximately \$710.3 million in Recovery Act funding to help balance its budget for fiscal years 2009 and 2010.<sup>4</sup> Iowa's governor and General Assembly have statutory responsibility to use the expenditure limitation in the preparation and approval of the state budget.<sup>5</sup> The expenditure limitation is based on the revenue estimates agreed to by Iowa's Revenue Estimating Conference—a conference 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—that convenes quarterly to prepare the state's estimates of tax-receipt revenues for use in preparing the annual budget. In December 2008, based on declining revenue estimates, the Governor directed an across-the-board 1.5 percent reduction in the state's General Fund appropriations. In March 2009, Iowa's Revenue Estimating Conference reduced its projection of available General Fund revenues by \$81.7 million in fiscal year 2009 and by \$269.9 million in fiscal year 2010—resulting in a projected shortfall of \$66.6 million for fiscal year 2009. In response to this projection, the Governor proposed a revised budget for fiscal year 2010 of \$5.9 billion for the state's General Fund, representing a 7.9 percent reduction for many state programs. The General Assembly finalized a state budget on April 26, 2009, and the Governor signed the last fiscal year 2010 appropriations bills into law on May 26, 2009.

Another \$166.2 million in Recovery Act funding allowed state agencies to avoid program cuts as well as mandatory layoffs and furloughs in 2009. For instance, according to senior state budget officials, Iowa will use its increased FMAP funding to maintain Medicaid services. Before receiving the additional Medicaid funding the Recovery Act provided, the state was considering reducing services, decreasing eligibility requirements, reducing waiver services, or funding the shortfall with state appropriations. Nevertheless, some state agencies are taking additional measures to diminish the severity of budget shortfalls, such as considering furloughs, not filling vacant positions, and limiting out-of-state travel.

Currently, the fiscal year 2010 General Fund budget is balanced, and there is no projected budget shortfall. Iowa plans to use approximately \$544.1 million in Recovery Act funding primarily to maintain funding levels for existing education and health care programs. According to a state budget official, the fiscal year 2010 budget includes SFSF funds that will be used

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<sup>4</sup>Iowa's fiscal year begins July 1 and ends June 30.

<sup>5</sup>Iowa Code § 8.54(4).

to avoid laying off teachers, among other purposes. In addition, state officials plan to transfer \$145.3 million from the state's Cash Reserve Fund to the General Fund.<sup>6</sup> State officials will consider any necessary actions to balance the fiscal year 2010 budget in October 2009, when the Revenue Estimating Conference again assesses state revenue projections. If necessary, the Governor would adjust his fiscal year 2010 budget proposal and impose mandatory cuts for fiscal year 2010 similar to those instituted for fiscal year 2009. According to budget officials, some agencies may need to take actions such as imposing furloughs and reducing hours and services to avoid potential shortfalls for fiscal year 2010.

In anticipation of fiscal year 2011, when Recovery Act funding phases out, Iowa's Department of Management plans to begin developing a budget strategy when the Revenue Estimating Conference meets in October to revise revenue estimates and make projections for fiscal year 2011. Until then, state budget officials reported that they have limited ability to plan for the phasing out of Recovery funds because the state only has revenue projections for fiscal year 2010, and state law does not provide a mechanism for estimating revenue for fiscal year 2011 until the end of fiscal year 2009. Nevertheless, state agencies have been encouraged to develop individual budget contingency plans.

To supplement Recovery Act funds, on May 26, 2009, Iowa's Governor signed the final appropriations bills for I-JOBS. The program provides \$295 million for disaster recovery and rebuilding programs, \$300 million for infrastructure projects, \$115 million for transportation projects, and \$120 million for a variety of other infrastructure programs. The Governor appointed an I-JOBS Board to oversee the distribution of grants for a portion of the \$830 million program in the summer of 2009. Iowa will also sell \$591 million of special obligation revenue bonds in July 2009. The fiscal year 2010 budget includes direct appropriations from Iowa's "Rebuild Iowa Infrastructure Fund"—the state's primary funding source for public infrastructure-related expenditures.

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<sup>6</sup>Iowa has two budget reserve funds, the Cash Reserve Fund and the Economic Emergency Fund. The balance in the General Fund at year-end must be used to replenish both of these funds. The Cash Reserve Fund is limited to 7.5 percent of state General Fund revenues and the Economic Emergency Fund is limited to 2.5 percent. The Cash Reserve Fund limit must be reached prior to depositing funds in the Economic Emergency Fund. Once these funds are full, any remaining funds are available for authorization in the next fiscal year.

## Stimulus Funds Are Key to Addressing Growth in Medicaid Enrollment in Iowa

- ✓ **U.S. Department of Health and Human Services—Medicaid FMAP**
- From October 2007 to May 2009, the state's Medicaid enrollment grew from 356,760 to 410,857, an increase of 15 percent.
  - Iowa received increased FMAP grant awards of \$136 million for the first 3 quarters of federal fiscal year 2009.
  - As of June 29, 2009, Iowa had drawn down almost \$127 million in increased FMAP grant awards, which is over 93 percent of its awards to date.

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as FMAP, which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>7</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>8</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

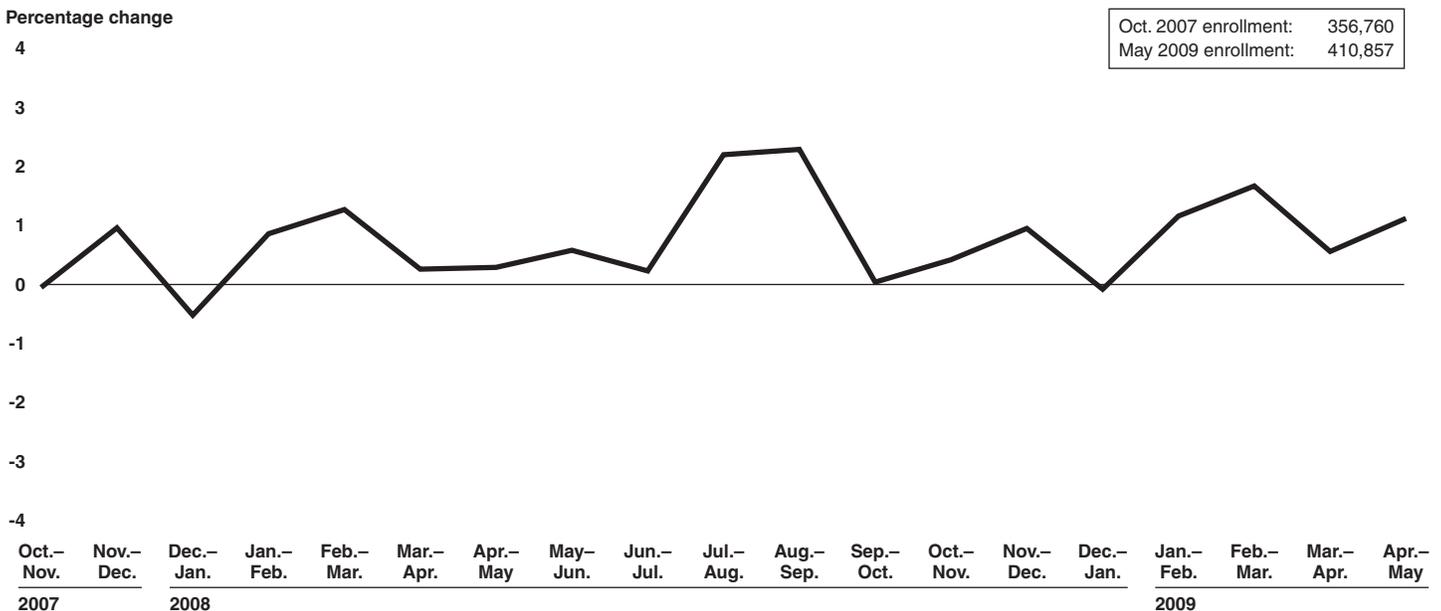
<sup>7</sup>See Recovery Act, div. B, title V, §5001.

<sup>8</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

**Increased FMAP Funds Are Allowing Iowa’s Planned Program Expansions in Medicaid to Move Forward Despite Enrollment Growth**

From October 2007 to May 2009, Iowa’s Medicaid enrollment grew from 356,760 to 410,857, an increase of 15 percent.<sup>9</sup> The enrollment increase was generally gradual during this period (fig. 1). Most of the increase in enrollment was attributable to the population groups of (1) children and families and (2) non-disabled non-elderly adults.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Iowa, October 2007 to May 2009**



Source: GAO analysis of state reported data.  
 Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Iowa had drawn down almost \$127 million in increased FMAP grant awards, which is over 93 percent of its awards to date.<sup>10</sup> Iowa officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit, to cover an increased Medicaid caseload, and to maintain current Medicaid benefits and populations. These officials further reported that they are planning to

<sup>9</sup>Iowa provided projected Medicaid enrollment data for May 2009.

<sup>10</sup>Iowa received increased FMAP grant awards of \$136 million for the first three quarters of federal fiscal year 2009.

use these funds to expand eligibility pending CMS approval to do so. Specifically, Medicaid officials indicated that the funds made available as a result of the increased FMAP will allow the state to implement a Medicaid and State Children's Health Insurance Program expansion for children in families with incomes up to 300 percent of the federal poverty level, an initiative that was previously enacted and scheduled as part of the state's broader health reform objective.<sup>11</sup>

In using the increased FMAP, Iowa officials reported that the Medicaid program has incurred additional costs related to

- personnel needed to ensure compliance with reporting requirements for the increased FMAP;
- the development of new or adjustments to existing reporting systems or other information technology systems; and
- personnel associated with routine administration of the state's Medicaid program.<sup>12</sup>

Iowa Medicaid officials indicated that they did not have any concerns regarding the state's ability to maintain eligibility for the increased FMAP. In addition, as we previously reported, Iowa Medicaid officials indicated that the state tracks the increased FMAP using existing systems. According to Iowa officials, the Accountability and Transparency Board will have oversight of all Recovery Act funds provided to state agencies—including the Medicaid agency. The 2007 and 2008 Single Audits for Iowa

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<sup>11</sup>The state also reported a number of efforts to expand eligibility. For example, beginning July 1, 2009, it will extend Medicaid coverage to legal permanent resident alien children under the age of 19 (who are currently subject to a 5-year waiting period for enrollment) and will adopt presumptive eligibility. The Balanced Budget Act of 1997 gives states the option of allowing "qualified entities" to "presumptively" enroll children in Medicaid who appear to be eligible based on their age and family income. Presumptive eligibility is a process that provides immediate access to health care services for a limited period of time for children who appear to qualify for Medicaid while eligibility is being determined.

<sup>12</sup>In their technical comments to us, state officials said that the state dedicated staff time to these functions but had not outlaid additional dollars to perform these functions. The state absorbed the additional work within existing staff. The state did not provide additional personnel or funds for system changes to accommodate the increased FMAP.

identified no material weaknesses related to the data systems or other aspects of the Medicaid program.<sup>13</sup>

## Iowa Department of Transportation Has Awarded Contracts for and Begun Work on Highway Projects

- ✓ **U.S. Department of Transportation—Highway Infrastructure Investment**
- On March 2, 2009, the U.S. Department of Transportation apportioned about \$358 million to Iowa for highway infrastructure investment.
  - As of June 25, 2009, funds have been obligated for 165 projects valued at about \$319 million, or 89 percent of Recovery Act funds apportioned.
  - Contracts have been awarded for projects that could be initiated and completed quickly and are located in economically distressed areas.

The Recovery Act provides funding to the states to restore, repair, and construct 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 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 the requirements of the existing program, such as planning, environmental review, and contracting. 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 generally 80 percent.

As we reported in April 2009, Iowa was apportioned \$357.7 million for highway infrastructure and other eligible projects. As of June 25, 2009, \$319 million has been obligated for 165 highway projects. The U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s contractual commitment to pay

<sup>13</sup>The 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 Office of Management and Budget (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.

for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. As of June 25, 2009, \$26.2 million has been reimbursed by the FHWA. States request reimbursement as they make payments to contractors working on approved projects.

For the most part, Iowa is initiating pavement improvement projects that were already in its state transportation improvement plans prior to the passage of the Recovery Act because, according to state transportation officials, these projects can be done quickly and create jobs immediately. Table 1 shows these obligations by project type for the state’s Recovery Act transportation projects. According to FHWA officials, most contractors will have started work by July 2009. According to FHWA data, more than 85 percent of Recovery Act funds that had been obligated as of June 25, 2009, were for pavement improvement projects.

**Table 1: Highway Obligations for Iowa by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$14	\$281	\$0	\$0	\$20	\$1	\$3	<b>\$319</b>
Percent of total obligations	4.5	88.1	0.0	0.0	6.3	0.2	0.9	<b>100.0</b>

Source: GAO analysis of FHWA data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

As of June 22, 2009, for those projects where funds have been obligated, Iowa Department of Transportation officials told us that 45 projects representing \$178 million had begun and that 127 projects, valued at \$216 million, are expected to be completed by the end of December 2009. According to Iowa transportation officials, state-administered highway projects initiated under the Recovery Act are funded by Recovery Act funds, while locally administered highway projects are funded using both Recovery Act and local government funds.

In May 2009, Iowa transportation officials told us that contracts for Recovery Act projects are being awarded for less than estimated—primary projects were being awarded for about 5 percent to 7 percent under the state’s estimate. Iowa transportation officials said they believe that initial

bids were lower than estimated costs because of the overall slowdown in construction work and because it was the beginning of the construction season. For example, March bids were lower than those offered in April because contractors were eager for work. However, FHWA officials said they expect bid prices to increase closer to estimated costs as summer approaches and there is more work. State transportation officials said they expect to use Iowa contractors, except for some projects, such as bridge painting, that they cannot fill with prequalified Iowa contractors. In addition, they said that construction companies located in other states bid on the Iowa highway projects, particularly in locations near the state's borders.

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### Iowa Is Meeting Recovery Act Requirements for Highway Infrastructure Spending

Funds apportioned for highway infrastructure spending must be used as required by the Recovery Act. The Recovery Act includes a number of specific requirements for highway infrastructure spending. First, the states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year (by February 17, 2010). 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. In complying with the requirement to obligate 50 percent of apportioned Recovery Act funds before June 30, Iowa selected "shovel-ready" projects, such as bridge replacements and highway resurfacing, which could be initiated and completed quickly. As of June 25, 2009, 89.3 percent of the \$251 million that the FHWA has determined is subject to the 50 percent rule for the 120-day redistribution has been obligated. Some projects, such as the resurfacing of Route B30 outside Mason City, took precedence over other planned transportation projects because state and local transportation officials looked to find projects to meet the Recovery Act requirements.<sup>14</sup> Iowa officials estimate that all of its projects will be completed within 3 years.

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<sup>14</sup>As a part of our work, we selected two projects for review—(1) a \$1 million project, funded with \$850,000 of Recovery Act funds, near Mason City to resurface 4.5 miles of Route B30, and (2) a \$15 million project in Clarke County to restructure 9.5 miles of Interstate 35—one locally administered and one state-administered project each located in an economically distressed area.

Second, the Recovery Act requires states to give priority to projects that can be completed within 3 years and to projects located in economically distressed areas. Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended. Iowa Department of Transportation officials stated that they gave priority to awarding contracts for projects located in economically distressed areas. As of June 22, 2009, the state reported to the FHWA that 64 percent of Recovery Act funds had been obligated for projects located in economically distressed areas.<sup>15</sup> Specifically, \$174 million had been obligated for 57 projects in 31 of the 44 economically distressed counties and \$99 million had been obligated for 79 projects in other counties.

Third, the Recovery Act required the governor of each state to 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 must identify the amount of funds the state planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>16</sup> In Iowa, the Governor certified that the state would “maintain its efforts” for transportation programs funded under the Recovery Act. However, Iowa noted in its certification that transportation spending would be influenced by the difference in the definition of the word “expend” for different covered programs; the uncertainty of the amount collected from state user fees to fund the programs; and variables (such as weather) that may affect the state’s timeline for spending Recovery Act transportation funds. On April 22, 2009, the U.S. Department of Transportation Secretary informed the states that conditional certifications were not permitted, provided additional guidance, and gave the states the option of amending their certifications by May 22, 2009. States were told how to calculate their level of effort on an expenditure basis (not an obligation basis) for the covered transportation programs. Iowa resubmitted its certification on May 22, stating that Iowa will maintain its efforts for state funding for the types of

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<sup>15</sup> Of the 99 counties in Iowa, 44 are characterized as economically distressed.

<sup>16</sup> States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, the FHWA assesses the ability of states to have their apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

projects funded under the Recovery Act. To calculate its maintenance of effort, Iowa projected cash flows based on historical data of transportation expenditures. According to U.S. Department of Transportation officials, the department is reviewing Iowa’s resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. The department is currently evaluating whether the state’s method of calculating the amounts they planned to expend for the covered programs is in compliance with U.S. Department of Transportation guidance.

To monitor the appropriate use of Recovery Act funds to construct highway projects as planned, an Iowa transportation official said that the department specifies detailed procedures for the administration and inspection of work performed. According to officials, the department has contract documents, specifications, special provisions, materials certifications of various kinds, and several hundred construction inspectors, materials inspectors, technicians, engineers, and project auditors in place to review, measure, and accept contract work. Each item of work includes a method of measurement and basis of payment, as well as various associated construction and materials specifications.

**Iowa Has Disbursed the First Round of Education Funds, and School Districts and Area Education Agencies Are Developing Spending Plans**

- ✓ **U.S. Department of Education—SFSF Education Stabilization Funds and Formula Grants**
  - The U.S. Department of Education allocated to Iowa about \$472 million in SFSF funds, of which about \$386 million is for education stabilization. As of June 30, 2009, the Iowa Department of Education had disbursed \$40 million in SFSF education stabilization funds to school districts.
  - The Iowa Department of Education was allocated about \$51 million for ESEA Title I, and as of June 30, 2009, it had disbursed about \$8 million in Title I, Part A Recovery Act funds to school districts.
  - The Iowa Department of Education was allocated about \$126 million for IDEA, Part B. As of June 30, 2009, it had disbursed about \$15 million in IDEA, Part B Recovery Act funds to school districts, and about \$11 million to area education agencies (AEA).

The Recovery Act provides approximately \$564.1 million in education funds to Iowa through three Department of Education programs: (1) SFSF education stabilization funds; (2) ESEA Title I, Part A; and (3) IDEA, Part B. The Iowa Department of Education disbursed the first of these funds in June 2009 and plans to disburse the majority of the remaining funds in fiscal year 2010. Specifically, in fiscal years 2009 and 2010, the Iowa

Department of Education plans to disburse most of the SFSF education stabilization funds to school districts, more than 80 percent of ESEA Title I, Part A funds to school districts, and 60 percent of IDEA, Part B funds to school districts and AEAs.<sup>17</sup> Each of these programs has its unique characteristics and objectives:

- **SFSF:** The Recovery Act created the SFSF to be administered by the U.S. Department of Education (Education). SFSF provides funds to states to help avoid reductions in education and other essential public services. The state must allocate 81.8 percent of its SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services funds). To receive its initial award of SFSF funding, each state must submit an application to Education that assures that the state will (1) meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and (2) 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. Furthermore, the state's application must contain baseline data that demonstrate the state's current status in each of the assurances. After maintaining support for education at fiscal year 2006 levels, the state 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, the state must use its primary education funding formula but can maintain discretion in how funds are allocated 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. The Iowa Department of Education was allocated about \$386.4 million in SFSF funds for education stabilization. As of June 30, 2009, Iowa had received \$316.5 million of its total \$472.3 million SFSF allocation—\$258.9 million for education stabilization and \$57.6 million for government services. On June 15, 2009, Iowa disbursed \$40 million in SFSF education stabilization funds to school districts.

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<sup>17</sup>Iowa's 10 regional AEAs, 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.

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Iowa's Department of Education plans to disburse SFSF education stabilization funds in regular state aid payments to districts. The first \$40 million disbursement is intended to make up for a \$40 million reduction in fiscal year 2009 state education aid passed by the Iowa General Assembly in April 2009 because of a reduction in state revenues. (In December 2008, the Iowa state budget was reduced by 1.5 percent, resulting in a \$31.9 million reduction in funds to school districts for the remainder of fiscal year 2009.) The Iowa Department of Education estimates disbursements to school districts in fiscal year 2010 will total about \$217.7 million.

- **ESEA Title I, Part A:** The Recovery Act provided \$10 billion in additional funds to help school districts educate disadvantaged youth under 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. These formulas are based on factors such as the concentration of students from families living in poverty. In using the funds, school districts must comply with current statutory and regulatory requirements and must obligate 85 percent of its 2009 funds by September 30, 2010, unless granted a waiver, and all of these funds by September 30, 2011. Iowa's Department of Education is advising school districts to use the funds in ways that will build their long-term capacity to serve disadvantaged youth by, for example, providing professional development to teachers. Education allocated the first half of the states' ESEA Title I, Part A funds on April 1, 2009. Iowa was allocated about \$25.7 million, or one-half of its estimated \$51.5 million total allocation.

Iowa's Department of Education plans to disburse ESEA Title I, Part A Recovery Act funds to school districts in six equal payments—one in fiscal year 2009, four in fiscal year 2010, and one in fiscal year 2011. It made its first disbursement of about \$8 million in Title I funds to school districts on June 2, 2009.

- **IDEA, Part B:** The Recovery Act provided 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. IDEA, Part B provides funding to ensure preschool and school-aged children with disabilities have access to free and appropriate public education. IDEA, Part B funds are authorized to states through two grants—Part B preschool age and Part B school age. States were not required to submit an application to Education to receive initial Recovery Act funding for IDEA, Part B funds (50 percent of the total IDEA funding provided in the Recovery

Act) but are required to use funds in accordance with IDEA statutory and regulatory requirements. States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. Education allocated the first half of states' IDEA allocations on April 1, 2009, with Iowa receiving about \$63.1 million of its total allocation of about \$126.2 million for IDEA, Part B programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was about \$2.1 million in Part B preschool grants and \$61 million in Part B grants for school-aged children and youth.

Iowa's Department of Education plans to disburse IDEA, Part B Recovery Act funds to school districts and AEAs in five equal payments—one in fiscal year 2009, two in fiscal year 2010, and two in fiscal year 2011. The funds will be disbursed to the state's 10 AEAs. AEAs will retain 40 percent of IDEA, Part B funding for school-aged children and pass through 60 percent of the funds to school districts. AEAs will retain the entire portion of IDEA, Part B funding for preschool children. The department estimated the total allocations going to school districts and AEAs and made its first disbursement of about \$10.7 million to AEAs and about \$14.5 million to school districts on June 5, 2009.

### School Districts and AEAs Have Guidance on Recovery Act Spending and Are Developing Plans for Recovery Act Education Funds

As part of our work, we met with officials of three school districts and the AEAs that support them: the Des Moines Independent Community School District (representing a midsize city), and AEA 11; the Waterloo Community School District (representing a small city) and AEA 7; and the Ottumwa Community School District (representing a remote town in a rural area) and AEA 15. We chose these school districts on the basis of their locale and on the number of schools in each district designated for improvement under ESEA Title I.<sup>18</sup> A school that does not meet performance targets defined by the state for two consecutive years must be identified for school improvement.

<sup>18</sup>The Des Moines Independent Community School District, the largest school district in Iowa, has approximately 32,000 students and 6 high schools (which includes 1 ESEA Title I school), 10 middle schools (4 ESEA Title I), and 40 elementary schools (24 ESEA Title I). The Ottumwa Community School District, with approximately 4,500 students, has 2 high schools, 1 middle school, and 8 elementary schools (5 ESEA Title I). The Waterloo Community School District, with approximately 10,400 students, has 3 high schools, 4 middle schools (1 ESEA Title I), and 12 elementary schools (10 ESEA Title I).

Table 2 shows Recovery Act funds allocated and disbursed to each of the three school districts and three AEAs we visited by program, according to the Iowa Department of Education.

**Table 2: Recovery Act Allocations and Disbursements to Three Iowa School Districts and AEAs, as of June 30, 2009**

School district	Allocations and disbursements	SFSF education stabilization funds <sup>a</sup>	ESEA Title I, Part A	IDEA, Part B
Des Moines Independent Community School District	Allocated	\$16.9	\$6.4	\$5.1
	Disbursed	2.8	1.1	1.0
Ottumwa Community School District	Allocated	2.3	1.0	0.7
	Disbursed	0.4	0.2	0.1
Waterloo Community School District	Allocated	5.9	2.3	1.8
	Disbursed	1.0	0.4	0.4
AEA 11	Allocated	<sup>b</sup>	<sup>b</sup>	13.6
	Disbursed	<sup>b</sup>	<sup>b</sup>	2.7
AEA 15	Allocated	<sup>b</sup>	<sup>b</sup>	4.2
	Disbursed	<sup>b</sup>	<sup>b</sup>	0.8
AEA 7	Allocated	<sup>b</sup>	<sup>b</sup>	7.1
	Disbursed	<sup>b</sup>	<sup>b</sup>	1.4

Source: GAO analysis of Iowa Department of Education data.

<sup>a</sup>Allocated funds for SFSF education stabilization are estimated and cover fiscal years 2009 through 2010 only, whereas allocated funds for ESEA Title I, Part A and IDEA, Part B are actual amounts for fiscal years 2009 through 2011.

<sup>b</sup>AEAs do not receive SFSF education stabilization or ESEA Title I, Part A funds.

School district and AEA officials told us they were generally satisfied with the guidance they received on using Recovery Act funds. They cited written guidance on each program on the Iowa Department of Education’s Web site as a primary source for information. This guidance describes the principles of the Recovery Act, acceptable uses of funds, and reporting on the use of funds. School district officials also cited Web-based seminars and access to Iowa Department of Education staff for providing helpful guidance on the use of funds. The Iowa Department of Education also told us it is encouraging school districts to use Recovery Act funds for summer school and for building teacher capacity in order to avoid committing to unsustainable efforts after Recovery Act funding expires (known as the funding cliff). The districts and AEAs had not received guidance from the Iowa Department of Education on some issues at the time of our visits in late May, such as whether ESEA Title I, Part A funds can be used for purchasing books and how to allocate funds made available as a result of receiving IDEA, Part B Recovery Act funds for general education teachers.

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While the school districts and AEAs had not yet received any Recovery Act funding at the time of our visits, officials were generally developing plans for how to spend the majority of their ESEA Title I and IDEA funds in accordance with program requirements and Recovery Act objectives. At the same time, district officials told us that such planning is not necessary to spend SFSF funds because they plan to use these funds to replace regular state aid.

- Officials from the Des Moines Independent Community School District had not identified specific uses for Recovery Act grant funds at the time of our visit. They said they do not expect to use the district's first distribution of ESEA Title I funds until fiscal year 2010.
- Waterloo Community School District officials said they are evaluating opportunities to use Recovery Act funds to implement their strategic plan and, along with AEA 7, cited professional development as a potential use of funds. Waterloo also said it is considering using part of its first distribution of ESEA Title I funds to reimburse it for expenses for professional development and instructional materials, as well as for technical licenses for instructional programs.
- The Ottumwa Community School District and AEA 15 have draft plans to use Recovery Act grant funds for programs, including teacher development and extended day and summer school activities. Ottumwa officials said the summer school activities would address the funding cliff because these programs would not require hiring additional staff. The district had also spent about \$40,000 on ESEA Title I materials and computers and planned to use at least part their first distribution of Title I funds to reimburse it for these expenditures.

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### Districts May Find It Difficult to Track Interest Earned on Recovery Act Funds

School districts must return to the federal government on a timely basis any interest earned on cash advances, including Recovery Act funds used for education. Iowa school districts may face challenges in tracking interest earned because they typically do not earn interest on other federal education funds. Districts typically do not earn interest on ESEA Title I and IDEA funds because they are reimbursed for expenditures rather than getting funding first. Furthermore, districts do not have experience with earning interest on SFSF funds because these are a new funding source. The state's Single Audit will be a check on districts to ensure that any interest earned is returned, according to the Iowa Department of Education. The Iowa Association of School Boards is working with school districts to address this concern.

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## Iowa Department of Education Will Monitor the Use of Recovery Act Funds

The Iowa Department of Education is responsible for ensuring that the funds received under the Recovery Act are spent on education programs that are directed at improving results for students, from early learning through college. In carrying out this responsibility, the department plans to monitor how the school districts and AEAs are spending Recovery Act funds. Specifically, the department will require school districts and AEAs to track and report, quarterly and annually, how they are using the funds. In turn, the department will monitor and review these reports and aggregate the statewide data for reporting to Education. Ultimately, the department will have a role in determining whether the Recovery Act funds were spent on programs and activities authorized by applicable federal statutes and regulations and on the effectiveness of the programs and activities supported by the Recovery Act education funds.

The date for the first quarterly report as well as the specific reporting requirements that the districts and AEAs must meet are still being developed. A common reporting form will be followed after the specific requirements are known. However, according to Department of Education officials, the districts and AEA's should already know that, at a minimum, they should be prepared to report by program the total amount of funds received and expended, the specific activities the funds were expended on, and the number of jobs saved or created. For example, those school districts receiving ESEA Title I, Part A funds will, at a minimum, be required to report quarterly and annually the total amount of funds received and expended on programs the districts implemented to educate disadvantaged youth. Similarly, those school districts and AEAs receiving IDEA, Part B funding will be required to report the amount of Recovery Act funding that was used to support special education services for children with disabilities.

## Iowa Is Preparing to Spend Funds for Home Weatherization

### ✓ DOE—Weatherization Assistance Program

- Iowa was provided about \$8.1 million in an initial release of funds—or about 10 percent of the state’s total award of \$81 million—on March 27, 2009, by DOE’s Office of Energy Efficiency and Renewable Energy.
- To receive the first 10 percent of funds, states were required to submit an application. To receive the next 40 percent of funds, states were required to submit a plan by May 12, 2009.
- Iowa submitted its application on March 18, 2009, and its plan on May 11, 2009.

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by DOE through each of the states and the District of Columbia. This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department’s progress reviews examining each state’s performance in spending its first 50 percent of the funds and the state’s compliance with the Recovery Act’s reporting and other requirements.

DOE allocated \$80.8 million to Iowa for the Recovery Act Weatherization Assistance Program for 3 years. Iowa’s Department of Human Rights, Division of Community Action Agencies, is responsible for administering

the program. The division submitted its application for funding on March 18, 2009, and its weatherization state plan and application on May 11, 2009.

On March 27, 2009, DOE provided the initial 10 percent allocation (about \$8.1 million) to Iowa for the Weatherization Assistance Program. Officials from Iowa's Division of Community Action Agencies said that they received guidance from DOE prohibiting the use of the initial 10 percent of funds for weatherizing homes. On June 9, 2009, DOE issued revised guidance that allowed states to use all Recovery Act funds provided under this program to pay for weatherization projects. Iowa officials said they were aware of the new guidance but decided to not to make any changes in funding because DOE had not provided guidance on how to spend Recovery Act funds in compliance with the Davis-Bacon Act. Iowa obligated at least \$5 million by June 30, 2009, for 18 contracts to community action groups for "ramp up" activities—training crews, evaluators and contractors, and purchasing vehicles.

As of June 30, 2009, DOE has not approved the state's plan. DOE has provided guidance and fiscal information to the state, and Iowa's Division of Community Action Agencies has obtained information on grant terms and conditions from a separate federal Web site. Division officials said they had not received any guidance on the Davis-Bacon Act, however, and expressed concern about how to spend the next allocation of Recovery Act funds in accordance with those requirements.<sup>19</sup>

As outlined in the Division of Community Action Agencies' Recovery Act weatherization plan submitted to DOE for review and approval, the division's goals include using Recovery Act funds to weatherize an additional 7,196 homes; employ 140 additional energy auditors, crew workers, and office staff; and spend about \$1.3 million on equipment and \$2.1 million on vehicles. Of the total \$80.8 million that the state is expected to receive, the planned allocation is \$62.6 million for weatherization; \$11.2 million for training new contractors, crew workers, inspectors, evaluators, and other critical personnel; and \$7 million for anticipated future administrative and other expenses, such as additional staff or equipment.

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<sup>19</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. § 3141-3148.

The Division of Community Action Agencies plans to monitor the expanded weatherization program by supplementing its current work force with additional auditors and inspectors while relying on current inspection and evaluation procedures. These procedures include determining if households are income eligible, assessing each eligible home to see what can be done to make it more energy efficient, and inspecting the home after work is completed to verify that the work was done completely and professionally.

**Iowa Prepares to Disburse Law Enforcement Funds, but Some Law Enforcement Agencies May Not Apply for Funds Due to Reporting Requirements**

✓ **U.S. Department of Justice—JAG**

- As of June 30, 2009, Iowa had received its full state award of about \$12 million from the Justice Department, BJA. The BJA will also award an additional \$7 million to local governments in Iowa.
- Iowa’s Office of Drug Control Policy will provide grant funds, on a competitive basis, to local and state units of government and nonprofit organizations to address priorities in such areas as law enforcement, correctional and substance abuse treatment, and prevention services.

Under the JAG program, the Department of Justice’s BJA provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims’ services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and determined by a combination of crime and population statistics. Using this formula, BJA awards 60 percent of a state’s JAG allocation directly to the state, which must, in turn, allocate a formula-based share of those funds to local governments. BJA awards the remaining 40 percent of JAG funds directly to eligible units of local government within the state.<sup>20</sup> The total JAG allocation for Iowa state and local governments under the Recovery Act is about \$18.7 million, a significant increase from the previous fiscal year 2008 allocation of about \$1.4 million.

<sup>20</sup>We did not review these funds awarded directly to local governments in this report because BJA’s solicitation for local governments closed on June 17, 2009.

As of June 30, 2009, Iowa had received its full state award of about \$11.8 million and is generally moving from planning to implementation.<sup>21</sup> Iowa's Office of Drug Control Policy expects to begin awarding grants competitively in July in accordance with federal guidance to address priorities set forth in Iowa's Drug Control Strategy, with special emphasis on job creation and preservation. Specifically, the office intends to use these funds to support a broad range of activities to prevent and control crime—in particular, focusing on violent crime, drug offenses, and serious offenders—and improve the criminal justice system. The office will provide most of these funds to law enforcement and other eligible recipients, such as local governments and nonprofit organizations, through a competitive award process and will provide monthly reimbursements to recipients selected by the office. The state also plans to retain 10 percent of these funds to administer the program.<sup>22</sup> The Recovery Act requires recipients to submit a detailed list of all projects or activities for which such funds were expended or obligated within 10 days of the end of each quarter. As it does with other grant programs, the Office of Drug Control Policy plans to review recipients' financial reporting to validate the amount of expenses claimed and verify that expenses are appropriate.

The Office of Drug Control Policy is implementing a new grant management system that is to notify the office when recipients do not comply with Recovery Act reporting. Once notified, the Office of Drug Control Policy plans to contact recipients via an automated e-mail, followed by a telephone call or visit. Officials said the office may withhold reimbursements to force compliance but that such withholding is not a concern because officials could not recall an instance in which a recipient did not report as required. However, the Director of the office said that some potential recipients—small law enforcement agencies with five or fewer officers or staff—may not apply for Recovery Act funds if they believe the reporting requirements are burdensome relative to the amount of JAG funds they might receive. Alternatively, the Director also noted that some recipients may choose to apply for funds and then spend them quickly because the reporting requirement ends after the funds have been expended. Officials also said that the Office of Drug Control Policy may help recipients complete their financial reporting documentation.

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<sup>21</sup>Because of rounding, this number does not equal 60 percent of the total JAG award.

<sup>22</sup>A state administering agency may use up to 10 percent of the state award, including up to 10 percent of any accrued interest, for costs associated with administering JAG funds.

## Public Housing Agencies in Iowa Are Planning for and Funding Projects with Recovery Act Funds

### ✓ HUD—Public Housing Capital Fund

- HUD obligated about \$8 million to Iowa public housing agencies for the Recovery Act Formula Grant under the Public Housing Capital Fund (PHCF) for modernization and improvement of public housing units.
- As of June 20, 2009, three of the four local public housing agencies we reviewed in Iowa were beginning to obligate Recovery Act Formula Grant Funds for public housing projects, and two of the four had drawn down about \$37,000, or about 1.6 percent of the total award for all four agencies.

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>23</sup> 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 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 the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in the required 5-year Capital Fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>24</sup>

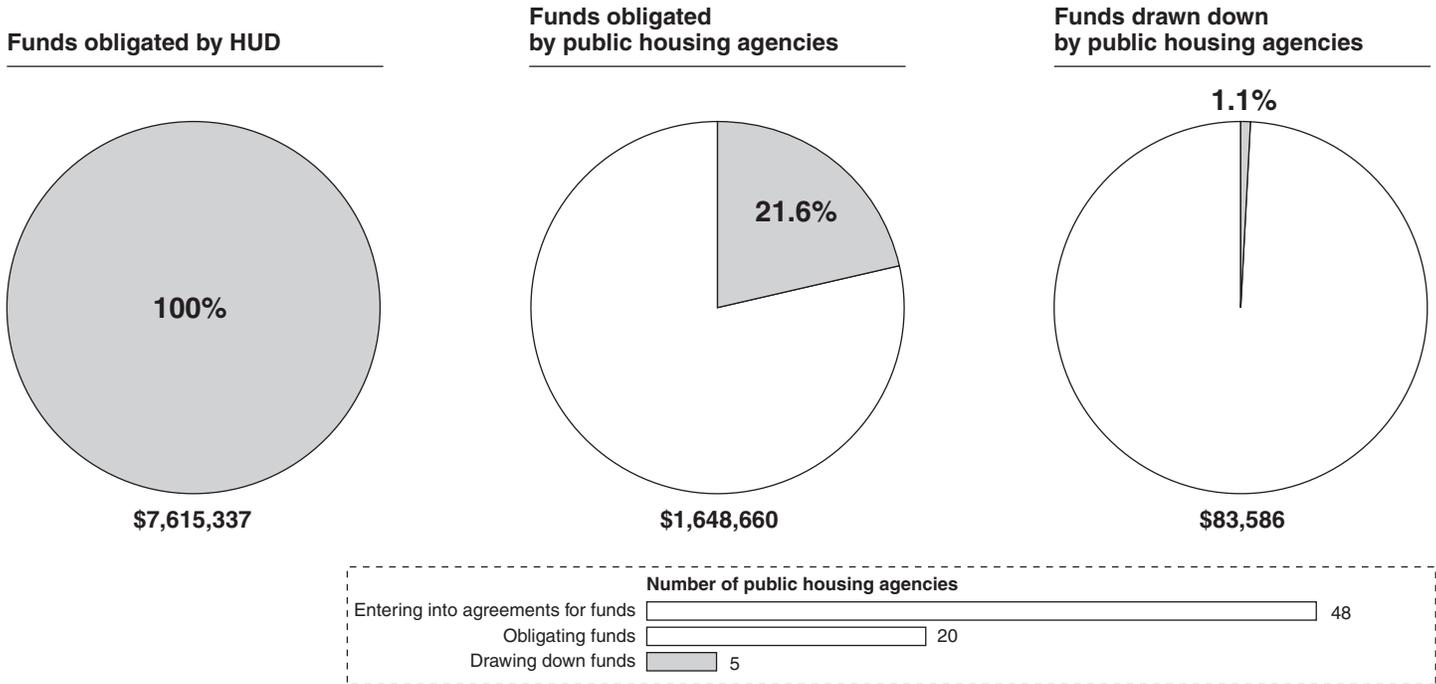
Iowa has 48 local public housing agencies that have received Recovery Act formula grant awards. In total, these public housing agencies received approximately \$7.6 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, the state's 48 public housing agencies

<sup>23</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>24</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application and to funding limits.

have obligated approximately \$1.6 million and expended approximately \$84,000 (see fig. 2).

**Figure 2: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Iowa**



Source: GAO analysis of HUD data.

### Selected Public Housing Agency Projects Are Starting Rehabilitation Work

According to officials of the four local public housing agencies we visited, they would be able to meet the Recovery Act’s accelerated time frames for obligating and expending funds.

We selected the four local public housing agencies in Iowa to illustrate a diverse set of characteristics, such as different numbers of units, varying Recovery Act formula grant allocation and disbursement levels, and different HUD designations or nondesignations as “troubled” public

housing agencies.<sup>25</sup> The public housing agencies we visited are the Des Moines Municipal Housing Agency, Evansdale Municipal Housing Authority, North Iowa Regional Housing Authority, and Ottumwa Housing Authority. The four agencies received Capital Fund formula grants totaling approximately \$2.3 million. As of June 20, 2009, three of the four public housing agencies had obligated approximately \$116,000, or about 4.9 percent of the total award, and two of the four had drawn down approximately \$37,000, or about 1.6 percent of the total award.

The four public housing agencies have a total of 26 repair or rehabilitation projects involving at least 244 public housing units that have or will use formula grant funds under the Recovery Act formula grant. Some projects involve relatively simple tasks, such as reroofing buildings, while other projects involve more comprehensive work, such as wholesale renovations of buildings and individual units. Public housing agency officials stated that they will begin work on many of the Recovery Act projects by June 2009. Indeed, the Ottumwa Housing Authority had already completed several projects by the end of April 2009, and the other three public housing agencies are scheduled to complete many of their projects by July 2010. Table 3 describes the four public housing agencies' plans for using Recovery Act formula grant funds.

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<sup>25</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies' public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring.

Table 3: Use of Recovery Act Formula Grant Funds by Iowa Public Housing Agencies

Public housing agency	Number of projects	Number of units to be repaired or rehabilitated	Specific work to be done	Public housing agencies' basis for project selection and prioritization	Methods to review contracted work
Des Moines Municipal Housing Agency	1	50	Replacing carpet, doors, countertops, and windows in individual units and common areas; reroofing segments of a public housing building; renovating air-conditioning and ventilation systems; abating asbestos; and repaving parking lots	Inclusion of projects in the public housing agency's 5-year plan, presence of vacant units, and public housing agency designation of need, and prioritization of awarding contracts within 120 days of the receipt of funds	The project architect and public housing agency staff are to conduct on-site inspections of work performed and approve payment applications from contractors before funds are expended.
Evansdale Municipal Housing Authority	13	22	Installing new ceiling lights, carpeting and vinyl floors in individual units, re-roofing duplexes and storage sheds, and installing new water heaters	Inclusion of projects in the public housing agency's 5-year plan, previously determined need by the public housing agency, and prioritization of awarding contracts within 120 days of the receipt of funds	The public housing agency's Executive Director and City Inspector are to conduct on-site visits to verify that work meets specifications before paying the contractor.
North Iowa Regional Housing Authority	5	30	Reroofing duplexes and repairing and replacing parking lots and sidewalks	Inclusion of projects in the public housing agency's 5-year plan, public housing agency's determined need to repair units that may fail HUD inspections, and prioritization of awarding contracts within 120 days of the receipt of funds	The public housing agency Executive Director and maintenance staff are to conduct on-site visits to verify work progress. A representative of the architect responsible for the project also is to conduct weekly site visits. Public housing agency officials are to conduct final inspections of contracted work and not make final payments until a final list of work is verified as complete.
Ottumwa Housing Authority	7	142	Reroofing buildings, repairing sidewalks and curbs, replacing water plumbing systems, and repairing and replacing segments of sewer systems	Inclusion of projects in the public housing agency's 5-year plan, projects to be completed quickly, creation of new jobs from the projects, and prioritization of awarding contracts within 120 days of the receipt of funds	The architect or engineer responsible for project oversight and public housing agency officials are to conduct periodic site visits. Public housing agency officials also are to perform a final check of the contracted work before payments to contractors are completed.

Source: GAO analysis of selected Iowa public housing agencies' data.

As table 3 shows, the four public housing agencies selected projects on the basis of various factors, such as the projects' inclusion in the public housing agency's 5-year plans, which identified immediate needs. For example, officials from the North Iowa Regional Housing Authority said their agency's immediate need was to repair units that could fail HUD inspections. Another factor for selecting projects was whether contracts could be awarded within 120 days of the date funds were made available. For example, an official from the Evansdale Municipal Housing Authority said that his agency awarded contracts for reroofing projects shortly after receiving Recovery Act funds. The Des Moines Municipal Housing Agency chose to renovate one project—Southview Manor, a 50-unit facility for the elderly built in 1977. The Des Moines Public Housing Board approved the project's contract on May 20, 2009, and housing officials said that they expected the project to start around June 15, 2009, and be completed by March 15, 2010. Officials were also concerned about the high number of vacant units at the facility in relationship to the total number of units available for rent. The total cost of the project is approximately \$1.9 million; Recovery Act funds will pay for about \$1.5 million of the project costs, while the Des Moines Municipal Housing Agency will cover the remaining costs. Officials also noted that the main contractor and subcontractors for the project are based in the Des Moines area.

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### Selected Public Housing Agencies Report They Can Respond to Special Provisions of Recovery Act Funds

The four Iowa public housing agencies we visited report they can respond to special provisions of the Recovery Act, such as adhering to Davis-Bacon requirements regarding pay and benefits and procuring American materials:

- Three of the four public housing agencies did not have concerns about adhering to Recovery Act requirements regarding the Davis-Bacon Act. However, officials from the North Iowa Regional Housing Authority said it was burdensome to adhere to such requirements because agency staff had to interview the workers under contract about their pay and benefits. Officials also said that small contractors in their jurisdiction could have difficulty understanding the paperwork required for the Davis-Bacon Act.
- Officials at all four public housing agencies said they had no difficulty complying with the procurement requirements and the Buy American

provision of the Recovery Act.<sup>26</sup> Although not a requirement of the Recovery Act, officials said they will be using local contractors and subcontractors for capital projects funded by the act. Officials from the Ottumwa Housing Authority said they needed to solicit bidders from outside the Ottumwa area, such as Des Moines, to complete plumbing and roof replacement projects because Ottumwa is relatively rural and does not have a pool of contractors from which to solicit three competitive bids.

Officials from three of the four public housing agencies said that although they had not received updated HUD guidance on the content of required quarterly reports, program implementation has continued. They did express some other concerns. Two public housing agencies mentioned that justifying administrative expenses as part of the Recovery Act reporting requirements was burdensome. Officials from the Ottumwa Housing Authority, for example, said they will not use any Recovery Act funds to cover administrative expenses because the use of these funds would have required the authority to modify its payroll accounting system. In addition, two public housing agencies reported difficulty using HUD's Electronic Line of Credit and Control System to draw down funds but were ultimately successful. For example, officials from the North Iowa Regional Housing Authority said they had difficulty obtaining the necessary certifications before being allowed to draw down funds from the system.

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### Selected Public Housing Agencies Are Tracking and Safeguarding Funds within Existing Systems

The four Iowa public housing agencies are using existing processes to track and safeguard funds and modifying them where appropriate. For instance, officials from the Des Moines Municipal Housing Agency said they are establishing a separate accounting code for Recovery Act funds in their current accounting system, and officials from the North Iowa Regional Housing Authority said they are separating funds for various projects in their accounting system to properly track Recovery Act funds.

Further, all of the public housing authorities have established various methods to review contracted work funded by the Recovery Act. For

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<sup>26</sup>The Buy American provision of the Recovery Act prohibits, with certain exceptions, the use Recovery Act funds for the construction, alteration, maintenance, or repair of a public building or work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Recovery Act, div. A, title XVI, § 1605.

instance, officials at the Des Moines Municipal Housing Agency said it requires both a project architect and agency staff to conduct on-site inspections of work performed and jointly approve payment applications from contractors before the agency expends funds for projects. Similarly, officials at the North Iowa Regional Housing Authority said they are to conduct final inspections of contracted work for projects, and the authority will not make final payments to contractors for a project until it verifies that contractors completed a final list of tasks for the project.

In addition, all of the public housing agencies undergo independent audits, and only the Des Moines Municipal Housing Agency reported one material weakness from a recent audit. This finding concerned financial reporting that was incorrect because of problems in converting data into a new accounting system. Public housing agencies officials said, however, that the issue has already been addressed and would not affect the separation of Recovery Act funds from other HUD funds received.

Finally, one of the four public housing agencies identified an additional challenge in segregating specific duties, as good internal controls require. Officials from the North Iowa Regional Housing Authority said it has a small number of the staff working for the authority, which makes segregation of duties difficult. However, officials noted that internal controls are preserved because invoices for payment are prepared by the financial Director and subsequently reviewed by the Executive Director and board members for approval.

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**Iowa Will Use Existing Safeguards and Controls with Enhancements for Recovery Act Programs, and It Is Considering Ways to Show Recovery Act Spending by Localities**

Several Iowa state entities are responsible for monitoring, tracking, and overseeing financial expenditures, including many state agencies with internal audit groups that focus on programmatic and financial issues. In addition, Iowa has taken specific actions to identify Recovery Act funds in its accounting systems and is considering ways to show Recovery Act funds received directly by localities.

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**Iowa's State Accounting Office, State Agencies, and the Iowa State Auditor Are to Monitor State's Financial Activities and Recovery Act Funds**

Three state entities monitor, track, and oversee financial entities: the Iowa State Accounting Enterprise, which collects and reports state financial information and processes financial transactions; the state program agencies, which establish controls and monitor transactions in their agencies; and the State Auditor, which audits state and local entities, such as counties, cities, and school districts and provides guidelines to public accounting firms that perform such audits.

The State Accounting Enterprise enters into interagency cooperative agreements with agency officials to document each agency's responsibility to perform expenditure preaudits and comply with the State Accounting Enterprise accounting manual. The cooperative agreement requires that each agency establish procedures to ensure that all transactions are reviewed for compliance with laws and regulations and supported by appropriate documentation. To provide additional oversight over Recovery Act funds, state accounting officials informed us that they plan to reconcile Recovery Act funds received to expenditures for each program on a monthly basis and initiate audits of departments if they notice a pattern of errors. State accounting officials said they assess risk by collaborating with state audit and department officials about transaction and program problems and risks as they are identified.

State program agencies, such as the Department of Transportation, are responsible for establishing internal controls and procedures to ensure that their agencies spend funds as intended by law. These agencies are charged with establishing processes for the preaudit of expenditures,

ensuring appropriate documentation, and reviewing transactions for compliance with laws and regulations.

For example, the Iowa Department of Economic Development will monitor its Recovery Act funds by using systems adopted for tracking federal disaster recovery funds, including systems that HUD uses to monitor and report on funding spent to recover from natural disasters. This department plans to put in place procedures for working with the State Auditor to leverage oversight of Recovery Act funds. Similar procedures have been established to oversee funding the state expects to receive to recover from disastrous floods in 2008. The department expects a twentyfold increase in Community Development Block Grants in 2009 to help the recovery effort from these floods.

The Office of the State Auditor is in the final stages of updating its 2009 audit plan for risk assessment to reflect the increased risk associated with Recovery Act funding. State audit officials told us that although their appropriation was recently reduced by 27 percent, this reduction will not affect their ability to oversee Recovery Act funds.

As an added measure to help ensure that Iowa does not misuse funds provided through the Recovery Act, 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. The Iowa Board plans to assess and report on existing state practices to prevent waste, fraud, and abuse of Recovery Act funds by (1) reviewing Single Audit reports for all state agencies, (2) implementing and reviewing risk profile surveys for all agencies, and (3) determining risk levels for individual agencies. For example, the Iowa Board plans to conduct an internal control evaluation and risk survey to assess potential risks in implementing Recovery Act programs, such as those involving the capacities of staff to perform necessary work and the systems and processes used to monitor Recovery Act expenditures. The board has established a set of principles to ensure the fairness, effectiveness, ethicality, and transparency of its decisions and use of Recovery Act funds. For example, to ensure fairness, the board must disclose the selection criteria to award Recovery Act funds. To ensure effectiveness, it must use Recovery Act funds to maximize the public benefit by providing funds to individuals and communities most

likely to reinvest in the economy and programs and projects that are expected to create or retain jobs.

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### Iowa Has Modified Its Accounting Systems to Track Recovery Act Funds and Will Rely on Reports from Those Entities That Are Not Tracked by Its Systems

Iowa has modified its accounting system to track and reconcile Recovery Act funds for all state agencies. Specifically, state accounting officials have developed unique accounting codes to track Recovery Act funds and have trained state agencies' accounting officials in the use of the new codes. However, the state does not have the mechanisms to track Recovery Act funds received by its Department of Transportation and Board of Regents at the same level of detail as other state agencies. Furthermore, the centralized accounting system does not include some Recovery Act funds received directly by the Iowa Finance Authority and the Department of Natural Resources. State officials said they have plans to track Recovery Act funding to these agencies using the "dashboard" feature located on the state's Web site—a user-friendly search capability that will provide detailed information on how and where Recovery Act funds are spent.

The Department of Transportation and Board of Regents plan to provide the state with summary information on Recovery Act funding while tracking detailed information on these funds in their agency systems. Iowa transportation officials said the agency is establishing separate accounting codes to track Recovery Act funds by project. State accounting officials told us they are coordinating with the Board of Regents, so that the board will be able to report summary Recovery Act funding information provided to the state's universities and special schools into the state's centralized accounting system or, in some cases, directly into the Recovery Act dashboard.

Iowa also does not track Recovery Act funds received directly by cities, counties, and local governments. At the local level, some agencies can track these funds, while others are developing guidance to require such tracking, according to state officials. Although local governing authorities are not required to report through the state, the Iowa Department of Management is in discussions with these entities to report Recovery Act spending on the dashboard located on the state's Web site. Accounting officials told us they are concerned about not being able to satisfy requirements that they report Recovery Act funds received directly by cities, counties, local governments, and other entities. State accounting officials told us they are working with all of these entities to establish procedures for financial oversight.

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## Iowa Single Audit Reports Play an Important Role in Identifying and Correcting Financial Problems

Iowa's annual Single Audit is one of the key tools used to identify and correct weaknesses in Iowa's financial management system. Recent annual audits have reported few weaknesses. Iowa's fiscal year 2008 audit report did not identify any material weaknesses, and its fiscal year 2007 audit report found one material weakness that has been corrected. According to Iowa Department of Education officials, the Single Audit report has proven to be an effective system for identifying and correcting problems; however, state accounting officials and the Iowa Departments of Education and Transportation do not use the report to assess internal control risks. Iowa accounting officials stated they do not use the report because it is released several months after auditors review transactions and procedures.

Because of the 27 percent reduction to the Office of the State Auditor's appropriation,<sup>27</sup> and the resulting reduction in resources available to audit certain state agencies, state audit officials expect that the state will likely receive a qualified opinion on the State of Iowa Comprehensive Annual Financial Report and are continuing to consider the impact on the opinion on the state's Single Audit.

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## Some State Agencies and Localities Are Relying on Existing Performance Measures but Await Federal Guidance to Clarify How to Assess Recovery Act Results

While awaiting federal guidance on a consistent approach to determining the number of jobs created and retained through Recovery Act funds, Iowa state agencies continue to consider how to measure results. According to Iowa's Department of Management, once it receives federal guidance on how to assess the impact of Recovery Act funding, it plans to disseminate the information across state agencies. It intends to measure the impact of Recovery Act funds through the state's Recovery Act Web site and current tracking software. According to a Legislative Services Agency official, the agency has offered to work with the Department of Management to create outcome measures for the Recovery Act and report the results. Additionally, the Iowa Department of Economic Development has already established output and outcome measures for the Neighborhood Stabilization Program.

Some state agencies told us they were collecting data that could be used to measure results of the Recovery Act. For example, the Iowa Department of Transportation tracks the number of worker hours by highway project

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<sup>27</sup>The net effect of this reduction is unknown because of potential reimbursement from some audited entities.

on the basis of contractor reports. An Iowa transportation official said the state reports this information to the U.S. Department of Transportation, which may use it to calculate the number of jobs created. Furthermore, officials from the Des Moines and Ottumwa public housing agencies said they planned to use information reported to them by contractors under the Davis-Bacon Act to calculate the number of jobs created from the use of Recovery Act funds. In general, as discussed earlier, Recovery Act funds allowed state agencies to avoid program cuts, mandatory layoffs, and furloughs, in addition to balancing the fiscal year 2009 budget. For example, according to a senior budget official, Iowa's fiscal year 2010 budget includes SFSF funds that will be used to avoid laying off teachers, among other purposes.

Some local agencies also have plans for how to track and measure results other than jobs created and saved. For example, officials from the Des Moines Municipal Housing Agency said they will measure the effects of Recovery Act spending by tracking lease rates for vacant units after renovations are completed, and officials from the North Iowa Regional Housing Authority said they will measure results by confirming the completion of renovations in public housing facilities. As of the end of April 2009, the Ottumwa Housing Authority had completed several projects using Recovery Act funds totaling \$28,798. Iowa Department of Transportation officials told us they selected "shovel-ready" projects, such as bridge replacements and highway resurfacing, that could be completed quickly, in order to comply with the requirement to obligate 50 percent of Recovery Act funds for highway infrastructure before June 30, 2009, and to give priority to work that can be completed within 3 years. The Ottumwa Community School District spent about \$40,000 on Title I materials and computers and planned to use at least part of their first allocation of Title I funds to reimburse the district for these expenditures.

Some local agencies have expressed specific concerns about how to calculate and report results. For example, the school districts and AEAs we visited said they are waiting for guidance on how to measure jobs created or retained, although they believe the Recovery Act education funds have saved jobs.<sup>28</sup> In April 2009, the Iowa Legislature had to reduce the state budget by \$40 million, and it took this reduction from the

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<sup>28</sup> After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See OMB Memorandum M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

education account and replaced it with SFSF funds. Because the \$40 million reduction came late in the state fiscal year, school districts would have faced a larger reduction in staff than if the cut had come earlier. In the Waterloo Community School District, officials are unsure about how to count the number of jobs saved. Officials in the Iowa Department of Education also expressed concern about the impact of declining enrollment in many school districts on job measurement. They noted that declining enrollments naturally lead to declines in staff, making it difficult to achieve job retention or creation goals. However, two of the three school districts we spoke with expected relatively flat or increasing enrollment, while the Des Moines Independent Community School District expects flat or decreasing enrollment over the next 2 years. The director of Iowa's Office of Drug Control Policy said that some potential recipients of JAG grant funds, such as small sheriffs' departments, might not apply for Recovery Act funds if they believe the reporting requirements are burdensome in relation to the amount of JAG funds they may receive. Many Iowa law enforcement offices are small and do not have the resources to prepare detailed financial documents.

Officials noted the potential difficulty of measuring Recovery Act outcomes separately from other recovery initiatives, such as Iowa's I-JOBS program—which provides \$830 million in state infrastructure funding.

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## State Comments on This Summary

We provided the Governor of Iowa with a draft of this appendix on June 19, 2009. The Director, Iowa Office of State-Federal Relations, and the Director for Performance Results, Department of Management responded for the Governor on June 23, 2009. In general, officials agreed with our findings and conclusions. 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 Herrnstadt Shulman made key contributions to this report.

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# Appendix VIII: Massachusetts

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> spending in the commonwealth of 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/>.

**Use of funds:** GAO's work in Massachusetts focused on nine federal programs, selected primarily because they have begun disbursing funds to states, include new programs, or include existing programs receiving significant amounts of Recovery Act funds. Program funds are being directed to help Massachusetts stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).**<sup>2</sup> As of June 29, 2009, Massachusetts had received over \$1.2 billion in increased FMAP grant awards, of which it had drawn down over \$833 million, or almost 68 percent. The commonwealth is using these funds to cover the state's increased Medicaid caseload, maintain current populations and benefits, increase provider payment rates, and make additional state funds available to offset the state budget deficit.
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$438 million in Recovery Act funds to Massachusetts, of which 30 percent was suballocated to metropolitan and other areas. As of June 25, 2009, the federal government's obligation was \$174 million, and Massachusetts had contracted for 20 projects and advertised for an additional 10 projects. All were quick-start projects largely involving road paving except for one complex project that includes construction of a new highway interchange. For example, one project in Adams entails 1.5 miles of road resurfacing and sidewalk reconstruction on Route 116. All paving except the topcoat is planned to be completed

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

before winter. Another project in Swansea involves resurfacing Route 6 from the Somerset town line to the Rehoboth town line and that paving is expected to be completed before winter.

- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education (Education) has awarded Massachusetts about \$666 million, or about 67 percent of its total SFSF allocation of \$994 million. The commonwealth has obligated \$412 million as of June 26, 2009. Massachusetts is using these funds to restore state aid to school districts, helping to stabilize their budgets and, among other uses, retain staff. For example, a Lawrence Public Schools official said these funds would prevent the layoff of 123 staff members, including 90 teachers.
- **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965.** Education has awarded Massachusetts about \$82 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$163 million. Of these funds, the commonwealth has allocated \$78 million to local education agencies, based on information available as of June 30, 2009. These funds are to be used to help educate disadvantaged youth. For example, the Boston Public Schools plan to use these funds for benchmark assessments, a student information system, and targeted upgrades of computer facilities for teacher and student use.
- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education has awarded about \$149 million in Recovery Act IDEA, Part B and C, funds, or 50 percent of its total allocation of \$298 million. Massachusetts has allocated all of its available Part B funds to local education agencies, based on information available on June 30, 2009. These funds are planned to be used to support special education and related services for infants, toddlers, children, and youth with disabilities. For example, Boston Public Schools plan to use these funds to hire staff; invest in prereferral to special education intervention, autism-related technology, and training; and expand inclusion activities.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$122 million in Recovery Act weatherization funding to Massachusetts for a 3-year period. DOE has provided \$12.2 million to the commonwealth, and Massachusetts has obligated none of these funds as of June 30, 2009, as it is awaiting approval of its state plan. In July 2009, Massachusetts plans to begin disbursing its funds for weatherizing low-income families' homes and

state and federal public housing, and for developing an energy-related training center.

- **Workforce Investment Act Youth Program.** The U.S. Department of Labor allotted about \$24.8 million to Massachusetts in Workforce Investment Act Youth Recovery Act funds. The commonwealth has allocated \$21.1 million to local workforce boards, based on information available on June 30, 2009. Massachusetts plans to use 60 percent of Recovery Act funds under this program by September 30, 2009, to create about 6,500 summer jobs for youth.
- **Edward Byrne Memorial Justice Assistance Grants.** The Department of Justice's Bureau of Justice Assistance has awarded \$25 million directly to Massachusetts in Recovery Act funding. Based on information available as of June 26, 2009, about \$13 million (51 percent) of these funds have been obligated by the Executive Office of Public Safety and Security, which administers these grants for the commonwealth.<sup>3</sup>
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$82 million in Recovery Act funding to 68 public housing agencies in Massachusetts. Based on information available as of June 20, 2009, about \$3.1 million (4 percent) had been obligated by 20 of those agencies. At the two public housing agencies we visited (in Boston and Revere), this money, which flows directly to public housing agencies, is being used for various capital improvements, including modifying bathrooms, replacing roofs and windows, and adding security features.

**Safeguarding and transparency:** Massachusetts has begun planning its oversight efforts. Officials from the State Auditor's Office have drafted an audit plan and are currently planning the risk assessments they will perform of programs receiving funding under the Recovery Act. The state Inspector General intends to focus on gaps in coverage. The oversight agencies have expressed concern regarding their 2010 budgets and potential staffing cuts due to the commonwealth's fiscal situation. The extent of these cuts will not be known until the budget is passed for the fiscal year, which begins July 1, 2009. The commonwealth is in the process

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

of putting into place a plan to obtain additional resources for these oversight agencies. Massachusetts has enhanced its accounting system to track Recovery Act funds that flow through the state accounting system. The Comptroller's Office has included questions on compliance with Recovery Act provisions in its internal control questionnaire, and the Governor's Office is continuing to assess whether agencies need new procedures for managing these funds.

**Assessing the effects of spending:** Massachusetts agencies are beginning to develop strategies for collecting and reporting employment outcomes, focusing on incorporating federal guidance and adapting existing systems for collecting and reporting on jobs created and retained. State program officials report using a variety of methods to measure employment outcomes, which could lead to reporting inconsistencies. For example, highway construction projects are submitting monthly information on employees paid, while weatherization program officials have estimated the number of jobs that will be created using a model for the construction trades. Existing programs receiving Recovery Act funds are beginning to develop plans for measuring program performance.

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## Massachusetts Has Accelerated the Use of Recovery Act and Rainy-Day Funds to Close a Growing Budget Gap

As we noted in our April 2009 report,<sup>4</sup> the commonwealth of Massachusetts was, at that time, addressing a budget gap of approximately \$3 billion out of a total state operating budget of about \$28 billion.<sup>5</sup> Since our last bimonthly report, this projected gap has grown to nearly \$4 billion. The major cause of the widening budget gap is reduced revenue collections, which continue to be significantly lower than officials had anticipated. For example, tax collections in April alone were nearly one-half billion dollars lower than expected.<sup>6</sup> To close this widening budget gap, the state plans to use an additional \$561 million in state "rainy-day" funds and make available other state funds by using \$412 million from the Recovery Act's State Fiscal Stabilization Fund (SFSF) for fiscal year 2009,

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<sup>4</sup>GAO-09-580.

<sup>5</sup>Massachusetts law requires the governor to recommend, the state legislature to enact, and the governor to approve a general appropriations bill that constitutes a balanced budget for Massachusetts. No supplemental appropriation bill is to be approved which would cause the state budget for any fiscal year not to be balanced. Mass. Gen. Laws ch. 29, § 6E.

<sup>6</sup>Massachusetts Department of Revenue, *April 2009 Tax Collection Summary*.

which ended on June 30.<sup>7</sup> In addition, the state has already reduced expenditures by more than \$1 billion (including eliminating state positions and implementing management furloughs) and used additional revenue from other sources to make up for some of the state's revenue decline. These included voluntary cuts and contributions from entities outside the governor's budget-cutting authority, such as the legislature, the judiciary, and quasi-public agencies. State officials noted that the occurrence of a significant revenue shortfall late in the fiscal year made it nearly impossible for the state to rely on any additional spending cuts or tax increases to balance its budget. Therefore, state officials noted that accelerating their use of Recovery Act and state rainy-day funds was the most viable solution to balance the budget.

Both the Governor and legislature have also proposed using a combination of federal Recovery Act funds, such as state funds made available as a result of increased FMAP and rainy-day funds, to avoid substantial budget spending cuts to stabilize its budget for fiscal year 2010. The state had hoped to leave a sizable amount of the SFSF and rainy-day funds available for 2011 but changed its approach because of its deteriorating fiscal condition. Using more of these funds in the current fiscal year will likely make it more difficult for the state to balance its budget after Recovery Act funds are no longer available, unless economic conditions improve substantially.

The growth in services to disadvantaged populations and maintenance-of-effort requirements pose added risks to the state's longer-term budget stability. Although state officials report that safety net caseloads are growing slowly in Massachusetts, they are concerned that future caseload growth could further strain the state's budget at a time when Recovery Act funding is no longer available.<sup>8</sup> Massachusetts officials also expressed concerns over maintenance-of-effort requirements attached to many federal programs, including those funded through the Recovery Act, as future across-the-board spending reductions could pose challenges for maintaining spending levels in these programs. State officials said that

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<sup>7</sup>Massachusetts officials refer to their rainy-day funds as stabilization funds. However, to avoid confusion with the Recovery Act's SFSF funds, we use rainy-day funds in this appendix to refer to these reserve funds.

<sup>8</sup>Massachusetts officials stated that caseloads for programs such as Temporary Assistance for Needy Families (TANF) and Commonwealth Care have grown, but not much beyond anticipated levels.

maintenance-of-effort requirements that require maintaining spending levels that are based upon prior-year, fixed-dollar amounts will pose more of a challenge than upholding spending levels based upon a percentage of program spending provided for the same purpose in a previous fiscal year. The SFSF program provides an example of the former.<sup>9</sup> However, a state may obtain a maintenance-of-effort waiver for the SFSF program by demonstrating that the percentage of its total state revenues that will be used to support elementary, secondary, and public higher education for the relevant fiscal year will be equal to or greater than the percentage of its total state revenues that were used to support elementary, secondary, and public higher education for the preceding fiscal year.<sup>10</sup>

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## Increased FMAP Funds Have Allowed Massachusetts to Maintain Health Care Reform Initiatives

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>11</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>12</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment

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<sup>9</sup>Under SFSF, for fiscal years 2009, 2010, and 2011, the Recovery Act requires states to maintain funding at least at their 2006 levels.

<sup>10</sup>Massachusetts officials indicated they would apply for a waiver.

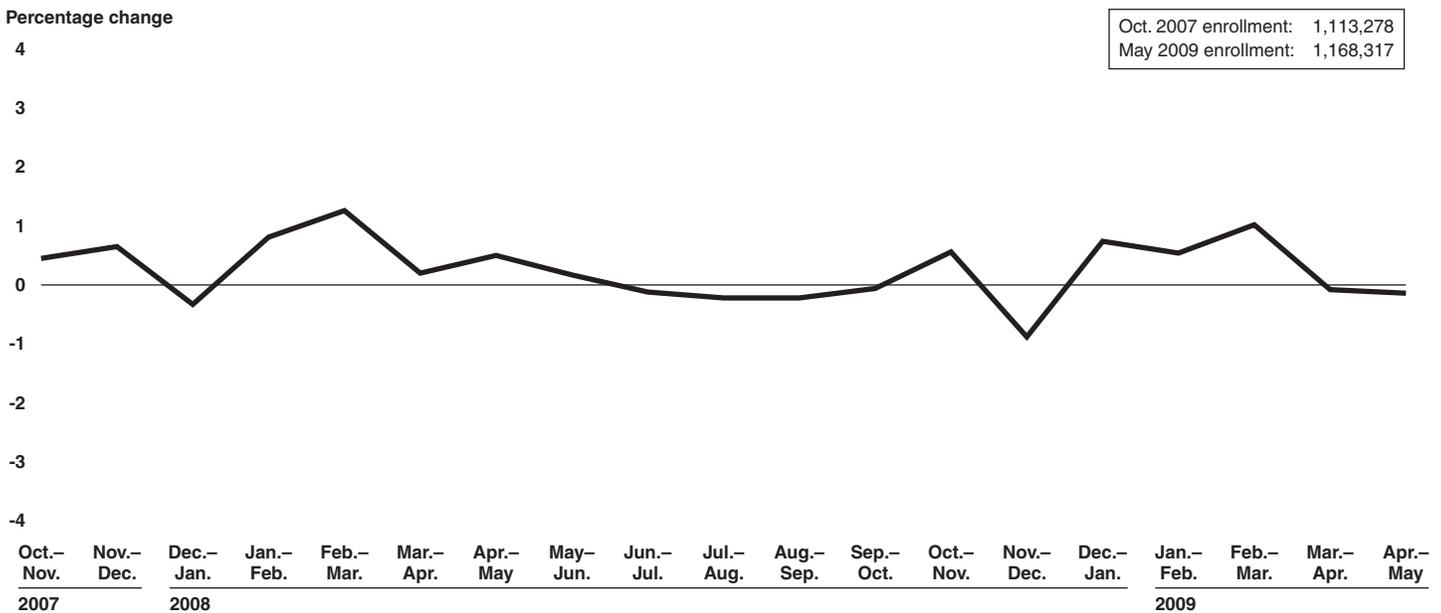
<sup>11</sup>See Recovery Act, div. B, title V, §5001.

<sup>12</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the state’s Medicaid enrollment grew from 1,113,278 to 1,168,317, an increase of 5 percent.<sup>13</sup> Enrollment varied during this period, and there were periods in which enrollment decreased (see fig. 1). The increase in enrollment was mostly attributable to the population groups of (1) children and families and (2) nondisabled, nonelderly adults.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Massachusetts, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Massachusetts had drawn down over \$833 million in increased FMAP grant awards, which is almost 68 percent of its awards to

<sup>13</sup>The state provided projected Medicaid enrollment data for May 2009.

date.<sup>14</sup> Massachusetts officials reported that they plan to use funds made available as a result of the increased FMAP to offset the state budget deficit, to cover the state's increased Medicaid caseload, to maintain current populations and benefits and to increase provider payment rates, pending state legislative approval to do so.

Massachusetts officials noted that the state is 3 years into implementing major health care reforms. The officials indicated that the increased FMAP has allowed the state to maintain this reform initiative in a very difficult economic climate. Additionally, they further noted that in the absence of the funds, the state would have been faced with more difficult decisions about how to cut spending. According to these officials, even with the increased FMAP, Massachusetts faces the need to make significant cuts to programs for the elderly and for people with developmental disabilities, as well as public health and mental health programs. In using the increased FMAP, Massachusetts officials reported that the Medicaid program has incurred additional costs related to

- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP;
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP; and
- personnel needed for routine administration of the state's Medicaid program.

The 2007 and 2008 Single Audits for Massachusetts did not identify any material weaknesses specifically related to the Medicaid program.<sup>15</sup> Further, Medicaid officials indicated that they did not have any concerns regarding the state's ability to maintain eligibility for the increased FMAP. However, they noted that the state is implementing a new system—NewMMIS—which would include online claims processing, among other

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<sup>14</sup>Massachusetts received increased FMAP grant awards of over \$1.2 billion for the first three quarters of federal fiscal year 2009. In their technical comments to us, Massachusetts officials indicated that the state is working with CMS to categorize a significant amount of the state's supplemental increased FMAP grant award as regular FMAP.

<sup>15</sup>The 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 Office of Management and Budget (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.

things, and that it would be 6 months before the state could request certification of the system from CMS. Because Massachusetts Medicaid pays providers on a weekly rather than daily basis, state officials continue to discuss issues related to the state's compliance with the Recovery Act's prompt payment reporting requirements.<sup>16</sup> Specifically, state officials reported that they would like guidance from CMS on the availability of waivers for this requirement for states that have just implemented a NewMMIS system.

As we previously reported, the state is using existing accounting systems to track these funds but has developed distinct revenue source codes that distinguish increased FMAP from general FMAP funds. However, officials reported that although the state can identify increased FMAP revenues that are deposited into its General Fund, the process for tracking the subsequent appropriation and expenditure of these funds is not yet implemented.

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## First Round of Massachusetts Recovery Act Highway Fund Projects Under Way

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 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 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 generally 80 percent.<sup>17</sup>

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<sup>16</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

<sup>17</sup>With a few exceptions, the federal government does not pay for the entire cost of construction or improvement of federal-aid highways. To account for the necessary dollars to complete the project, federal funds must be "matched" with funds from other sources. Unless otherwise specified in the authorizing legislation, most projects will have an 80 percent federal share.

Massachusetts was apportioned \$438 million in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$174 million has 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 project agreement is executed. As of June 25, 2009, \$147,874 has been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

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**Massachusetts Selected Quick-Start Projects, Used Accelerated Bidding Procedures, and Received Bids Below Cost Estimates**

As we reported in our April 2009 report, Massachusetts began planning for federal highway infrastructure investment under potential stimulus legislation before the Recovery Act was passed. The commonwealth convened a task force to identify a priority list of transportation infrastructure investments. This task force identified projects that could be started quickly, focusing on projects that could be implemented in under 180 days, as well as projects that that could be completed within a 2-year time frame. As a result, the initial Recovery Act funded projects advertised for bid were all small, short-term projects that require little lead time for planning and design, enabling contractors to begin work quickly. (See table 1.) Many initial round projects were also chosen to coincide with the construction season, which excludes the winter months. The two Massachusetts projects we visited—in Adams and Swansea—were in the early stages of construction; contractors had erected signage and were installing erosion control barriers before commencing construction. The Adams project, estimated to cost \$1,714,860, entails 1.5 miles of road resurfacing and sidewalk reconstruction on Route 116 and is expected to be complete in July 2010. The Swansea project, estimated to cost \$4,440,310, will resurface Route 6 from the Somerset town line to the Rehoboth town line and is expected to be complete in August 2010. According to state transportation officials, the bulk of the work will likely be completed before the winter shut-down; they expect that the only remaining work will be minor and low-cost.

**Table 1: Highway Obligations for Massachusetts by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total <sup>b</sup>
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$0	\$164	\$0	\$0	\$0	\$2	\$7	<b>\$174</b>
Percent of total obligations	0.0	94.3	0.0	0.0	0.0	1.4	4.2	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

<sup>b</sup>Total may not add because of rounding.

As of June 25, 2009, Massachusetts had awarded contracts for 20 projects, and notice to proceed orders had been issued on all of these projects signaling that construction could begin. According to state transportation officials, because these projects are mainly small repaving projects, they should all be completed within 2 years. To ensure that projects get started quickly, Massachusetts has accelerated the bid evaluation and award cycle by shortening the time that contractors have to prepare their bids and the time between bid opening and issuing a notice to proceed for construction. According to Massachusetts transportation officials, the normal bidding cycle takes 90 to 120 days from bid opening to award and notice to proceed, but for Recovery Act funded projects, transportation officials have been able to cut that time to less than 60 days. For example, the project we visited in Swansea was advertised on March 14, 2009; bids were opened 30 days later on April 14, 2009; and the contract was awarded on April 23, 2009—roughly 1 week after bid opening and 6 weeks after the project was advertised.

The recessionary economy in Massachusetts has led to an environment in which bids are coming in below estimates. Massachusetts transportation officials are reporting that contracts for Recovery Act projects are being awarded for about 87 percent of estimated costs. Officials believe this is a short-term trend caused by excess capacity in the construction market because of the state’s economic downturn. According to one official, in the past they could expect 4 to 5 contractors to bid on a state construction contract, but lately they are seeing 10 to 15 contractors bidding for a single contract. State officials believe that as more Recovery Act funded construction projects get under way, bids will be more in line with cost estimates. Because officials believe this is a temporary situation, the state

has no plans to change its estimating practices. Officials reported that if additional money is available as a result of this trend, they have identified several small projects that could be funded.

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**Massachusetts Expects to Meet All Recovery Act Requirements, but Maintenance of Effort Requirement Poses Challenges**

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to

- ensure that 50 percent of the apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated by any state within these time frames.
- give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>18</sup>

Massachusetts has met the Recovery Act requirement that 50 percent of their apportioned funds are obligated within 120 days. Of the \$293,705,678 that is subject to this provision, 59.1 percent was obligated as of June 25, 2009. In order to ensure that 50 percent of the apportioned Recovery Act

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<sup>18</sup>States that are unable to maintain their planned level of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have their apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

funds were obligated within 120 days, the commonwealth selected projects worth over \$170 million, in case some plans did not materialize. Given the state's focus on selecting small projects that can be moved quickly to construction, the state had to pull together many projects in order to meet the 50 percent obligation requirement. For example, with the exception of one large interchange project in Fall River that was estimated to cost \$66.8 million, projects planned for the initial funding cycle had costs estimated to range from \$624,440 to just over \$9 million. Massachusetts also transferred \$12.8 million of Recovery Act highway funding that was subject to the 50 percent rule for the 120-day redistribution from FHWA to the Federal Transit Administration. According to FHWA guidance, once transferred, these funds are no longer subject to the 50 percent obligation requirement.<sup>19</sup>

Massachusetts will be able to expend most of its apportioned funds in 3 years because it has made it a priority to select projects that could begin in 180 days and be completed within 2 years. The Recovery Act Coordinator for the Massachusetts Executive Office of Transportation reported that, given that the first projects are predominantly resurfacing, most are likely to be completed within 2 years of award. The only project that will probably not be completed within 2 years is the Fall River-Freetown Route 24 Interchange project which, because of its complexity, will likely take longer.

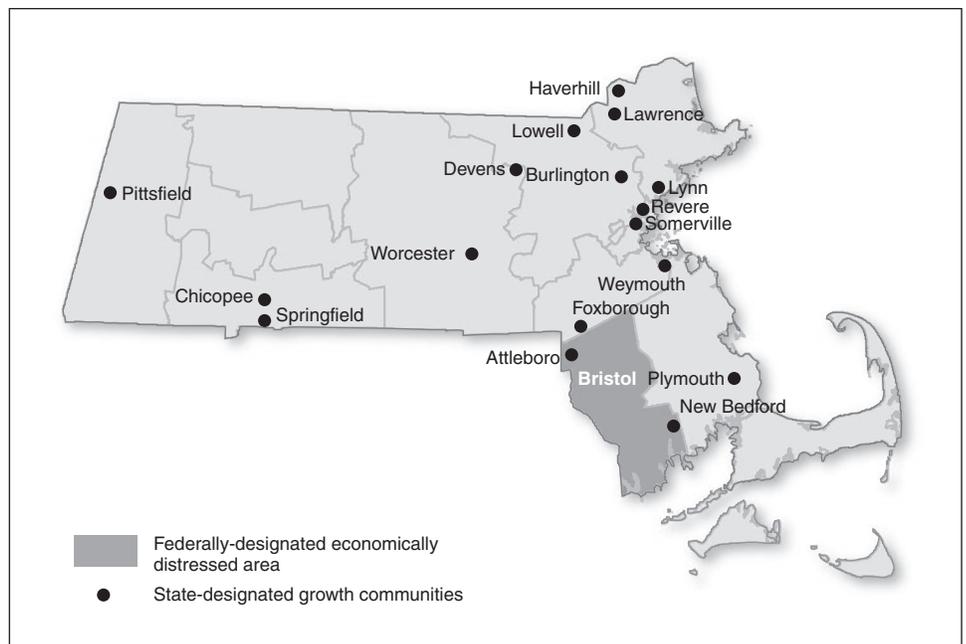
As of June 25, 2009, Massachusetts obligated funds to three projects worth an estimated total of \$80,619,327 located in the state's only EDA. These projects include the Swansea project, a resurfacing project in Westport estimated to cost \$6 million, and the \$73.4 million Fall River development park project, of which \$70.1 million is federal funds. This project supports an economic development project and includes construction of a new highway interchange on Route 24 and new access roadways to the proposed Fall River Executive Park. The state has given priority to selecting Recovery Act projects in EDAs but has also added its own criteria by selecting projects through its economic growth district initiative. Massachusetts has only one county—Bristol County—that is defined by section 301 of the Public Works and Economic Development Act of 1965 as an EDA. Under its growth districts initiative, the state has identified additional areas as being appropriate locations for significant

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<sup>19</sup>Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to the Federal Transit Administration.

new commercial, residential or mixed-use growth, as shown in figure 2. As they plan for the future, officials report that they will look to select projects that will leverage infrastructure development with new housing and building development, which in turn will create additional jobs.

**Figure 2: Federally-Designated EDA and State-Designated Growth Districts Targeted for Highway Infrastructure Projects**



Sources: GAO analysis of Bureau of Economic Analysis and Executive Office of Housing and Economic Development (EOHC) information; Census (map).

As we reported in April 2009, Massachusetts submitted a “conditional” maintenance-of-effort certification, meaning that the certification was subject to conditions or assumptions, future legislative action, future revenues, or other conditions. Specifically, Massachusetts stated that it might have to make downward adjustments to the size of its capital investment plan if revenues did not meet current projections. On April 22, the U.S. Department of Transportation Secretary informed the states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave the states the option of amending their certifications by May 22, 2009. Massachusetts resubmitted its certification on May 26, 2009. According to U.S. Department of Transportation officials, the department is reviewing Massachusetts’s resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. The department is currently evaluating

whether the states' method of calculating the amounts they planned to expend for the covered programs is in compliance with Department of Transportation guidance.

Massachusetts transportation officials, however, expressed concern about the state's ability to maintain its level of state expenditures in light of its deteriorating fiscal situation. The commonwealth's certification was based upon its \$14.3 billion capital spending plan, which includes roughly \$8.1 billion in transportation spending. Because the 5-year plan was developed before the full extent of the state's worsening fiscal condition was known, the state felt compelled to add a disclaimer to their initial certification to explain why it may be unable to maintain planned levels of state spending over the course of the Recovery Act grant. The commonwealth floats bonds to pay for capital projects. The state is concerned that as revenues continue to shrink, it may be unable to afford the full amount of the capital projects called for in its 5-year plan.

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## Massachusetts Already Using State Fiscal Stabilization Funds

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include assurances that the state will (1) meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and (2) 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. Furthermore, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services funds). After maintaining state support for education at fiscal year 2006 levels, the state 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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

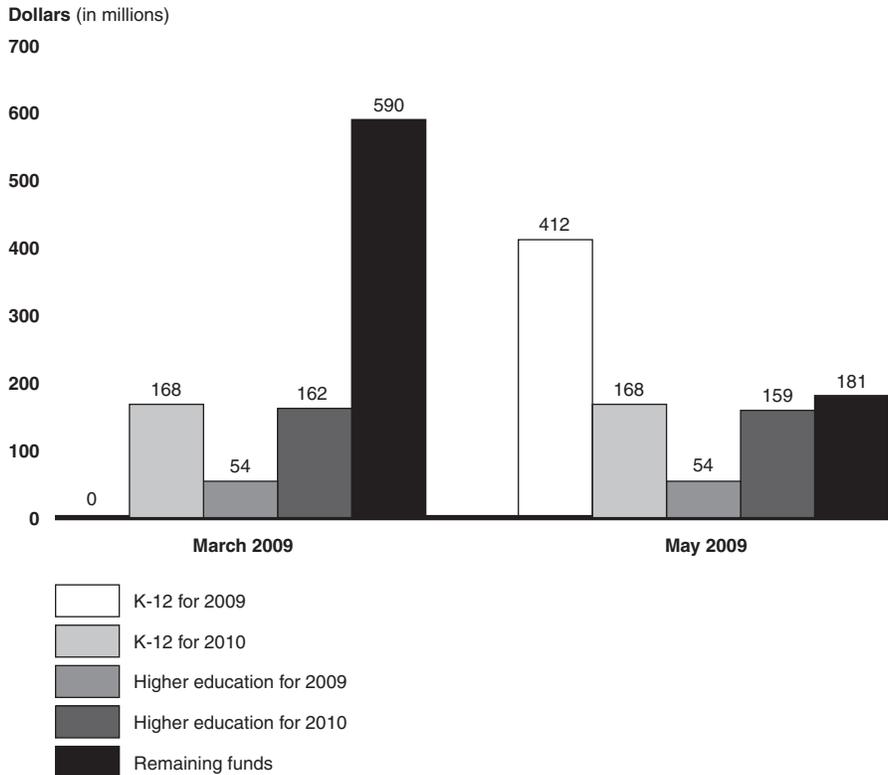
In 2009, Massachusetts was allocated just over \$994 million in SFSF. Of this amount, about \$813 million, or about 82 percent, are for education stabilization funds, and \$181 million, or about 18 percent, are for government services funds. The state will use about \$466 million of the SFSF funds to restore elementary and secondary, and public higher education funding for fiscal year 2009 (which ended on June 30, 2009); has made plans for about \$347 million for fiscal year 2010 (which began on July 1, 2009); and will have about \$181.5 million remaining, of which about \$70.5 million is for government services funds.<sup>20</sup> State officials explained that originally they did not intend to commit over three-fourths of the state's SFSF allocation so soon and that they are keenly aware of the limited Recovery Act resources they will have available for the remainder of 2010 and 2011.

As shown in figure 3, in March 2009, the Governor, as part of his fiscal year 2010 recovery plan, committed \$168 million to 166 school districts to help reduce teacher layoffs and program cuts in fiscal year 2010, and \$162 million to public university and college campus budgets to help reduce layoffs, program cuts, and student fee hikes in fiscal year 2010. Later, the amount committed to public colleges and universities was decreased to \$159 million. The Governor also announced plans to use approximately \$20 million from the government services fund for public safety in fiscal year 2010, bringing proposed total SFSF spending for fiscal year 2010 to \$347 million.

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<sup>20</sup>The SFSF funds to restore public higher education funding for fiscal year 2009, about \$54 million, will be allocated to institutions of higher education in fiscal year 2010 for expenses incurred during that fiscal year.

**Figure 3: Changes in Planned Uses of SFSF Funds for K-12 and Higher Education from March 2009 to May 2009**



Source: GAO analysis of Massachusetts Executive Office of Education data.

Note: The Governor plans to use approximately \$20 million from the government services fund for public safety in fiscal year 2010.

In March 2009, Massachusetts had not planned on using any of its SFSF funds for fiscal year 2009 for kindergarten to 12th grade (K-12) education and had anticipated having \$590 million remaining for use after fiscal year 2010. However, since March, the state has altered its planned uses of SFSF funds for later years to include \$412 million in spending for K-12 education for fiscal year 2009. This additional spending was prompted by further declines in state revenues that forced the already cash-strapped state in May to reduce its own fiscal year 2009 contributions to K-12 education by the same amount. The state used \$322 million in education stabilization funds and \$90 million, or about half, of its government services funds to backfill these cuts. These funds were available to school districts in late June 2009. Officials from one school district said they would use these funds to meet payroll for the last quarter of fiscal year 2009.

SFSF spending in 2010 is estimated to represent about 3 percent of the state's spending on K-12 education. The state's total fiscal year 2010 budget for K-12 education is projected to be \$5.3 billion, of which about \$896 million comes from non-Recovery Act federal spending. State officials told us that, given the state's level of spending on K-12 education, they were not at risk of failing to meet the SFSF maintenance-of-effort requirement to maintain support for K-12 at least at the level of such support in fiscal year 2006. State officials told us that projected state K-12 education spending far exceeds 2006 levels. However, this is not the case for higher education. Similar to K-12 education, states must maintain their higher education spending at least at fiscal year 2006 levels to meet the SFSF maintenance-of-effort requirement. Officials explained that current spending for higher education in Massachusetts is not far from the fiscal year 2006 levels.

To ensure that the state would be eligible to receive SFSF funding, state officials indicated in their application that they would apply for a maintenance-of-effort waiver for higher education for fiscal year 2010. State officials want to use state education spending as a percent of total state revenue when compared with the preceding year to meet their maintenance-of-effort requirement for higher education, rather than as aggregate spending on a per full-time equivalent student basis. State officials showed in their SFSF application that proposed education spending—for both K-12 and higher education—for fiscal year 2010 as a percent of revenue, is slightly greater than in fiscal year 2009, even though actual spending will be less.<sup>21</sup> The state SFSF application was approved on May 27, 2009.

In mid-May, education officials from the Boston Public Schools and the Lawrence Public Schools discussed with us their planned use of SFSF

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<sup>21</sup>The maintenance-of-effort waiver criterion for fiscal year 2010 is that the percentage of the total state revenues used to support public education for the fiscal year is at least as great as the percentage of the total state revenues used to support public education for fiscal year 2009.

funding for the last quarter of fiscal year 2009 and for fiscal year 2010.<sup>22</sup> Officials from Lawrence Public Schools, with an enrollment of approximately 12,000 students, said that if they get SFSF funds in lieu of the state dollars they were expecting for fiscal year 2009, they also receive the SFSF fiscal year 2010 dollars that the Governor announced in March, and there are no additional cuts to state education funding, they will use the funds to help them maintain their current level of instruction, including avoiding some layoffs. Lawrence Public Schools officials said that the SFSF funds they hope to receive, \$14.3 million for fiscal year 2009 and \$6.7 million for fiscal year 2010, would help them avoid a layoff of 123 of the 2,000 staff members, including 90 teachers. According to Lawrence Public Schools officials, almost 100 percent of their budget comes from the state. These officials noted that some of the funds greater than those needed to meet contractual obligations will be used for capital improvements on several buildings over 100 years old. Officials from the Boston Public Schools, with an enrollment of nearly 56,000 students, said they were not expecting to receive any SFSF funding for fiscal year 2010 because their education spending was already at the level set by the state's primary funding formula. They said that the \$23 million in SFSF they receive for fiscal year 2009 will just replace the state's shortfall, not allowing them to do anything differently than planned.

## ESEA Title I, Part A Education Funds Flowing to School Districts through Existing Mechanism

The Recovery Act provides \$10 billion in additional funds to help local education agencies (LEAs) educate disadvantaged youth by making additional funds available under 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. These formulas are based on factors such as the concentration of students from families living in poverty. A total of 258 of the state's 391 school districts, regional technical vocational schools, and charter schools are eligible to receive these funds. In using the funds, local education agencies (LEA) are required to comply with current statutory and regulatory requirements. One of these requirements

<sup>22</sup>We conducted site visits to the Boston Public Schools and the Lawrence Public Schools. We chose these districts based on estimated ESEA Title I allocations and the number of schools in improvement under ESEA requirements. In Massachusetts, schools and districts are identified for improvement when, for 2 or more consecutive years, they do not make adequate yearly progress toward meeting performance targets for English and/or math. Boston Public Schools is a large city school district with 102 schools in need of improvement. Lawrence Public Schools is a large suburban school district with 20 schools in need of improvement.

is that an LEA may only receive funds for a fiscal year if per-student funding or the aggregate expenditures of the LEA and the state, with respect to the provision of free public education by the LEA for the preceding fiscal year, were not less than 90 percent of such funding for the second preceding fiscal year. LEAs must obligate 85 percent of its fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010, unless granted a waiver, and all of their funds by September 30, 2011. The U.S. Department of Education (Education) is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education also is encouraging LEAs to give particular consideration to early childhood education programs.

Education allocated the first half of states' ESEA Title I, Part A allocations on April 1, 2009, with Massachusetts receiving \$81.8 million of its total \$163 million allocation. In fiscal year 2009, Massachusetts's regular ESEA Title I allocation was approximately \$234 million. The state is expecting its regular allocation to be slightly more in fiscal year 2010, about \$244 million. According to state education officials, they view Recovery Act ESEA Title I funds as an addition to their regular allocation.

LEAs began receiving ESEA Title I Recovery Act funds on July 1, 2009, and will continue to draw down funds as they incur allowable expenses. State officials required LEAs to submit an application prior to receipt of these funds. The state is using its usual administrative processes to make these funds available to LEAs.

Both state and local officials talked about the Recovery Act's goal of job preservation and creation. They explained that ESEA Title I funds are unlikely to generate new positions but may help with job retention for teachers and staff. State and Boston Public Schools officials suggested that there is tension between the Recovery Act's goal of job creation and Education's guidance to invest these one-time funds thoughtfully to minimize the "funding cliff" that would occur once those funds are no longer available. Education officials said that ESEA Title I requirements are stringent, and funding can only be used for limited purposes. Massachusetts provided guidance to its LEAs, encouraging them to make strategic investments that will have an impact beyond fiscal year 2010 and fiscal year 2011, when Recovery Act funding is gone. State officials provided LEAs with a list of some of the ways a district could use its Recovery Act funds to make strategic investments. The list included, among other things, investing in licensure and career development,

dropout prevention, professional development, and purchase of equipment.

Officials from the Boston Public Schools, which is receiving \$20.9 million from the first allocation of ESEA Title I Recovery Act funds, said that they will seek a waiver from Education to the ESEA Title I supplemental educational services requirement. Under ESEA Title I, supplemental educational services must be available to students in schools that have not met state targets for increasing student achievement (adequate yearly progress) for 3 or more years. Boston education officials explained that they intend to use their regular ESEA Title I allocation for supplemental educational services,<sup>23</sup> but said they would like to use their Recovery Act funds for benchmarking assessment, a student information system, and targeted upgrades of computer facilities for teacher and student use. According to Boston education officials, these investments can positively impact the learning of students districtwide, unlike supplemental educational services that tend to benefit individual students.

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## State Officials Required Submission of Application for Receipt of Recovery Act IDEA Parts B and C Funds

The Recovery Act provides supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B provides funding to ensure preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are allocated to states through three grants—Part B preschool age, Part B school age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA, Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA

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<sup>23</sup>The term “supplemental educational services” means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day, which are specifically designed to increase the academic achievement of eligible students as measured by the state’s assessment system and enable these children to attain proficiency in meeting state academic achievement standards.

Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements. Included in these are the following:

- a maintenance-of-effort requirement that state and local expenditures for special education not fall below those of the previous fiscal year; and
- a requirement that Part B funds supplement, rather than supplant, state and local funding.

Education allocated the first half of the states' IDEA allocations on April 1, 2009, with Massachusetts receiving a total allocation of about \$149 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was

- \$5.1 million for Part B preschool grants,
- \$140.3 million for Part B grants to states for school-aged children and youth, and
- \$3.7 million for Part C grants for infants and families for early intervention services.

Seven LEAs received IDEA Part B funds in early June to make up for funding cuts at the local level. As of July 2009, the remaining LEAs with approved applications can begin receiving funds and can continue to do so as needed.

The state required its LEAs to submit applications to the state for IDEA Part B funds. As part of the application for grants for school-aged children and youth, LEAs had to specify how they planned to use at least 50 percent of their total fiscal year 2010 Recovery Act Part B allocation to assist students with disabilities and advance education reform in four areas: (1) educator quality and effectiveness, (2) enhanced systems and programs for students with disabilities and their families, (3) assessment and data systems, and (4) college and career readiness. The state suggested that no more than 50 percent of the remaining total allocation be used for recovery purposes to sustain and support existing special education programs and to advance short-term economic goals by spending quickly to save jobs and improve student achievement.

State officials said they provided guidance related to IDEA Part B maintenance-of-effort requirements, consistent with their understanding, to LEAs through presentations around the state and postings on their Web

site. However, Boston Public Schools officials still had questions. Officials from the Boston Public Schools, which received an initial allocation of \$10 million in IDEA Recovery Act funds, want additional guidance from Education. Specifically, Boston school officials want guidance on the impact reserving funds for prereferral to special education interventions will have on the requirement that Part B funds supplement, rather than supplant state and local funding.

Boston Public Schools officials said they plan to use their initial Recovery Act IDEA funds to invest in some positions, prereferral to special education interventions, autism technology and training, and expansion of inclusion activities. According to Boston officials, they want to decrease the number of students who are referred to special education. Currently, the Boston Public Schools has a 20 percent referral rate to special education. Also, officials said they want to provide more and better services to those students who need special education services. For example, Boston officials said that they cannot provide the full range of services that autistic children might need. Through purchasing technology and training staff, they might be able to provide services to more autistic children.

Officials from the Lawrence Public Schools, which received an initial allocation of \$2.4 million in IDEA Recovery Act funds, said they are comfortable with the guidance they received from state officials and Education. Lawrence officials said they are considering several ways to use their initial allocation, including professional development and the purchase of alternative instructional models. According to Lawrence officials, by building the capacity of all teachers, they anticipate that they may reduce the need for special education services.

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## Massachusetts Using WIA Youth Funds to Create Summer Employment Opportunities within Targeted Municipalities

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work-readiness measure is required to assess the effectiveness of summer only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for

measuring work readiness gains. The program is administered by the U.S. Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill which became the Recovery Act,<sup>24</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The worksites must meet safety guidelines and federal and state wage laws.<sup>25</sup>

The Executive Office of Labor and Workforce Development (EOLWD) oversees the WIA Youth program in Massachusetts, along with other workforce-related programs such as the unemployment insurance, workforce development, and employment service programs. The state is divided into 16 local workforce investment areas, each with its own workforce investment board, which oversees the WIA Youth program, as well as other employment and training programs. At the state level, EOLWD contracts the oversight, technical assistance and monitoring of WIA services to the Commonwealth Corporation—a quasi public agency created by the State Legislature. Financial contracts for WIA Youth funding are issued through a state contracting process that includes all United States Department of Labor Employment and Training Administration resources that is managed by EOLWD's Department of Workforce Development and Division of Career Services. The state develops guidance that is disseminated through the Commonwealth Corporation to the local boards. Each board then manages its WIA programs directly or procures a third party to manage the programs.

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<sup>24</sup>H.R. Conf. Rep. No. 111-16, at 448 (2009).

<sup>25</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies. The Massachusetts minimum wage rate is \$8.00 per hour. Mass. Gen. Laws ch. 151, § 1

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## Massachusetts Is Leveraging Recovery Act Dollars to Expand Summer Youth Services

EOLWD allocated \$21,112,332 of the \$24,838,038 WIA Youth Recovery Act funds to the 16 workforce investment areas within the state. EOLWD officials stated that they have instructed the local boards to spend the majority of their Recovery Act funds, at least 60 percent, by September 30, 2009, and the remainder of the funds by September 2010, with the goal of rapidly stimulating the economy. As of June 23, 2009, about \$728,000 (3 percent) of the \$24.8 million in WIA Youth Recovery Act money has been expended in total. The two local boards we visited, the Central Massachusetts Workforce Investment Board in Worcester and the Lower Merrimack Workforce Investment Board in Lawrence, were allocated about \$2.0 million and \$1.5 million in WIA Youth Recovery Act money, respectively. The Central Massachusetts Board has spent about \$346,000—about 18 percent of their total WIA Youth Recovery Act Funds as of June 23, 2009, while the Lower Merrimack Valley Board has spent about \$54,000—about 4 percent as of June 23, 2009. Officials from both boards stated that these expenditures were for planning and administration activities to get their summer programs operational.

EOLWD has proposed recommendations on how to use the 15 percent WIA Youth state set-aside funds. Officials stated that a portion of the funds will go to the Commonwealth Corporation for monitoring local board activities. The Commonwealth Corporation plans to use these funds to hire additional staff to assist with its monitoring. The state has used some of these funds to develop an eligibility guidance tool for state agencies and local boards and to provide a series of eligibility and workplace safety trainings.

According to State officials, WIA Youth Recovery Act dollars will be used to fund summer programs in all cities and towns<sup>26</sup> in all 16 workforce investment areas. The programs will serve about 6,500 eligible youth this summer, with each youth working an estimated 30 hours per week for 8 weeks at the rate of \$8 per hour. In total, the Governor's Office plans to create about 10,000 summer jobs for youth in 60 communities across the state by leveraging and coordinating \$21.1 million in Recovery Act WIA Youth funds, \$3.1 million in Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) funds provided to the state Executive Office of Public Safety and Security, and \$6.7 million in state funded Youthworks

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<sup>26</sup>In state fiscal year 2008, 14 of the 16 local workforce boards operated Youthworks summer programs in 25 cities.

program.<sup>27</sup> The Governor stated that this approach will maximize state and federal resources, increase the number of jobs for young people, and expand services for youth up to age 24.<sup>28</sup> It is proposed that the JAG funding will create new summer jobs programs in 35 cities and towns that previously did not have summer programs. The state funded Youthworks program will target 25 cities and towns in the state and only serves young people from these communities.

The Central Massachusetts Board plans to use their WIA Youth Recovery Act money to serve 500 youth<sup>29</sup> in three local regions by offering youth work experience combined with training. The board has put out a request for proposal for these opportunities. Local officials will match the youth with the different opportunities proposed by providers. It has contracted out the administration of its WIA Youth funds to the Worcester Community Action Council, Inc., which will conduct youth outreach, compile youth applications, and provide completed applications to the board for enrollment.

The Lower Merrimack Board plans to use their WIA Youth Recovery Act money to serve 700 youth by offering them either work experience or work experience combined with training, and has put out a request for proposal for these opportunities.<sup>30</sup> Local officials stated that an example of work experience combined with training would be a program that employs the youth for part of the day (such as a basketball coach at a Boys and Girls Club), and then provides the youth a learning opportunity (such as

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<sup>27</sup>For state fiscal year 2008, the state served 3,827 youth (130 percent of their target goal for youth served) through the state Summer Youthworks program with \$5,660,334 in funding and 433 youth (152 percent of their target goal for youth served) through the state Youthworks Year-Round program with \$689,665 in funding.

<sup>28</sup>The Recovery Act extended eligibility through age 24 for youth receiving services funded by the Recovery Act. For state fiscal year 2010, the state funded Youthworks program will provide employment opportunities to youth ages 14 to 21 that are from families that are below 200 percent of the federal poverty level and placed at risk by one or more risk factors.

<sup>29</sup>In state fiscal year 2008, the Central Massachusetts Board served 387 youth (139 percent of their target goal for youth served) through the state Summer Youthworks program with \$533,081 in funding. For state fiscal year 2009, the board plans to serve an additional 300 youth through the state-funded Youthworks program in the City of Worcester.

<sup>30</sup>In state fiscal year 2008, the Lower Merrimack Board served 197 youth (113 percent of their target goal for youth served) through the state Summer Youthworks program with \$336,655 in funding. For state fiscal year 2009, the board plans to serve an additional 205 youth through the state-funded Youthworks program.

academic tutoring) for the other part of the day. The board works with the ValleyWorks One-Stop career center to operate the youth summer program and with the Division of Grants Administration, a division of the city of Lawrence, to administer the youth summer program and intends to target some older youth.<sup>31</sup> As of June 26, 2009, the board has 315 completed applications for the WIA Youth summer program and should meet its goal of 700 youth with the applications it has in progress.<sup>32</sup> Youth will actually be enrolled on the first day of the program, July 6, 2009.

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## WIA Youth Program Operation Presents Challenges

State officials expressed concern regarding the documentation requirements for youth to qualify for the WIA Youth program, particularly as compared to the requirements of their state funded Summer Youthworks program for state fiscal year 2010. The WIA Youth program's documentation requirements are more restrictive than the state-administered program, impacting the ease with which youth can document their eligibility. For example, youth entering the state program can demonstrate their financial eligibility if they receive benefits from the federal free lunch program. In contrast, to obtain WIA Youth services, youth must produce documentation such as a gross wages and salary statement.

State and local officials also stated that the accelerated time frames to enroll youth in the program while still meeting all of the Recovery Act provisions is challenging. State officials also expressed a concern that the two workforce investment boards that do not run summer programs through the state funded Youthworks program may face challenges in starting new programs.<sup>33</sup> State officials told us that they plan to conduct more oversight of these two Boards. Finally, officials from one board we visited stated that it will be logistically challenging for them to deliver and collect weekly timesheets from the numerous youth in the program.

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<sup>31</sup>The board is targeting youth who may also be currently classified as a dislocated worker and receiving unemployment insurance. For these youth to join the summer program, they would have to forgo their unemployment insurance benefits.

<sup>32</sup>There are 292 applications awaiting only a work permit, and another 308 applications require the youth to participate in orientation and submit documents requesting a work request.

<sup>33</sup>Fourteen of the 16 local boards ran a stand-alone summer youth employment program in 2008. Although WIA Youth requires a summer component in its year-round program, it does not provide for a stand-alone summer program. Smaller WIA boards do not typically run stand-alone programs.

Officials from both local boards we visited stated that they had very little time between when they were allocated the grant and when the first youth are expected to begin the program. Moreover, the Lower Merrimack Board had to quickly ramp up to hire and train staff to administer the WIA Youth summer program, and it faced logistical issues with securing the physical space for staff to work. Officials from this board also stated that they were surprised that some providers they had worked with in the past did not submit proposals for work experiences combined with a training component this year. For example, the Learning for Life program within the Haverhill Public Schools has submitted proposals in prior years but did not submit a proposal this year.<sup>34</sup>

Since the youth participating in WIA summer youth employment activities will be subsidized by Recovery Act funds, the state has instructed local areas to take precautions regarding worksite placements to ensure that WIA Youth-funded work experiences do not unfavorably impact current employees or replace the work of employees who have experienced a layoff. State guidance specifies that WIA Youth-funded work experiences are to increase the work-readiness skills of youth and are not designed to enhance the profit margin of a company. For example, officials at the Lower Merrimack Board told us that they are working with one municipality and a local union to ensure that the WIA Youth funded summer positions are not supplanting municipal jobs.

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## Massachusetts Has Proposed Priority Areas for Edward Byrne Memorial Justice Assistance Grant Funding

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those

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<sup>34</sup>Previous Learning for Life proposals were to serve in-school youth with both an education component for a portion of the day—such as classroom learning, as well as a work activity—such as working in the Haverhill City Hall Café.

funds to local governments. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>35</sup> The total JAG allocation for Massachusetts state and local governments under the Recovery Act is about \$40.8 million, a significant increase from its previous fiscal year 2008 allocation of about \$3.1 million. JAG funds going directly to the state government are expected to total approximately \$25 million, consistent with the Recovery Act's allocation formula, while Massachusetts cities and towns will receive about \$15.7 million directly in funds. Of JAG funds going to the Massachusetts state government, most (about \$13.6 million) is planned to be used to supplement current state public safety programs and retain jobs and support core services.<sup>36</sup> These state-run programs have been generating deficits from their state-supported funds. In addition, state government officials plan to use about \$5.9 million to support local law enforcement agencies across the state whose operations have been adversely affected by state and local budget conditions, while a portion, about \$3.1 million, will be used to supplement an annual summer jobs program targeted to at-risk youth administered by workforce investment boards throughout the state. For the \$5.9 million planned to support local law enforcement agencies, the state is establishing grant criteria and awaiting project proposals from cities and towns. The remainder of funds (approximately \$2.4 million) are planned for state JAG administration.

Even though BJA approved the state's application, Massachusetts was not to obligate, expend, or draw down JAG funds until the state resolved special conditions specified in BJA's grant approval letter, such as addressing outstanding audit report findings. According to state officials, one audit found that federal grant funds had been allocated to the wrong state agency; however, these officials noted that this finding was addressed by reallocating these funds to the correct state agency. State officials told us that they subsequently submitted documentation to BJA to address these conditions. According to state officials, as of June 2, 2009, these special conditions were met, and the state subsequently received notice that BJA approved the state's grant and lifted all conditions. State

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<sup>35</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>36</sup>As of June 18, 2009, \$12.7 million has been allocated for the Massachusetts Department of Correction (MADOC) for medical, dental, and mental health services for those incarcerated by MADOC.

officials say that funds will be available for use for the WIA Youth program after officials from the Executive Offices of Public Safety and Security and Labor and Workforce Development sign an interagency agreement and the Office of the State Comptroller processes the necessary paperwork.

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## Massachusetts Receiving Large Influx of Recovery Act Weatherization Funds with Plans to Begin Weatherizing Housing Units July 2009

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>37</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term, energy-efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

In Massachusetts, a network of 12 community-based organizations operates the Weatherization Assistance Program under contract within the

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<sup>37</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

state's Department of Housing and Community Development (DHCD). The Community Services Unit within DHCD has administrative, programmatic, and fiscal oversight of the program. Massachusetts expects to receive about \$122 million in Recovery Act funds over a 3-year period. This represents a significant funding increase over prior weatherization program funding. For example, Massachusetts received \$6.5 million and \$11.7 million in fiscal years 2008 and 2009, respectively. After applying for funding on March 23, 2009, Massachusetts received approximately 10 percent, or over \$12 million, of their Recovery Act funds for weatherization on April 3, 2009. In an April 2, 2009, e-mail from a DOE program manager, Massachusetts was advised that these funds could be spent on development of the state Recovery Act plan for weatherization required by DOE, application package, and other activities such as training.<sup>38</sup> Massachusetts, however, has not used this initial allocation, but rather used DOE fiscal year 2009 weatherization funds to fund expenses related to the development of the state plan, application package, and other activities (as well as weatherization activities). According to state officials, they plan to begin dispersing the Recovery Act funds at the beginning of the state's fiscal year 2010, which is on July 1, 2009. According to a DHCD official, the 10 percent already received and the 40 percent that the state will receive upon plan approval will be used for the same purpose—completion of weatherization work and related expenses in accordance with the approved state plan. Massachusetts submitted its Recovery Act weatherization plan to DOE for review and approval on May 11, 2009. Because DOE has yet to approve its state plan, Massachusetts is not yet authorized to obligate any of the Recovery Act funds provided by DOE.<sup>39</sup>

Once the state plan is approved by DOE, DHCD will issue contracts to its local subgrantees and have the contracts go through the state's accounting system. After contracts are in place, DHCD expects that obligations and

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<sup>38</sup>These were in accordance with Weatherization Program Notice 09-1B, Grant Guidance to Administer the American Recovery and Reinvestment Act of 2009 Funding, and applicable regulations. In addition, this e-mail advised that no Recovery Act funds could be used for production until DOE approval of state Recovery Act plans. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans.

<sup>39</sup>According to officials, they are awaiting guidance from the U.S. Department of Energy on Davis-Bacon wage rates.

expenditures at the local agencies will move quickly. Expected uses of these funds are described below.

**Table 2: Massachusetts Planned Use of Recovery Act Weatherization Funds**

Weatherization funds <sup>a</sup>	Estimated units	Activity
\$86,139,495	12,157	Weatherization services using existing weatherization network (Community Action Agencies and Housing Assistance Corporation)
25,000,000	3,846	Weatherization of state-owned public housing
6,000,000	923	Weatherization of expiring use/preservation properties <sup>b</sup>
1,000,000	N/A	Development of Massachusetts Clean Energy Center <sup>c</sup>

Source: State Plan: 2009 American Recovery and Reinvestment Act Weatherization Assistance Program for Low Income Persons, Commonwealth of Massachusetts, Department of Housing and Community Development.

<sup>a</sup>The remainder of the \$122,077,457 allocation will be used for the administrative budget of the Massachusetts weatherization program (\$2,690,056) and for other training and technical assistance activities (\$1,247,906) other than the development of the Clean Energy Center.

<sup>b</sup>This is property where owners can convert to market-rate properties after a specific passage of time or when contractual obligations expire. The effort to keep these expiring use properties affordable is called affordable housing preservation.

<sup>c</sup>The Massachusetts Executive Office of Energy and Environmental Affairs plans to develop a training center to develop and maintain workforce and career training for energy efficiency and building science in Massachusetts.

DHCD officials began preparing for the large influx of weatherization funds by holding meetings in November 2008 with local agencies and utility program providers, asking them, for example, to hire additional administrative staff and energy auditors, as well as to recruit and train additional weatherization contractors.<sup>40</sup> To reach the state’s weatherization goals under the Recovery Act, the state originally planned an increase in the number of energy auditors from 42 to approximately 72 and the number of contractors from 60 to about 125 (subsequently revised to 100).<sup>41</sup> The state is currently using 2009 existing weatherization program funds to strengthen its ability to train new-hires to the weatherization workforce. For example, in March 2009, the training process began for

<sup>40</sup>Energy auditors perform inspections of energy, health, and safety concerns of homes after households are determined eligible for weatherization services.

<sup>41</sup>As of June 25, 2009, the hiring goal for energy auditors had been reached with the need for weatherization contractors amended to a total of 100. With 18 new weatherization contractors, the state notes that an additional 22 need to be brought under contract to meet their revised total.

over 25 new energy auditors with a statewide workshop,<sup>42</sup> and the department expects an ongoing focus on training and technical assistance activities not only for energy auditors, but also for private sector contractors.<sup>43</sup> According to DHCD officials, they received comprehensive verbal guidance from DOE on such issues as development of and timelines for the Recovery Act state weatherization plan, grant application procedures, reporting requirements, and training plans for the weatherization workforce.

DHCD officials said that their biggest concern about Recovery Act funds for weatherization relates to the need for direction from DOE on applying Davis-Bacon wage rates. They noted that their ability to weatherize housing units with Recovery Act funds is contingent on receiving direction regarding requirements for wages as well as instructions for implementation. Officials said they have requested training related to requirements in the Davis-Bacon Act. Another concern is spending Recovery Act money quickly and effectively, while maintaining the quality of work. They also expressed concern about turnover among crew members for private sector contractors. They said this might be relatively high due to such factors as outside work in extreme temperatures or inside work in restricted areas such as attics and crawlspaces.

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<sup>42</sup>The training was focused on such issues as how the weatherization program works in Massachusetts; the expectation for energy auditors who are essentially job-site coordinators working with the weatherization program contractor; quality assurance requirements; the importance of accurate measurements; health and safety concerns, requirements, and testing; the use of special instrumentation; identifying thermal and air barriers; attic and sidewall insulation; and heating system identification, combustion, and safety testing. Most of these auditors were expected to be certified through DHCD's Energy Auditor Certification process by June 2009.

<sup>43</sup>This is in response to increased funding from both the Recovery Act as well as the 2009 weatherization program grant in addition to increased low-income rate payer utility efficiency program funding.

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## Local Housing Agencies Receive Capital Formula Grants

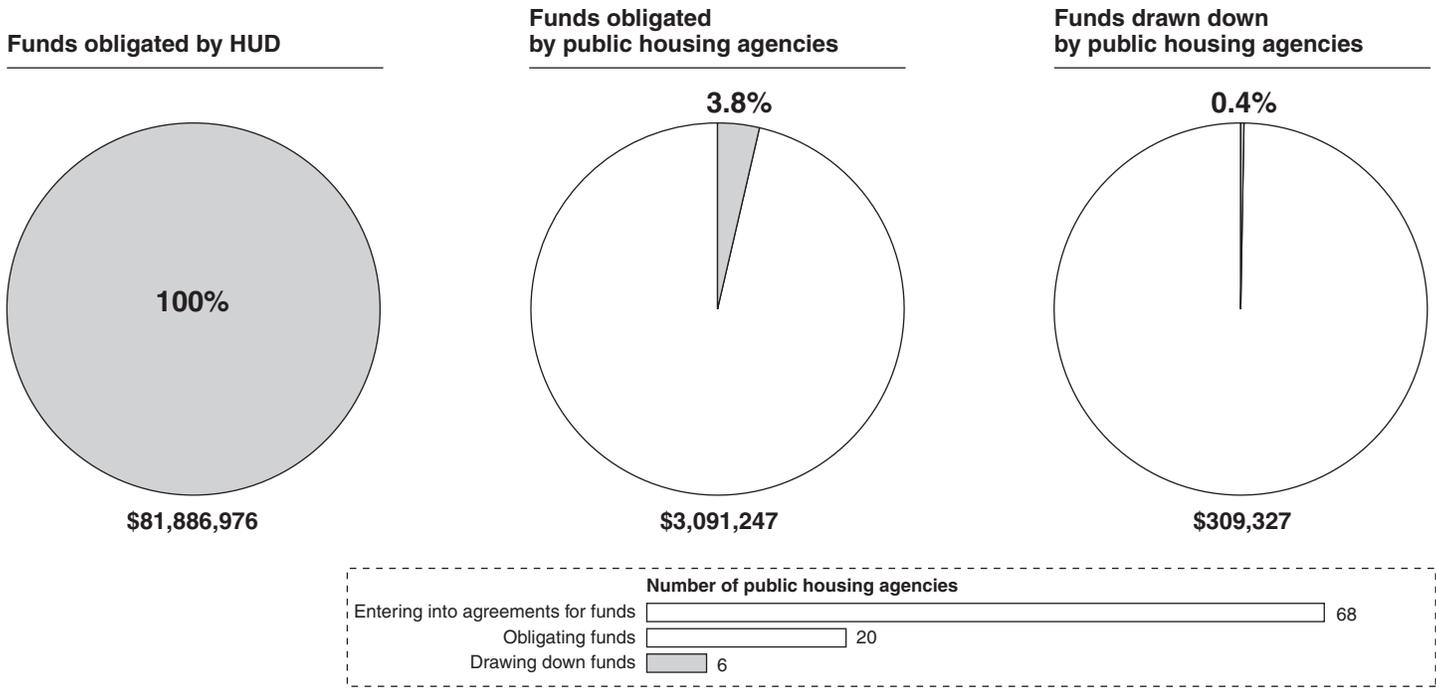
The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties for the development, financing, and modernization of public housing developments, and for management improvements.<sup>44</sup> The Recovery Act 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 they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in the required 5-year Capital Fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>45</sup>

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<sup>44</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>45</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and timeframes for application, and to funding limits.

**Figure 4: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Massachusetts**



Source: GAO analysis of HUD data.

As described in figure 4, in Massachusetts, all 68 public housing agencies eligible for Recovery Act formula grant awards received a total of \$81,886,976 from the Public Housing Capital Fund formula grant awards.<sup>46</sup> As of June 20, 2009, \$3,091,247 (3.8 percent) of the total amount had been obligated by 20 Massachusetts public housing agencies and \$309,327.23 (.4 percent) had been drawn down or expended by 6 Massachusetts public housing agencies.

We visited the Boston Housing Authority and the Revere Housing Authority in Massachusetts for site visits related to their use of Capital Fund formula grants totaling \$33,653,805. We selected the Boston Housing Authority because it received the largest capital fund grant allocation in Massachusetts and selected the Revere Housing Authority because it was

<sup>46</sup>Individual awards ranged from \$13,311 for the Hanson Housing Authority to over \$33 million for the Boston Housing Authority.

designated as “troubled” by HUD several years ago.<sup>47</sup> Their grants were awarded on the basis of the Capital Fund formula used for awards made in fiscal year 2008 and computed based on data on buildings and units reported to HUD as of September 30 of the prior fiscal year.<sup>48</sup>

Officials at the Boston Housing Authority, which was allocated \$33,329,733, met weekly for several months to select projects in light of Recovery Act priorities. Of the 15 projects finally selected, 11 of those were part of the 5-year capital plan and the remaining four selected on the basis of needs identified outside 5-year capital plans. The 15 projects did not address the Recovery Act requirement that housing agencies give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available. Boston Housing Authority officials had determined that awarding construction contracts of any size or complexity based on a fair public bidding process within 120 days with no prior notice would be highly unlikely. For example, state building code requirements, they said, require that a registered architect or engineer complete the design phase of a project before notice can be given to potential bidders.<sup>49</sup> According to Boston Housing Authority officials, while there were other projects with a completed design phase and which were ready to bid, these had reached that stage because funding other than Recovery Act monies had already been allocated and budgeted for those projects. Officials believed that to change the funding for these projects to Recovery Act funding would violate the Recovery Act prohibition on supplanting funds. In addition, since Boston Housing Authority officials stated that they do not have vacant units beyond vacancies from normal turnover, the Recovery Act priority for rehabilitation of vacant units was inapplicable.

For the 15 projects selected, the Boston Housing Authority plans to use all \$33 million of its grant allocation for these projects which will serve 5,090 units with completion of all projects expected by the end of 2011. These projects range from redevelopment to bathroom and plumbing system replacements, boiler replacements, roof replacements, and adding security

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<sup>47</sup>On January 31, 2007, the housing authority’s progress in addressing issues leading to this designation led HUD to remove the authority from a “troubled” status.

<sup>48</sup>Each public housing authority’s amount from the Capital Fund formula is the average of the public housing authority’s share of existing modernization need and its share of accrual need (by which method each share is weighted 50 percent). 24 C.F.R. § 905.10.

<sup>49</sup>780 CMR 116.0 of the Massachusetts State Building Code.

features to elevators and lobbies at multiple locations. As of June 30, 2009, Recovery Act funds had not been drawn down to pay for any of the 15 projects.

One example of a current, already-planned, project that the Boston Housing Authority determined as benefiting from additional funding from the Recovery Act is bathroom modernization of 152 units at Mary Ellen McCormack, a public housing development in South Boston. This project began in February 2009 with an estimated completion date of June 2011. Using \$3,976,000 in Recovery Act funding, this project will involve the complete replacement of all bathroom plumbing and waste lines, paint, tile, lighting, and electrical fixtures, and the installation of new venting.

The Revere Housing Authority decided Recovery Act funds would be used for one project—installing energy-efficient windows in a 100-unit housing project. Revere officials identified this project on the basis of needs which emerged after their initial capital planning process, and then included this project upon resubmission of their capital plan after the passage of the Recovery Act. To date, officials in Revere have contracted with an architectural firm to perform the following functions: analysis of current window conditions, design of new windows, administering the bidding process, reviewing bid submissions, contract administration, and closeout of the contract. While \$22,500 was obligated by the Revere Housing Authority as of June 2, 2009, they have not drawn down any funds as of June 30, 2009, but will do so once invoices are received. The project is estimated to be completed in March 2010.

Another major component of HUD Recovery Act funding for federal public housing is the competitive grants program, with \$1 billion available nationally for projects characterized by priority public housing investments intended to leverage private sector funds for renovations and energy conservation. The Boston Housing authority has begun to compile a list of proposed projects and officials told us they planned to apply for this funding. A Revere official noted that they will apply in the future.

Neither the Boston Housing Authority nor the Revere Housing Authority described challenges in accessing funds. In terms of meeting accelerated time frames, Boston Housing Authority officials described the tension between spending Recovery Act funds as effectively as they can while getting the funding out in an expeditious fashion. When asked about the Recovery Act requirement related to the application of prevailing wage rates, officials in Revere indicated that they are used to meeting Davis-Bacon requirements and view meeting these wage levels as a seamless

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part of their contractual agreements with workers.<sup>50</sup> Boston officials also mentioned that they are accustomed to working with Davis-Bacon requirements.

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## Massachusetts Takes Steps to Oversee and Safeguard Recovery Act Funds

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### Central Government Entities and State Agencies Have Taken Steps to Provide Oversight of Recovery Act Funds

Three state organizations—the State Comptroller’s Office, the Office of Infrastructure Investment, and the Governor’s Office—have all led focused efforts to ensure that agency internal control activities are sufficient for managing and overseeing Recovery Act funds. The Comptroller’s Office is working with state agencies to determine whether they need to establish new processes or procedures for internal controls by instructing state agencies to update their internal control plans. This update requires state agencies to complete a self-assessment questionnaire containing specific questions on compliance with Recovery Act provisions. The Office of Infrastructure Investment has contracted with consultants on project management issues to evaluate Recovery Act-related internal control gaps across the state and is in the process of hiring a compliance manager to assist with Recovery Act oversight. Furthermore, the Governor’s Office required that each state executive agency conduct a risk assessment and had the assessments reviewed by the state oversight entities. The State Auditor’s Office plans to use these assessments to target its Recovery Act oversight work.

In addition to the efforts taken by central state entities to prepare for oversight activities, executive agencies we visited plan to conduct oversight of their respective Recovery Act funds. Examples of oversight activities include conducting site visits and inspections, performing desk audits, and ensuring daily oversight of contractors. Specifically, transportation officials stated that oversight of projects includes daily

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<sup>50</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

oversight of both contractors and subcontractors. In addition, resident engineers for each work site keep daily records of employee hours worked and the number of items (e.g., catch basin covers) installed. Weatherization projects under DHCD must be inspected by weatherization certified auditors before a contractor is paid, and department officials participate in about 15 percent of these inspections. Officials from the Executive Office of Public Safety and Security stated that they are developing specific subgrant conditions related to Recovery Act funds, including compliance with the Office of Inspector General's rules on waste, fraud, and abuse. They will also conduct site visits and desk reviews of JAG recipients. The EOWLD stated that they will continue their existing oversight activities, such as annually reconciling the Workforce Investment Boards' planned versus actual expenses and periodically performing site visits to boards to review such items as eligibility documentation, standard operating procedures, and subrecipient monitoring.

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### Single Audit Results Used by State Officials for Oversight Activities

Officials at the State Auditor's Office said they use the results of the Single Audit to target their oversight and require corrective action plans, when necessary. Officials from the Executive Office of Education and the Executive Office of Transportation said they review the Single Audit management decision letters to determine if any one of their programs had a finding. If there is a finding, the agency will notify the respective programmatic area and schedule meetings to address the issue. Education officials we met with stated that education findings are infrequent and typically minor in scope. However, in both 2007 and 2008, the same material weakness occurred within the Massachusetts Department of Education's Department of Early Education and Care<sup>51</sup> regarding the use of expired procurements. The State Auditor instructed the department to correct this practice, but during its 2008 Single Audit, the State Auditor reported the same finding. According to state officials, the correction to this material weakness is a multiyear process. The Massachusetts Department of Education is scheduled to complete the largest

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<sup>51</sup>The 2007 Massachusetts Single Audit contained three material weaknesses and other findings. The 2008 Single Audit repeated one of these material weaknesses where the Department of Early Education and Care was using four procurements created by its predecessor, the Office of Child Care Services, for services provided by federally funded child care programs that were developed between 1998 and 2001. The department had received multiple extensions from the state procurement oversight agency and was required to perform new procurements for the period beginning July 1, 2005.

procurement rebid by July 2009, and will then follow the same process for the other rebids. For the 2009 Single Audit (year ending June 30, 2009), the State Auditor is reviewing four major programs, including the Department of Early Education and Care, based on this ongoing material weakness. In addition, the state is negotiating with the firm that works on the single audit to perform more real time audits along with their typical single audits in order for the state to obtain information on internal control issues on a real time basis.

Similarly, state transportation officials stated that if any findings are uncovered during the Single Audit, they will work with the State Auditor to develop corrective action plans. Transportation officials further stated that there have not been any significant transportation findings within the past 5 years.

The 2008 Single Audit for Massachusetts contained one material weakness in the education area regarding procurement, noted above, and other findings mostly related to program monitoring and supervisory review.

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**State Inspector General and Auditor Have Not Finalized Oversight Plans, State Attorney General Continues Oversight Efforts with STOP Fraud Task Force**

Neither the State Auditor nor the State Inspector General have yet finalized their plans to conduct oversight of the state Recovery Act funds. The State Auditor's Office recently drafted an audit plan, outlining specific areas to target, and has begun some preliminary work to confirm their plans. The State Inspector General said he anticipates targeting areas where there is no other oversight by reviewing the oversight planned by the federal Inspectors General, the State Auditor, and the state Attorney General and will then fill in any gaps, with a focus on procurement. The organizations did not receive additional funding to provide Recovery Act oversight and are still uncertain about their resource levels for fiscal year 2010 (beginning July 1, 2009). The Governor's Office, however, is hoping to provide these oversight agencies with additional resources using Recovery Act administrative funds. State officials expect Massachusetts to continue experiencing larger than expected revenue shortages and therefore significant budget cuts. In addition, the STOP Fraud Task Force created by the state Attorney General continued to meet and coordinate on oversight issues.<sup>52</sup>

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<sup>52</sup>As stated in our prior report, the state Attorney General has convened a task force to coordinate on oversight issues with the federal and state oversight community.

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Given that significant amounts of Recovery Act funds are now beginning to flow to the state, it is important that oversight agencies quickly finalize their plans and shift their limited resources appropriately to safeguard these funds.

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### The State Has Taken Steps to Track Recovery Act Funds

Massachusetts state and local agencies have taken steps to track the flow of Recovery Act funds coming into the state. The state Comptroller's Office is providing and updating guidance to state agencies on its Web site, working with agency financial personnel to separately code Recovery Act funds in its state accounting system, and holding weekly conference calls with these agency finance representatives to provide a question and answer forum on Recovery Act requirements. The Comptroller's Office is also generating statewide reports on Recovery Act-related revenue and spending. During meetings with the state Executive Offices of Workforce and Labor Development, Education, and Public Safety and Security, officials confirmed they are using the state's accounting system to track their respective Recovery Act funds. In addition, the Massachusetts Office of Infrastructure Investment recently contracted with a project management consultant to work with state officials on presentation and coordination of Recovery Act reporting.

While preparations have been under way, challenges with tracking Recovery Act funds remain. Some funding streams, such as unemployment insurance, were not included in the state reporting system as of the end of May 2009. According to the state Comptroller's Office, there is the risk that some expenditures will be coded as state money, rather than Recovery Act money, because some agencies do not have a past history of receiving federal funds and may therefore occasionally miscode these funds. However, he does not expect this error to occur in any material way. A more prominent challenge for the state is that those Recovery Act funds going directly to recipients other than Massachusetts state agencies—such as independent state authorities, local governments, or other entities—continues to be problematic for state-tracking purposes because these funds will not flow, and therefore not be tracked, through the state accounting system. Pending legislation, if passed, would require all entities receiving Recovery Act funds in Massachusetts to report funds received to the state.

In addition to statewide tracking activities, some agencies plan to track Recovery Act funds with their own in-house systems. For example, officials from the Executive Office of Transportation stated they have an online database that allows transportation officials to segregate, itemize,

and track Recovery Act funds. Similarly, the EOLWD has issued a budget template that requires local Workforce Investment Boards to list their planned expenditures of Recovery Act money by functional categories. The template also includes auto-fill metrics that highlight whether the Board's budget expenditures will meet state guidelines deadlines. At the local level, both of the Workforce Investment Boards we met with are issuing separate contracts for serving youth this summer and establishing separate accounting codes for tracking Recovery Act funds. The two local housing agencies we visited will use HUD's Electronic Line of Credit Control System to separately code and track Recovery Act grants. Moreover, some agencies are issuing Recovery Act monies as separate grants to ensure the separate tracking of these funds.

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### Central Capacity to Track and Oversee Recovery Act Funds

Centralized tracking and oversight activities related to the Recovery Act require additional resources and the state plans to use Recovery Act funds to cover the cost of certain central administrative activities. Following May 2009 guidance from the federal Office of Management and Budget (OMB),<sup>53</sup> state officials plan to use the option of a percentage chargeback of certain Recovery Act funds to provide additional staffing resources to entities responsible for oversight, monitoring, and tracking Recovery Act funds. The chargeback would be used for staff additions to the recently created Office of Infrastructure Investment, the state Comptroller's Office, the state Budget Office, the State Auditor's Office, Attorney General's Office, and the state Inspector General's Office. The Governor filed legislation to put a mechanism in place for this chargeback, and the state Budget Office sent a proposal to HHS to obtain authorization to use a chargeback mechanism. In May, the Secretary of the Executive Office for Administration and Finance asked the State Auditor, the state Attorney General, and the state Inspector General to provide a detailed description of the work each office would need to perform regarding Recovery Act work, and a description of the resources each would need to perform this work. As of June 25, 2009, the State Auditor and the state Inspector General had submitted this information, and the state Attorney General planed to do so.

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<sup>53</sup>OMB M-09-18, Memorandum for the Heads of Departments and Agencies.

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## Approaches for Assessing the Effects of Recovery Act Spending Continue to Develop

Under the Recovery Act, state and local recipients are expected to report on a number of data elements, including the use of funds, the amount expended or obligated, and the estimated number of jobs created and retained. Provisions under the act also require federal agencies to adapt current performance evaluation and review processes to include information on the completion status of projects funded under the Recovery Act, as well as program and economic outcomes that are consistent with Recovery Act requirements. In addition to reporting on jobs created and retained, OMB guidance directs federal agencies to collect performance information from entities who receive funding to the extent possible. The guidance also requires agencies to instruct recipients to collect and report performance information as part of their quarterly submissions that is consistent with the agency's program performance measure.<sup>54</sup> The reporting requirements will allow an assessment of what OMB describes as the marginal performance impact of Recovery Act requirements.

While there are still some lingering questions related to measuring employment and the applicability of this requirement to programs funded under the act, state agencies are beginning to develop strategies for collecting and reporting employment outcomes. To date, the focus has been on incorporating federal guidance and adapting existing systems for collecting and reporting on jobs created and sustained. While there are still some lingering questions related to measuring employment and the applicability of this requirement to programs funded under the act, state agencies are beginning to develop strategies for collecting and reporting employment outcomes. In addition, existing programs that are receiving supplemental funds through the Recovery Act are beginning to address performance outcomes using existing approaches but are waiting for federal guidance before putting plans in place.

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<sup>54</sup>Peter R. Orszag, Memorandum for the Heads of Departments and Agencies, Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (April 3, 2009). This guidance supplements, amends, and clarifies the initial guidance issued by OMB on February 18, 2009.

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## Various Approaches Are Being Used to Measure Jobs, but Questions about Measuring Job Creation Remain

Massachusetts officials expressed some concern about how to assess the effects of Recovery Act spending in terms of jobs created and retained. The Governor's Deputy Chief Counsel told us that the state is continuing to face challenges associated with quantifying the impact of Recovery Act funds. The state Comptroller has sent guidance to chief information officers at state agencies to plan for how they will benchmark and report on the impact of Recovery Act funds. However, questions remain on how state agencies will define a job created, as well as other impacts. State agency officials are trying to be proactive by developing plans for reporting on jobs created prior to funds being spent.

The state Comptroller also reported that he does not have clear guidance on reporting requirements for each of the Recovery Act funding streams, particularly as they relate to recipient reporting and jobs reporting. The Comptroller believes his office has an obligation to provide state agencies with guidance as to which program agencies need to report and which do not. However, in the absence of clear federal guidance, he is unsure if the guidance his office has provided is accurate.

Program agency officials also expressed lingering concern about the lack of guidance specific to their individual programs. While the federal OMB has provided general guidance on the requirements that states assess and report on the effects of Recovery Act spending on jobs created and retained, OMB guidance gives federal agencies discretion in the data they choose to collect from state and local entities for their programs. For example, Massachusetts Department of Education officials stated that they are wary of the potential for a funding cliff, or the depletion of the Recovery Act funding, in 2 years, and therefore have serious concerns about using ESEA Title I funds to generate new jobs. Officials believe that local education agencies are more likely to use Recovery Act funds to retain, rather than to create, new jobs.

State program officials report using a variety of methods to measure employment outcomes which could lead to reporting inconsistencies. For example, Massachusetts transportation officials require contractors and subcontractors to submit monthly employment information, including the number of employees, hours worked, and payroll amounts, but it is unclear how this information will be used to identify new and existing employees. Moreover, transportation officials report that it is not unusual for a single worker to be employed at two projects, and in this situation, that would be considered two jobs created. Similarly, local housing agency officials told us that they will identify the number of jobs created through Occupational Safety and Health Administration cards that are required of

every individual who works on the project. In addition, the housing agency will have access to daily information on the employees working for contractors by project. However, they will not be able to track how long individuals have worked on the project. Finally, state officials overseeing Recovery Act-funded weatherization projects have developed estimates on the number of jobs that will be created—anywhere from 250 to 300 jobs—using estimates based on a model developed for DOE’s Weatherization Assistance Program from the U.S. Bureau of Economic Analysis model for the construction trades. State officials also expect several spin-off jobs will be created and characterize these jobs as being an indirect result of dollars spent.

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### Massachusetts Agencies Are Beginning to Address Performance Reporting Requirements Using Existing Approaches

OMB guidance also encourages recipients to collect and report performance information that is consistent with the agency’s program performance measures and broader goals of the act. When asked about measurement of performance outcomes, some state officials reported that they are largely using existing approaches to meet these requirements. For example, public safety program officials said there are preliminary plans in place for reporting on program activities and expenditures of law enforcement programs funded through the JAG program, but the final plan would depend, in part, on what performance measures the U.S. Department of Justice ultimately requires states to use. These performance indicators are likely to include measures to improve program quality such as the amount of the award spent on improving criminal justice information systems. These officials also reported that they had plans for collaborating with the EOLWD to develop plans to report on that portion of the JAG funding that Massachusetts is using to support summer youth employment programs.

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### State Comments on This Summary

We provided the Governor of Massachusetts with a draft of this appendix on June 17, 2009, and representatives from the Governor’s Office and the oversight agencies responded on June 19, 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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# Appendix IX: Michigan

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## Overview

The following details GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> spending in Michigan. The full report covering all our work at states is available at [www.gao.gov/recovery](http://www.gao.gov/recovery).

**Use of funds:** GAO's work focused on nine selected federal programs, including some targeted for further disbursement to localities. Funds from some of these programs are being targeted to help Michigan stabilize its budget and support local governments, particularly school districts, and the state plans to use some of the funds to expand existing programs, as follows:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).**<sup>2</sup> As of June 29, 2009, Michigan had received about \$728 million in increased FMAP grant awards, of which it had drawn down almost \$716 million, or 98 percent. Michigan is using funds made available as a result of the increased FMAP to cover the state's increased Medicaid caseload, maintain the program's current populations and avoid cuts to eligibility, and maintain the program's current benefits. Michigan officials reported they are also planning to use the state's general fund dollars freed up by the increased FMAP to help offset the state budget deficits, pending state approval to do so.
- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** As of June 3, 2009, Michigan had received almost \$1.1 billion (67 percent) of its total SFSF allocation of \$1.6 billion. According to state officials, the state legislature passed a supplemental appropriations bill for SFSF funds on June 25, 2009, that if signed by the Governor will provide authority for obligation of SFSF funds to local education agencies (LEA); as of June 30, 2009, the Governor had not signed the legislation and no funds had been obligated. Michigan plans to use these funds to help fill its budget shortfalls. State education officials said LEAs plan to use SFSF monies to help reduce teacher layoffs and address cuts in state education programs resulting from budget shortfalls. For example, Detroit Public Schools officials

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

said they planned to use their funds to retain teachers and staff and avoid layoffs.

- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$847 million in Recovery Act funds to Michigan, of which 30 percent was suballocated to metropolitan and other areas. As of June 25, 2009, \$421 million had been obligated for projects that could be started quickly involving pavement and bridge improvement. For example, on June 1, 2009, Michigan began a \$22 million project on Interstate 196 in Allegan County that involves resurfacing about 7 miles of road. As of June 30, 2009, Michigan has awarded 35 contracts representing about \$118.1 million. Two of these contracts have been completed, 28 are to be completed by November 2009, 2 by June 2010, 1 by May 2011, and 2 by June 2012.
- **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965.** The U.S. Department of Education (Education) awarded Michigan \$195 million in Recovery Act ESEA Title I, Part A, funds on April 1, 2009—50 percent of its total allocation of \$390 million. According to state education officials, they plan to allocate funds to the state's local education agencies (LEA) on July 1, 2009. Officials in the five LEAs we visited—the public school districts in Detroit, Flint, Grand Rapids, Lansing, and Saginaw—told us they planned to use ESEA Title I Recovery Act funds for activities such as professional development, instructional technology, and tutoring in reading and math.
- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education allocated the first half of the states' IDEA allocations on April 1, 2009, with Michigan receiving \$213 million for all IDEA programs. The largest share of IDEA funding was for the Part B school-aged program for children and youth. The state's initial allocation was \$7 million for Part B preschool grants, \$200 million for Part B grants to states for school-aged children and youth, and \$6 million for Part C grants for infants and families for early intervention services. As of June 30, 2009, none of Michigan's LEAs had begun drawing down Recovery Act IDEA funds. These funds will be used to support special education and related services for infants, toddlers, children, and youth with disabilities. For example, the Lansing School District plans to use these funds to enhance teacher's professional development and purchase equipment, among other purposes.

- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$243.4 million in Recovery Act Weatherization funding to Michigan for a 3-year period. Based on information available on June 30, 2009, DOE provided \$24 million to Michigan, and Michigan obligated \$12.3 million to subgrantees. Michigan plans to begin disbursing funds in July 2009 for weatherizing low-income families' homes and state and federal public housing, and developing an energy-related training center.
- **Workforce Investment Act Youth Program.** The U.S. Department of Labor allotted \$74 million to Michigan in Workforce Investment Act (WIA) Youth Program Recovery Act funds. As of June 30, 2009, the state had allocated \$62.9 million of these funds to local workforce boards. Michigan plans to spend the majority of its allotment during summer 2009.
- **Edward Byrne Memorial Justice Assistance Grants.** The Department of Justice's Bureau of Justice Assistance awarded \$41.2 million directly to Michigan in Recovery Act funding. Based on information available as of June 30, 2009, the Office of Drug Control Policy (ODCP), which administers these grants for the state, had obligated all of the funds of which it retained \$1.2 million (3 percent) for administrative costs.<sup>3</sup> Michigan plans to use the grant funds it receives to continue with planned technology enhancements, add several courts that focus on particular areas of crime (such as domestic violence courts), and provide prescription drug abuse awareness programs.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development (HUD) allocated \$53.5 million in Recovery Act funding to the 122 public housing agencies in Michigan. As of June 20, 2009, the public housing agencies had obligated \$7.6 million of the funds and had expended \$1.1 million. The four housing authorities we visited are using or planning to use this money, which flows directly to public housing authorities, for various capital improvements, including modifying bathrooms, replacing roofs and windows, and adding security features.

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

**Michigan Will Use Existing and Planned Safeguards and Internal Controls for Recovery Act Programs:** Michigan's State Budget Office (SBO) is responsible for the overall operation of the state's central accounting system and establishing and maintaining the state's internal control structure.<sup>4</sup> In order to prepare for using Recovery Act funds, Michigan enhanced its accounting system to track these funds, although challenges remain, such as capturing the number of jobs created and determining the formats needed for reporting information. In addition, the Governor established the Michigan Economic Recovery Oversight Board to help ensure proper use of Recovery Act funds and timely reporting. Michigan officials are still uncertain what the federal government expects from the state regarding tracking and reporting on funds to local entities when federal funds flow directly to these entities, rather than through the state. Within the SBO, the Office of Internal Audit Services (OIAS) conducts internal audit services by performing periodic financial, performance, and compliance audits of state departments and agency programs. As part of the Recovery Act planning process, the OIAS staff performed risk-based analyses of programs that will receive Recovery Act funds. Each state department is also required to biennially report to the Governor on the adequacy of its internal accounting and administrative control systems, and, if any material weaknesses exist, to provide corrective action plans and time schedules for addressing them. Further, the State Auditor General told us his office will include specific audit procedures to address Recovery Act funding as part of the planned procedures for its ongoing federal single audits of state departments.

**Assessing the Effects of Recovery Act Spending:** Michigan departments continue to express concern about the lack of clear federal guidance on assessing and reporting on the results of Recovery Act spending. The state has several different initiatives to develop criteria to measure jobs created and retained as a result of Recovery Act spending. As part of preparing for Recovery Act reporting requirements, officials from Michigan's Department of Information Technology are developing a Recovery Act database. State officials said they intend to use the database to track projects and reflect the impact of Recovery Act spending in the state. State officials indicated that additional federal guidance on assessing

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<sup>4</sup>In addition to its central financial management system, some state departments use other accounting systems, but all systems are required to reconcile with the central financial management system.

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jobs created and saved as a result of Recovery Act spending would be helpful.

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## Michigan Is Using Recovery Act Funds to Address Current and Projected Budget Shortfalls

Recovery Act funding has helped Michigan balance its fiscal year 2009 budget, but the state also had to cut its budget to address projected shortfalls. According to the state budget director, the SFSF and enhanced FMAP have been key to helping Michigan meet its constitutional requirement to balance its budget. For example, the state is planning to use general fund dollars freed up by the increased FMAP to help offset budget deficits. In addition, the Governor issued an executive order on May 5, 2009, to cut the state's budget by \$349 million in order to reduce budget shortfalls for the remainder of fiscal year 2009. Michigan has cut programs and services, including reducing Medicaid payment rates by 4 percent and reducing revenue sharing to cities, villages, and townships by 10 percent in the last quarter of fiscal year 2009. In addition, 38,000 of the state's 52,000 state employees must take 6 unpaid days off before the end of Michigan's fiscal year (September 30, 2009); the state is expecting to lay off 400 employees (including 100 state troopers); and most state agencies have taken a 4 percent across-the-board cut. State officials said that without the Recovery Act funds, the state would have been forced to make even deeper cuts in its budget, which would have been devastating to Michigan.

Michigan's revenues from all sources have declined. State officials project that fiscal year 2010 revenues will decline by over 20 percent from actual fiscal year 2008 revenue levels.<sup>5</sup> The state's dependence on the auto industry and the bankruptcy of two automobile manufacturers has adversely impacted state revenues. The manufacturers have announced long-term financial strategies that will result in additional factory closures in Michigan and negative impacts on related businesses such as parts suppliers. Even with fiscal year 2009 and planned 2010 budget cuts, Michigan state officials have projected a \$1.5 billion budget shortfall for fiscal year 2010. Therefore, to help balance the budget, Michigan expects to spend about \$1.5 billion in Recovery Act funds in fiscal year 2010.

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<sup>5</sup>See *Memorandum to the Members of the Michigan House of Representatives on the Consensus Revenue Agreement*, Michigan House Fiscal Agency (May 19, 2009) that projected a decline in general fund/general purpose revenues.

State officials also expressed significant concerns about Michigan's fiscal year 2011 budget and the period after the Recovery Act funds run out. The officials said the state will need to make cuts now in order to cushion the impact of not having Recovery Act funds in the next budget. State officials also told us that there has been a continuing focus on diversifying the state's economy and its industries. With the auto industry suffering from unprecedented shortfalls in auto sales and production, the state is looking at other areas where it can stimulate its economy. For example, the Director of Michigan's Economic Recovery Office said that the state has been working to help its manufacturers move into growing sectors including renewable energy and life sciences.

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## Michigan Plans to Use Funds Available from Increased FMAP to Address Emerging Priorities

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>6</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>7</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for

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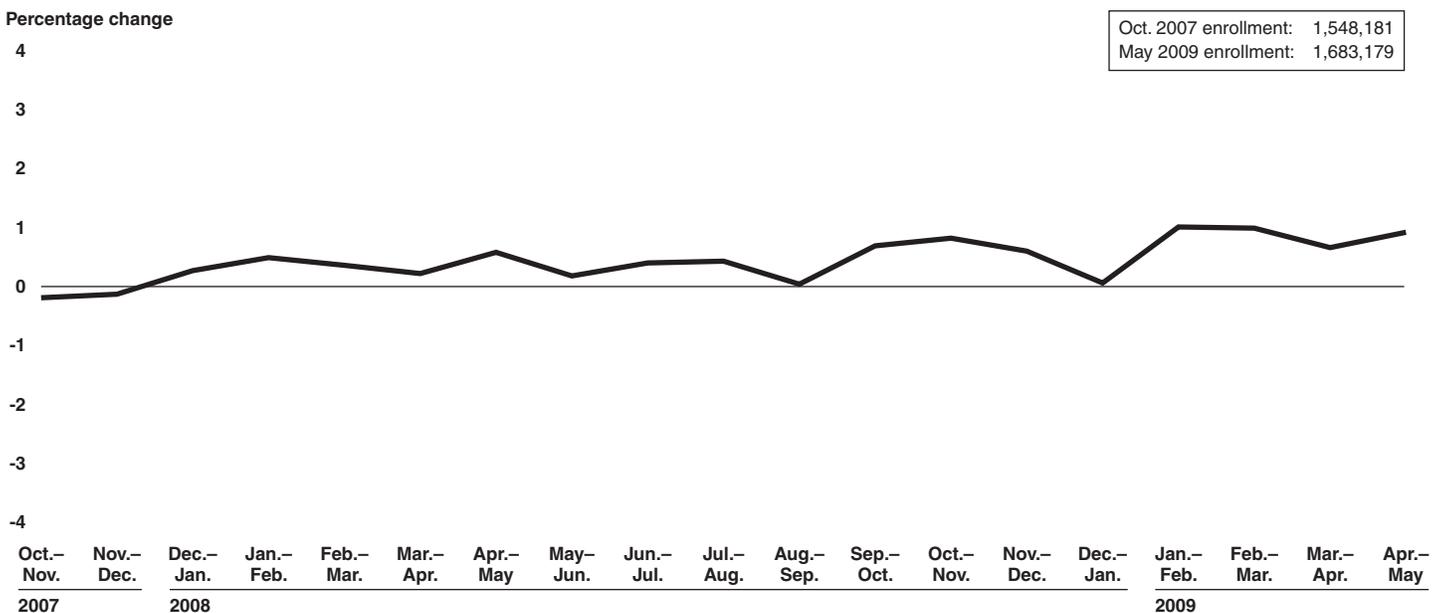
<sup>6</sup>See Recovery Act, div. B, title V, §5001.

<sup>7</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the state’s Medicaid enrollment increased from 1,548,181 to 1,683,179, an increase of 8.7 percent.<sup>8</sup> Following enrollment decreases in October and November 2007, enrollment increased gradually from December 2007 to May 2009 (fig. 1). Most of the increase in enrollment was attributable to increases in the population group of children and families.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Michigan, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Michigan had drawn down almost \$716 million in increased FMAP grant awards, which is about 98 percent of its awards to date.<sup>9</sup> Michigan officials reported that they are using funds made available as a result of the increased FMAP to cover the state’s increased Medicaid

<sup>8</sup>Michigan projected enrollment for May 2009.

<sup>9</sup>Michigan received increased FMAP grant awards of over \$728 million for the first three quarters of federal fiscal year 2009.

caseload, maintain the program's current populations and avoid cuts to eligibility, and maintain the program's current benefits. These officials further reported that they are planning to use these funds to help offset the state budget deficit pending state approval to do so.

Michigan officials highlighted the need to use the funds made available as a result of the increased FMAP to cover the costs associated with a Medicaid caseload that has been increasing notably since the beginning of 2009. State officials also noted that the funds have allowed the state to maintain its current Medicaid program and without them, Michigan would have had to make a dramatic change to the program. In using the increased FMAP, Michigan officials reported that the Medicaid program has incurred additional costs related to the personnel needed to ensure compliance with reporting requirements related to the increased FMAP. In addition, the officials noted the possibility that issues associated with implementing a new Medicaid Management Information System, for which phased-in implementation began prior to the enactment of the Recovery Act, could affect the state's ability to maintain eligibility for increased FMAP.

Regarding tracking the increased FMAP, state officials said they rely on the state's existing accounting system and unique fund source codes to separately track expenditure data for increased FMAP dollars. State officials said that the increased FMAP data undergo a standard reconciliation process to ensure its completeness and accuracy. In addition, the state's Office of the Auditor General conducts a biennial Single Audit, which always encompasses the Medicaid program.<sup>10</sup> The 2006-2007 Single Audit for Michigan identified several deficiencies related to the state's Medicaid program, including inadequate subrecipient monitoring and insufficient internal controls with respect to Medicaid payments made for Medicare premiums for persons dually eligible for both programs. When asked about the state's response to the Single Audit's findings, a state Medicaid program official told us that the state had developed a corrective action plan, some elements of which were related

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<sup>10</sup>The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or non-profit 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 (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.

to its new Medicaid Management Information System. The official reported that there was a delay in the implementation of this new system, which is expected to be implemented September 2009.

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## Michigan Plans to Use State Fiscal Stabilization Funds to Maintain State Education Programs

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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 June 3, 2009, Michigan had received almost \$1.1 billion of its total \$1.6 billion allocation for SFSF—\$873 million for education stabilization and \$194 million for government services. According to state officials, the state legislature passed a supplemental appropriations bill for SFSF funds on June 25, 2009 that if signed by the Governor will provide authority for obligation of SFSF funds to LEAs; as of June 30, 2009 the Governor had not signed the legislation and no funds had been obligated. Based on the state's approved application and our discussions with state officials, Michigan plans to allocate 95 percent of the funds to LEAs and 5 percent to IHEs. As of June 30, 2009, the state had not made any of the funds available to LEAs and IHEs. In its application to Education, Michigan provided assurance that the state will meet the maintenance-of-effort

requirements. According to the Director of Michigan's Economic Recovery Office, Michigan plans to use the government services portion of the SFSF to offset budget shortfalls in the general fund section of the budget.

Michigan Department of Education (MDE) officials said the LEAs planned to use SFSF funds to help reduce teacher layoffs and address cuts in state education programs resulting from budget shortfalls. For example, Detroit Public Schools officials said they planned to use their SFSF funds to retain teachers and staff and avoid layoffs. As of early June 2009, officials from the five LEAs we visited said they were unsure of the exact amount of SFSF funds they would receive and, as a result, were having difficulty planning how to use these funds in the next school year. Officials in all of the LEAs also said they were concerned that the Governor would decrease the amount of state aid provided to LEAs, which would offset the amount provided to them through SFSF.

MDE officials told us they planned to use \$527 million of the total \$873 million in education stabilization funds to supplement state education funding for fiscal year 2009, and anticipated using the remaining \$346 million to supplement state education funding in fiscal year 2010. The officials said they also planned to use the \$194 million in government services funds allocated to Michigan to fund education programs for these years. Officials in the five LEAs we visited echoed these statements and said they would use the funds to retain their daily operations and reduce the amount of any budget cuts.

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## Michigan Has Begun Work on Several Highway 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 act requires that 30 percent of these funds be suballocated to projects in metropolitan and other areas of the state. Highway funds are apportioned to the states by the Federal Highway Administration (FHWA) 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 generally 80 percent.

## Michigan Is Devoting the Majority of Funds to Road Pavement Improvement and Widening

As we previously reported, \$847 million was apportioned to Michigan in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$421 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 project agreement is executed. As of June 25, 2009, \$3,192,995 had been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Michigan is using Recovery Act funds primarily for pavement improvement and widening projects (see table 1). For example, on June 1, 2009, Michigan began a \$22 million project on Interstate 196 in Allegan County that involves resurfacing about 7 miles of road. Michigan Department of Transportation (MDOT) officials told us they focused primarily on pavement improvement for Recovery Act projects because they could be obligated quickly to meet the 120-day Recovery Act obligation requirement and could be under construction quickly, thereby employing people this calendar year. Furthermore, since many of the pavement improvement projects were identified in the state’s 5-year transportation plan and environmental permits and approvals had been completed, Michigan could accelerate the construction of these projects when Recovery Act funds became available. MDOT officials also told us that they expect to continue funding primarily pavement improvement projects.

**Table 1: Highway Obligations for Michigan by Project Type as of June 25, 2009**

	Pavement projects			Bridge projects				Total <sup>b</sup>
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
Dollars in millions	\$0	\$237	\$93	\$0	\$1	\$33	\$58	\$421
Percent of total obligations	0.0	56.1	22.0	0.0	0.1	7.9	13.8	100.0

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

<sup>b</sup>Total may not add to 100 due to rounding.

As of June 30, 2009, Michigan had awarded 35 contracts representing about \$118.1 million. Of these 35 contracts, 13 contracts (representing about \$81 million) are underway. Of the 35 contracts, 2 have been completed, 28 are to be completed between July 2009 and November 2009, 2 are to be completed by June 2010, 1 by May 2011, and 2 by June 2012. In addition, as of June 30, 2009, 39 contracts were pending award and the state plans to advertise 73 to be let by August 27, 2009.

Michigan has found that contracts for Recovery Act projects are being awarded for less than the amount it had estimated when funding for the projects was obligated. For example, the award for a project to repave a major section of Interstate 196, which, according to transportation officials, is a critical east-west artery for commerce and tourists traveling to Lake Michigan, cost less than the state initially estimated. According to MDOT officials, the bids are coming in under estimated costs because there is little construction work available in Michigan so more contractors are competing for public sector construction projects. MDOT officials said that historically, on average, 4 to 5 contractors would bid for state transportation projects. For Recovery Act projects, the average has increased to 5 or 6 contractors and, in some cases, as many as 20 contractors have bid on a single project. According to MDOT officials, larger construction companies, which usually do not bid for state projects, have also submitted bids because they have fixed costs and without any other form of employment, would prefer to work on a project at little or no profit to keep their employees working. Another factor leading to lower bids is a drop in the price of oil and construction materials. MDOT officials told us that contractors can afford a smaller profit margin with the lower cost of asphalt and other construction materials. MDOT officials said they believe the current bidding climate will continue. However, as MDOT adjusts its estimating practices in response to lower bids, MDOT's estimates should become more consistent with the bids and contract award amounts for transportation projects.

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### Michigan Expects to Meet Special Requirements of Recovery Act on Highway Infrastructure Spending

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to do the following:

- Ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated by any state within these time frames.

- Give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>11</sup>

As of June 25, 2009, Michigan had met the 50 percent rule for the 120-day redistribution and obligated \$369.8 million representing 62.3 percent of \$593 million subject to the rule. To meet this 50 percent obligation requirement, MDOT officials told us they selected pavement improvement projects that had completed designs and environmental permits and approvals, which allowed MDOT to start projects quickly.

To give priority to projects that can be completed within 3 years, Michigan is selecting pavement improvement projects that were identified in the state's 5-year transportation plan and that already had environmental permits and approvals to accelerate the construction of these projects. Michigan expects to expend 91 percent of its Recovery Act transportation funds within the 3-year period.

As of June 30, 2009, \$298 million, or 70.7 percent of obligated funds, have been obligated for projects located in an EDA. One \$1.5 million project in an EDA involves resurfacing about 1 mile of Pasadena Avenue in Flint. By

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<sup>11</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal aid highway program, FHWA assesses the ability of the each state to obligate their apportioned funds by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal aid highway and highway safety construction programs by reducing the authority of some states to obligate funds and increasing the authority of other states.

improving road conditions, transportation officials told us that one of the goals of this project is to attract business and increase economic activity in the local community. The state has given priority to selecting Recovery Act projects in EDAs by using the FHWA's EDA Demographic Map<sup>12</sup> to determine whether a project is located in an area considered economically distressed. MDOT officials told us they did not have any difficulty selecting transportation projects in EDAs because 76 of the 83 counties in Michigan are economically distressed. While selecting projects in EDAs was a high priority for Michigan, MDOT placed greater emphasis on the 120-day readiness criterion, geographic balance, and economic development potential since almost all projects were already located in EDAs.

However, funds were obligated for several projects that were not in EDAs. For example, the most expensive Recovery Act transportation project in the state is not in an EDA. This \$44 million project involves widening I-94 in Kalamazoo County, which, according to MDOT officials, is the busiest freeway in the state and a major corridor for commerce. This project was selected because it could meet the 120-day obligation criteria (the designs had been completed and environmental permits and approvals received).

FHWA has directed its field offices to discuss the priority of selecting projects in EDAs with the states, determine what steps states have taken to fulfill this requirement, and document discussions with the state. FHWA's Michigan field office discussed this issue with Michigan and determined what steps Michigan had taken to fulfill this requirement. While FHWA Michigan field office officials emphasized the need to select projects in EDAs, the state officials told us their major concern was to get previously planned and needed projects started and provide jobs.

Michigan has a statutory funding formula that governs how it distributes federal and state highways funds. Under this funding formula, Michigan distributes 75 percent of federal aid to MDOT and 25 percent to local transportation agencies. According to MDOT officials, this funding formula did not have any impact on Michigan's ability to select projects in EDAs.

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<sup>12</sup>FHWA's EDA Demographic Map shows counties that are EDAs based on the 2007 per capita income from the Bureau of Economic Analysis and 24-month average unemployment rates from the Bureau of Labor Statistics. FHWA defines an EDA as an area where the unemployment is 1 percent or more above the national average or the per capita income is 80 percent or less than the national average. The map can be found online at [http://hepgis.fhwa.dot.gov/hepgis\\_v2/GeneralInfo/Map.aspx](http://hepgis.fhwa.dot.gov/hepgis_v2/GeneralInfo/Map.aspx).

On March 19, 2009, Michigan submitted a maintenance-of-effort certification that used the template provided in the letter from the U.S. Department of Transportation on February 27, 2009. Michigan received an April 20, 2009 letter from the department informing the state that it had to recalculate its maintenance-of-effort, based on expenditures rather than obligations and providing the option of amending the certification by May 22, 2009. On May 18, 2009, Michigan submitted an amended certification which it calculated based on expenditures rather than obligations. According to DOT officials, the department is reviewing Michigan's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. DOT is currently validating the amount of state funds Michigan planned to expend for the covered programs in its resubmitted certification.

In April 2009, the FHWA Michigan field office and MDOT identified the highest risks of fraud, waste, and abuse for Recovery Act-funded transportation projects and developed a risk-management plan, which they implemented on June 8, 2009. They developed mitigation strategies for each of the risk areas that include, among other things, conducting random sample reviews of consultant selection procedures, increasing project inspections, implementing a process to hold payments to local transportation agencies until all reporting requirements have been met, and verifying contractor reporting data before it is submitted to FHWA.

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## School Districts in Michigan Will Not Receive Title I, ESEA Part A, Recovery Act Funds Until the State Has Approved Their Applications

The Recovery Act provides new funds to help local school districts 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 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, LEAs are required to comply with current statutory and regulatory requirements, and must obligate 85 percent of these funds by September 30, 2010.<sup>13</sup> Education is urging local districts to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers.

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<sup>13</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

Education allocated the first half of states' ESEA Title I, Part A, allocations on April 1, 2009, with Michigan receiving \$195 million of its \$390 million. State education officials told us Recovery Act ESEA Title I funds will supplement their regular ESEA Title I funds. Michigan's 840 LEAs will begin receiving ESEA Title I Recovery Act funds on July 1, 2009, and will draw down funds as they incur allowable expenses. The state is using its regular ESEA Title I administrative processes, such as having LEAs apply to the Michigan Department of Education (MDE) showing how they will use the funds, before making the funds available. The LEAs were obtaining input from the schools in their districts regarding the use of the funds to include in the LEAs' applications to MDE, which were due on June 15, 2009.

Officials in the five LEAs we visited—the public school districts in Detroit, Flint, Grand Rapids, Lansing, and Saginaw—told us they planned to use ESEA Title I Recovery Act funds for activities such as professional development, instructional technology, and tutoring in reading and math. In addition, officials in two districts said they plan to provide these funds to high schools that had not previously received them, and one district planned to use them to fund a new preschool program. All of them said they were concerned about not receiving the funds quickly enough from the state. For example, district officials in Detroit and Lansing said the time required to obtain required state approval for the use of funds and receive the funds from the state will make it difficult to meet the spending time frames under the Recovery Act.

State and local officials were aware of the Recovery Act's goal of retaining and creating jobs. In guidance provided to LEAs, state officials stressed not funding new positions because of concerns about their sustainability after the Recovery Act funds expire, but they noted that some jobs would be created or saved through extended learning programs such as after-school programs and summer programs. MDE officials said they encouraged LEAs to make strategic investments that will have an impact beyond the life of the Recovery Act funds. Officials in all of the five LEAs we visited told us they were also concerned about choosing activities that could have lasting benefits for their districts.

Officials in two of the five LEAs we visited said they plan to request waivers from either Education's ESEA Title I supplemental educational

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services requirement<sup>14</sup> or the carryover limitation (the requirement to obligate 85 percent of their funds by September 30, 2010). For example, officials with Detroit Public Schools told us they planned to request a waiver from the carryover limitation because they anticipate not being able to develop all of their plans for using the funds by that date.

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## Michigan's LEAs Have Begun Using Recovery Act IDEA Parts B and C Funds to Provide Additional Services and Equipment to Special Needs Students

The Recovery Act provides supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are allocated to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements. Included in these are

1. a maintenance-of-effort requirement that state and local expenditures for special education not fall below those of the previous fiscal year; and
2. a requirement that Part B funds supplement, rather than supplant, state and local funding.

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<sup>14</sup>Under ESEA Title I, supplemental educational services must be available to students in schools that have not met state targets for increasing student achievement (adequate yearly progress) for 3 or more years. Districts with schools in improvement are required to provide an amount no less than 20 percent of their ESEA Title I, Part A, allocations for supplemental educational services and public school transportation. The term supplemental educational services means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day, specifically designed to increase the academic achievement of eligible students as measured by the state's assessment system, and enable these children to attain proficiency in meeting state academic achievement standards.

Education allocated the first half of the states' IDEA allocations on April 1, 2009, with Michigan receiving \$213 million for all IDEA programs. The largest share of IDEA funding was for the Part B school-aged program for children and youth. The state's initial allocation was

- \$7 million for Part B preschool grants,
- \$200 million for Part B grants to states for school-aged children and youth, and
- \$6 million for Part C grants for infants and families for early intervention services.

As of June 30, 2009, 73 LEAs in Michigan had submitted their IDEA applications to MDE but none had begun drawing down Recovery Act IDEA funds. MDE officials said they will not require LEAs to follow any additional procedures to receive IDEA Recovery Act funds and that they will provide LEAs with checklists of requirements for their applications. The applications require LEAs to provide information on their organizational structure and additional programs to be provided to students with disabilities through Recovery Act funds. MDE officials also told us that they do not plan to request any waivers of the IDEA requirements for the Recovery Act funds, nor do any of the state's LEAs.

MDE officials and officials in several of the districts we visited expressed a need for more guidance on IDEA Recovery Act funds. District officials noted they need more detailed guidance on Recovery Act accountability and reporting requirements, particularly how to calculate the number of jobs created and retained. Despite wanting additional guidance, state officials said they made presentations to the LEAs throughout the state and posted information on their Web site on the guidance provided to them by Education.

MDE officials told us the LEAs are planning to use the IDEA Part B Recovery Act funds in ways that will benefit students beyond the 2-year time frame for which Recovery Act funds are provided. For example, the officials said they were encouraging LEAs to pursue sustainable options such as enhancing teachers' skills through professional development and purchasing equipment. In addition, district officials in Lansing and Grand Rapids told us they plan to use the funds to place more preschoolers with disabilities in regular classrooms. Officials in Lansing, Grand Rapids, and Detroit said they plan to purchase new equipment and technology with some of the funds. For the IDEA Part C funds, MDE officials told us they had not yet decided how they would use these funds. In addition, MDE

officials told us that they do not plan to apply for IDEA Part C incentive grants because they lack sufficient resources to administer them.

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## Michigan Is Preparing for a Large Increase in the Department of Energy's Weatherization Assistance Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>15</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating and air conditioning equipment. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE allocated \$243.4 million to Michigan in funding for the Recovery Act Weatherization Assistance Program for a 3-year period. This allocation is a significant increase from the past several years. For example, from 2003 to 2008, Michigan received approximately \$15 million a year in federal funds

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<sup>15</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

for the weatherization program. Michigan's Department of Human Services (DHS) is responsible for administering the program. The Weatherization Assistance Program utilizes 30 Community Action Agencies and two Limited Purpose Agencies to operate the program. DHS received a notice from DOE on April 22, 2009, that Recovery Act funds were available and subsequently received guidance by phone, e-mail, and regional conference calls from DOE on applying for these funds. DHS submitted its application for funding its 2009 Weatherization Program Plan on May 12, 2009. DHS officials told us they expect DOE to verify that the state's plan meets the requirements provided in its guidance, and for DOE to approve the plan within 60 days of the submission date. However, as of June 22, 2009, DOE had not yet approved Michigan's plan. The major issues to be resolved concern guidance on payment of wages under the Davis-Bacon Act and barriers that might arise during the implementation of the program.

On March 27, 2009, DOE provided the initial 10 percent allocation (approximately \$24 million) to Michigan. As of June 22, 2009, DHS obligated \$12.3 million; however, DHS had not spent any of the funds because DOE had not yet approved the state's plan. DHS officials said they expect to receive an additional 40 percent, or approximately \$97 million, shortly after its weatherization plan is approved.

As stated in the plan submitted to DOE for review and approval, DHS's goals include reducing energy usage in each weatherized home by an average of 25 percent; weatherizing at least 32,000 houses; and employing an estimated 1,500 people. Of the total \$243.4 million the state will receive for weatherization under the Recovery Act, the planned allocation is \$200.8 million for weatherization production, \$35.6 million for training and technical assistance, and about \$7 million for DHS to cover its costs for program management, oversight, reporting, and administration. Michigan plans to begin disbursing funds in July 2009 for weatherizing low income families' homes and state and federal public housing. In addition, the state plans to use the funds to provide training and technical assistance for the weatherization program.

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## Michigan Is Using WIA Youth Program Funds to Create Many Summer Employment Opportunities

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth Program to facilitate the employment and training of youth. The WIA Youth Program is designed to provide low-income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provides that, of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill which became the Recovery Act, the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal and state wage laws.<sup>16</sup>

Michigan received \$74 million in Recovery Act funds for the WIA Youth Program, and after reserving 15 percent for statewide activities, allocated \$62.9 million to the 25 Michigan Works! Agencies (MWA)—the local workforce development agencies that administer the programs—for day-to-day program administration. The Department of Energy, Labor and Economic Growth's (DELEG) goal is to spend the majority of its allocation during summer 2009. The department allows MWAs local flexibility when planning summer employment opportunities. For example, local discretion may be applied in determining

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<sup>16</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies.

- which of the WIA Youth Program priorities will be addressed;
- whether 12-month follow-ups are required for youth services provided with Recovery Act funds during the summer months only;
- the type of work-readiness assessment and individual service strategy for youth served with Recovery Act funds during the summer months; and
- whether it is appropriate to link academic learning to summer employment opportunities.

According to DELEG officials, all 25 MWAs had received their Recovery Act fund allocations for the WIA Youth Program and had started enrolling youth in their programs. Eligibility requirements for youth served with Recovery Act funds are the same as for the regular WIA Youth Program, with the exception that the maximum age of eligibility for the programs funded by the Recovery Act has been increased to 24 years. The state's One-Stop Management Information System has been modified in order to more effectively account for the number of participants served using Recovery Act funds.

The state of Michigan, through its 25 MWAs, anticipates serving about 25,500 youth with 2009 Recovery Act funds, compared to about 4,000 served with regular WIA funds during the summer of 2008. We visited the MWAs in Lansing and Detroit and officials provided us the following information on their WIA summer youth programs:

- Lansing's MWA, Capital Area Michigan Works!, was allocated \$3.3 million in 2009 Recovery Act funds for its WIA Youth Program and planned to employ over 700 youths in the summer of 2009. In contrast, Lansing spent \$43,255 of WIA funding in the summer of 2008 to employ 140 youths. As of June 30, 2009, an estimated 712 youths were employed. All participants were to receive a week of leadership training prior to beginning work on June 22, 2009.
- Detroit's MWA, the Detroit Workforce Development Department, was allocated \$11.4 million in 2009 Recovery Act funds for its WIA Youth Program and planned to employ 7,000 youths in the summer of 2009. In its 2008 summer youth program the department spent \$3 million to employ 2,900 youths. In addition to WIA Youth Program funds, the Detroit's 2008 summer youth program received \$1.55 million from other sources. For the summer of 2009, the goal is to have all youths working by July 6, 2009. As of June 30, 2009, 3,800 youths had completed the preemployment certification process and an estimated 22 were onboard and working.

Officials in both Lansing and Detroit said they have had no difficulty recruiting sufficient numbers of youth for participation in their summer programs. For example, Detroit received 25,000 applications for its 7,000 jobs.

While DELEG provides overall program guidance, the design, implementation, monitoring, and reporting on the use and accounting for WIA Recovery Act funds is the responsibility of the various MWAs. In both Lansing and Detroit, all summer youth employment activities are contracted out. In Lansing, the MWA is the management and oversight agency for 20 contractors, including one faith-based organization. The Detroit Workforce Development Department has contracted with City Connect, a private nonprofit organization, to recruit youth for employment in its 2009 summer youth program. To date, Detroit's City Connect has identified approximately 4,200 summer jobs at 145 work sites, including a retail pharmacy, the Henry Ford Hospital, the Detroit City Council, Detroit's police and fire departments, and Wayne County Community College District. Positions in Lansing include jobs with Michigan State University and the Lansing Department of Public Works. Officials at both MWAs were aware of the Recovery Act's emphasis on "green" jobs. Lansing officials explained that it is very difficult to identify significant numbers of green jobs suitable for youths, although they created some green jobs for youths in the Department of Public Works and the School of Agriculture at Michigan State University. In addition, MWA officials in Detroit told us they had developed a task force to address this issue and planned to place 600 youths in green jobs.

DELEG's overall guidance to MWA directors states that they must conduct regular oversight and monitoring of Recovery Act funds in order to ensure that expenditures are made against the appropriate cost categories and within cost limitations. The guidance further states that oversight and monitoring should determine compliance with programmatic, accountability, and transparency 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. Finally, state program officers said they plan to conduct on-site monitoring visits of work sites. Locally, Lansing MWA officials told us they plan to monitor compliance with administrative requirements and controls as well as safety, sexual harassment, adequacy of transportation, and supervision concerns. An official at the Lansing MWA, however, told us he has only four monitors to cover 200 work sites. Detroit MWA officials said they will be using their existing accounting system to account for the use of Recovery Act funds.

They stated that a separate bank account has been opened for the receipt of all Recovery Act funds with separate cost centers for each program. The program finance manager and four accountants are assigned specifically to monitor compliance with Recovery Act requirements for the WIA Youth Program. In addition, the program will be monitored by the City Auditor General's Finance Department and DELEG, which plans to conduct three visits each year.

Neither DELEG nor local MWA officials expressed any major challenges in planning for implementation of their Recovery Act funded WIA summer youth employment activities. From the state's perspective, its experience with running programs for displaced workers combined with the experience of local MWA directors and early planning has contributed to a smooth transition in planning activities using Recovery Act funds. Lansing officials explained that, for a new program manager, finding staff to monitor program activities could be a challenge because of the limited amount of time available to recruit and employ youths for the summer. Detroit officials said one of its challenges was obtaining City Council approval of its summer youth employment provider—City Connect—which can take several months. The other challenge they cited was having more applicants than available jobs, which has caused them to do much more screening than in previous years. In addition, Detroit's MWA is coordinating with other local service organizations such as United Way of Southeastern Michigan to evaluate the impact of Recovery Act funds on area employment and the benefit to youth. Finally, Detroit officials told us that they plan to hire up to 150 additional staff by June 30, 2009 to monitor their summer youth program work sites.

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## Edward Byrne Memorial Justice Assistance Grants (JAG)

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information-sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government

within the state.<sup>17</sup> The total JAG allocation for Michigan state and local governments under the Recovery Act is about \$67.0 million, a significant increase from the previous fiscal year 2008 allocation of about \$5.0 million.

As of June 30, 2009, the Office of Drug Control Policy (ODCP) had received the full state award of \$41.2 million.<sup>18</sup> Of this amount, ODCP obligated all of these funds, which included \$14 million for state programs and \$26 million for localities. ODCP retained \$1.2 million (3 percent) for administrative costs. In addition, localities within Michigan had been awarded about \$18.2 million by the Department of Justice, approximately 71 percent of Michigan's total local award of about \$25.8 million.

ODCP officials said that Recovery Act funding has allowed them to continue with planned technology enhancements, add several courts that focus on particular areas of crime (such as drug abuse and domestic violence), and provide prescription drug abuse awareness programs. They also intend to fund projects without requiring matching funds, which had previously been required to receive funding for these programs. From April 13 through May 14, 2009, ODCP officials solicited applications for funding from local law enforcement agencies and received 137 applications. These projects support the program areas outlined by Michigan that support the seven JAG purpose areas.<sup>19</sup>

The Michigan program areas are

- Technology Enhancement Projects,
- Community Policing & Community Prosecution Strategies,
- Local Correctional Resources,
- Multi-jurisdictional Task Forces,
- Prescription Drug Abuse Community Awareness,
- Courts for Domestic Violence, and

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<sup>17</sup>We did not review these funds awarded directly to local governments in this report because the BJA's solicitation for local governments closed on June 17.

<sup>18</sup>Due to rounding, this may not exactly equal 60 percent of the JAG award to Michigan.

<sup>19</sup>The BJA allows JAG funding for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, as well as criminal justice-related research and evaluation activities that will enhance the following seven areas: prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment and enforcement programs; planning, evaluation, and technology improvement programs; crime victim programs; and witness programs.

- Courts for Family Drug Treatment.

ODCP monitors recipient compliance with JAG requirements through risk-based activities. In addition to receiving program reports from subrecipients, ODCP conducts desk audits of low-risk programs and on-site monitoring. Desk monitoring activities include reviewing monthly financial status reports and contacting project directors regarding delinquent program reports. After on-site monitoring, ODCP prepares a report that includes critical findings and a timeline for a return to compliance. ODCP determines the level of risk by using factors such as the amount of funds awarded to a subrecipient, past performance problems (such as inaccurate progress reports), and previous inappropriate expenditures. ODCP has taken steps to hire an additional staff person to provide assistance with administering and reporting on JAG Recovery Act funds.

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## Public Housing Capital Grants

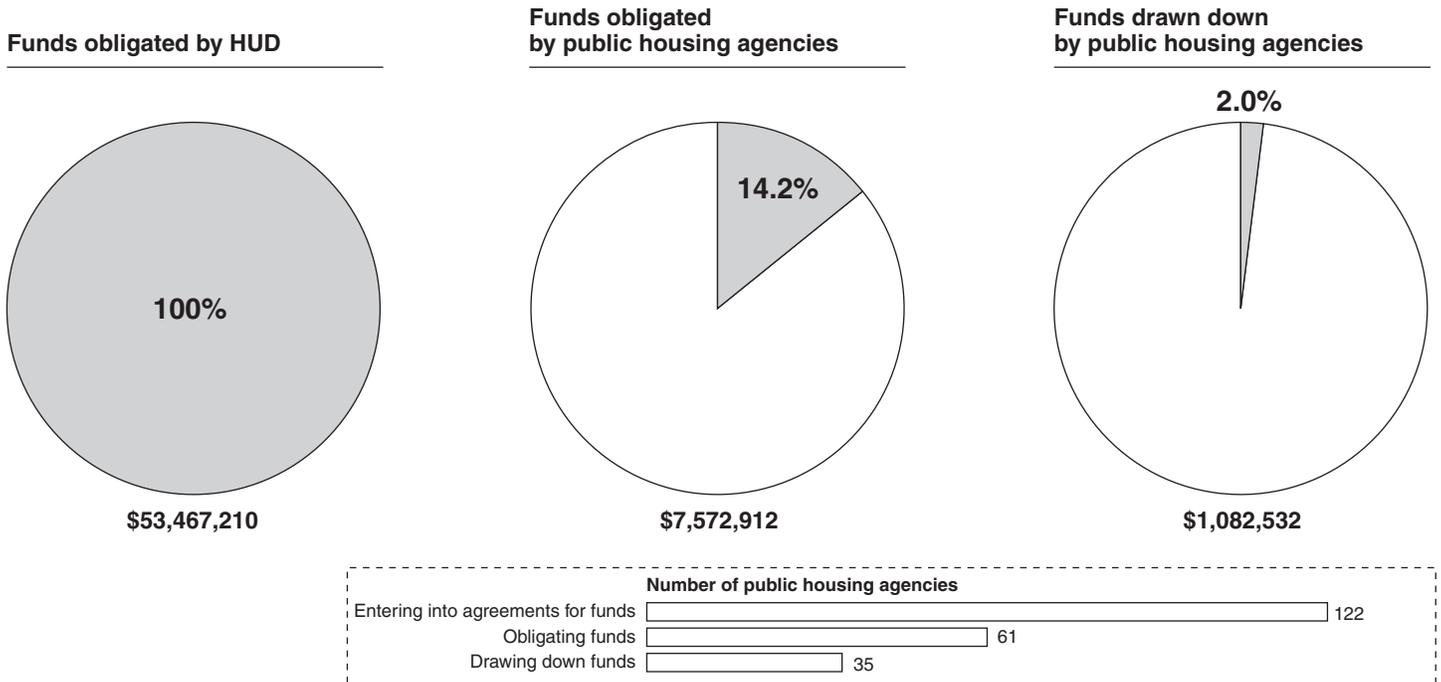
The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>20</sup> The Recovery Act 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—that is, make funds available—within 1 year of the date they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already underway or included in the required 5-year capital fund plans. HUD is also required to award \$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. On May 7, 2009, HUD issued its Notice of Funding Availability that describes the

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<sup>20</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

competitive process, criteria for applications, and time frames for submitting applications.<sup>21</sup> Michigan has 122 public housing agencies that have received Recovery Act formula grant awards. In total, these public housing agencies received \$53.5 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, 61 of the state’s 122 public housing agencies had obligated \$7.6 million and had expended \$1.1 million. We visited four public housing agencies in Michigan: the Detroit, Ecorse, Flint, and Lansing Housing Commissions.<sup>22</sup>

**Figure 2: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Michigan**



Source: GAO analysis of HUD data.

The four public housing agencies we visited identified hundreds of units in projects that will receive Recovery Act funding. Most of these projects

<sup>21</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application, and to funding limits.

<sup>22</sup>As of June 20, 2009, the four public housing commissions we visited had received \$22.2 million from the Public Housing Capital Fund formula grant awards. The four housing commissions had obligated \$1.8 million and had expended \$346,500 of these grant funds.

were selected because they had recurring maintenance issues, such as exterior walls and windows that needed repair. The public housing agency officials told us that they will rehabilitate housing units beginning in July at the earliest. For example, the Lansing Housing Commission plans to remove and replace roofs; add insulation in roofs and add wall insulation before installing new siding; repair or replace sliding windows; and install and repair gutters and downspouts. The Ecorse Housing Commission plans to purchase a new security system for its properties, which also includes a new server for its information technology system. Ecorse Housing Commission officials said that their Commission will also use the funds to perform energy audits, which are required by HUD every 5 years.

The four public housing agencies we visited in Michigan had not drawn down any Recovery Act formula grant funds as of the time of our visits. For example, Detroit Housing Commission officials told us that their agency had been allocated about \$17 million in Recovery Act funds and would draw down funds beginning in June 2009. The Detroit Housing Commission had to obtain approval from HUD before it draws down the funding, since it had been designated a “troubled” public housing agency by HUD.<sup>23</sup> The Flint Housing Commission had not drawn down any funds because it was first required to complete environmental reviews of its proposed projects. The environmental reviews are expected to be completed by July 1, 2009.

The public housing agencies used varying approaches to select and prioritize the projects to be funded with Recovery Act funds. For example, Detroit Housing Commission officials told us that they prioritized capital projects based on the Commission’s Capital Fund 5-year plan. The commission will select projects from among 400 sites throughout Detroit. Based on its 5-year plan, the Detroit Housing Commission is targeting seven major projects. The Detroit Housing Commission also plans to use the funds to rehabilitate rental units and for projects that are underway. Lansing Housing Commission officials told us that their projects were prioritized before the Recovery Act. Flint Housing Commission officials prioritized projects based on the Commission’s Capital Fund 5-year plan

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<sup>23</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies’ public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring.

and input from its directors and managers. After the Flint Housing Commission completed its prioritization process, it submitted its proposals to HUD as part of its annual statement. According to Flint Housing Commission officials, a variety of projects were prioritized in this process, including repaving parking lots and sidewalks; replacing or repairing porches; installing new roofing; repainting the exterior of some buildings; and replacing or repairing kitchen floors. The officials said that their goal is that these projects will improve the aesthetics of public housing units and improve occupancy and reduce tenancy turnover.

Officials at the public housing agencies we visited said they will have to meet accelerated time frames required under the funding, but plan to meet these requirements. For example, the Lansing Housing Commission officials told us they plan to solicit bids for three planned projects on July 8, 2009. When this step has been completed and they have awarded the contracts and complied with all HUD requirements, officials will begin to draw down Recovery Act funds.

Each of the public housing agencies we visited in Michigan had established processes to track Recovery Act projects and to track Recovery Act funds. For example, Detroit Housing Commission officials said they meet with HUD officials on a weekly basis to discuss the tracking of Recovery Act funds, and other priorities. Each of the four agencies will use HUD's Electronic Line of Credit Control System (eLOCCS) to assist in tracking Recovery Act funds separately from other funding sources. According to Ecorse Housing Commission officials, Recovery Act funds will contain an identifier to distinguish them from other funds. The Flint Housing Commission also developed a spreadsheet with separate accounting codes for Recovery-funded projects. Flint Housing Commission officials said they use a general ledger to help organize the information.

The public housing officials with whom we met reported a variety of strategies for how they plan to measure the impact of Recovery Act funds and the jobs created as a result of the funds. Ecorse Housing Commission officials told us that they were waiting for guidance from HUD on reporting requirements, particularly with respect to reporting on jobs retained. Flint Housing Commission officials told us that they are using its payroll system to track jobs created using Recovery Act funds. The Flint Housing Commission plans to hire an additional 30 to 40 employees, including carpenters and plumbers, to renovate public housing units.

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## Existing and Planned Safeguards and Internal Controls Will Be Used for Michigan's Recovery Act Programs

Michigan's State Budget Office (SBO) is responsible for the overall operation of the state's central accounting system and establishing and maintaining the state's internal control structure.<sup>24</sup> Within the SBO, the Office of Financial Management is responsible for developing policies and procedures related to financial management, and preparing the annual Comprehensive Annual Financial Report and other financial, payroll, and special reports. The Michigan Economic Recovery Oversight Board, an advisory body consisting of six members appointed by the Governor, is, among other things, to review and monitor the allocation and investment of the federal funds received by the state to ensure that several objectives are achieved. These objectives include that (1) funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated, and (2) the recipients and uses of the funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner. The Board is also to provide other information, recommendations, or advice related to Michigan's compliance with the transparency, accountability, and oversight requirements of the Recovery Act. The Board, which was created in June 2009, is to serve until December 2011.

In order to prepare for using Recovery Act funds, Michigan enhanced its accounting system to track these funds, although challenges remain, such as capturing the number of jobs created and determining the formats needed for reporting information. Michigan officials were still uncertain what the federal government expects from the state regarding tracking and reporting on funds to local entities when federal funds flow directly to these entities, rather than through the state.<sup>25</sup>

Within the SBO, the Office of Internal Audit Services (OIAS) provides internal audit services by performing periodic financial, performance, and compliance audits of departments and agency programs and organizational units. In addition, SBO staff review department or agency management on internal control matters, and assist department and agency management with investigations of alleged fraud or other

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<sup>24</sup>In addition to its central financial management system, some state departments use other accounting systems, but all systems are required to reconcile with the central financial management system.

<sup>25</sup>After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See OMB Memorandum M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

irregularities. The Michigan Management and Budget Act requires each principal department to maintain adequate internal control systems and to biennially report to the Governor on the adequacy of its internal accounting and administrative control systems. Additionally, if any material weaknesses exist, the act requires that the department provide corrective action plans and time schedules for addressing such weaknesses. The most recent self-assessments were due to the OIAS on May 1, 2009. These assessments are limited to state departments. As of mid-June, OIAS expected to receive 15 of the 19 self-assessments and the auditors were reviewing the assessments and considering the internal control vulnerabilities that they identified to assist in planning their audit strategy. OIAS expects to submit a consolidated report to the Governor covering the self-assessments for all state departments by September 30, 2009. In addition, OIAS will include an action plan for improvements to the self-assessment process.

As part of the Recovery Act planning process, the OIAS staff performed risk-based analyses of the programs that will receive Recovery Act funds. The Director of OIAS said that he intends to focus the office's reviews based on five criteria: (1) the total amount of Recovery Act funds received, (2) programs experiencing the largest percentage increase in program funds from the Recovery Act, (3) the distribution process (e.g., by formula or through competition), (4) compliance impact due to the nature of the program, and (5) characteristics of the recipients (e.g., whether they have worked with the state government before). As part of these reviews, OIAS intends to review the agencies' internal control evaluations to identify if material findings were cited for programs receiving Recovery Act funds and to review recent single audits from the State Auditor General. OIAS also plans to review the status of the departments' corrective action plans.

SBO relies upon the controls in place at the state departments and agencies, although many of the control features are decentralized. State agencies have taken varying approaches to monitor Recovery Act funds. For example, based on the significant increase in funding, Michigan plans to increase the frequency of site visits to help ensure compliance with DOE's Weatherization Assistance Program. In contrast, MDE officials told us that limited administrative funds have prevented the department from hiring additional staff to monitor up to 4,500 additional recipients of Recovery Act funds. MDOT officials told us that they have sufficient staff to monitor the use of Recovery Act funds.

The State Auditor General's single audit approach is to audit and report on approximately one-half of Michigan's 19 departments each year, with the

audits covering 2 fiscal years of departmental activity. The State Auditor General told us his office will include specific audit procedures to address Recovery Act funding as part of the planned procedures for its ongoing federal single audits of state departments. For example, the most recent single audit for Michigan's Medicaid program identified several deficiencies including third-party liability oversight; Medicaid payments for Medicare premiums for persons dually eligible for both programs; and ensuring adequate reporting and subrecipient monitoring.<sup>26</sup> State Medicaid officials responded to the single audit's findings with a corrective action plan. However, these officials told us that the only deviation from the proposed corrective action plan timeline was a delay in the implementation of the state's claims processing subsystem of their new Medicaid Management Information System, which is expected to be implemented in September 2009.

The following are examples of single audit findings pertaining to MDE and MDOT:

- MDE: In June 2008, the State Auditor General issued a single audit report on MDE for the 2-year period ending September 30, 2007. This report identified significant deficiencies related to internal control over major programs and instances of noncompliance with program requirements. For example, MDE's internal controls over special education did not ensure its compliance with federal laws and regulations regarding reporting and subrecipient monitoring. In April 2009, MDE issued its plan for corrective action to the State Auditor General.
- MDOT: In June 2007, the State Auditor General issued a single audit report on MDOT for the 2-year period ending September 30, 2006. This report identified that MDOT needed to strengthen its internal controls for the State Infrastructure Bank program to ensure compliance with federal and state laws and regulations, and with contract terms regarding allowable activities. In addition, in September 2008, the State Auditor General reported that the U.S. Department of the Treasury did not allocate expenditures to the Michigan Transportation Fund

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<sup>26</sup>In accordance with the Single Audit Act of 1984, as amended, 31 U.S.C. §§ 7501-7505, and the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations* (June 27, 2003), nonfederal entities, including states, that expend \$500,000 or more a year in federal awards must have a single or program-specific audit conducted for that year subject to applicable requirements.

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because MDOT did not produce the level of activity necessary to enforce the Motor Fuel Tax Act.

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## Assessing the Effects of Recovery Act Spending

Absent timely guidance from the federal Office of Management and Budget (OMB), and from the state, Michigan departments have relied on other resources to develop criteria to measure jobs created and retained for the programs each administers. For example, after DELEG officials worked with a contractor to develop a method of estimating the number of jobs created and retained as a result of the Recovery Act, they received different guidance from DOE on how to provide these estimates. In addition, working with FHWA, on April 3, 2009, MDOT developed guidance and provided notice to all contractors bidding for Recovery Act transportation projects that they will be required to report on the number of jobs created. The company that is awarded the contract must provide the lead engineer a monthly report that includes

- the total number of employees, including prime contractors, subcontractors, and consultants, who performed work on the contract;
- the total number of hours worked by employees who performed work on the contract; and
- the total wages of employees who performed work on the contract.

MDOT was also developing an automated system, expected to be operational by July 1, 2009, that would allow contractors to input relevant job data directly into a database. At the time of our review, contractors must fill out a form and submit it to MDOT. In addition, MDOT planned to put in place a quality-assurance process for monitoring and assessing the accuracy and completeness of the data reported by contractors. As of June 2009, MDOT officials did not have a time frame for putting this process in place.

Officials from the Michigan Economic Development Corporation told us that estimating jobs created and retained is difficult for several reasons. One of the difficulties in developing these estimates is the difficulty of defining full-time employment. For example, construction work is full-time in certain states, but seasonal in Michigan. Another difficulty is identifying

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the number of “indirect”<sup>27</sup> jobs associated with the use of Recovery Act funds.

Michigan’s Department of Information Technology was developing a comprehensive project-tracking database system for Recovery Act reporting requirements, including the source and use of funds. The Michigan Economic Recovery Office issued guidance to state departments on the information they should provide to the office and officials said they intend to test the system in July 2009 in preparation for the first Recovery Act report due from the state to OMB in October 2009. Officials told us that the test is to include some information on jobs created. State agency officials told us that they intend to use this test to assess whether information they are collecting is accurate and meets all federal reporting requirements.

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## 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 June 22, 2009. In general, they agreed with its overview of the state’s activities in the nine programs selected for analysis. The officials also provided technical suggestions that we incorporated, as appropriate.

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## GAO Contacts

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## Staff Acknowledgments

In addition to the contacts named above, Robert Owens, Assistant Director; Jeffrey Isaacs, analyst-in-charge; Manuel Buentello; Leland Cogliani; Henry Malone; Anthony Patterson; and Mark Ward made major contributions to this report.

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<sup>27</sup>Indirect jobs created include the number of employees associated with increased businesses that provide products or services to employees hired directly through contracts funded through Recovery Act funds.

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# Appendix X: Mississippi

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> 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/>.

**Use of funds:** GAO's work focused on nine federal programs, selected primarily because they have begun disbursing funds to states, include new programs, or include existing programs receiving significant amounts of Recovery Act funds. Program funds are being directed to help Mississippi stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, Mississippi had drawn down almost \$207 million in increased FMAP grant awards, which is over 89 percent of its \$232 million grant awards to date. Mississippi officials reported that they are planning to use funds made available as a result of the increased FMAP to cover Medicaid's increased caseload. The officials also noted that they are using freed up state funds to offset the state budget deficit.<sup>2</sup>
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$355 million in Recovery Act funds to Mississippi, of which 30 percent was suballocated to metropolitan and other areas. As of June 30, 2009, the federal government's obligation was \$276 million, and Mississippi had awarded 44 contracts totaling \$208.4 million for "shovel ready" projects, including highway resurfacing, bridge improvement, and new construction projects. For example, one project in Lauderdale County, near the Mississippi-Alabama border, involves construction of a new interchange.

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

- **U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF).** Education has awarded Mississippi \$321.1 million, or about 67 percent of its total SFSF allocation of \$479.3 million. The state has not obligated any of these funds as of June 30, 2009. Mississippi plans to use these funds to restore state support to education budgets for primary, secondary, and higher education. For example, a University of Mississippi official said these funds would be used to avoid tuition increases and layoffs.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded Mississippi \$66.4 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$132.9 million. The Mississippi Department of Education has determined allocations for local education agencies and released this information on June 25, 2009. Local education agencies we visited plan to use these funds to, among other things, provide professional development for teachers and purchase new classroom equipment.
- **Individuals with Disabilities Education Act (IDEA), Part B & C.** Education has awarded Mississippi \$63.4 million in Recovery Act IDEA, Part B & C, funds, or 50 percent of its total allocation. The Mississippi Department of Education has determined allocations for local education agencies and planned to release this information by early July 2009. Local education agencies we visited plan to use these funds to purchase communication devices for students with disabilities and equipment for special education teachers. IDEA Part C is administered separately by the Mississippi Department of Health, which is planning to use the funds for personnel development and direct services for children.
- **Weatherization Assistance Program.** The U.S. Department of Energy awarded \$49.4 million in Recovery Act weatherization funding to Mississippi. Based on information available on June 30, 2009, DOE has allocated 50 percent (\$24.7 million) to the state. The Mississippi Department of Human Services (MDHS) has obligated all of these funds. MDHS also has started to disburse these funds to help reduce the energy bills of more than 5,000 low-income families across the state.
- **Workforce Investment Act Youth Program.** The U.S. Department of Labor allotted about \$18.7 million to Mississippi in Workforce Investment Act Youth Recovery Act funds. Mississippi has allocated about \$15.9 million to the state's four local workforce areas, based on information available on June 30, 2009. The local workforce areas'

summer youth programs were set to begin operating in late May and early June. Mississippi plans to create summer employment opportunities for about 6,000 youth using Recovery Act funds.

- **Edward Byrne Memorial Justice Assistance grants.** The Department of Justice's Bureau of Justice Assistance has awarded \$11.2 million in Recovery Act funding directly to Mississippi. Based on information available as of June 30, 2009, \$57,072 of these funds have been obligated by the Mississippi Department of Public Safety, which administers these grants for the states.<sup>3</sup> Grant funds coming to the state will provide funding for law enforcement, community corrections, as well as prevention and education programs.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$32.4 million in Recovery Act funding to 52 public housing agencies in Mississippi. Based on information available as of June 20, 2009, 18 of these agencies had obligated about \$5.7 million, or 17.6 percent. At the 2 public housing agencies we visited (in Gulfport and Picayune), this money, which flows directly to public housing agencies, is being used for various capital improvements, such as modernizing kitchens and bathrooms; replacing plumbing, flooring, and entrance doors; and installing new roofs and siding.

**Safeguarding and transparency:** Mississippi has enhanced its accounting system to track Recovery Act funds that flow through the state treasury and the state central accounting system and is making changes to most of its software programs so that the use of the funds will be more transparent. Once software changes are completed, detailed information on the use of Recovery Act funds, including the total amount of Recovery Act funds received, the amount of funds obligated or expended for grants, a detailed list of all grants and activities (including projects under those grants), and the number of jobs created or sustained, will be available on the State of Mississippi Web site.

**Assessing the effects of spending:** Mississippi agencies continue to express concern about the lack of clear federal guidance on assessing the effects of Recovery Act spending. For example, officials at the two local

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

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education agencies and three institutions of higher education we visited told us that they plan to use Recovery Act funds to avoid layoffs and hire new staff. These officials noted that they would like more specific reporting guidance—including how to track jobs created and sustained—from their state oversight boards. In addition, officials from the state oversight boards told us that they were expecting to receive additional guidance on reporting requirements from Education and the Office of Management and Budget and would share this guidance with their local education agencies and institutions of higher education. Officials from the two public housing agencies we visited in Mississippi also told us that they have not received specific guidance from the U.S. Department of Housing and Urban Development regarding how to assess the effects of Recovery Act spending, such as the number of jobs created or retained.

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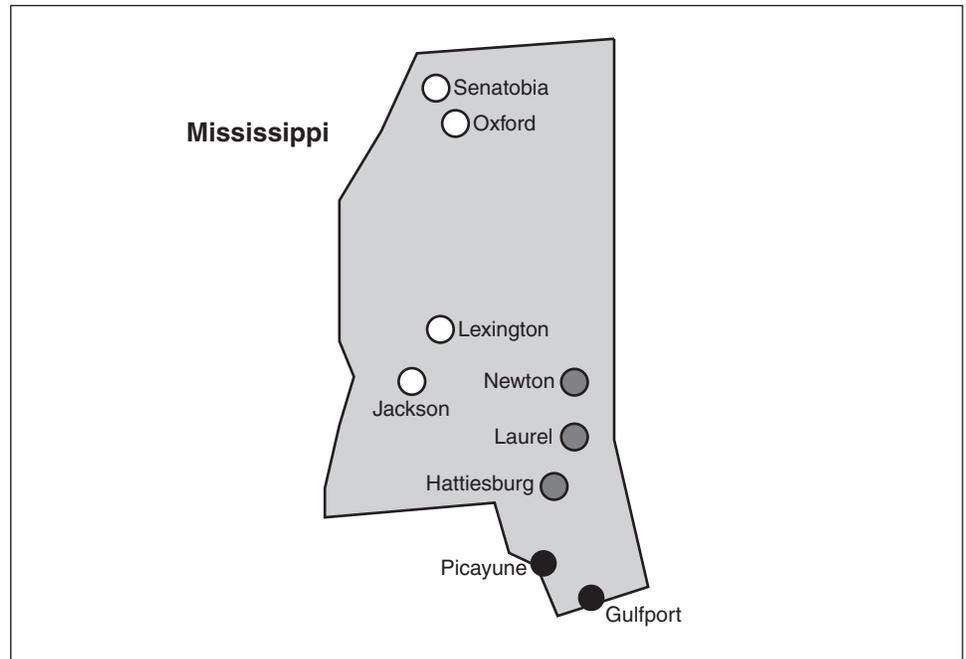
## Introduction

As part of our second bimonthly review of Recovery Act spending in Mississippi, we visited several localities, including one Mississippi Department of Transportation (MDOT) district office, two MDOT project offices, two public housing agencies, two 4-year institutions of higher learning, one community college, and two local education agencies.<sup>4</sup> Figure 1 shows the location of the offices visited.

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<sup>4</sup>We discuss the basis for our selection of these localities throughout this appendix.

**Figure 1: Localities GAO Visited during Second Bimonthly Recovery Act Review**



- Education (local agencies: Holmes County School District, Lexington; City of Jackson Public School District; Oxford; Jackson State University, Jackson)
- Transportation (Mississippi Department of Transportation District Office, Hattiesburg; Mississippi Department of Transportation Project Offices, Laurel and Newton)
- Housing (Mississippi Regional Housing Authority No. VIII, Gulfport; Housing Authority of the City of Picayune)

Sources: GAO; Art Explosion (map).

## Long-Term Impact of Recovery Act on Mississippi Budget Is Uncertain

The funding provided by the Recovery Act may help Mississippi reduce the impact of budget reductions made in fiscal year 2009, but the longer-term impact of the Recovery Act funding remains uncertain.

The legislature normally conducts its regular session from January through the end of March, but recessed early in part because of uncertainty regarding how the state's portion of Recovery Act funds should be spent. The legislature reconvened in late May to reconsider the budget. However, the legislature, in early June, completed its regular session without reaching agreement with the Governor on a budget for fiscal year 2010.

According to a state official, the legislature passed appropriations for fiscal year 2010 for most state agencies on June 30, 2009. The official added that several of the agency appropriations use Recovery Act funding as a funding source. However, the Governor is concerned that the Recovery Act funding will not be enough to address the deficits the state may face in the next 3 fiscal years.

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### Recovery Act Funding May Lessen Recent Budget Reductions, but Gaps Remain

As we reported in April 2009, prior to the Recovery Act, Mississippi had made two budget reductions to maintain a balanced budget for the 2009 fiscal year, which ended on June 30.<sup>5</sup> In response to anticipated budget shortfalls, the Governor, in November 2008, cut most state agency budgets by 2 percent of the amount the legislature appropriated for fiscal year 2009, or \$42 million. In January 2009, the Governor cut state agencies' budgets by an additional \$158.3 million, bringing the total cuts to \$200 million. The Governor made a smaller reduction, in terms of the program's overall budget, to the state's Adequate Education Program, which supports local education.<sup>6</sup> The Governor determined that the reductions were necessary to comply with state law requiring a balanced budget, noting that the state had collected less tax revenue than expected.

A May 2009 assessment by the Governor's office indicates that the state's revenue shortfall significantly increased from January 2009 through April 2009. As figure 2 shows, the Governor's assessment is that the state's revenue shortfall has continued to worsen, reaching \$304 million by May 2009. Similarly, the state's Joint Legislative Budget Committee issued revised revenue estimates in March 2009, indicating that the revenue shortfall for fiscal year 2009 would be larger than previously expected.<sup>7</sup>

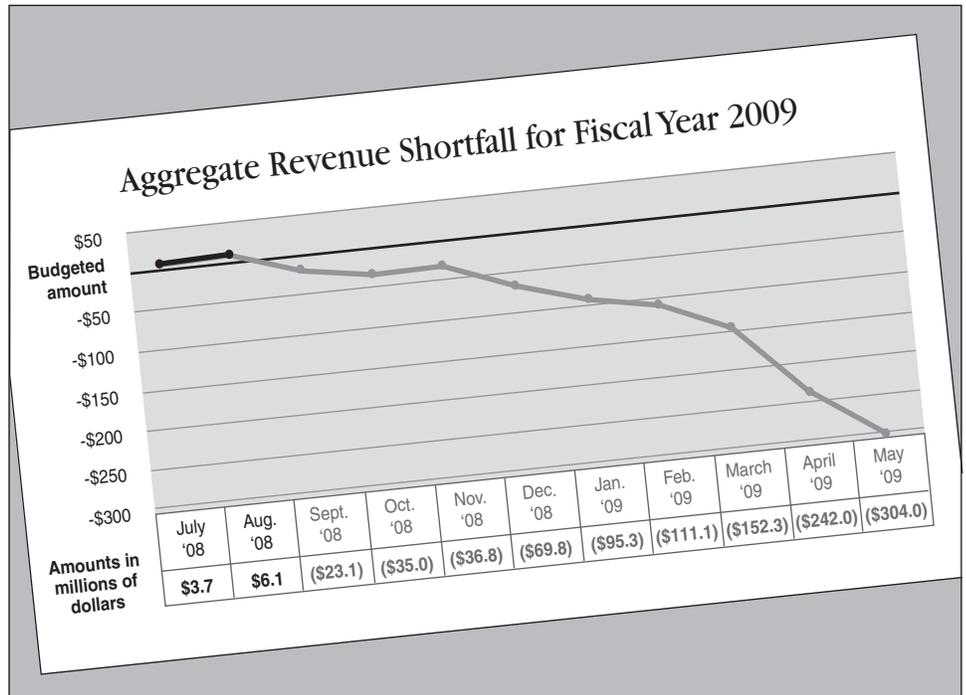
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<sup>5</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009).

<sup>6</sup>The Governor's reductions also excluded state Medicaid services and court-ordered settlements.

<sup>7</sup>In October 2008, the Joint Legislative Budget Committee estimated that the state would collect slightly more than \$5 billion dollars in general fund revenue for fiscal year 2009, but in March 2009 the committee lowered this estimate to slightly more than \$4.8 billion dollars.

**Figure 2: The Governor’s Office’s Revenue Shortfall Projections**



Source: Governor’s Fiscal Year 2010 Modified Budget Recommendations, May 6, 2009.

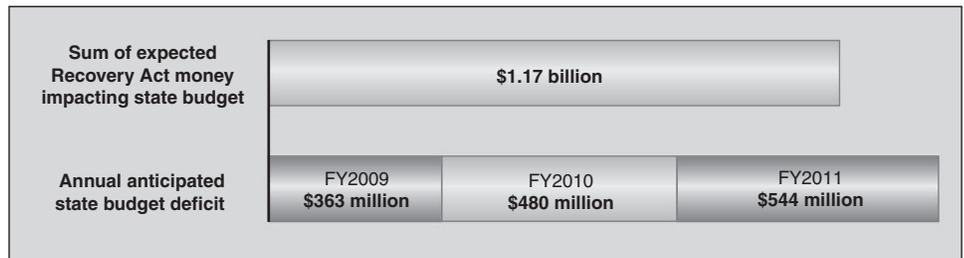
The Governor in his May 2009 budget recommendations had discussed plans to use Recovery Act funds to partially restore funding for some of the state programs that had been reduced in fiscal year 2009. However, a state budget official noted that a cautious approach was being taken in restoring funding because recent tax collections had been less than expected. The legislature and Governor were considering other sources of revenue such as drawing from the Rainy Day Fund,<sup>8</sup> a tobacco tax increase, and a hospital assessment. As of June 30, 2009, it was not clear the extent to which funding had been restored for state programs as the legislature worked to finalize appropriations for fiscal year 2010.

<sup>8</sup>The 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.

## Governor Concerned about Longer-Term Budgetary Impacts

The Governor’s assessment is that the state faces significant fiscal challenges beyond fiscal year 2010. The Governor believes that Mississippi will likely face deficits that exceed the amount of Recovery Act funds the state anticipates will be available, as shown in figure 3. The Governor noted that the global economy may worsen and historically state tax revenues recover more slowly than the overall economy. By fiscal year 2012, the Governor’s office believes that the shortfall may reach \$500 million or more.

**Figure 3: Governor’s May 11, 2009, Assessment of the Impact on Recovery Act Funds on Addressing Revenue Shortfalls**



Source: Governor’s Fiscal Year 2010 Modified Budget Recommendations, May 6, 2009.

Note: Mississippi state law imposes upon the Mississippi Legislative Budget Office the duty to prepare an overall balanced budget of the entire expense and income of the state for each fiscal year. This balanced budget is to encompass the operations of all general-fund agencies of the state, all special-fund agencies of the state, and MDOT. Miss. Code § 27-103-113.

The Governor suggests that the Recovery Act may only partly address the challenges the state is facing. Moreover, the Governor notes that when the Recovery Act funding ends the state may continue to face a large revenue shortfall. Consequently, the Governor says the legislature should at some point consider major reforms and restructuring. For example, one longer-term measure the Governor recommends is to “create a mechanism to consider every department and agency of the state government from the bottom up,” to improve performance in the state government.

## Federal Medical Assistance Percentage Funds

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state’s per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as FMAP, which may range from

50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>9</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>10</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

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**Recent Increases in Mississippi Medicaid Enrollment Add Pressure to State Budget Situation, Underscoring Need for Additional Federal Guidance**

From October 2007 to April 2009, the state's Medicaid enrollment grew from 562,545 to 591,710, an increase of 5.2 percent. (See fig. 4.) The increase in enrollment varied over this period, with a larger increase from February to March 2009, and 3 months where enrollment decreased. Most of the increase in enrollment was attributable to two populations groups: (1) children and families and (2) disabled individuals. There was also a decrease in enrollment in a Family Planning Waiver.<sup>11</sup>

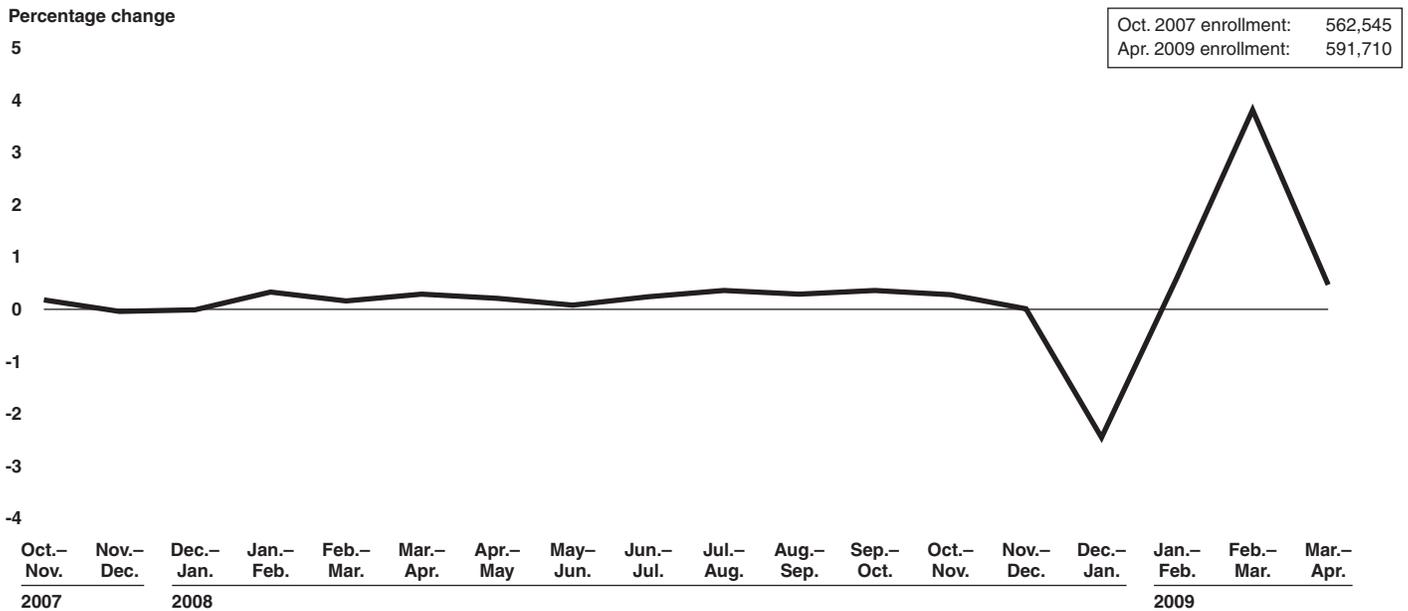
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<sup>9</sup>See Recovery Act, div. B, title V, § 5001.

<sup>10</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>11</sup>Mississippi's Family Planning Waiver is part of the state's Early and Periodic Screening, Diagnosis and Treatment services available to women from 13 years to 44 years of age. These services include medical exams, education, lab services, follow-up doctor visits and birth control.

**Figure 4: Monthly Percentage Change in Medicaid Enrollment for Mississippi, October 2007 to April 2009**



Source: GAO analysis of state reported data.

As of June 29, 2009, Mississippi had drawn down almost \$207 million in increased FMAP grant awards, which is over 89 percent of its awards to date.<sup>12</sup> Mississippi officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit. The state is also planning to use such funds to cover Medicaid’s increased caseload. Mississippi Medicaid officials noted that due to the state’s funding constraints they could not address any growth in the Medicaid program, which experienced an enrollment increase of about 22,000 beneficiaries in March 2009 alone. Mississippi officials reported that the Medicaid program has incurred additional costs related to

- personnel needed to ensure compliance with reporting requirements related to the increased FMAP,
- systems development or adjustments to existing reporting systems, and
- personnel associated with the routine administration of the state’s program.

<sup>12</sup>Mississippi received increased FMAP grant awards of just over \$232 million for the first three quarters of federal fiscal year 2009.

State Medicaid officials noted that they need additional guidance from CMS related to certain aspects of requirements for maintaining eligibility for increased FMAP funds and on the appropriate use of the increased FMAP funds. Specifically, according to state Medicaid officials, CMS required the state to change the frequency with which it determined beneficiary eligibility under its family planning waiver from every 2 years to annually before CMS would approve the renewal of the waiver. CMS also required the state to preclude individuals with additional health insurance from coverage under the waiver. Although these changes were required by CMS, state Medicaid officials were concerned that they could be considered more restrictive under the Recovery Act's maintenance of eligibility requirements.<sup>13</sup> As of June 30, 2009, a state Medicaid official indicated that she has received a verbal response from CMS that any waiver changes made to be in compliance with federal Medicaid regulations will not affect the state's eligibility for the increased FMAP. The official added that they are waiting for written confirmation of this from CMS. Also, state Medicaid officials reported concerns related to the state's ability to comply with the increased workload associated with Recovery Act reporting requirements, given the state's hiring freeze. However, despite this concern, one of the officials noted that the state is currently utilizing existing staff to address the reporting requirements and there is not a need for additional staff at this time.

Despite the additional funds available under the Recovery Act, Mississippi continues to have longer-term funding concerns for future periods, particularly after Recovery Act funds have been exhausted.<sup>14</sup> State Medicaid officials expressed their understanding of the Recovery Act prohibition on depositing general fund savings resulting from the increased federal match into a rainy day fund for general use,<sup>15</sup> and they inquired with CMS about setting aside state dollars from other sources in order to address a funding shortfall anticipated for Medicaid in 2011. In

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<sup>13</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, § 5001(f)(1)(A).

<sup>14</sup>For a discussion of Mississippi's long-term funding concerns from the Governor's perspective, see [www.governorbarbour.com/features/budget/2010%20Mod%20Budget%20LETTER.pdf](http://www.governorbarbour.com/features/budget/2010%20Mod%20Budget%20LETTER.pdf).

<sup>15</sup>A state is not eligible for certain elements of increased FMAP if any amounts attributable directly or indirectly to them are deposited or credited into a state reserve or rainy day fund. Recovery Act, div. B, title V, § 5001(f)(3).

particular, state Medicaid officials noted that, based on conversations with CMS, it would be permissible to delay the use of Tobacco Settlement payments that are received in the state's "Healthcare Expendable Fund" in state fiscal year 2010 until state fiscal year 2011. These officials reiterated that the Tobacco funds have no connection to Recovery Act savings and thus, could be allocated to a later year.

Regarding the tracking of the increased FMAP, Mississippi established new account codes for its existing accounting system, which allows the state to identify and track the increased FMAP. State officials also noted that the state separately codes expenditure transactions related to the increased FMAP and that the State Auditor's Office is currently undertaking a performance audit to determine compliance with Recovery Act requirements. In addition, the 2007 and 2008 Single Audit reports for Mississippi did not identify any material weaknesses specifically related to the Medicaid program.<sup>16</sup>

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## Contracts Awarded in March and April for Mississippi Recovery Act Highway Fund Projects Under Way

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 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 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 generally 80 percent.

In Mississippi, there are two agencies that administer Recovery Act funding for transportation projects. These two agencies are the Mississippi Department of Transportation (MDOT) and the Office of State Aid Road

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<sup>16</sup>The 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 Office of Management and Budget (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.

Construction (OSARC). MDOT has responsibility for 14,300 miles of roadway statewide, including interstate highways, U.S. highways, and State Routes. OSARC assists Mississippi's 82 counties in the construction and maintenance of 19,019 miles of secondary, non-state roads and bridges. The State Aid engineer is appointed by the governor in contrast to MDOT, which is controlled by an elected commission. Since the Federal Highway Administration (FHWA) only recognizes one transportation agency in each state, all federal funding must flow from FHWA through MDOT. While OSARC determines how they will use their Recovery Act funds and then administers the funding, the agency must seek MDOT's approval for each of their projects. After awarding contracts for federal projects, OSARC pays all contractor bills and then submits a request for reimbursement to MDOT.

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**Mississippi Was Prepared to Have Recovery Act Funds Obligated Quickly and Has Awarded Numerous Contracts below Cost Estimates**

As we previously reported, \$355 million was apportioned to Mississippi in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$276 million had been obligated. The U.S. Department of Transportation has interpreted "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 and the project agreement is executed. As of June 25, 2009, about \$8 million has been reimbursed by FHWA. A state requests reimbursement from FHWA as the state makes payments to contractors working on approved projects.

As we reported in our April 2009 report, Mississippi began planning for federal highway infrastructure investment under potential stimulus legislation before the Recovery Act was passed. MDOT hired a contractor to conduct an economic impact analysis of projects MDOT had preselected to receive Recovery Act funding. According to one of the contractor's staff, these projects were preselected on the basis that they were "shovel ready" during the first 90 days of the state receiving stimulus funds. With the assistance of this study, MDOT and OSARC chose to use Recovery Act funding for a wide range of "shovel ready" projects including highway resurfacing and bridge improvement projects as shown in table 1. MDOT's plan also includes new construction projects, one of which will build an interchange near the Mississippi-Alabama border in Lauderdale County.<sup>17</sup> Further, 6 of the 12 OSARC Recovery Act projects are bridge

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<sup>17</sup>With regard to this project, we visited the MDOT Newton Project Office as this is the office responsible for overseeing the construction for the interchange.

replacements, as these projects typically take no longer than a year and a half to complete.

**Table 1: Highway Obligations for Mississippi, by Project Type as of June 25, 2009**

Dollars in millions								
	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$25	\$150	\$42	\$0	\$24	\$24	\$11	<b>\$276</b>
Percent of total obligations	9.2	54.3	15.2	0	8.6	8.7	4	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

Note: Data includes both MDOT and OSARC projects.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

As of June 25, 2009, MDOT had awarded 36 contracts representing \$201.2 million and OSARC had awarded 8 contracts representing \$7.2 million. Of the total 44 contracts awarded, 25 contracts are under way. MDOT completed its first Recovery Act project on May 6, 2009. The project was completed in less than half the time allotted and the project was completed under budget.<sup>18</sup>

The 36 MDOT contracts were awarded for \$27 million less than estimated, while the 8 OSARC contracts were awarded for \$708,000 less than estimated. MDOT and OSARC believe that bids are coming in under estimated costs because the price of liquid asphalt has fallen as a result of decreasing fuel prices. We also spoke with two in-state contractor representatives who cited not only lower prices for fuel purchased to make liquid asphalt, but also the economy and increased competition as reasons for bids coming in lower than state estimates. FHWA can use these excess funds to approve new projects.

**Meeting Recovery Act Requirements May Present Challenges**

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to

<sup>18</sup>With regard to this project, we visited the MDOT District Six Office as well as the MDOT Laurel Project Office because these two offices oversaw the project's completion.

- ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. 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 (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>19</sup>

As of June 25, 2009, 86.9 percent of the approximately \$248 million of Mississippi's Recovery Act funds subject to the 50 percent rule for the 120-day redistribution had been obligated. To give priority to projects that can be completed within 3 years, FHWA worked with both MDOT and OSARC. MDOT tasked a selection committee to identify "shovel ready" projects—projects with developed plans, right-of-way clearances, and environmental clearances. OSARC also identified "shovel ready" projects, concentrating on bridge replacements, road widening, and resurfacing projects. Both MDOT and OSARC confirmed that all Recovery Act projects would be completed within 3 years as stipulated by the act.

As of June 25, 2009, Mississippi had reported to FHWA that 90 percent of the funds obligated to date had been obligated for projects located in areas

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<sup>19</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of the each state to have their apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

classified as economically distressed. MDOT and OSARC used the FHWA map, which is based on definitions set forth by section 301 of the Public Works and Economic Development Act of 1965, to identify economically distressed areas. FHWA cites 75 of 82 counties as economically distressed, and all but 5 of the 44 MDOT and OSARC projects awarded to date are located in these 75 counties.

On March 16, 2009, Mississippi submitted an “explanatory” certification guaranteeing that the state would maintain its planned level of state expenditures for fiscal years 2009 and 2010 transportation projects. Mississippi’s certification was considered “explanatory” because it intended to explain why the state’s planned level of expenditures excluded expenditures for bonded projects.<sup>20</sup> On April 22, 2009, the U.S. Secretary of Transportation informed states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave states the option of amending their certifications by May 22, 2009. Mississippi resubmitted the state’s certification on April 28, 2009 and included state expenditures on bonded projects, which increased the dollar amount of the state’s planned level of expenditures. DOT is currently evaluating whether the states’ method of calculating the amounts they planned to expend for the covered programs is in compliance with DOT guidance.

For the period February 17, 2009, through September 30, 2010, MDOT committed to expend \$280 million and OSARC committed to expend \$51.1 million in state funding for a total of planned state expenditures of \$331.1 million. MDOT calculated its planned level of expenditures by determining state funds available to be expended in the construction program for fiscal year 2010, which runs from July 1, 2009, through June 30, 2010. This included both state funds used for federal match and state-funded projects. MDOT then projected these expenditures over the 18-½-month timeframe. Additionally, MDOT included estimated construction expenditures for bonded projects during the same time period. OSARC calculated its planned level of expenditures by using a two-part formula including the 5-year averages of OSARC program construction expenditures and roadway mileage. The result of this formula was then added to all expenditures included in the Local System Bridge Program to

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<sup>20</sup>Bonded projects allow MDOT to fund projects by paying debt service with future Federal-Aid Highway Program apportionments.

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calculate an annual expenditure average.<sup>21</sup> This annual expenditure average was multiplied by 1.5 to arrive at the 18-month total planned level of expenditures.

According to MDOT's Budget Director, if MDOT's budget is reduced in 2010, the agency will try to absorb the cuts and maintain the state's level of effort by reducing the MDOT administrative budget. OSARC officials said that their maintenance of effort could be affected, depending on the size of the budget cut.

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## Mississippi Local Educational Agencies and Institutions of Higher Education Have Not Yet Received Funding from the State Fiscal Stabilization Fund

The Recovery Act created SFSF to be administered by the U.S. Department of Education (Education). SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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 June 2009, Mississippi has received \$321.1 million of its total \$479.3 million allocation for SFSF. Of that amount, \$262.7 million is for education stabilization and \$58.4 million is for government services. Based

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<sup>21</sup>The Local System Bridge Program is a bridge program administered by OSARC.

on the state's approved application, the state will allocate 38 percent of the education stabilization funds to local educational agencies (LEAs) and 10 percent to IHEs, and how the remaining 52 percent would be allocated had not been determined. The state plans to revise its application and change the allocation of funds to LEAs and IHEs. As of June 30, 2009, Mississippi had not made any of the funds available to LEAs and IHEs.<sup>22</sup> The state's application provided assurance that the state will meet maintenance of effort requirements.

On June 30, the state enacted budgets for fiscal year 2010 for most state agencies, including Education. The Governor will allocate the SFSF funds to the state oversight boards for education. The Mississippi Department of Education is the oversight board for K-12 public education in Mississippi. The Institutions of Higher Learning oversees the 4-year colleges and universities. The State Board for Community and Junior Colleges is the coordinating board for the state's 2-year institutions. Once the funds are allocated to the state boards, they will be made available to the individual LEAs and IHEs. For the LEAs, allocations will be made using the Mississippi Adequate Education Program formula. The Adequate Education Program formula is used to establish funding levels for each school district. The formula considers the average per pupil cost at efficient school districts and applies an equity factor that reduces funding for districts with higher-than-average property values. For the IHEs, the funds will be allocated using a formula based on the schools' total credit hours, the normal formula used by the state boards to distribute state allocations.

While the state is planning to amend its application for SFSF funds, the original completed application indicated that the Governor intended to use about 34 percent of the government services funds for public IHEs. A small portion, about 10 percent, would go toward Medicaid. And 56.4 percent of these funds would be used to restore budget cuts in fiscal year 2009 and for Recovery Act accountability and transparency purposes. In his Executive Budget Recommendation, the Governor indicated that a portion of the dollars in the latter category would go toward the Department of Finance and Administration to be used for Recovery Act accountability.

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<sup>22</sup>In commenting on a draft of this assessment, officials from the Governor's office stated that the application would be revised in accordance with Recovery Act guidelines once the budget negotiations are concluded. They further noted the Governor's flexibility in determining the timing of the release of the Recovery Act funds.

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## Mississippi Localities Request More Guidance from State Oversight Boards

The education oversight boards at the state level are still in the process of developing guidance on proper use of Recovery Act funds and reporting requirements for subrecipients, including the two LEAs (Holmes County School and Jackson Public School Districts) and three IHEs (Northwest Mississippi Community College, the University of Mississippi, and Jackson State University) that we visited.<sup>23</sup> The local officials at these institutions would like to obtain more information from their state oversight boards, including estimates of the funding they will receive and more guidance on reporting requirements. The state-level officials are expecting to receive additional guidance on reporting requirements from Education. They will share this with the LEAs when received. At the state level, concerns were also raised about the lack of guidance from the federal level regarding the application process for the LEAs to receive Recovery Act funds.<sup>24</sup> In addition to a lack of guidance, the state legislature's delay in passing the fiscal year 2010 budget and releasing the initial allocation of SFSF funds has prevented school officials from hiring teachers or making extensive plans for the coming school year. Even without allocation estimates and clear guidance, the LEAs and IHEs are making preliminary plans for how they would like to spend the funds, such as for filling vacancies, increasing services to students, and providing professional development for instructors, but no definite plans have been made.

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## Preliminary Plans for Two Mississippi LEAs Use of Education Stabilization Funds Include Saving and Creating Jobs

We visited two LEAs that expect to receive Recovery Act funds, the Holmes County School District and the Jackson Public School District. Both want to hire more teachers because declining budgets caused the LEAs to slow or freeze hiring over the last couple of years. Several schools in Holmes County currently do not have assistant principals, and the Superintendent would like to use Recovery Act funds to correct this. Holmes County schools also do not have enough math teachers. Jackson schools have been unable to fill several administrative position vacancies

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<sup>23</sup>We selected Holmes County School and Jackson Public School Districts because both had a number of schools categorized as "Needs Improvement," and because Holmes County is considered rural. We selected Northwest Mississippi Community College and the University of Mississippi because they are among the largest 2- and 4-year institutions, respectively, in the state. We selected Jackson State University because it is a historically black university.

<sup>24</sup>The Office of Management and Budget (OMB) is providing additional guidance to recipients of Recovery Act funds that address concerns the state Department of Education expressed regarding Recovery Act reporting requirements. On June 22, OMB provided implementing guidance for carrying out the reporting requirements included in section 1512 of the Recovery Act.

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because of a lack of funds. School officials also said that with the SFSF funds, they will be able to retain staff they may have otherwise lost.

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### Several of Mississippi's IHEs Will Use SFSF Funds to Avoid Layoffs and Mitigate Tuition Increases

We visited three IHEs that expect to receive Recovery Act funds. All plan to use these funds to avoid tuition increases and layoffs. The full extent to which jobs will be saved or created or tuition increases mitigated is currently unknown, but without Recovery Act funds, layoffs and tuition increases are extremely likely. In addition to preserving jobs and mitigating tuition increases, Recovery Act funds are expected to allow institutions to increase services to students. For example, Northwest Mississippi Community College would like to use some of the funds to increase its e-learning capacity to serve its rapidly increasing number of students. Jackson State University and the University of Mississippi would like to use some of the funds to strengthen the institutions' information technology infrastructures.

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### Mississippi Plans for Use of Title I (Part A) Recovery Act Funds Include Professional Development for Teachers and Improved Student Services

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 ESEA. 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, local educational agencies are required to comply with current statutory and regulatory requirements and must obligate 85 percent of its fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>25</sup> Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' Title I, Part A funding available on April 1, 2009, with Mississippi receiving \$66.4 million, of its approximately \$132.9 million total allocation.

The Mississippi Department of Education has made determinations regarding the ESEA Title I, Part A, allocations for the individual LEAs and on June 25, 2009, released this information along with an application for

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<sup>25</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

the funds that the LEAs must complete. The department is currently developing training that will be provided to the LEAs as they complete their applications. In the completed applications, LEAs will be required to describe how they plan to use the Recovery Act funds and the measures they intend to use for accountability and transparency.

The two LEAs that we visited are making preliminary plans and have many potential uses for these funds lined up. For example, the Superintendent of the Holmes County School District told us they hope to use the funds to seek professional development for teachers and purchase additional computers for classrooms. In the city of Jackson, school officials with the Jackson Public School District told us that they would like to use the funds to pursue professional development for teachers, develop an automatic parent notification system for absent students to decrease dropouts and increase attendance, fund student incentives to reward good behavior and academics, and purchase supplemental science and math programs for struggling students.

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## Mississippi Making Preliminary Plans for IDEA (Part B & C) Recovery Act Funds

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of IDEA, the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure that preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing disabilities and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit applications to Education in order to receive the initial Recovery Act funding for IDEA, Part B & C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements. Education allocated the first half of states' IDEA allocations on April 1, 2009, with Mississippi receiving a total of \$63.4 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was

- \$2.3 million for Part B preschool grants,

- \$58.9 million for Part B grants to states for school-aged children and youth, and
- \$2.1 million for Part C grants for infants and families for early intervention services.

The Mississippi Department of Education has made determinations regarding the IDEA Part B allocations for the individual LEAs and planned to release this information along with an application for the funds by early July. The department is currently developing training that will be provided to the LEAs as they complete their applications. In the completed applications, LEAs will be required to describe how they plan to use the Recovery Act funds and the measures they intend to use for accountability and transparency. IDEA, Part C, funds will be administered separately by the Mississippi Department of Health. A Department of Health official told us that the agency is planning to use the Recovery Act funds for purchasing new equipment and contracting to provide comprehensive personnel development; statewide training; and direct services for children, such as speech and physical therapy.

The two LEAs we visited, Holmes County School District and Jackson Public School District, are making preliminary plans and have identified many potential uses for their IDEA, Part B, funds. For example, in Holmes County, the superintendent told us that the school district hopes to use the funds to purchase communication devices for students with cerebral palsy and hire and provide training for special education teachers. In Jackson, school officials told us that they would like to purchase computers and printers for special education teachers and classrooms; assistive devices targeted to the individual needs of disabled students; adaptive physical education training programs, material, and equipment; supplemental language and reading program material; after school programs; and a data warehouse system. Jackson Public School officials also want to hire tutors to assist students with passing their state exams and instructors for freshman seminar classes. Some of these positions could be filled with retired teachers on a part-time basis. These hires may not be retainable when the funds are depleted; however, the Superintendent's staff said that the hires are necessary and the money would be well used in this way, even if they are not retained in the long term.

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## Department of Energy Recovery Act Weatherization Assistance Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the Department of Energy (DOE) through each of the states and the District of Columbia.<sup>26</sup> This funding is a significant addition to the annual appropriations for the program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating and air conditioning equipment. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of the Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its State Program Plan, which outlines, among other things, its strategy for using the weatherization funds, metrics for measuring performance, and its risk mitigation strategies. The release of the final 50 percent of the funding to the states will occur in the future based on DOE progress reviews examining each state's performance in spending its first 50 percent of the funds.

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## Mississippi Receiving Large Increase in Weatherization Funding

DOE has allocated to Mississippi \$49.4 million in Recovery Act funding for the Weatherization Assistance Program for a 3-year period. Over the past 5 years, DOE has allocated to Mississippi from \$1.5 million to \$2 million for this program. The Mississippi Department of Human Services (MDHS) is responsible for administering the program. MDHS contracts with 10 local weatherization agencies across the state to provide services. MDHS received a Funding Opportunity Announcement on March 12 and subsequently received additional guidance via phone, e-mail, and regional conference calls. On March 18, 2009, MDHS submitted a preliminary plan

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<sup>26</sup>DOE also allocates funds to Indian tribes and U.S. territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

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to DOE. On April 3, 2009, MDHS received a 10 percent allocation (\$4.9 million) from DOE. MDHS has used these funds to cover administrative costs, such as hiring and training new staff.

On May 11, 2009, MDHS submitted a comprehensive plan and certification to DOE. On June 5, 2009, DOE provided another 40 percent (\$19.7 million), bringing the total allocation to 50 percent (\$24.7 million). MDHS has obligated all of these funds. In the approved plan, MDHS plans on reducing energy usage by 17,000 Mbtu<sup>27</sup> across 5,468 homes. Of the total \$49 million the state will receive, MDHS plans to spend about \$45.9 million on contracted services (for home assessments and improvements) and \$3.1 million on administrative costs.

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## Mississippi Is Leveraging Recovery Act Dollars to Expand Summer Youth Services

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth Program to facilitate the employment and training of youth. The WIA Youth Program is designed to provide low-income in-school and out-of-school youth ages 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth within federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the U.S. Department of Labor, and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility in deciding how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act, the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment opportunities may include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and

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<sup>27</sup>The 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 liquid 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 Btus.

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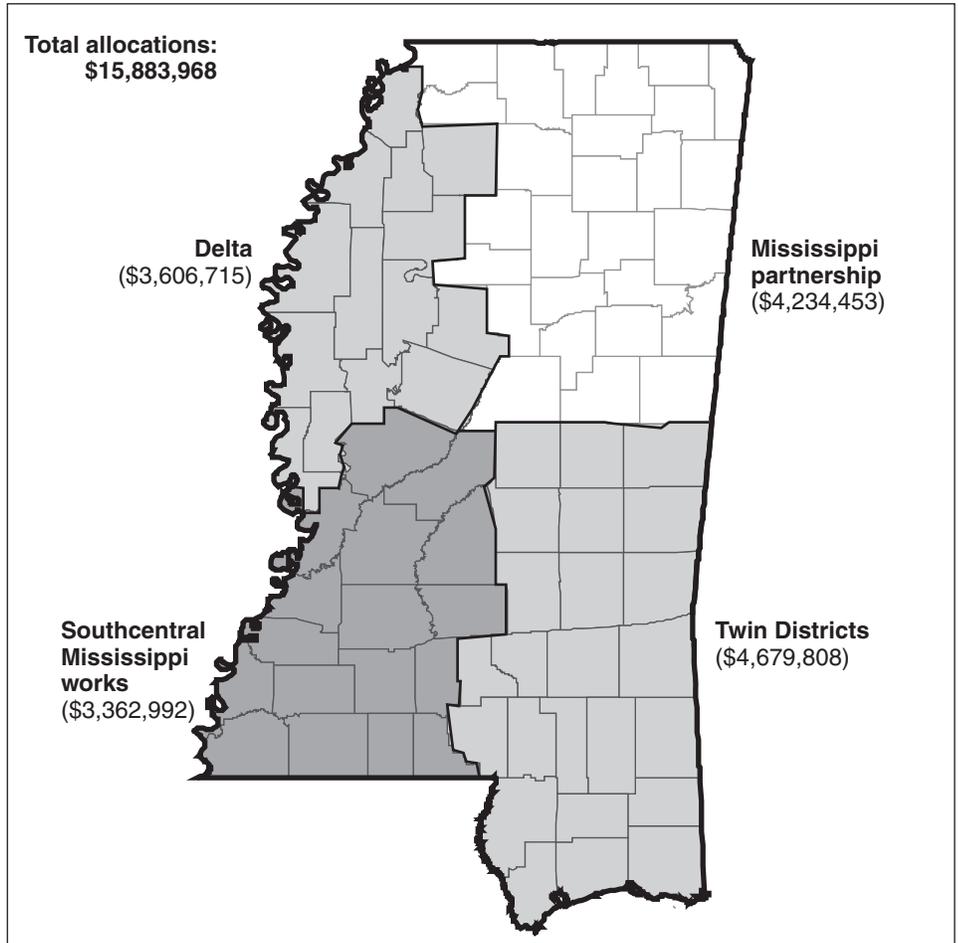
supportive services—as long as it also includes a work experience component. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>28</sup>

The Mississippi Department of Employment Security (MDES) received about \$18.7 million in additional WIA Youth funding from the U.S. Department of Labor. MDES plans to use \$2.8 million to administer the program at the state level and has allocated about \$15.9 million by formula to the state's four local workforce investment areas (see fig. 5).

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<sup>28</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour.

**Figure 5: Allocations Made to Local Workforce Areas in Mississippi for Providing Summer Employment Opportunities for Youth**



Sources: Mississippi Department of Employment Security; MapInfo (map).

During our review, we met with officials for each of the state’s local workforce investment areas. Each area plans to provide summer employment opportunities to youth using additional WIA Youth funding. For example, an official from the Southcentral Mississippi Works local workforce area told us that their program will run from June 1 through July 31. In addition, an official from the Delta local workforce area told us that their program will start in late May and end on July 31.

Officials from each of the four local workforce areas told us that youth selected for summer employment will be expected to work from 30 to 40

hours per week and will earn at least minimum wage. For instance, in the Southcentral Mississippi Works local workforce area, youth will work 32 hours per week and will receive a wage of \$7.25 per hour.

As of May 20, 2009, three of the state's four local workforce areas were accepting applications from youth from ages 14 to 24. Two of the areas initiated advertisement campaigns to make youth aware of the program. For example, both the Mississippi Partnership and Delta local workforce areas developed television advertisements to highlight the summer opportunities available for youth. As a result, officials from these areas noted that the demand for the available positions was high. An official from the Mississippi Partnership local workforce area told us that they had received over 10,000 applications for 1,500 positions. In addition, an official from the Delta local workforce area told us that they had received over 4,000 applications for 1,500 positions. MDES officials estimate that the state will provide summer employment opportunities for about 6,000 youth as a result of the additional Recovery Act funding. In previous years, Mississippi did not operate a summer youth program.

Officials from each of the four local workforce areas told us that many of the youths selected for summer employment will work at public institutions, including schools, libraries, and camps where they will provide manual labor, clerical help, and research assistance. Some jobs will focus on improving the environment. In Desoto County, the Mississippi Partnership local workforce area will use youth to clean the Coldwater River and open it to the Mississippi River. Local officials noted that this project will provide new recreational opportunities and will improve the area's ecology.

MDES officials do not anticipate significant challenges in providing oversight and reporting on the additional funding that will provide summer employment opportunities for youth. The officials noted that the state follows strict procurement policies and reporting requirements issued by the U.S. Department of Labor. They also noted that they will be able to separately track and account for each dollar spent on the program. Specifically, each dollar Mississippi receives from the Recovery Act for the WIA Youth program will have a unique accounting symbol that can be used to track funds. To assess outcomes, the workforce areas will conduct a pretest, midpoint evaluation, and post-test of youth enrolled in the programs that focus on youth's worker readiness and skill development. The preliminary and postassessments will be in a written format while the midpoint assessment will be an interview conducted by an employment advisor. Local workforce areas do not plan on setting aside summer youth

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employment funds to cover administrative costs. State officials noted that the state is providing funds that will cover the expected costs of conducting the program.

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## State Using Increase in Justice Assistance Grants to Fund Additional Law Enforcement Programs

The Edward Byrne Memorial Justice Assistance Grants (JAG) program within the U.S. Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants is available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>29</sup> The total JAG allocation for Mississippi state and local governments under the Recovery Act is about \$18.4 million, a significant increase from the previous fiscal year 2008 allocation of about \$1.4 million.

As of June 30, 2009, Mississippi has received its full state award of about \$11.2 million.<sup>30</sup> The Mississippi Department of Public Safety Office of Justice Programs, the state administering agency, plans to allocate JAG funds to the state and local programs within the state. JAG funds coming directly to state programs will total approximately \$4.3 million, while Mississippi cities and towns will receive about \$5.8 million in funds as a result of the formula-based share that states must allocate to local governments. The remainder of the funds (approximately \$1.0 million) will be used for state JAG administration. Of the \$4.3 million JAG funds coming to state programs, \$2.2 million will be used for planning, evaluation, and technology programs, which includes the Mississippi Crime Laboratory Enhancement Program. This program is to equip the Gulf Coast Crime Laboratory with the necessary instruments and staff to conduct

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<sup>29</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>30</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

clandestine laboratory analysis.<sup>31</sup> The remainder of these state funds is to be used for a variety of programs, including law enforcement programs, such as the State Narcotics Enforcement Initiative and the Unsolved Cold Case Initiative, and prevention and education programs, such as the Law Enforcement Standards and Training Program. Of the \$5.8 million JAG funds being passed through to Mississippi cities and towns, nearly \$2.0 million is planned to be used to fund local drug treatment and enforcement through adult, family, and juvenile drug courts. Other local programs to be funded include law enforcement programs, such as multijurisdictional narcotics task forces and local street sales drug enforcement, as well as community corrections programs that provide an alternative to juvenile detention. Currently, the Mississippi Department of Public Safety Office of Justice Programs has not completed the request for proposal to be filled out by state and local agencies competing for funding, but they are working with consultants to finish this task. They plan to have a final request for proposal done in time to make awards by August 1, 2009.

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## Public Housing Agencies Have Started to Obligate and Expend Capital Formula Grants

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies for improving the physical condition of properties; the development, financing, and modernization of public housing developments; and management improvements.<sup>32</sup> 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 they are made available to them for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already under way or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments,

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<sup>31</sup>Clandestine laboratories identify not only drugs and precursors but all chemicals involved in the drug-making process.

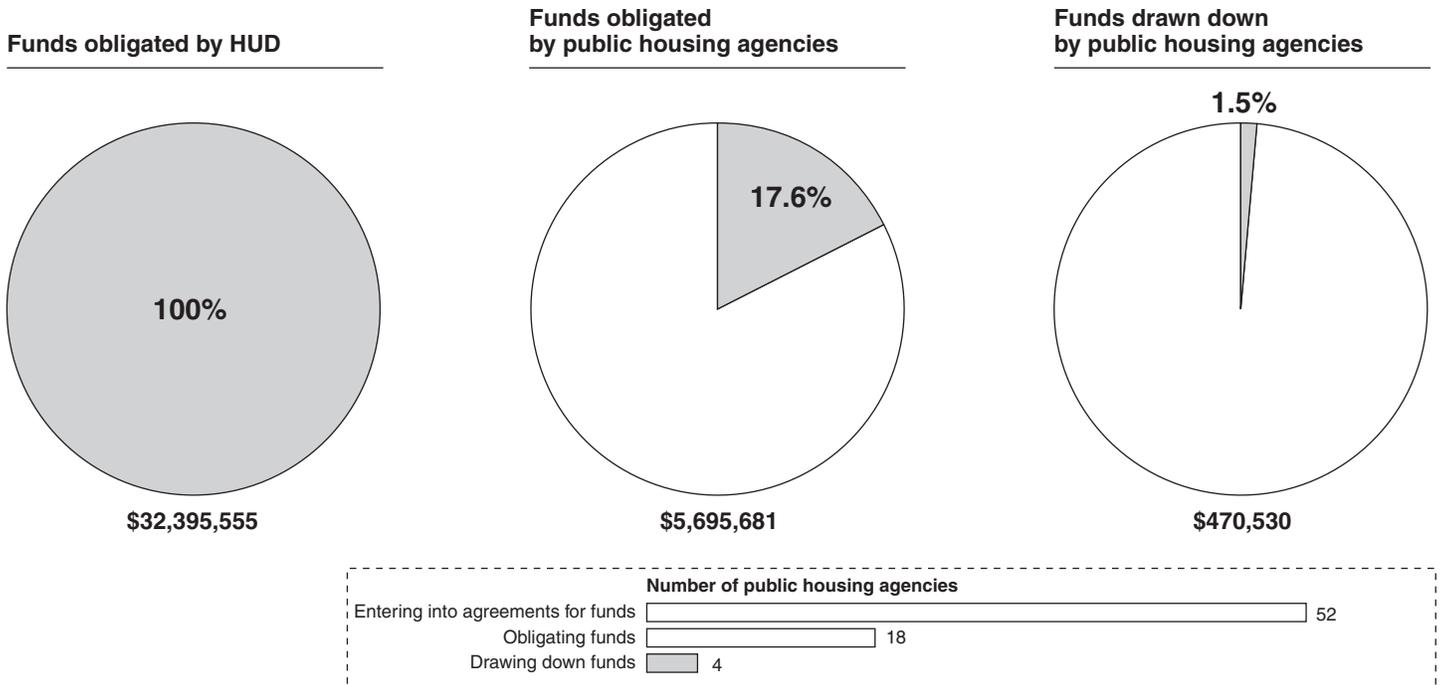
<sup>32</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>33</sup> Mississippi has 52 public housing agencies that have received Recovery Act formula grant awards. These public housing agencies received about \$32.4 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, these 52 public housing agencies had obligated about \$5.7 million and expended \$470,530 (see fig. 6). We visited the Mississippi Regional Housing Authority No. VIII (MRHA-VIII) in Gulfport and the City of Picayune Housing Authority in Mississippi for site visits related to their use of Capital Fund formula grants totaling \$4,480,981. We selected MRHA-VIII because it received the largest capital fund grant allocation in Mississippi and selected the Picayune Housing Authority because of its geographic proximity to MRHA-VIII.

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<sup>33</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application and to funding limits.

**Figure 6: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Mississippi**



Source: GAO analysis of HUD data.

## Use of Funds

The two public housing agencies we visited in Mississippi received Capital Fund formula grants totaling about \$4.5 million. As of June 20, 2009, the Picayune Housing Authority had obligated \$433,370 or 62 percent of its \$697,630 Capital Fund formula grant, and drawn down \$293,027 or 42 percent of its grant. MRHA-VIII officials told us that they had not obligated or drawn down any of their \$3,783,351 Capital Fund formula grant because they had not awarded contracts for the work that will be completed using the grant.

The Picayune Housing Authority is using its Capital Fund formula grant to complete a substantial modernization of 22 rental units at two public housing developments. According to the Executive Director, the bathroom and kitchen areas will be modernized in each unit, including the cabinetry, fixtures, and flooring. In addition, other flooring, plumbing, and entrance doors will be replaced in each unit. The Picayune Housing Authority initiated work on this project in March 2009, and the work is scheduled for

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completion in November 2009. Figure 7 shows a rental unit that will be modernized using Recovery Act funds and a partially renovated rental unit that has already been funded using Recovery Act dollars. The Picayune Housing Authority also will use its Capital Fund formula grant to replace the original central heat and air conditioning units in a public housing development that houses elderly residents. It expects to complete work on this project during calendar year 2009.

**Figure 7: Rental Unit Scheduled for Renovation and Partially Renovated Rental Unit Funded with Recovery Act Dollars in Picayune, Mississippi**



Housing unit with bathroom scheduled for renovation (left) and housing unit with partially renovated bathroom (right).



Housing unit with front door scheduled for replacement (left) and housing unit with front door replaced (right).

Source: GAO.

MRHA-VIII plans to use its Capital Fund formula grant to complete interior and exterior renovations on a total of 140 rental units at two public housing developments. For example, MRHA-VIII plans to complete interior renovations on 68 rental units at one development, and the renovated units will include new kitchen cabinetry and completely remodeled bathroom

areas. In addition, MRHA-VIII will complete exterior renovations on 140 rental units at two developments, including the installation of new roofing, siding, and numbering. MRHA-VIII also plans to use its grant to complete renovations on 4 first-floor rental units at one public housing development so these units will comply with the accessibility requirements as defined in Section 504 of the Rehabilitation Act of 1973, as amended.<sup>34</sup> Finally, MRHA-VIII plans to use its Capital Fund formula grant to complete interior and exterior office renovations at one public housing development. MRHA-VIII plans to initiate work on all of its Recovery Act–funded projects from July through August 2009 and complete work on all projects by August 2010.

Officials from the two public housing agencies we visited told us that they selected projects to fund that were consistent with the Recovery Act requirements as previously discussed. For example, Picayune Housing Authority officials told us that they initiated work on their project to substantially modernize rental units at two public housing developments, and they expect to award the contract for their other project to replace the original central heat and air conditioning units in an elderly public housing development within 120 days of when the Recovery Act funds were made available. MRHA-VIII officials also told us that they planned to award contracts for the projects selected for Recovery Act funding within this time frame. In addition, officials from both public housing agencies told us that they awarded Recovery Act funds to projects already under way or included in their 5-year Capital Fund plans—for instance, the Picayune Housing Authority is using these funds to substantially modernize rental units at two public housing developments where modernization efforts were already under way. According to the Executive Director, the Recovery Act funds will enable the public housing agency to complete a substantial modernization of all of its rental units that had not been previously rehabilitated, except for one apartment complex that was scheduled for demolition.

Officials from the two public housing agencies we visited also told us that they did not anticipate challenges in accessing their Capital Fund formula grant or meeting the accelerated time frames of the Recovery Act. For example, Picayune Housing Authority officials told us that they did not experience any challenges in drawing down Recovery Act funds from HUD’s Electronic Line of Credit and Control System compared with its

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<sup>34</sup>29 U.S.C. § 794.

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regular Capital Fund grants. In addition, officials from both public housing agencies told us that they did not expect to encounter challenges in meeting the accelerated time frames for obligating and expending funds under the Recovery Act. Picayune Housing Authority officials told us that they expect all projects funded with Recovery Act dollars to be completed in 2009, while MRHA-VIII officials told us that all of their Recovery Act-funded projects will be completed by August 2010.

Public Housing Agencies we visited in Mississippi have established processes to track Recovery Act funds. For example, MRHA-VIII officials told us that they plan to track these funds separately using existing processes. In addition, they plan to maintain a separate general ledger for their Recovery Act funds. Similarly, Picayune Housing Authority officials told us that they were tracking Recovery Act funds separately and ensuring that the accounting and project planning for these funds was maintained separately. Regarding internal controls, officials from both public housing agencies we visited told us that their existing controls were sufficient to manage the additional infusion of Recovery Act funds and the accelerated timeframes for obligating and expending these funds.

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## State Is Tracking Recovery Act Funds

To provide transparency in the use of Recovery Act funds flowing into Mississippi through the state treasury and the state central accounting system, the state's Department of Finance and Administration (DFA) has required agencies to establish reporting categories within the accounting system using a specified format. This will allow the state to separately track and report on the uses of Recovery Act funds. The new categories enable DFA to track the receipt, obligation, and expenditure of Recovery Act funds. Agencies began adding Recovery Act reporting category codes in March 2009 and, as of May 18, 2009, had established 35 codes for education, rehabilitation services, health, Medicaid, wildlife, fisheries and parks, human services, employment security, and transportation programs. According to DFA officials, the state will add other codes as it receives funds for other uses.

The use of reporting categories does not currently allow DFA to tie individual obligations or expenditures to the contract for which they were incurred. However, DFA is in the process of making modifications to the state central accounting system that will allow the system to do so. Once completed, these changes will provide greater transparency of Recovery Act fund usage. For example, the changes will allow the public to view online Recovery Act contracts and expenditures for specific contracts. In addition, the changes will add further system controls, such as the ability

to deny the obligation of funds until a state agency has posted the contract that supports the obligation.

Most of the state's central accounting and reporting systems are undergoing some changes. DFA is making significant changes to the Statewide Automated Accounting System, which tracks purchasing, accounts payable, revenues, and accounts receivable and includes the state's general ledger. It is making minimal changes to the Statewide Payroll and Human Resource System that contains payroll, employment, travel, and personal services contract information. DFA is significantly enhancing the Mississippi Executive Resource Library and Information Network (MERLIN), an administrative data warehouse. Once DFA completes the MERLIN enhancements in the June to August 2009 time frame, the data warehouse will include a document depository to collect Recovery Act contract documents, grant/subgrant award documents, reporting data required by section 1512 of the Recovery Act that is not captured in the Statewide Automated Accounting System, as well as provide a means to perform such tasks as tracking payments to a specific contract and reporting Recovery Act revenues and expenditures. Detailed information on the use of Recovery Act funds, including the total amount of Recovery Act funds received, the amount of funds obligated or expended for grants, a detailed list of all grants and activities (including projects under those grants), and the number of jobs created or sustained, will flow from MERLIN to the State of Mississippi Web site. The office of Management and Budget (OMB) issued reporting guidance on June 22, which identified three methods that a state can use to report this information to the federal government for inclusion on the Recovery Act federal Web site, Recovery.gov. Two of the methods require some manual input, while the third method transmits the information via electronic file. According to the Deputy Executive Director, DFA has not yet decided which method it will use.

DFA estimates that the cost of manpower and software changes will be at least \$1 million. DFA had discussed making some of these software changes for some time, but had deferred such implementation because of the cost and the risk of making changes to an aging system. However, DFA's Deputy Executive Director told us that with the inflow of Recovery Act funds into the state, it was no longer possible to defer the changes.

Department officials also questioned whether the state is responsible for tracking all funds flowing into the state. The state can track funds that flow through the state treasury or are reported through the state's central accounting system, but it cannot track funds provided directly to other

state recipients. For example, the state cannot track funds that HUD provides to public housing agencies, funds that the National Science Foundation provides directly to universities, or funds that federal agencies provide directly to not-for-profit organizations.

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### State Begins to Actively Examine Internal Controls

DFA is taking steps to assist state agencies in spending Recovery Act funds responsibly and to put controls in place to mitigate the effects of fraud, waste, and abuse. With the issuance of Statement on Auditing Standards 112, *Communicating Internal Control Related Matters Identified in an Audit*, in May 2006, the state began to update the internal control section of its Mississippi Agency Accounting Policies and Procedures Manual (MAAPP Manual). In addition, DFA brought in an expert to conduct a training session on Statement on Auditing Standards 112 and on internal controls. DFA followed up by activating an Internal Control and Risk Management Office and began plans to have all state agency executive directors and internal control officers certify that their agencies have evaluated internal controls, including assessing risks, in accordance with guidelines established by the MAAPP Manual. On February 4, 2009, the DFA Executive Director issued the letter requiring a documented internal control plan, an internal control certification, and risk assessments. Although DFA's Internal Control and Risk Management Office planned to review the State Auditor's 2008 Single Audit report and begin monitoring agencies that the report identified as having deficiencies, it is now focusing on agencies receiving Recovery Act funds.

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### Internal Control Assessments Are Under Way

In his February 4, 2009, letter, DFA's Executive Director, in accordance with Mississippi law, required each state agency to certify in writing that it conducted an evaluation of internal controls and that the findings of the evaluation provide reasonable assurance that the assets of the agency have been preserved, the duties have been segregated by function, and transactions are executed in accordance with laws of the State of Mississippi.<sup>35</sup> The Executive Director noted that sound internal controls

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<sup>35</sup>Mississippi law requires the Chief of the Fiscal Management Division to require each state agency, through its governing board or executive head, to maintain continuous internal audit over agency activities affecting revenue and expenditures and an adequate internal system of preauditing claims, demands, and accounts against such agency as to adequately ensure that only valid claims, demands, and accounts will be paid, and to verify compliance with the applicable regulations of the State Personal Service Contract Review Board regarding the execution of any personal service or professional service contracts. Miss. Code 7-7-3(6)(d).

require that an agency reassess its internal control structure periodically because of staff turnover and a variety of other reasons that cause internal controls to change over time. Further, the Executive Director required that agencies perform and document a comprehensive assessment of their internal controls on an annual basis; develop a written internal control plan; and maintain adequate written documentation for risk assessments, internal control reviews, and follow-up actions. In conjunction with the preparation of internal control plans, the Executive Director also required agencies to develop and document procedures for performing assessments of their internal control structures, which should include

- a comprehensive review of the agency’s internal control structure to determine if it is functioning properly and in accordance with the agency’s internal control plan;
- whether the internal control structure has been updated to address operational or procedural changes made during the period under review to processes, program areas, or functions;
- any internal control weaknesses;
- actions to ensure that control weaknesses discovered during the period under review, and in prior periods, have been adequately addressed; and
- immediate attention to all internal control–related findings and recommendations reported by auditors during the year.

The assessments directed by DFA evaluate areas of internal control that the Committee of Sponsoring Organizations (COSO) and GAO consider to be the framework of an internal control system.<sup>36</sup> Table 2 provides the five interrelated components that compose COSO’s internal control framework.

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<sup>36</sup>COSO of the Treadway Commission is a national commission that in 1992 issued its *Internal Control — Integrated Framework* to help businesses and other entities assess and enhance their internal control as well as establish a common definition of internal control. Many organizations use the concepts developed in the COSO report as the framework for evaluating internal control. The Securities and Exchange Commission guidance and Public Company Accounting Oversight Board Auditing Standard No. 4, “An Audit of Internal Control Over Financial Reporting Performed in Conjunction with an Audit of Financial Statements,” cite the COSO principles as providing a suitable framework for purposes of compliance with section 404 of the Sarbanes-Oxley Act of 2002.

**Table 2: Components of Internal Control as Defined by COSO**

Internal control component	Component description
Control environment	The integrity and ethical values of the company, including its code of conduct, involvement of the Board of Directors, and other actions that set the tone of the organization.
Risk assessment	Management’s process of identifying potential risks that could result in the organization’s failure to achieve specified objectives.
Control activities	Activities usually thought of as “the internal controls.” They include such things as authorizations, analytical reviews, verifications, and reviews of operating performance that are established to see that compliance requirements and risk responses selected by management are effectively carried out.
Information and communication	The organization’s internal and external reporting process and its technology environment.
Monitoring	Procedures used to assess the quality of a company’s internal control and the company’s actions to ensure that it continues to address the risks of the organization.

Source: GAO analysis of Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Each state agency is in the process of preparing its internal control assessment and certification, which agencies were to submit to DFA by June 1, 2009. However, the Director of Fiscal Management told us that because of the amount of work required to accurately assess an internal control system, many agencies have asked for extensions. According to the Director responsible for the Internal Control and Risk Management Office, DFA has granted the extensions because it prefers that the agencies prepare proper assessments. DFA officials told us that by granting extensions they believe that agency assessments will be more accurate and comprehensive.

In addition to the certification required of all state agencies, DFA is requiring another certification of agencies receiving Recovery Act funds. Agencies must certify that they accept responsibility for spending the funds as responsibly and effectively as possible while maintaining the appropriate controls and reporting mechanisms to ensure accountability and transparency in compliance with the Recovery Act. The certifications also include an agency’s guarantee that program risks are, or will be, identified and that the agency has, or will, implement internal controls sufficient to mitigate the risk of waste, fraud, and abuse.

**MAAPP Manual Includes Assessment Tools**

In its update of the MAAPP Manual, DFA included tools to assist state agencies in performing their internal control assessments. The tools, which are essentially questionnaires, allow the assessors to gauge all aspects of the agency’s internal control environment and determine if weaknesses are present that need correction. Tools are available to assess

subjects such as management's internal control philosophy, commitment to professional and technical competence, the assignment of authority and responsibility, procedures used to analyze program risks, and control activities applicable to agency processes. According to DFA officials, the tools were developed using the Commonwealth of Virginia *Agency Risk Management and Internal Control Standards* as a model.<sup>37</sup> Figure 8 illustrates one of the many assessment tools available to Mississippi state agencies.

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<sup>37</sup>To ensure fiscal accountability and to safeguard assets, the Office of the Comptroller, Commonwealth of Virginia, in November 2006 issued *Agency Risk Management and Internal Control Standards*. This document contains tools to assess the various aspects of a state's internal control program.

**Figure 8: MAAPP Manual Ethics Tool**

This Control Implemented and Operating Effectively	Agree/Disagree	Comments
1. The agency's Code of Ethics and other policies regarding acceptable business practice, conflicts of interest, and expected standards of ethical and moral behavior are comprehensive and relevant and address matters of significance.	<div style="border: 1px solid black; padding: 5px; width: fit-content;">                     5 - Strongly agree                      4 - Agree                      3 - Somewhat agree                      2 - Somewhat disagree                      1 - Strongly disagree                      N/A - Control does not/cannot exist                 </div>	
2. Employees fully and clearly understand what behavior is acceptable and unacceptable under the agency's Code of Ethics and know what to do when they encounter improper behavior.		
3. Management demonstrates a commitment to integrity and ethical behavior by example in their day-to-day activities.		
4. Management frequently and clearly communicates the importance of integrity and ethical behavior during staff meetings, one-on-one discussions, training and periodic written statements of compliance from key employees.		
5. Employees are generally inclined to do the "right thing" when faced with pressures to cut corners with regard to policies and procedures.		
6. Management addresses and resolves violations of behavioral and ethical standards consistently, timely, and equitably in accordance with the provisions of the agency's Code of Ethics.		
7. The existence of the agency's Code of Ethics and the consequences of its breach are an effective deterrent to unethical behavior.		
8. Management strictly prohibits circumvention of established policies and procedures, except where specific guidance has been provided, and demonstrates commitment to this principle.		
9. Performance targets are reasonable and realistic and do not create undue pressure on achievement of short-term results.		
10. Ethics are woven into criteria used to evaluate individual or division's performance.		
11. Management reacts appropriately when receiving bad news from subordinates and divisions.		
12. Agency has obtained adequate fidelity/surety bond coverage for: <ul style="list-style-type: none"> <li>a) Key administrative and accounting personnel</li> <li>b) Other employees</li> <li>c) Positions for which coverage is required by state statute</li> </ul>		
13. Agency identifies related employees and asserts that no conflict of interest exists. Related employees have job assignments that minimize opportunities for collusion.		
14. Agency has a process to identify and prevent significant related-party transactions.		
<b>Conclusions Reached and Actions Needed:</b>		

Source: Mississippi Agency Accounting Policies and Procedures Manual.

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## State Internal Control Office and Some Agency Internal Control Offices Are in Place

In 2007, as DFA planned its Internal Control and Risk Assessment Office, it intended to staff the office with six people, but it currently has only three staff members. DFA has requested three additional staff in its fiscal year 2010 budget. However, the office has already developed a work plan that for the first time includes monitoring state agencies' internal control plans and assessments. In addition, staff members are reviewing the findings and corrective action plans noted in the 2007 and 2008 Single Audit report prepared by the Office of the State Auditor to determine if the audits identify agencies receiving Recovery Act funds as having deficiencies. The analysis will inform monitoring efforts. The office's concentration will be on agencies that are prime recipients of Recovery Act funds. DFA expects to contract with certified public accounting firms to perform some monitoring so that it can ensure that state agencies receiving Recovery Act funds are adequately monitored. The monitoring activities should begin in the August to September 2009 time frame. As time and money allow, the office also expects to conduct internal control training for state agencies.

According to the Executive Director of the Joint Legislative Committee on Performance Evaluation and Expenditure Review, 13 of the 19 state agencies required by statute to establish internal control offices had the offices in place by December 2008. For example, DFA's Deputy Executive Director told us that the Mississippi education and transportation departments have set up internal control offices to comply with a bill passed by the state legislature requiring their establishment. DFA's Deputy Executive Director also told us that because the legislature did not appropriate funds for such offices, many smaller agencies have never established them. According to an official with MDOT internal review office, six people are responsible for auditing each project's transactions from documentation to disbursement. The official told us that because the Recovery Act projects are additions to the state's normal transportation work, the office will likely feel some stress in meeting its audit responsibilities. The official also told us that each project's construction engineer and the engineer's on-site staff are responsible for ensuring that documentation is valid and accurate. For example, on-site supervisors collect weight tickets for each truck bringing asphalt to a project. An automated system weighs each truck and produces a computerized weight ticket at the contractor's facility. A state engineer calibrates this system every 6 months to help ensure its reliability. In addition, on-site supervisors check the reasonableness of a project's daily asphalt usage using a calculation that predicts the amount of asphalt required based on length, width, and thickness. Construction engineers told us that they have sufficient staff to oversee their normal workload as well as the additional Recovery Act projects.

The Joint Legislative Committee on Performance Evaluation and Expenditure Review noted limitations in the internal audit functions of some state agencies—for instance, the committee reviewed the internal audit functions of eight agencies and found that most focused on reviewing agency programs rather than testing internal controls. In addition, the committee found that the executive directors for these agencies reviewed and approved the plans for their internal audit functions, but this could limit the internal auditor’s freedom to determine the internal controls tested and programs reviewed.

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### State Auditor Begins Preliminary Recovery Act Work

Mississippi law authorizes the state auditor to preaudit or postaudit; conduct performance audits and reviews; and investigate projects and entities’ use of Recovery Act funds provided to the state, its agency or subdivisions, or nonprofit organizations.<sup>38</sup> The Office of the State Auditor began preliminary evaluations in May 2009 of all state agencies, boards, and commissions that are expected to receive Recovery Act funds. Currently, the Office of the State Auditor, Performance Audit Division is examining each agency’s staffing levels, goals and objectives for Recovery Act funds, and the policies and procedures in place to mitigate the effects of fraud, waste, and abuse. The impetus for the survey is the State Auditor’s recognition that (1) Recovery Act funds will significantly expand the scope and number of federal programs carried out by many state agencies, (2) many agencies will welcome an independent assessment of agency activities, especially of new or small federal programs, and (3) the surveys will provide the Performance Audit Division with the insight to determine risk levels that will enable the Division to prioritize future Recovery Act related performance audit work. If additional Recovery Act funding is made available, the Office of the State Auditor plans to contract with one or more firms to conduct “real-time” performance audits based on Recovery Act goals, rules, and guidelines. If no additional Recovery Act related funding becomes available to conduct pre-audit or investigative work, then the Office of the State Auditor will prioritize agency programs and conduct “real time audits” based on available funding and resources.

In addition to the evaluations, the Office of the State Auditor is taking other steps to ensure that state agencies comply with the Recovery Act. The office’s Technical Assistance Division plans to expand its monthly

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<sup>38</sup>Section 22 of Senate Bill 3052, which was signed into law on April 15, 2009, created a new section of the Mississippi Code of 1974 granting this authority to the State Auditor.

newsletter to include Recovery Act information and updates. This publication will complement the Recovery Act training that the Division will make available to school districts, institutions of higher learning, planning and development districts, state agencies, municipalities, and counties.

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### Single Audit as a Risk Assessment and Monitoring Tool

Each year, in compliance with OMB Circular No. A-133, *Audits of States, Non-Profits, and Local Organizations*, the Office of the State Auditor produces a Single Audit report.<sup>39</sup> Congress established the requirement of the Single Audit report to improve state and local governments' financial management of federal financial assistance programs; promote the efficient and effective use of audit resources; and ensure that federal departments and agencies, to the maximum extent practicable, rely upon and use audit work.

DFA's Office of Internal Control and Risk Management expects to use the Single Audit report to assess program risk and to determine the extent to which it should monitor state agencies. As discussed above, agency risk assessments and the Single Audit report will be key to determining which agencies receiving Recovery Act funds should be given attention first. The office will also use the Single Audit report as a tool to identify state agencies that are not properly monitoring their subrecipients (entities that receive Recovery Act funds from a state agency) or that have not collected and reviewed any required audits of their subrecipients in the required time frame.

Not only does the state expect to use the Single Audit report to monitor state agencies, officials representing two state agencies and one federal district agency told us that they already use the report to monitor their activities. MDOT monitors Single Audit report results and uses them to determine if policies and procedures need improvement, staff require additional training, and to identify processes that need to be more closely monitored. MDOT officials told us that they review each Single Audit report and immediately implement corrective action on any findings identified by the Office of the State Auditor. If the audit finds policies and

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<sup>39</sup>The Single Audit Act requires states, local governments, and nonprofit organizations expending more than \$500,000 of federal awards in a given year to obtain an audit in accordance with the requirements set forth in the Single Audit Act. OMB Circular No. A-133 is the implementing guidance of the Single Audit Act. This includes both primary recipients and subrecipients that meet the \$500,000 threshold.

procedures that need to be developed or improved, MDOT adds to or modifies them to document the correct processes and communicates the corrections to staff responsible for their implementation. If staff are not properly implementing policies and procedures, MDOT provides training as well as additional oversight, including periodic reviews that monitor the implementation of the policies and procedures. MDOT's operational management is involved in developing corrective action plans for all audit findings, and MDOT keeps the State Transportation Commission informed of audit findings and corrective actions. Similarly, an official in the Mississippi Division of the U.S. Federal Highway Administration told us that the division's Financial Management Team immediately brings any Single Audit report findings related to the Federal-Aid Highway Program to the attention of division leadership and others as appropriate. Members of the team also work with MDOT to develop a satisfactory corrective action plan and monitor MDOT's implementation of plans to ensure that MDOT is taking the steps necessary to resolve findings.

OSARC, which receives federal funding through MDOT and is responsible for county road projects, also told us that it uses the Single Audit report as a tool to evaluate the risk of providing federal dollars to subrecipient counties. According to the OSARC Director of Finance and Accounting, if the report contains a finding for a county, OSARC examines the response/corrective action that the county submitted to the Office of the State Auditor. Based on the finding and corrective action plan, OSARC determines if the county should receive federal funds in the future.

The state education department's Internal Accountability Office also uses the Single Audit report to identify processes or procedures requiring correction. The office then works with LEAs to put corrective action plans in place. It also informs the accrediting agency for schools of any "material weaknesses" and reports the weaknesses and their corrective action plans in the office's annual report. Corrective action plans range from a telephone call that directs an LEA to implement a specific action to having the LEA develop, and the Internal Accountability Office review, written policies and procedures that address the problem. An official with the State IDEA program told us that if a weakness is significant enough, the accrediting agency could reduce the level of a school's accreditation.

Table 3 provides information on Single Audit report findings included in the State Auditor's 2008 report for the transportation and education departments. The significant deficiencies shown in the table are those matters coming to the State Auditor's attention that relate to a deficiency in the design or operation of the program's internal control over

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compliance. In the State Auditor's judgment the deficiency could adversely affect the state's ability to administer a major federal program. In addition, there is more than a remote likelihood that the deficiency, if uncorrected, will result in noncompliance with a consequential requirement. The "other" deficiency shown in the table was not considered to be a significant deficiency and was reported in a letter to management. However, the State Auditor noted that the deficiency required the attention of management.

**Table 3: 2008 Single Audit Findings for Mississippi Departments of Transportation and Education**

Agency affected	Type of deficiency	Description of deficiency	Potential effect	Resolution
Transportation-State-Aid Road	Significant	State-Aid Road failed to obtain and review audit reports for 10 subrecipients within the required time frame.	State-Aid Road could fail to ensure that its subrecipients take appropriate and timely corrective action on audit findings.	Audits will be requested from counties and if not provided will be pulled from the State Auditor's Web site. All findings will require a corrective action plan from the audited counties.
Transportation-State-Aid Road	Other	State-Aid Road failed to appropriately segregate the review approval function for disbursements and journal entries to the Statewide Automated Accounting System.	The potential exists for unauthorized transactions or erroneous transactions to be recorded in the Statewide Automated Accounting System.	State-Aid Roads is reviewing the approval levels of employees to determine if the agency should make changes based on the specific job duties of the employee.
Education-Title I Grants to Local Educational Agencies	Significant	The state education agency failed to provide adequate control over maintenance of effort calculations. The agency incorrectly calculated the percentage of change relating to per pupil expenditures by school district for the 2005-2006 school year.	This deficiency could result in failure to identify school districts that fail to meet maintenance of effort requirements. <sup>a</sup>	Controls have been strengthened to ensure that data are correctly calculated and independently reviewed.
Education-Title I Grants to LEAs	Significant	LEAs failed to allocate 20 percent of allocated funds to choice-related transportation and supplemental educational services as required and did not have documentation to support that less than 20 percent of the allocation satisfied all requests.	Failure to monitor LEAs for compliance with the earmarking of funds could result in noncompliance with federal regulations and jeopardize continued funding under Title I.	The state Department of Education is requiring LEAs to provide specific information on choice-related transportation and supplemental educational services allocations and to provide explanations for allocating less than the 20 percent set-aside. The state will also take greater care to ensure that explanations for allocating less than the 20 percent are adequate and properly documented.

Source: GAO analysis of the State of Mississippi Single Audit report for the fiscal year ended June 30, 2008.

<sup>a</sup>Recalculations showed that the school districts that failed to meet maintenance of effort agreements had properly obtained a waiver from the U.S. Department of Education.

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## State and Local Officials Continue to Express Concern regarding the Lack of Guidance for Assessing the Effects of Recovery Act Spending

Under the Recovery Act, state and local recipients are expected to report on a number of performance measures, including the use of funds, the amount expended or obligated, and the estimated number of jobs created and retained. In addition to reporting on jobs created and retained, OMB guidance directs federal agencies to collect performance information from entities that receive funding “to the extent possible.” The guidance also requires agencies to instruct recipients to collect and report performance information as part of their quarterly submissions that is consistent with the agency’s program performance measure.<sup>40</sup>

In our April 2009 bimonthly report, we noted that state officials recommended that the federal government provide specific guidance for reporting on the use of Recovery Act funds to support job creation or retention because the reliability of such estimates depends critically on using a solid methodology.<sup>41</sup> State and local agencies continue to express concern about the lack of clear federal guidance on assessing the results of Recovery Act spending. For example, officials at the two LEAs and three IHEs we visited told us that they plan to use Recovery Act funds to avoid layoffs and hire new staff. These officials noted that they would like more guidance on specific reporting requirements—including how to track jobs created and sustained—from their state oversight boards. In addition, officials from the state oversight boards told us that they were expecting to receive additional guidance on reporting requirements from Education and OMB and would share this guidance with their LEAs and IHEs. Officials from the two public housing agencies we visited in Mississippi told us that they have not received specific guidance from HUD regarding how to assess the effects of Recovery Act spending, such as the number of jobs created or retained. However, both public housing agencies have made plans to assess the effects of Recovery Act spending. For example, Picayune Housing Authority officials told us that they plan to conduct a tenant survey to obtain feedback from households placed in modernized rental units. In addition, they plan to conduct energy audits on those rental units where the central heat and air conditioning units will be replaced. MRHA-VIII officials told us that they plan to update the physical needs assessment after completing Recovery Act-funded projects at MRHA-VIII’s

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<sup>40</sup>Peter R. Orszag, Memorandum for the Heads of Departments and Agencies, Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (Apr. 3, 2009). This guidance supplements, amends, and clarifies the initial guidance issued by OMB on February 18, 2009.

<sup>41</sup>[GAO-09-580](#).

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public housing developments. In terms of gathering data regarding jobs created or retained, Picayune Housing Authority officials told us that the contractor currently performing work being funded by Recovery Act dollars is preparing separate payrolls to account for these dollars. As of May 20, 2009, this contractor noted that it had hired three new employees to complete the work. Finally, officials from the state's four local workforce investment areas told us that they plan to assess the impact of the summer employment opportunities provided to youth using a work readiness indicator per the Recovery Act requirements.

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## State Comments on This Summary

We provided the Governor of Mississippi with a draft of this appendix on June 18, 2009. The Director of Federal Policy, who serves as the stimulus coordinator, responded for the Governor on June 23, 2009. The official provided technical suggestions that were incorporated, as appropriate.

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# Appendix XI: New Jersey

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## Overview

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

**Use of funds:** Our work in New Jersey focused on nine federal programs, selected primarily because they have begun disbursing funds to the state. These include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding. Program funds are being used to help New Jersey stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds made available as a result of increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, New Jersey has received about \$580 million in increased FMAP grant awards, of which it has drawn down almost \$580 million, or 100 percent. New Jersey is using funds made available as a result of the increased FMAP to cover the state's increased Medicaid caseload, maintain current populations and benefits, and free up state funds to offset the state budget deficit.<sup>2</sup>
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned \$652 million in Recovery Act funds to New Jersey, of which \$410 million was obligated as of June 25, 2009. As of June 25, 2009, the federal government's obligation was \$223,780. Funding from the first round of FHWA obligations are being used for five quick-start projects. These projects generally include pavement resurfacing and road repair, but also include one long-term project. For example, New Jersey plans to use funds for the first phase of bridge repair for the Route 52 Causeway project in Cape May and Atlantic Counties.

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education (Education) has awarded about \$891 million to New Jersey, or about 67 percent of its total SFSF allocation of \$1.3 billion. According to officials from the New Jersey Office of Management and Budget, the state has expended \$162 million, as of June 30, 2009. New Jersey is using these funds to restore state aid to school districts and fill shortfalls in the state budget.
- **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965.** Education has allocated \$91.5 million to New Jersey in Recovery Act ESEA Title I, Part A, funds, or 50 percent of its total allocation of \$183 million. Of these funds, New Jersey has allocated \$91.5 million to local education agencies, and based on information available as of June 30, 2009, New Jersey has obligated none of these funds. To expedite spending, New Jersey made 50 percent of these funds available to local education agencies for summer activities such as districtwide summer programs for students and in-service professional development programs for teachers.
- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education has allocated \$192 million to New Jersey in Recovery Act IDEA, Part B and C, funds, or 50 percent of its total allocation of \$383 million. Of these funds, New Jersey has obligated none of the Part B funds to local education agencies or Part C funds to service providers, based on information available on June 30, 2009. To expedite spending, New Jersey made 50 percent of Part B funds available to local education agencies for summer activities such as summer intensive instructional support for students with disabilities. For example, officials in the Camden School District reported that they planned to use summer IDEA Part B funds for a districtwide professional development program for teachers and paraprofessionals working in the district's programs for behavioral disabilities, autism, and special education. In addition, local education agencies can use these funds for the purchase of equipment such as assistive technology. New Jersey plans to provide Recovery Act funds for Part C to providers that report an increase in enrollment and services.
- **Workforce Investment Act Youth Program.** The U.S. Department of Labor has allotted about \$20.8 million to New Jersey in Workforce Investment Act Youth Recovery Act funds. New Jersey plans to use \$17.7 million (85 percent of the total allotment) of Recovery Act funds under this program to create about 6,000 summer jobs for its youth.

- **Edward Byrne Memorial Justice Assistance grants.** The Department of Justice’s Bureau of Justice Assistance has awarded \$29.8 million directly to New Jersey in Recovery Act funding. Based on information available as of June 30, 2009, none of these funds have been obligated by the New Jersey Department of Law and Public Safety, which administers these grants for the state.<sup>3</sup> New Jersey will use all of these funds to implement the state’s Strategy for Safe Streets and Neighborhoods, a range of initiatives aimed at increasing intelligence-led, data-driven policing. The state will also use these funds to decrease youth involvement in crime and reduce recidivism.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$104 million in Recovery Act funding to 80 public housing agencies in New Jersey. Based on information available as of June 20, 2009, about \$11.7 million (11.2 percent) has been obligated by 47 of those agencies. GAO visited four Public Housing Agencies in New Jersey: the Newark Housing Authority, the Plainfield Housing Authority, the Rahway Housing Authority, and the Trenton Housing Authority. Officials at the housing agencies plan to use this money, which flows directly from the Department of Housing and Urban Development to public housing authorities, for various capital improvements, including rehabilitating vacant units; replacing roofs, exterior siding, and windows; and adding security features such as intercom systems.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$118.8 million in Recovery Act weatherization funding to New Jersey for a 3-year period. Based on information available on June 30, 2009, DOE has provided \$11.8 million to New Jersey, and New Jersey has obligated \$7.4 million of these funds. New Jersey plans to begin disbursing the initial 10 percent of funds in late June or early July 2009 for grantees to use toward weatherization and “ramp up” activities for weatherizing low-income families’ homes. These activities include training and technical assistance and the purchase of equipment and vehicles.

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance grants awarded directly to local governments in this report because the Bureau of Justice Assistance’s solicitation for local governments closed on June 17, 2009; therefore, not all of these funds have been awarded.

**Safeguarding and transparency:** New Jersey has added specific codes in its accounting system to track Recovery Act funds. The state Office of the Inspector General is planning to provide additional training on internal controls for agencies receiving Recovery Act funding. The state's Recovery Accountability Task Force and the Governor's Office are also working with agencies to resolve weaknesses identified through the single audits. Additionally, the oversight community has taken some steps in planning oversight of programs receiving Recovery Act funds. For example, the State Auditor is conducting audits of the departments administering the weatherization and Edward Byrne Memorial Justice Assistance grant programs. New Jersey's Office of the State Comptroller is reviewing all Workforce Investment Act programs.

**Assessing the effects of spending:** As required by the Recovery Act, New Jersey state agencies and localities we met with are planning initiatives to measure the impact of Recovery Act funds, including the number of jobs created or retained. At the time of our discussions, some officials said it would be helpful to have more guidance from federal agencies about what will be required. On June 22, 2009, OMB provided governmentwide guidance on the types of information the federal government would require in reports of Recovery Act spending.<sup>4</sup>

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## Recovery Act Funds Play a Role in New Jersey Closing Its Budget Gaps

New Jersey will use Recovery Act funds to help close its projected budget gaps for fiscal years 2009 and 2010.<sup>5</sup> Similar to other states, New Jersey suffered from a crisis in its economy and financial markets, which has led to a deterioration of the state's fiscal condition. As a result, according to budget documents, New Jersey had to make unprecedented cuts to its fiscal year 2009 and 2010 budgets.<sup>6</sup> New Jersey budget officials estimated that the state will take in approximately \$4.1 billion less than originally projected for fiscal year 2009 and has a structural gap of \$8.25 billion less for fiscal year 2010, primarily due to shortfalls in its revenue base.<sup>7</sup> Budget

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<sup>4</sup>See OMB 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).

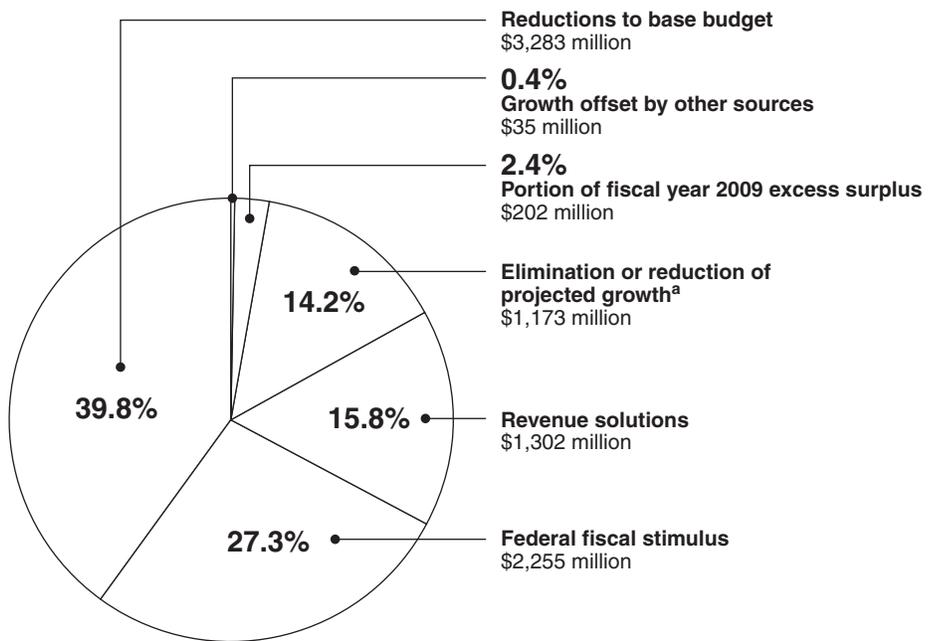
<sup>5</sup>New Jersey's budget fiscal cycle is July 1st through June 30th.

<sup>6</sup>According to budget documents, the combined amounts of reductions in the fiscal year 2009 and fiscal year 2010 budgets exceeds New Jersey's entire fiscal year 1978 budget of \$4.0 billion.

<sup>7</sup>For fiscal year 2010, New Jersey's projected base revenue was about \$27.5 billion, but its base spending was projected at \$35.7 billion without gap-closing measures.

officials said the state would rely on \$753 million and \$2.3 billion for fiscal years 2009 and 2010, respectively, in direct fiscal relief from Recovery Act funds to help close these gaps. Our review of New Jersey's 2010 budget documents revealed that the state directly attributes the Recovery Act funds with aiding the state in covering education and health care related costs. Other gap-closing measures for both fiscal years include reductions to the base budget and an elimination or reduction in projected growth. For example, for fiscal year 2010, an inflationary increase is not allowed for institutions of higher education, as a way to reduce projected growth. Also, the fiscal year 2010 budget includes a 1-year tax rate increase for New Jersey taxpayers making more than \$400,000.<sup>8</sup> See figure 1 below for a chart of New Jersey's gap-closing measures for fiscal year 2010.

**Figure 1: New Jersey's Actions to Close Fiscal Year 2010 Budget Gap**



Source: GAO analysis of New Jersey Office of Management and Budget data.

<sup>a</sup>This includes actions such as limiting school aid increases; instituting salary freezes for public employees, including employees at colleges and universities; and eliminating rate inflation for nursing homes.

<sup>8</sup>New Jersey's fiscal year 2009 budget did not include any new or increased taxes, but its fiscal year 2010 budget proposes a 1-year income tax increase for citizens whose incomes are over \$400,000.

In addition, 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 and help provide property tax relief. Additionally, although New Jersey budget officials anticipated receiving the Recovery Act funds before the Governor had submitted his proposed 2010 budget in March, this did not preclude the state from including personnel cost reduction actions such as furloughs and wage freezes to aid in closing the 2010 budget gap. New Jersey anticipates saving about \$287 million in fiscal year 2010 as a result of these actions.

New Jersey budget officials referred to how the availability of Recovery Act funds enabled the state to shift needed funds to programs such as health care, education, and transportation.<sup>9</sup> As of June 30, 2009, New Jersey officials said they have used \$807.8 million of the \$2.1 billion the state anticipated receiving through Recovery Act grant awards. In addition, they said the government services portion of the state's allocation of the State Fiscal Stabilization Funds that did not have to be reserved for education (approximately \$240 million) enabled New Jersey to enhance its state share of Medicaid spending by \$200 million, with the remaining \$40 million used for benefits to K-12 and higher education initiatives.

Although New Jersey budget officials made projections about how the Recovery Act funds helped close the budget gaps for fiscal years 2009 and 2010, they were careful to indicate the projections were very preliminary because they were aware that revenue and expenditure expectations would continue to fluctuate. The instability of the economy, which impacts the state's revenue base and spending, prevents budget officials from determining the true magnitude of the impact of Recovery Act funds on their budget for the current and upcoming budget years. Because of this uncertainty, New Jersey budget officials said they have attempted to focus some of the Recovery Act funds on one-time projects related to energy, weatherization, and construction in order to minimize a debilitating impact once the funds end. In keeping with this approach, New Jersey officials said that state agencies have relied on existing staff levels, rather than hiring additional staff, to implement program changes due to the infusion of Recovery Act funds.

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<sup>9</sup>According to budget officials, New Jersey included \$2.3 billion in its budget that it would receive from Recovery Act funds. This amount excludes the \$753 million that the state applied to help close its budget gap for fiscal year 2009.

As of May 28, 2009, New Jersey budget officials could not comment on or directly assess the potential impact of all the Recovery Act funds slated for the state for fiscal years 2009 through 2011. They 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. According to the officials, the remainder of these funds will go directly to New Jersey businesses and residents in the form of tax benefits and directly to local government entities and nonprofit organizations. Examples of funding and benefits going to local government entities include public housing capital funds, the bulk of the energy efficiency conservation block grant funds, and most of the Edward Byrne Justice Assistance grants. As we noted in our April 2009 Recovery Act report, New Jersey is a strong “home rule” state.<sup>10-11</sup>

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<sup>10</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, [GAO-09-580](#) (Washington, DC: Apr. 23, 2009).

<sup>11</sup>New Jersey’s constitution gives localities rights and responsibilities for providing local services. The state has more than 1,900 cities, counties, towns, townships, and local authorities or taxing districts. These localities can apply for, use, and potentially be held accountable for Recovery Act Funds.

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## Funds Available As a Result of the Increased FMAP Have Allowed New Jersey to Avoid Reductions to Its Medicaid Program and Continue Other State Efforts to Cover Children

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>12</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>13</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the state's Medicaid enrollment grew from 748,055 to 785,941, an increase of about 5 percent.<sup>14</sup> While the increase was generally gradual over this period, there were 2 months where enrollment decreased (see fig. 2). Most of the increase in enrollment was attributable to the children and families population group.

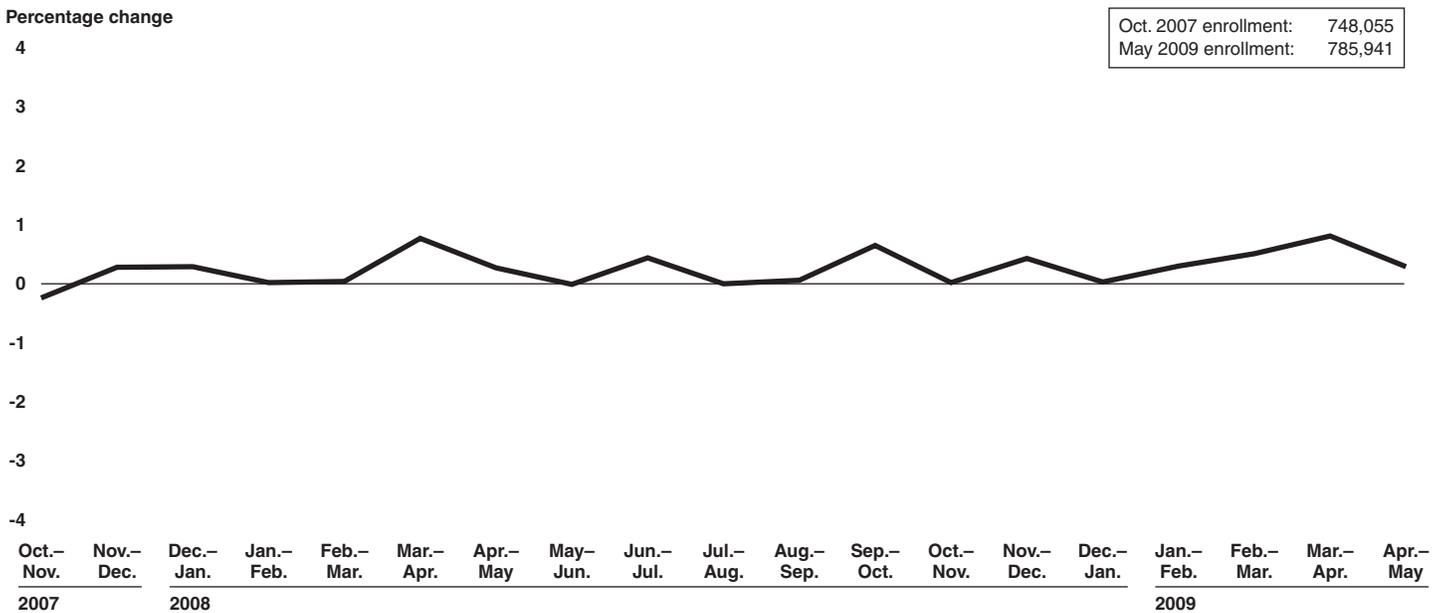
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<sup>12</sup>See Recovery Act, div. B, title V, §5001.

<sup>13</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>14</sup>The state provided projected Medicaid enrollment data for May 2009.

**Figure 2: Monthly Percentage Change in Medicaid Enrollment for New Jersey, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, New Jersey had drawn almost \$580 million in increased FMAP grant awards, which is 100 percent of its awards to date.<sup>15</sup> New Jersey officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit, cover the state’s increased Medicaid caseload, and to maintain current populations and benefits. New Jersey officials indicated that the increased FMAP has allowed the state to keep current beneficiaries in Medicaid and avoid cuts to the program in light of the state’s projected fiscal year 2010 deficit of \$7 billion. Additionally, state officials noted that the funds are also being used to cover the increasing Medicaid caseload, which has grown over the past year. Officials also added that the funds made available as a result of the increased FMAP have helped the state avoid the need to reverse other efforts to expand coverage in the state—such as in the State Children’s Health Insurance Program that covers children in families with income up to 350 percent of the federal poverty level as well as adults up to 200

<sup>15</sup>New Jersey received increased FMAP grant awards of almost \$580 million for the first three quarters of federal fiscal year 2009.

percent of the federal poverty level. In using the increased FMAP, New Jersey officials reported that the Medicaid program has incurred additional costs related to

- the development of new or adjustments to existing reporting systems or other information technology systems;
- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP; and
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP.

Medicaid officials stated that they are hesitant to make even small changes to the program because they are concerned that such changes could jeopardize the state's eligibility for increased FMAP. For example, the officials noted that the program considered requiring premiums on dental services, but ultimately decided not to pursue this requirement due to concerns that such a change would jeopardize the state's eligibility for the increased FMAP.<sup>16</sup> An official noted that the reasoning behind the decision to forgo a premium requirement was that it would restrict the ability of beneficiaries to obtain the service if they are unable to afford the premium.

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### New Jersey Relies on Existing Mechanisms to Track the Increased FMAP

Regarding the tracking of the increased FMAP, New Jersey relies on its existing accounting system and established unique revenue source codes to identify the revenue received as a result of the increased FMAP. In addition, the state is reconciling the additional FMAP grant awards with actual expenditures on a quarterly basis. According to Medicaid officials, an additional level of oversight will be provided by the New Jersey Recovery Accountability Task Force, which is tasked with ensuring the appropriate expenditure of all Recovery Act funds. The 2007 Single Audit<sup>17</sup>

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<sup>16</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

<sup>17</sup>The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or non-profit 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 (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.

for New Jersey identified one material weakness related to the Medicaid program. Specifically, the audit found that the Medicaid program could not provide evidence of a management review of the audit reports of some hospitals and long-term care facilities, raising the possibility that there were overpayments due to the state Medicaid program. The state agreed with this identified weakness and cited the lack of available staff to conduct these reviews. The corrective action plan to address this weakness included hiring new staff and establishing set time frames for reviewing backlogged audit reports as well as for future reports. According to New Jersey officials, the state continues to work towards implementing these reviews and the New Jersey Department of Health and Senior Services has reduced the backlog in audit review and recalculation as well.

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## New Jersey Has Obligated Recovery Act Highway Infrastructure Investment 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 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 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 generally 80 percent.

As we previously reported in April 2009, \$652 million was apportioned to New Jersey in March 2009 for highway infrastructure and other eligible projects.<sup>18</sup> As of June 25, 2009, \$410 million had been obligated. The U.S. Department of Transportation (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 and the project agreement is executed. As of June 25, 2009, \$223,780 had been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

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<sup>18</sup> [GAO-09-580](#).

Status of Recovery Act Highway Investment Funds

New Jersey is generally using its Recovery Act highway funding to repair pavement and replace bridges (see table 1). New Jersey Department of Transportation (NJDOT) officials stated that they were using their funds in this way to ensure that all areas of the state received some benefit from the funding and that the projects they selected could be done quickly and provide the most jobs for state residents the fastest. NJDOT officials also told us they plan to continue funding projects that can be started quickly, although they are also planning to begin a few major projects such as replacing several causeway bridges on state highway 52 in Cape May County and Atlantic County. Federal Highway Administration (FHWA) division officials told us they supported the plans NJDOT had for its Recovery Act funds.

**Table 1: Highway Obligations for New Jersey, by Project Type, as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$0.0	\$238	\$0.0	\$0.0	\$65.0	\$23	\$84	<b>\$410</b>
Percent of total obligations	0.0	57.9	0.0	0.0	15.8	5.7	20.6	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

As of June 24, 2009, New Jersey has awarded 14 contracts representing almost \$256 million. Of these, two contracts are under way. The first contract to be completed will be the improvement of the Ramapo Avenue Bridge in Mahwah, by October 2009.

New Jersey officials told us that contracts for Recovery Act projects are being awarded for less than they had estimated. These officials believe that this is because contractors do not have much construction work available in the current economic environment, so they are being more aggressive in bidding to obtain work. State officials stated that it is likely the current bidding climate will continue for some time but not indefinitely. NJDOT officials stated they are continuously updating their estimating practices, so they will soon begin to take these low bids into consideration when estimating future contracts. NJDOT and FHWA both

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stated it was too early to say how the state and FHWA will use funds that may be deobligated due to this underbidding.

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### Recovery Act Imposes Specific Requirements on Highway Infrastructure Spending

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. First, states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. Second, the Recovery Act requires states to give priority to projects that can be completed within 3 years, and to projects located in “economically distressed areas” (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.<sup>19</sup> Third, the Recovery Act requires states to 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>20</sup>

As of June 25, 2009, 83 percent of the \$456 million subject to the 50-percent requirement for the 120-day redistribution has been obligated for projects in the state. In addition, the state expects that the rest of its funds will be obligated by July 2009, well in advance of the February 2010 requirement.

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<sup>19</sup>FHWA has published a map on its Web site showing the areas in each state that meet the statutory criteria.

<sup>20</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of the each state to have their apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

In order to have the funds obligated on a timely basis and ensure that projects will be completed within 3 years, NJDOT officials selected projects that will not require a long construction phase, such as pavement resurfacing, road construction, road repair, and bridge rehabilitations. One notable exception is the Route 52 Causeway project, however. This is a major project involving bridge reconstruction that will require about four years to complete. However, NJDOT, in consultation with FHWA division officials, decided to use Recovery Act funds for one phase of the project to be completed by fiscal year 2011. Also, NJDOT officials told us they selected only projects that had already gone through an environmental review process or that would not need an extensive environmental review process to avoid the risk of unforeseen delays.

NJDOT officials expect to expend most of their Recovery Act highway funds by the end of fiscal year 2010 and nearly all of their funds by the end of fiscal year 2011, with only a few remaining dollars expended in 2012. FHWA division office staff agreed with this estimate and complimented NJDOT on its project selection process and ensuring the Recovery Act funds would be obligated and expended quickly.

As of June 30, 2009, \$72.3 million (17 percent of obligated funds) have been obligated for projects located in an EDA. NJDOT officials stated that the initial project selection list included numerous projects in EDAs, so they did not need to take special action to prioritize selecting Recovery Act projects in EDAs other than reviewing the list to make sure it had a significant amount of funds dedicated to such projects. Also, the Route 52 Causeway project in Cape May, which involves about \$70 million of Recovery Act funding (17 percent of New Jersey's total allocation), is in an EDA. NJDOT officials told us their state is relatively affluent, with only three counties defined as EDAs. Unlike some other states, New Jersey does not have a statutory or administrative formula governing how it distributes highway funds to areas of the state. FHWA division officials told us they discussed the EDA requirements with NJDOT and were satisfied that they were meeting the goals of the requirement based on the geographic distribution of projects and the Cape May project in an EDA. FHWA division officials did not formally document this decision and said they would monitor how NJDOT expends its funds to ensure the state follows through and completes the projects in the state's EDAs. If the state were to reverse their EDA project decisions, FHWA division office staff would raise the issue with FHWA headquarters staff. However, division office staff do not anticipate this being necessary, as they expect the state to fulfill its pledge.

On March 19, 2009, New Jersey submitted an explanatory maintenance of effort certification to DOT, stating that it would maintain its current level of transportation spending in programs for which the state was receiving Recovery Act funds.<sup>21</sup> In its initial certification, NJDOT used data on its planned transportation obligations, instead of expenditures, to make its calculations. On April 22, the Secretary of Transportation informed the states that conditional and explanatory certifications were not permitted, provided additional guidance indicating that states were to use data on planned expenditures when determining their maintenance of effort requirements, and gave the states the option of amending their certifications by May 22, 2009. New Jersey resubmitted its certification on May 21, 2009. According to DOT officials, the department has concluded that the form of New Jersey's certification is consistent with the additional guidance. DOT is currently evaluating whether New Jersey's method of calculating the amounts it planned to expend for the covered programs is in compliance with DOT guidance.

Although they had to resubmit their maintenance of effort certification, NJDOT officials noted that it was because they initially misunderstood what they were supposed to submit, not because they attached any conditions to their initial certification. These officials stated they did not think the state would have any difficulty meeting its maintenance of effort requirements. New Jersey funds the state portion of its highway program via a state Transportation Trust Fund that receives funding from the state gasoline tax. The officials noted that the Transportation Trust Fund is in good financial health and should be able to fund the state's transportation spending at least through the end of fiscal year 2010.

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## Recovery Act SFSF Funds Will Restore the State's Contribution to Education Funding for Fiscal Year 2010

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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

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<sup>21</sup>[GAO-09-580](#).

improving the quality of state academic standards and assessments. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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 June 5, 2009, New Jersey has received \$891 million of its total \$1.3 billion allocation for SFSF. Of the \$891 million, \$729 million is for education stabilization and \$162 million is for government services. Based on New Jersey's current application, the state will allocate 93 percent of the education stabilization funds to local education agencies (LEA) and 7 percent to IHEs. New Jersey anticipates that it will meet maintenance-of-effort requirements, with the exception of the 2009 maintenance-of-effort requirement for IHEs. New Jersey has requested a waiver for this maintenance-of-effort requirement and is awaiting a response from Education. New Jersey certified that it will meet waiver provisions.

New Jersey plans to use its allocation of SFSF funds to restore the state's contribution to local public education institutions and to fill budget shortfalls. Education stabilization funds for elementary and secondary education will be used to partially offset the state's share of education funding for the fiscal year 2010 school year. The state will allocate education stabilization funds to LEAs in fiscal year 2010 using a set state formula. Also, the New Jersey Department of Education plans to use education stabilization funds toward the state's maintenance-of-effort requirement for IDEA and possibly ESEA Title I. New Jersey Department of Education officials told us that they are waiting for more guidance from Education about the use of SFSF funds in this manner. New Jersey requires IHEs to apply for education stabilization funding to restore cuts that were made in the fiscal year 2010 state budget (as proposed on March 10, 2009). IHEs must show that SFSF funds will mitigate the tuition increases that would have occurred in response to the budget cuts and agree to a 3 percent cap on tuition increases in order to qualify for SFSF

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funds. New Jersey also requires IHEs to show evidence that the institutions can track and monitor Recovery Act funds separately.

Also in fiscal year 2010, the New Jersey Department of Education plans to use \$39.4 million (16 percent) of the approximately \$240 million allocation of government services funds for elementary and secondary education. New Jersey Department of Education officials reported that the agency will not use government services funds to provide support for modernization, renovation, or repair of public school facilities. New Jersey also plans to use 1 percent of government services funds for IHEs in fiscal year 2010. The remaining government services funds will be used to fill shortfalls in other areas of the state's budget.

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## New Jersey Plans to Use Recovery Act ESEA Title I, Part A Funds and IDEA, Parts B and C Funds for Summer Activities

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### Recovery Act 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 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 their fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>22</sup> The U.S. Department of Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as

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<sup>22</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

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through providing professional development to teachers. The U.S. Department of Education made the first half of states' ESEA Title I, Part A allocations available on April 1, 2009, with New Jersey receiving \$91.5 million. New Jersey's Department of Education administers the ESEA Title I program.

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### Recovery Act IDEA, Parts B and C Funds

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 special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

The U.S. Department of Education allocated the first half of states' IDEA allocations on April 1, 2009, with New Jersey receiving \$192 million of the total \$383 million. The largest share of IDEA funding is for the Part B school-aged program for children and youth. New Jersey's initial allocation was

- \$5.9 million for Part B preschool grants,
- \$180 million for Part B grants to states for school-aged children and youth, and
- \$5.4 million for Part C grants for infants and families for early intervention services.

The New Jersey Department of Education administers IDEA Part B, and the New Jersey Department of Health and Senior Services administers IDEA Part C.

GAO visited three school districts in New Jersey: the Camden School District, the Newark School District, and the Trenton School District. We selected the Newark School District because it was allocated the largest amount of ESEA Title I, Part A and IDEA, Part B Recovery Act funding. We selected the other two districts for geographic coverage. We visited the Newark and Trenton districts for our first bimonthly report.

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### To Expedite Spending, New Jersey's School Districts May Spend Up to 50 Percent of Recovery Act Funds for Summer Activities

New Jersey has allocated ESEA Title I, Part A and IDEA, Part B funding to all 616 LEAs but has not drawn down funds because it draws down funds at the time of reimbursement to LEAs. To expedite spending of Recovery Act funds, the New Jersey Department of Education opened a request for applications for LEAs to use Recovery Act funds during the summer recess. LEAs can obligate and expend up to 50 percent of their allocations for ESEA Title I and IDEA (basic or preschool) Recovery Act funds on approved summer programs. The New Jersey Department of Education permits use of these funds, as follows:

- ESEA Title I funds may be used for districtwide summer programs for students, in-service professional development programs for teachers, parent involvement activities, and activities and supplies in preparation for the upcoming school year.
- IDEA, Part B funds may be used for summer intensive instructional support for students with disabilities, professional development, parent involvement activities, equipment such as assistive technology, supplementary supplies and materials in preparation for the upcoming school year, and upgrades to data systems.

The New Jersey Department of Education began accepting applications for summer programs on May 18, 2009, and closed the application period on June 5, 2009. According to department officials, approving expenditures for summer activities required an expedited process that departed from the agency's traditional application and approval process. For use of summer Recovery Act funding, LEAs submitted paper applications. New Jersey Department of Education officials said that they planned to review the applications on a rolling approval basis and provide a response to LEAs within 10 business days of receiving an application. According to department officials, as of June 30, 2009, the New Jersey Department of Education has approved 534 applications (131 for ESEA Title I programs and 403 for IDEA Part B programs). Upon receipt of an approval from the New Jersey Department of Education, school districts may begin to expend funds. School district officials in the three districts we visited reported that their districts were planning to apply for Recovery

Act funds for summer programs and activities. For example, officials in the Camden School District reported that they would use summer IDEA, Part B funds for a districtwide professional development program for teachers and paraprofessionals working in the district's programs for behavioral disabilities, autism, and special education. According to New Jersey Department of Education officials, electronic applications for ESEA Title I and IDEA Recovery Act funding for the 2009 to 2010 school year will be available to LEAs in July 2009.

New Jersey Department of Education officials told us that they needed more guidance from Education on whether state agencies have the authority to direct LEAs to spend Recovery Act funds in a specific manner. Having such guidance, officials reported, will clarify their authority to ensure LEAs spend Recovery Act funds in accordance with the goals of IDEA and the Recovery Act.

Spending for IDEA Part C Will  
Begin at the Start of Fiscal Year  
2010

New Jersey has received its notice of award for \$5.4 million of its total allocation of \$10.7 million for IDEA, Part C. The New Jersey Department of Health and Senior Services expects to receive the remainder in September 2009. According to an agency official, the New Jersey Department of Health and Senior Services is in the early stages of its plans to begin allocating the \$5.4 million to its 90 service providers across the state at the start of fiscal year 2010. This official said that there is typically an increase in enrollment and demand for services during the summer months. Accordingly, the department plans to target Recovery Act funds to those providers reporting an increase in enrollment and services. As the providers are reimbursed for their services (the program operates on a fee-for-service basis), the department will draw down funds.

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## Localities Have Plans in Place for Implementing WIA Youth Summer Employment Activities, but Anticipate Challenges in Determining Eligibility

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low income in-school and out-of-school youth ages 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the Act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the U.S. Department of Labor, and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act,<sup>23</sup> the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The worksites must meet safety guidelines and federal and state wage laws.<sup>24</sup>

The New Jersey Department of Labor and Workforce Development (NJDLWD) administers the state's workforce development system, including the WIA Youth Program. New Jersey has 17 local workforce investment boards (WIB), generally organized by county or a combination of counties; however, the city of Newark has its own board. Local WIBs are responsible for making decisions about activities within their geographic areas, often under the direction of local governments; program

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<sup>23</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>24</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies.

activities are carried out through local one-stop centers.<sup>25</sup> The New Jersey State Employment and Training Commission (SETC) acts as a coordinating body for local WIBs. GAO visited four local WIBs in New Jersey: Camden County, Essex County, Mercer County, and the city of Newark. We selected Newark because it has the largest budget for the WIA summer program and the largest number of targeted youth. We selected the remaining local WIBs for geographic coverage.

New Jersey received \$20.8 million in Recovery Act funds for the WIA Youth program and allotted the funding to local WIBs within 30 days, as required. NJDLWD did not use the 15 percent set aside for state activities, but instead, allocated those funds for local programming. Of the total amount received for WIA Youth programs, New Jersey plans to spend \$17.7 million (85 percent of the total allotment) on summer youth employment activities. NJDLWD allowed local WIBs to set the budget amounts for the summer component of their formula for WIA Youth allocation. NJDLWD recently implemented a state-funded program, Summer HEAT (Help Employ Area Teens), for youth ages 17 to 25 in six local areas.<sup>26</sup> In these areas, Summer HEAT will operate independently from the summer employment activities funded through the Recovery Act. NJDLWD officials told us that they see the two programs as complementary. In 2008, New Jersey placed 4,623 youth with employers through its Summer HEAT program. NJDLWD required each local WIB to submit a plan by May 29, 2009, that described planned uses of WIA Recovery Act funds for summer employment activities. NJDLWD officials said that the plans would allow them to identify any potential challenges to implementation, particularly for those programs without prior experiences in offering summer activities.

NJDLWD is targeting a total of 6,684 youth for summer employment, focusing primarily on out-of-school and disconnected youth such as those

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<sup>25</sup>WIA requires states and localities to bring together about 17 federally funded employment and training services into a single system—the one-stop system. Funded through four federal agencies—the Departments of Labor, Education, Health and Human Services, and Housing and Urban Development—programs are to provide services through a statewide network of one-stop career centers.

<sup>26</sup>In 2008, NJDLWD created Summer HEAT to support New Jersey's Strategy for Safe Streets and Neighborhoods by helping reduce factors that lead to gun violence, delinquency, and gang involvement among disadvantaged youth. The state-funded program, open to youth ages 17 to 25, provides financial literacy training, job-readiness skills, and placement in unsubsidized summer employment. Summer HEAT is available to youth in Atlantic City (and Pleasantville), Camden, Elizabeth, Paterson, Essex County, and Trenton.

coming out of the criminal justice system or aging out of foster care programs (see table 2). Although local WIBs are creating new summer programs with Recovery Act funds, officials we contacted said they are leveraging existing partnerships used in year-round employment programs and relying on past experiences with summer programs funded through other sources. For example, officials in Camden and Mercer counties said that although they are creating new stand-alone programs, their staff have experience operating summer programs upon which to draw. Officials in the city of Newark and Essex County said that they modeled their WIA summer programs on their state-funded programs. Officials with all of the local WIBs we visited had plans, were actively recruiting youth, and estimated that about 80 percent of worksites were in place at the time of our visit. Local officials all said that they expected to meet their employment targets, although at the time of our visits, they were in various stages of recruitment. For example, at the time of our visits, Camden County officials said their program was slow to recruit and they were accepting youth on a first-come-first-served basis, while, according to Mercer County officials, interest in the program was so high officials had to institute a lottery system. The recruitment process essentially involves determining eligibility prior to enrollment, and potential participants are asked to meet a range of eligibility requirements, including household income to show low-income status. For example, an independent youth would have to earn no more than \$10,830, and a youth living in a family of four would have to prove household income of no more than \$22,050. NJDLWD requested a waiver to the procurement process in order to expedite local planning and received approval from the U.S. Department of Labor on May 22, 2009.

**Table 2: Description of Budget, Program Duration, and Targeted Youth, by Locality Visited**

Local WIB visited	Budget for summer program	2009 program start and end date	Duration of program (in weeks)	Targeted number of youth
City of Newark	\$2,895,411	July 6 to September 14	10	1,000
Camden County	1,438,855	June 15 to August 14 <sup>a</sup>	9	600
Mercer County	1,016,887	July 6 to August 21	7	375
Essex County	810,234	July 6 to August 14	6	410

Source: New Jersey Department of Labor and Workforce Development.

<sup>a</sup>Depending on funding, Camden County officials may extend the program to September 30, 2009.

Local officials described a variety of program designs for summer youth activities, although all plan to provide a blend of job-readiness training with actual work experience over the course of 6 to 10 weeks. For

example, in addition to employment, Camden County's program will provide youth with 8 hours of life-skills training using the Adkins Life Skills curriculum and 1 hour of financial literacy training using the Federal Deposit Insurance Corporation (FDIC) Money Smart curriculum.<sup>27</sup> In contrast, the Mercer County program includes a one-time 1.5 hour interviewing workshop prior to the job fair and, in addition to employment, 21 hours of job-readiness training for youth ages 14 to 17 and 28 hours of training for participants ages 18 to 24. Local WIBs are relying mostly on internal staff to carry out program responsibilities; one board plans to use external partners for specific roles. Mercer County officials reported plans to contract with the local community college for development of the job-readiness component of their Recovery Act-funded summer program. Officials in the local areas we visited reported a range of work opportunities they plan to offer participants, with at least one program planning to offer "green" jobs. For example, Camden County's program will provide jobs in such areas as groundskeeping, clerical, kitchen aides, and camp counselors. The program in Essex County will offer employment as census takers, housing surveyors, and hospital and lab assistants. Youth participants in Mercer County will have the opportunity to work in government, libraries, day care centers, or recreation centers. Newark will place youth in "green" jobs through a partnership with a refurbishment company and environmental training firm.

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### New Jersey Plans for Enhanced Monitoring of WIA Youth Summer Employment Activities

NJDLWD plans to monitor the fiscal and programmatic implementation of WIA Youth summer activities. NJDLWD officials told us that they will require local WIBs to submit monthly reports of expenditures. In addition, NJDLWD's internal audit office plans to conduct routine in-person visits of all 17 local WIBs and conduct on-site monitoring in a sample of the worksites. SETC officials reported that they will also visit local programs

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<sup>27</sup>The Adkins Life Skills Program: Career Development Series is a video-based, group counseling program designed to help unemployed, underemployed, and economically disadvantaged adults and youth learn how to make and implement important personal, career, and educational decisions (see <http://www.adkinslifeskills.org/index.shtml>, accessed on June 11, 2009).

The FDIC's Money Smart for Young Adults curriculum helps youth ages 12 to 20 learn the basics of handling their money and finances, including how to create positive relationships with financial institutions (see <http://www.fdic.gov/consumers/consumer/moneysmart/young.html>, accessed on June 11, 2009).

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to provide on-site monitoring and technical assistance throughout the summer.

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### Operation of WIA Youth Summer Employment Activities Presents Some Challenges

Both state and local officials said that the biggest challenge in implementing WIA Youth summer employment activities is determining and documenting that youth meet the statutory eligibility requirement of the WIA Youth program. These officials said that the targeted youth generally have difficulty in providing the kinds of documents the local areas require to prove eligibility. Local WIBs require such documentation as food stamp receipts or public assistance identification cards for total household income, birth certificates for proof of citizenship, social security numbers, and documentation of selective service registration for males 18 and over. These documents may be difficult for some youth to produce. Additionally, youth or their families may be reluctant to share household income because they fear doing so will jeopardize eligibility for public housing or other social services. Officials we visited also reported other challenges associated with implementing the WIA Youth summer activities. For example, officials in Essex County, operating with two full-time staff persons, said that the inability to hire new staff posed challenges for recruiting youth and monitoring the program. Officials in Newark said that it would be difficult to recruit youth for jobs that pay minimum wage when higher wage-earning opportunities may exist during the summer months. Finally, officials in Camden County wanted the U.S. Department of Labor and NJDLWD to provide a clear description of the types of jobs that qualify as “green.” Although not a challenge to program implementation, Mercer County officials expressed concern that the income eligibility requirements would exclude a significant number of needy youth in the service area, which includes Trenton.

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### The Edward Byrne Memorial Justice Assistance Grants (JAG) Program Will Help Implement New Jersey’s Public Safety Strategy

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program within the Department of Justice’s Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims’ services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state’s JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those

funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>28</sup> The total JAG allocation for New Jersey state and local governments under the Recovery Act is about \$47.7 million, a significant increase from the previous fiscal year 2008 allocation of about \$3.7 million. The New Jersey Office of the Attorney General, Department of Law and Public Safety (NJDLPS) administers JAG funds for the state.

As of June 30, New Jersey has received its state award of \$29.8 million.<sup>29</sup> Of the total award, \$16.5 million is allocated for localities. NJDLPS officials said that they plan to use Recovery Act funds to implement New Jersey's Strategy for Safe Streets and Neighborhoods, established in 2007. This strategy includes three components: enforcement (intelligence-led, data-driven policing); prevention (decreasing youth involvement in crime); and re-entry of released prisoners (reducing recidivism). JAG funds are to be used to support the state in funding new and existing programs for state and local law enforcement agencies in these three areas (see fig. 3). In addition to spending these funds on program administration (\$893,000) and enhancements to information systems (\$5 million), NJDLPS identified a total of 23 initiatives that will receive Recovery Act funds. Nine initiatives related to enforcement will receive a total of \$13.5 million. These include a statewide electronic surveillance program, license plate readers, and a multijurisdictional task force focused on eradicating gangs, guns, and narcotics. Seven initiatives that fall under the state's strategy for prevention will receive \$5.8 million. These prevention initiatives include educational incentives for youth under the direction of New Jersey's Juvenile Justice Commission and truancy prevention programs to be conducted by local enforcement agencies. Finally, the state plans to spend \$4.6 million on seven initiatives to support its strategy for re-entry. Initiatives related to re-entry include a program designed to ensure the voluntary surrender of absconders of nonviolent offenses, discharge planning for mental health issues, and a pilot of the Parole Accountability

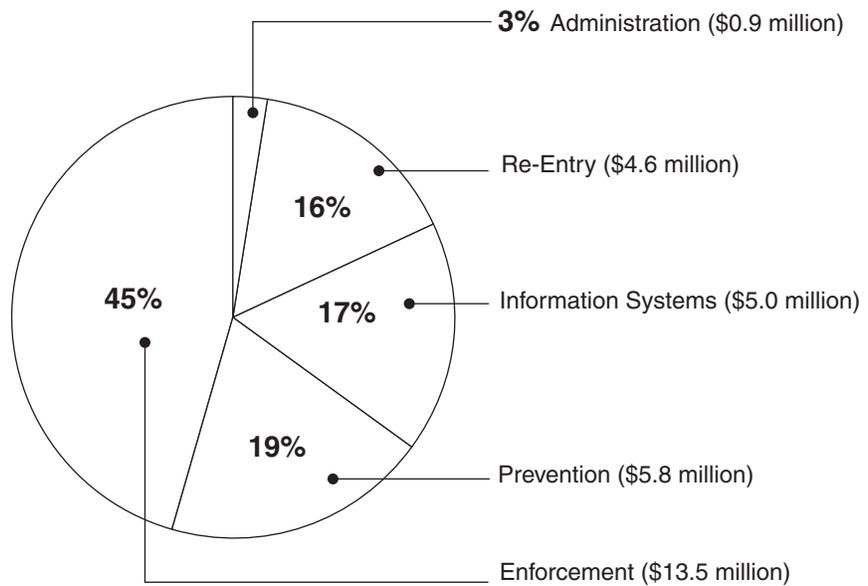
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<sup>28</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17. We will review these funds in a future report.

<sup>29</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

Conference Team (PACT) program.<sup>30</sup> Grants for local jurisdictions may involve new projects and activities, and NJDLPS is in the process of developing requests for proposals related to these funds, estimating that these funds will not reach subrecipients for another 3 to 5 months.

**Figure 3: New Jersey’s Estimated Allocation of JAG Funds, by Funding Category**



Source: GAO based on information from New Jersey’s approved Byrne JAG application.  
 Note: Numbers may not add up to \$29.8 million due to rounding.

### New Jersey Is Monitoring Recovery Act JAG Funds in Several Ways

NJDLPS officials reported that they plan to monitor the use of JAG funds in several ways. First, NJDLPS will track expenditures through a separate code in NJDLPS’s accounting system for Recovery Act funds, as required by the state and federal government. Second, NJDLPS plans to educate subrecipients on how to comply with funding rules by holding postaward conferences with subrecipients prior to the receipt of funds. Subsequently,

<sup>30</sup>PACT teams provide support services to assist parolees in complying with their parole requirements. The program can include licensed clinical social workers, certified alcohol and drug counselors, and other professional who collaborate with state Parole Board staff to provide case management and referrals for needed services. Depending on the program, PACT teams can match offenders to appropriate treatment programs or provide on-site clinical resources.

subrecipients will be required to submit monthly financial and programmatic reports to NJDLPS. Internally, NJDLPS plans to use existing program and fiscal analysts to track spending and compliance with financial and programmatic requirements. Officials said that they are exploring ways to increase the number of staff monitoring subrecipients, but because New Jersey is under a hiring freeze, any increase in staff to conduct this monitoring would likely come as a result of reassignments from other agencies or offices. Finally, NJDLPS officials said that an audit by the Office of the State Auditor should provide another layer of review regarding the use of JAG Recovery Act funds.

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## New Jersey Has Begun to Obligate and Expend Public Housing Capital Fund Grants

The Public Housing Capital Fund provides formula-based grant funds directly to Public Housing Agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>31</sup> 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 they are made available to public housing agencies for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already under way or included in the required 5-year Capital Fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>32</sup>

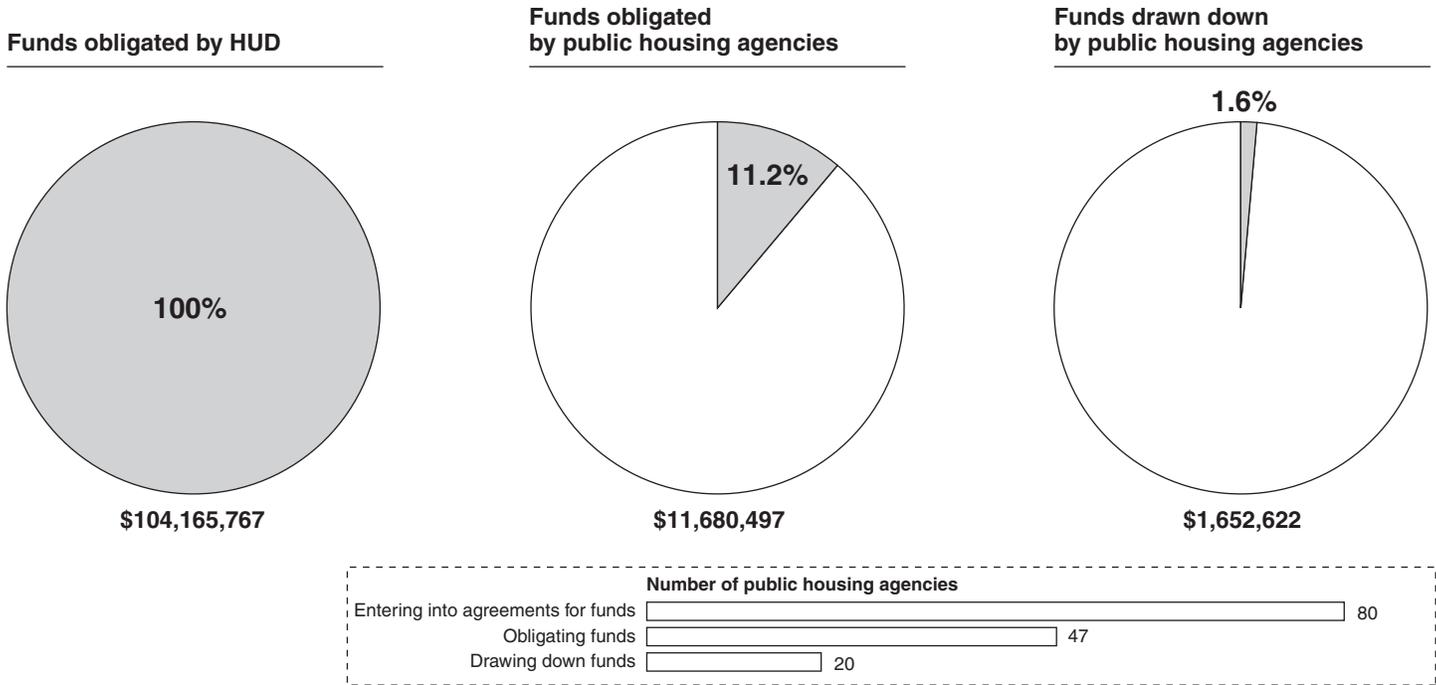
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<sup>31</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>32</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and timeframes for application, and to funding limits.

New Jersey has 80 public housing agencies that have received ARRA formula grant awards. In total, these public housing agencies received \$104 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, the state’s 80 public housing agencies have obligated \$11.7 million and have expended \$1.7 million (see fig. 4).

**Figure 4: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in New Jersey**



Source: GAO analysis of HUD data.

GAO visited four public housing agencies in New Jersey: the Newark Housing Authority, the Plainfield Housing Authority, the Rahway Housing Authority, and the Trenton Housing Authority. We selected the Newark Housing Authority because it received the largest Capital Fund grant allocation in New Jersey and has been designated as “troubled” by HUD. We visited the Newark Housing Authority for our first bimonthly report. We selected the Plainfield Housing Authority and the Rahway Housing Authority because both had drawn down funds at the time of our selection. We selected the Trenton Housing Authority because we visited the agency for our first bimonthly report and it is receiving significant Recovery Act funds as compared to other agencies in New Jersey.

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## Recovery Act Funds Allow Public Housing Authorities to Complete a Range of Planned Projects

The four public housing agencies we visited in New Jersey received Capital Fund formula grants totaling \$33.8 million. As of June 20, 2009, these public housing agencies had obligated about \$2.3 million, or 7 percent of the total award. They had drawn down almost \$482,800, or 1 percent of the total award. Of the four housing authorities, the Rahway and Plainfield Housing Authorities have drawn down about \$392,560 and \$90,240, respectively. The Newark Housing Authority has not drawn down funds because, as a troubled agency, it cannot draw down funds without HUD's approval.<sup>33</sup> Newark Housing Authority officials told us that they submitted a request to HUD to draw down \$181,583 and, when approved, will submit another request for \$ 579,795 (for a total of \$761,378). However, officials did not know what level of review HUD would conduct prior to approval. HUD requires "troubled" agencies to receive enhanced monitoring, oversight, and technical assistance. This additional supervision includes, at a minimum, that troubled public housing authorities be placed on zero threshold for Recovery Act funds, receive a compliance review of their Recovery Act procurement policy, provide monthly progress updates, and remote and on-site visits by HUD officials by September 30, 2009. At the time of our visit, Trenton's housing authority had not drawn down funds because it was in the process of designing or reviewing proposals.

Overall, the Public Housing Agencies we visited are planning to use Recovery Act funds for 29 projects related to activities such as rehabilitating units (including vacant units); repairing sidewalks and doors; replacing aging exteriors, roofs and boilers; and installing intercom and fire alarm systems (see table 3).

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<sup>33</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies' public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring.

**Table 3: Description of Public Housing Authorities' Plans for Recovery Act Funds**

	Total projects	Total units (for rehabilitation)	Total vacant units	Time frame for completion of all projects
<b>Newark Housing Authority:</b> Plans include the rehabilitation of units, including vacant units; completion of construction on a recreation center; and repairs to facades, sidewalks, walkways, doors, and windows.	14	700	422	August 2010
<b>Rahway Housing Authority:</b> Plans include the renovation of 8 vacant apartments, completion of a roofing project and an exterior siding project, rehabilitation of a vacant unit for Americans with Disabilities Act compliance, installation of energy efficient boilers, installation of new gutters, repairs to entrance doors and sidewalks, and respacing parking spaces.	9	9	9	September 2009
<b>Plainfield Housing Authority:</b> Plans include the installation of addressable smoke detectors and intercom systems in all of its properties, as well as the renovation of units to meet Americans with Disabilities Act standards.	4	22	0	December 2009
<b>Trenton Housing Authority:</b> Plans include the modernization of vacant units and corrections to health and safety deficiencies in 22 stair towers.	2	115	115	February 2010

Sources: Newark Housing Authority, Rahway Housing Authority, Plainfield Housing Authority and Trenton Housing Authority.

New Jersey's public housing officials provided a range of time frames for completing the work. For example, the Newark Public Housing Authority plans to complete work by August 2010. The Rahway Housing Authority, a significantly smaller agency, expects to complete all Recovery Act-funded work by September 2009. Similarly, the agencies we visited described projects in various stages of completion. For example, the Plainfield Housing Authority used Recovery Act funds to install new smoke detectors that will allow the local fire department to identify and communicate with all 225 units of the Richmond Towers Senior Complex. Previously, the fire department would arrive on site without knowing which units were experiencing the emergency and without a means for communicating with those units. The Rahway Housing Authority is using Recovery Act funds to complete ongoing projects that were stalled due to a lack in funding. Officials said that Recovery Act funds were also used to complete the replacement of energy-efficient siding and roofing for the Kennedy Senior Housing Complex. According to Rahway Housing Authority officials, they will measure savings by tracking their energy bills. Figure 5 shows a door that will be replaced using Recovery Act funds. Figure 6 shows the in-progress installation of siding using Recovery Act

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funds. Figure 7 shows a building completed with regular Capital Funds as an example of the project that will continue with Recovery Act funds.

**Figure 5: Candidate Door for Repair with Recovery Act Funds at the Kennedy Senior Housing Complex, Rahway New Jersey**



Source: GAO.

Figure 6: In-Progress Siding Installation Using Recovery Act Funds, Rahway, New Jersey



Source: GAO.

**Figure 7: Example of Completed Project Using Regular Capital Funds, Rahway, New Jersey**



Source: GAO.

Officials in all four housing authorities told us that they selected projects from their 5-year plan and targeted projects that could be awarded within 120 days, such as vacant unit turnaround, deficiencies discovered through Real Estate Assessment Center (REAC) inspections, or projects already under way.<sup>34</sup> For example, the Newark Housing Authority is planning to rehabilitate 700 vacant and occupied units so that these units can be returned to rental status and reduce the agency's waiting list for public housing. At the time of our visit, the Newark Housing Authority had hired three teams of union labor workers to perform the vacant unit rehabilitation work. The Plainfield Housing Authority chose to address deficiencies noted in REAC inspection reports, such as units that are not Americans with Disabilities Act-compliant. Finally, the Rahway Housing

<sup>34</sup>HUD's Real Estate Assessment Center (REAC) provides information assessing the condition of HUD properties. Inspectors use the Public Housing Assessment System to assess public housing management and conditions, including physical inspections of properties and financial inspections. According to HUD's Web site, REAC inspectors also rate the performance of independent public accountants that perform financial audits of public housing agencies and multifamily assisted properties.

Authority prioritized projects that were under a certain dollar threshold, such as replacing exterior doors and sidewalks and completing projects already under way so that it could award within the 120-day time frame. Rahway Housing Authority officials said that without Recovery Act funds, the agency would replace one roof a year. With Recovery Act funds, officials reported that the agency replaced six roofs within a 2-week period. According to Rahway Housing Authority officials, because New Jersey has stringent procurement laws, the requirement to adhere to Davis-Bacon requirements is a part of the agency's normal operating procedure and has not hindered the completion of planned Recovery Act projects.<sup>35</sup> Trenton Housing Authority officials also commented that adhering to Davis-Bacon requirements would not pose a challenge.

Generally, officials reported few challenges thus far related to Recovery Act funding. Officials in all four housing authorities reported that they would be able to meet the accelerated time frames. They stated that Recovery Act funds would allow them to complete planned projects at a faster rate. However, as previously mentioned, Newark officials reported delays in accessing funds due to the agency's status as a troubled agency. For these officials, the requirements for HUD to review and approve all spending could potentially make meeting the time frames more of a challenge.<sup>36</sup> Officials identified potential challenges related to the Recovery Act's Buy American provision<sup>37</sup> and a need for clearer guidance from HUD.<sup>38</sup> Officials in the Newark Housing Authority told us that the Buy American provision could pose challenges in purchasing affordable

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<sup>35</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

<sup>36</sup>On June 19, 2009, Newark Housing Authority officials said that they were working with the regional HUD office to develop a protocol for the submission and review of invoices for Recovery Act-funded projects.

<sup>37</sup>The Buy American provision of the Recovery Act prohibits, with certain exceptions, the use of Recovery Act funds for the construction, alteration, maintenance, or repair of a public building or work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Recovery Act, div. A, title XVI, § 1605.

<sup>38</sup>In a frequently asked questions document (dated May 15, 2009) to public housing agencies, HUD outlines the Buy American provision in the Recovery Act as applying to all Capital Fund expenditures using Recovery Act funds. This includes purchases of such items as boilers, heating and cooling units, iron and steel products, appliances, heat pumps, and all other manufactured goods.

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green materials such as solar panels for roofs and energy efficient boilers. Officials in Newark, Plainfield, and Rahway reported that the guidance about the permissible use of 10 percent of the allocated funds for administrative costs is unclear and that the messages from HUD's headquarters and field office seem inconsistent. Rahway Housing Authority officials said that, as a result, they used Recovery Act funds for only capital improvements. According to Newark Housing Authority officials, their inability to use the funds for administration could make monitoring the increased number of projects difficult.

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**New Jersey Is Monitoring Recovery Act Public Housing Capital Funds Using Existing Mechanisms**

Officials in all four public housing agencies we visited reported that they are able to track Recovery Act Funds separately from their regular Capital Funds using their existing systems. Rahway Housing Authority officials have also modified their existing internal grant expenditure reporting system, a paper-based system, to distinguish between Recovery Act and other funds.

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**Initiatives to Measure Impact of Recovery Act Spending Are Under Way but Public Housing Agency Officials Are Looking to HUD for Additional Guidance**

As required by the Recovery Act, the public housing agencies we met with are planning initiatives to measure the impact of Recovery Act funds. However, at the time of our visits, officials from these agencies said that they were waiting for more guidance from federal agencies about what will be required. Examples of officials' statements about additional guidance follow:

- Officials with the Rahway Housing Authority said that they have not received formal guidance about what HUD will require them to report. However, in the interim, the agency will document the impact of Recovery Act funds in several ways. Officials said that the agency will use lower energy bills, income to the housing authority, and improved scores on the REAC inspection to show the impact of using Recovery Act funds.
- Newark Housing Authority officials, also awaiting guidance from HUD, reported that they have already begun collecting information on the number of people working on Recovery Act-funded projects and asking contractors to report new hires.

On June 22, 2009, OMB issued a memo finalizing government-wide guidance on reporting requirements for Recovery Act spending.<sup>39</sup> 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.

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## New Jersey Plans to Weatherize 13,400 Homes and Create More than 400 Jobs with Weatherization Assistance

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>40</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its State Plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

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<sup>39</sup> The OMB memo (M-09-21) pertained to Section 1512 of the Recovery Act.

<sup>40</sup> DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe and the Northern Arapahoe Indian tribe.

DOE allocated to New Jersey \$118.8 million in funding for the Recovery Act Weatherization Assistance Program for a 3-year period. New Jersey's Department of Community Affairs (DCA), Division of Housing and Community Resources is responsible for administering the program. DCA received a Funding Opportunity Announcement on March 12, 2009, and subsequently received additional guidance via phone, e-mail, and regional conference calls for using its initial 10 percent allocation and developing its weatherization program plan. DCA submitted its application for funding on March 9, 2009, and then undertook a planning process, including public hearings, that led to the creation of its Weatherization Program Plan, which it submitted on May 11, 2009. DCA spoke with DOE officials by telephone on June 2, 2009, to respond to DOE's requests for budget clarifications for staff fringe benefits and travel and supplemental documents related to DCA's response to comments raised in the public hearings. DCA expects DOE to verify that New Jersey's plan meets the requirements provided in its guidance and expects to receive a response by the end of June 2009. DCA officials also noted a potential challenge in meeting the requirement to pay a prevailing wage, primarily because such a requirement is new for the weatherization program. A DCA official said that until DOE provides guidance on how to apply Davis-Bacon requirements, it is difficult for subgrantees to bid out jobs to subcontractors or begin weatherization production. Additionally, DCA officials told us, New Jersey does not have unique wage classification for weatherization. While the federal government would set area wage rates, these officials commented, New Jersey typically has higher rates because of its location in the northeast and unionization of the workforce. Officials from the Governor's Office in New Jersey told us that in order to facilitate weatherization production while the state awaits a federal wage determination, New Jersey established a base wage of \$17.40 per hour plus benefits.

On April 7, 2009, DOE provided the initial 10 percent allocation (approximately \$11.8 million) to New Jersey.<sup>41</sup> DCA is in the process of reviewing grant agreements with its 22 subgrantees<sup>42</sup> for the use of 10 percent of each subgrantee's allocated funds for personnel costs, training

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<sup>41</sup>DCA received their award on April 7, 2009, but the effective date of the award is April 1, 2009.

<sup>42</sup>Subgrantees of New Jersey's Weatherization Assistance Program include nonprofit organizations, county governments, and the New Jersey Housing and Mortgage Finance Agency.

and technical assistance, purchasing of equipment and vehicles, and related capacity building and outreach or education activities. DOE guidance received on April 10, 2009, prohibits using any of the initial 10 percent for actual weatherization production activities. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans. DCA expects to receive an additional 40 percent of the funding shortly after the plan is approved.

As stated in the plan submitted to DOE for review and approval, DCA's goals for use of the weatherization Recovery Act funding include weatherizing approximately 13,400 homes. DCA officials estimate that New Jersey's program will employ an estimated 400 to 600 people. Of the total \$118.8 million the state will receive, the planned allocation is \$100.9 million for weatherization production; \$5.9 million for subgrantee administration of the funds; \$8 million for new-hire screening, training, a public awareness campaign, and technical assistance; and \$4.8 million for DCA to cover its costs for program management, oversight, reporting, and administration. A DCA official told us that any unused portion of the \$8 million for training and technical assistance and any unused funds allocated to administrative costs will be used for weatherization production.

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## New Jersey Is Using Existing Internal Control Mechanisms to Track and Monitor Recovery Act Spending

The New Jersey Office of Management and Budget (NJOMB) developed an account code structure, within its existing system, to track accounts receiving Recovery Act funds.<sup>43</sup> Officials said that this allows them to track all allocations, obligations, and expenditures associated with these funds. NJOMB reports that it did not have to modify its system to track Recovery Act funding. In a memo dated March 27, 2009, NJOMB announced its Recovery Act accounting structure and notified state agencies of their responsibilities for tracking Recovery Act funds. The New Jersey state agencies we visited all reported having systems that could separately track

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<sup>43</sup>According to NJOMB, all Recovery Act-related appropriation accounts will use source code "230," and all revenue budgets will use a revenue source code beginning with "FS." Additionally, each grant received by a state agency is assigned a governmentwide grant number in NJOMB's accounting system. Recovery Act grants are noted with an "A" as the first character of the governmentwide number and by "ARRA" as the first characters in the grant description. Expenditures are coded with an account code linked to the corresponding appropriation account.

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Recovery Act funds from non-Recovery Act funds. However, the New Jersey Department of Education seeks additional guidance from the U.S. Department Education on how to handle “blended” funds in schoolwide ESEA Title I programs in order to comply with this tracking requirement.<sup>44</sup> As previously reported in this report because of statewide hiring freezes, state agencies with whom we met do not anticipate hiring additional staff to track Recovery Act funds.

NJOMB officials said they are relying on the integrity of the data in its accounting system to provide them with assurance that their agency reports accurate data about Recovery Act funds. Data in this accounting system is audited annually by the Office of the State Auditor (OSA) for the financial audit and by a firm hired by NJOMB for the Single Audit. According to NJOMB officials, New Jersey’s Office of Information Technology is currently working with state agencies to review their current reporting systems and individual departments have made or are considering making changes to capture new U.S. Office of Management and Budget (OMB) data requirements.

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### Multiple State Entities Provide Oversight on Internal Controls for Agencies Receiving Recovery Act Funding

NJOMB coordinates the statewide program for internal controls. According to NJOMB officials, state agencies are responsible for completing an annual internal control self-assessment questionnaire (comprised of 429 questions), summarizing any deficiencies and reporting the results to NJOMB. NJOMB officials have said that for these annual internal self-assessment reports, NJOMB requires state agencies to update the status of any prior year deficiencies and related corrective actions. NJOMB updates its internal controls program annually to include new programs or functions, with the last update being November 2008. According to NJOMB, agency management is responsible for ensuring that internal controls are in place and operating as intended. The Office of the State Comptroller and OSA include internal controls in their reviews of state agencies and programs, which serves as another review. To assist state agencies with internal controls, the New Jersey Office of the Inspector General is conducting a series of training sessions on internal

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<sup>44</sup>Schools in which poor children make up at least 40 percent of enrollment are eligible to use ESEA Title I funds for schoolwide programs that serve all children in the school. ESEA Title I schools with percentages of low-income students of at least 40 percent may use ESEA Title I funds, along with other federal, state, and local funds, to operate a “schoolwide program” to upgrade the instructional program for the whole school. As such, schoolwide ESEA Title I programs do not have to separately track federal dollars.

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controls for agencies receiving Recovery Act funding. Training with DCA began the first week in June 2009.

We previously reported that in New Jersey’s fiscal year 2007 Single Audit report, the independent auditor identified 42 significant control deficiencies related to compliance with internal controls requirements over major federal programs, 33 of which were considered to be material.<sup>45</sup> Twenty-seven of the significant control deficiencies pertained to compliance with requirements for several major federal programs that the state administers—including Medicaid programs—through which the Recovery Act funds will flow. According to NJOMB officials, the New Jersey Recovery Accountability Task Force and the Governor’s Office are working with the relevant agencies to mitigate the weaknesses identified in the fiscal year 2007 Single Audit report. We also previously reported that New Jersey has several offices responsible for accountability oversight. These entities have planned to conduct work that includes Recovery Act funding. For example, the Office of the Comptroller is reviewing New Jersey’s WIA program, including the WIA Youth program. OSA is auditing school districts; the DCA (including the Weatherization Assistance Program); and the Division of Criminal Justice (including the JAG program).

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### New Jersey’s State Agencies Use Single Audit Findings for Risk Assessments and Monitoring

NJOMB coordinates New Jersey’s Single Audit and communication of Single Audit results to state agencies. In this role, NJOMB hires the audit firm to perform the audit (using standard competitive bidding practices), tracks the audit’s progress, approves vendor invoices paying the auditor, and follows up on audit findings and corrective action plans. NJOMB officials told us that the upcoming Single Audit may assess how agencies are complying with Recovery Act funding requirements. However, state agencies are responsible for resolving Single Audit findings, using the results for risk assessment and monitoring programs and practices. For example, the internal audit division within New Jersey’s Division of Criminal Justice uses Single Audit findings to prepare corrective action plans in coordination with program managers and monitors the corrective action plans to make sure programs address findings.

The processes within the New Jersey Department of Education and NJDOT provide additional examples for how New Jersey’s state agencies

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<sup>45</sup>GAO-09-580.

use the Single Audit to identify risk and areas for additional monitoring. The communication of Single Audit findings related to education programs at the state level is coordinated through the New Jersey Department of Education's Office of Fiscal Accountability and Compliance. The department uses the findings in district-level Single Audits to highlight areas for school districts in need of corrective action—a series of actions aimed at correcting the problems identified in the Single Audit report. Executive County Superintendents, representing the state in each of the department's 21 county offices, are responsible for addressing and communicating programmatic and fiscal findings within local districts. In response to weaknesses identified in the Single Audit reports of school districts, New Jersey Department of Education officials reported that the department can appoint a fiscal monitor in specific districts. For example, the Camden County School District currently has a fiscal monitor appointed to the district. Fiscal monitors are on-site, state employees with fiscal management oversight of a district and are responsible for the development and implementation of a plan to address weaknesses. Department officials reported that beginning July 1, 2009, the Office of Fiscal Accountability would conduct real-time auditing of selected LEAs. These officials said that the Office of Fiscal Accountability plans to use the corrective action plans for the fiscal year ending June 30, 2008, to follow up on prior Single Audit findings related to programs receiving Recovery Act funds. These activities will augment the New Jersey Department of Education's existing structure for fiscal and programmatic monitoring.

NJDOT officials said that there have not been any material findings for the department in the state's Single Audit process for many years. However, according to these officials, NJDOT has a process for addressing any findings in the Single Audit report. For example, NJDOT staff submit an action plan to the state auditor describing how the agency will address the findings. NJDOT management is responsible for tracking the agency's progress in addressing the findings with regular progress reports. NJDOT officials reported that they are in the very early stages of developing a program for monitoring Single Audit findings in localities where any state or federal highway funds are being used. FHWA officials told us that failure to track Single Audit report findings against subrecipients was a weakness in NJDOT's oversight structure. Officials from the Governor's Office in New Jersey told us that NJDOT is currently collecting Single Audit reports from local government agencies and reviewing them to determine if there are any significant findings related to FHWA funds.

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## Some Initiatives to Measure Impact of Recovery Act Spending Are Under Way

In accordance with the Recovery Act, New Jersey state agencies and localities with whom we met reported that they are planning initiatives to measure the impact of Recovery Act funds. For example:

- NJDLPS officials administering the JAG grants reported working with internal evaluators to revise program performance measures for grant recipients. These performance measures will include, among other things, the number of jobs created. Officials have also contracted with the Urban Institute for an evaluation of all JAG initiatives. Having more information from OMB and DOJ would allow NJDLPS officials to better match their measures with reporting requirements, these officials told us.
- New Jersey Department of Education officials told us that the department is developing a tracking system to collect information that would allow it to measure impact of education efforts pertaining to the Recovery Act, but the lack of guidance from OMB and Education make the development of such a system a challenge.
- NJDOT plans to count the number of people employed in funded projects, the number of hours spent working on the projects, and the aggregate wages. Contractors are responsible for reporting this information to the state. NJDOT officials said that they will not calculate the number of indirect jobs created from Recovery Act-funded projects; rather, FHWA will count the indirect jobs created.
- Because of the temporary nature of summer youth employment programs, officials operating local programs told us that they plan to measure job readiness and job creation. For example, Mercer County officials will use the number of youth that obtain a job-readiness certificate; complete high school (or obtain a GED); enter occupational training; or obtain unsubsidized employment as a reflection of the impact of their summer youth program. Newark WIB officials reported plans to conduct pre- and post-assessments with each program participant to gauge job readiness. Finally, officials with the Essex County WIB plan to track youth who continue to work for summer employers, either full-time or part-time, after the summer program ends.

OMB's guidance on reporting requirements for Recovery Act spending, issued after our visits, will likely provide clarification to those officials wanting additional guidance on reporting. However, as we previously noted in this report, agencies may issue additional and similar reporting requirements.

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New Jersey officials at state agencies and localities we visited provided some preliminary estimates on jobs created and preserved:

- DCA officials reported that, over the 3 years of funding, New Jersey will produce 400 to 600 jobs through its Weatherization Assistance Program.
- NJDLWD officials said that, statewide, their WIA Youth summer activities will employ approximately 6,000 people.
- Officials representing the local WIBs for Camden and Mercer counties said that they plan to hire seasonal staff to work with participants of their WIA Youth summer activities. Camden County plans to hire 12 counselors and Mercer County plans to hire five counselors. Camden County also plans to hire one additional seasonal staff person to assist the WIB in monitoring its Recovery Act-funded summer activities.
- The Camden County School District reported plans to hire two staff persons to monitor ESEA Title I schools.

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## New Jersey's Comments on This Summary

We provided the Governor of New Jersey with a draft of this appendix on June 16, 2009. The Governor's Chief of Staff responded for the Governor on June 19, 2009. In general, the Chief of Staff substantially agreed with the draft and provided technical comments that were incorporated, as appropriate.

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## Staff Acknowledgments

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# Appendix XII: New York

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> 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/>.

**Use of funds:** Our work in New York focused on nine federal programs, selected primarily because they have begun disbursing funds to states and they include both existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, and new programs. Program funds are being directed to help New York stabilize its budget and support local government entities, particularly school districts, and several programs are expanding existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Increased Medicaid Federal Medical Assistance Percentage (FMAP) funds.** As of June 29, 2009, New York had drawn down about \$2.6 billion in increased FMAP grant awards and is using funds made available as a result of the increased FMAP to cover the state's increased Medicaid caseload, work on the state's goal to restructure provider reimbursement, and to offset the state's budget deficit.<sup>2</sup>
- **U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF).** Education has awarded New York about \$2.02 billion in Recovery Act SFSF funds, or about 67 percent of its total SFSF allocation of about \$3 billion. As of June 30, 2009, New York had not obligated or disbursed any SFSF funds. New York is planning to use these funds to offset the state budget gap and restore state aid to school districts and 2-year public colleges. For example, the New York City School District will use SFSF education stabilization funds to provide basic education services that would not be offered without the Recovery Act funds.

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

- **Highway Infrastructure Investment funds.** The U. S. Department of Transportation's Federal Highway Administration (FHWA) apportioned about \$1.12 billion in Recovery Act funds to the New York State Department of Transportation (NYSDOT) in March 2009. As of June 25, 2009, the U.S. Department of Transportation had obligated about \$589 million to New York. According to NYSDOT, they have used Recovery Act funds for about 240 projects; 105 of these projects had been advertised for bids and 34 contracts had been signed as of June 17, 2009. Many of these projects are preventive maintenance efforts or repaving projects that could be started quickly and completed in 3 years. For example, we visited 1 of the 11 bridges to be repainted, under a state contract, in two economically distressed areas. Without Recovery Act funding this project would have been scaled back or delayed.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA) and Individuals with Disabilities Education Act, Parts B and C (IDEA).** Through the Recovery Act, over the next 2 years New York school districts expect to receive an additional \$907 million in ESEA Title I funds and about \$760 million in increased IDEA funds. As of June 30, 2009, New York had been allocated about \$453.5 million of the ESEA Title I and about \$409 million of the IDEA funds, according to New York State Division of the Budget officials. As of June 30, 2009, New York had not obligated or disbursed any ESEA Title I and IDEA funds. New York school districts plan to use these funds to expand existing programs. For example, the New York City School District alone estimates that 180 schools with more than 90,000 students will receive ESEA Title I funding for the first time under the Recovery Act.
- **Weatherization Assistance Program.** The U.S. Department of Energy allocated about \$395 million in Recovery Act weatherization funding to New York. As of June 30, 2009, the state had not obligated any of these funds. It plans to begin disbursing its funds in July 2009. New York plans to use the Recovery Act weatherization funds to greatly expand its existing weatherization program; the state estimates that about 45,000 dwelling units will be weatherized using Recovery Act funds.
- **Workforce Investment Act (WIA) Youth Program.** The U.S. Department of Labor allotted over \$71 million to New York in WIA Recovery Act funds. After reserving 15 percent for statewide activities, the New York State Department of Labor has allocated \$60.8 million of this allotment to local workforce investment boards within 30 days of

receipt of funds as required by the U.S. Department of Labor guidance. New York State plans to use the increased Recovery Act WIA funds to provide over 23,400 youth with summer youth/work experience activities. We visited projects in New York City, Utica, and Buffalo, where plans were being developed to provide increased WIA work sites, additional job training, and new programs, including some that would focus on green jobs in landscape design and public horticulture.

- **Edward Byrne Memorial Justice Assistance Grant (JAG) Program.** The U.S. Department of Justice's Bureau of Justice Assistance has awarded approximately \$67 million in Recovery Act funding directly to New York. Based on information available as of June 30, 2009, no Recovery Act funds had been obligated by the New York State Department of Criminal Justice Services, which administers these grants for the state.<sup>3</sup> According to state officials, these funds will be used to implement recently enacted drug law reform efforts, provide job placement services for the formerly incarcerated, and support other programs.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development allocated about \$500 million in Recovery Act funding to 84 public housing agencies in New York. Based on information available as of June 20, 2009, about \$98.1 million (19.5 percent) had been obligated by 36 of those agencies. The three public housing authorities we visited in Binghamton, Buffalo, and Glen Cove indicated that they were planning to spend the increased funding on an expanded community center, a gymnasium, a computer lab, projects aimed at increasing energy efficiency, and other site improvements.

For more information on Recovery Act program funding within New York State, see the Office of the State Comptroller's Open Book, the Web site that provides transparency for contracts, expenditures, and local government funds, at <http://www.openbooknewyork.com/stimulus/index.htm>. Note, however, in some cases the Recovery Act program numbers in this report may not correspond exactly to those reported at this site because we use different sources and/or timeframes.

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's (BJA) solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

**Safeguards and Internal Controls:** As we noted in our April 2009 Recovery Act report, New York plans to track and monitor Recovery Act funds mostly through its existing systems. New York officials recently told us that they have not experienced any challenges with regard to creating discrete budget and accounting codes to track Recovery Act funds; however, a few agencies have expressed the need for more specific guidance from the Office of Management and Budget (OMB) and federal agencies on tracking certain programs. Standards adopted by the Office of the State Comptroller and the New York State Division of the Budget's internal control and internal audit requirements provide state agencies with guidance to (1) conduct risk assessments of agency operations, (2) prepare audit plans to guide their work, (3) evaluate their agencies' internal controls, and (4) monitor and assess their effectiveness. Individual agencies, as well as the Economic Recovery and Reinvestment Cabinet Internal Controls and Fraud Prevention Working Group, are planning to conduct additional oversight of Recovery Act funds, but indicated to us that the lack of funds for monitoring activities may somewhat impede their ability to adequately monitor Recovery Act funds.

**Assessing the effects of spending:** Throughout April, May, and June 2009, most of the state's management focus was on reducing the state budget gap, while applying for and spending Recovery Act funds through its various program agencies. Although state agencies have taken steps to adapt current reporting mechanisms to prepare to meet Recovery Act reporting requirements, some of these agencies continue to express concerns about meeting Recovery Act reporting requirements and continue to look to federal agencies and the Office of the Management and Budget (OMB) for further guidance on how to define report variables such as jobs created and/or sustained. Nevertheless, New York officials throughout the state agencies and at some of the localities we visited provided some preliminary estimates. For example, the New York City School District anticipates saving 14,000 jobs as the result of Recovery Act funding through several programs.

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## New York Using Recovery Act Funds to Help Stabilize Its Budget and Prevent Reductions in Services

Recovery Act funds helped New York to stabilize state finances and are helping to prevent reductions in essential services. For fiscal year 2008-2009, which, for New York, ended on March 31, 2009, the state filled a budget gap of \$2.2 billion, and for 2009-2010, projected a gap of \$17.9 billion, for a combined total of \$20.1 billion.<sup>4</sup> The budget gaps reflect the deteriorating economy and the upheaval in the financial markets.

To help close the budget gaps for fiscal years 2008-2009 and 2009-2010, New York used about \$5 billion in funds made available as a result of the increased Medicaid FMAP. Without these funds, budget officials said the state would have taken other actions, such as deferring payments it owed, in order to end the 2008-2009 fiscal year in balance, which it is required by law to do. Also, budget officials said the infusion of the Recovery Act funds allowed the state to avoid taking funds from its rainy-day fund in order to cover FMAP-related costs.<sup>5</sup> In addition, to close the gap for fiscal year 2009-2010, the state anticipates using about \$1.2 billion of Recovery Act SFSF funds. Nearly all of the SFSF governmental services funds in fiscal year 2009-2010 will be targeted to help the state restore reductions in education and avoid reductions in other essential government services.<sup>6</sup> See figure 1 below for a chart of the actions that were taken to close the budget gaps for fiscal years 2008-2009 and 2009-2010, including the use of Recovery Act funds. Although New York took actions to close the budget gap for this fiscal year, several uncertainties could present risks to the state's current budget, including revenue collections, Medicaid caseload, transit authority finances, and ongoing labor negotiations.

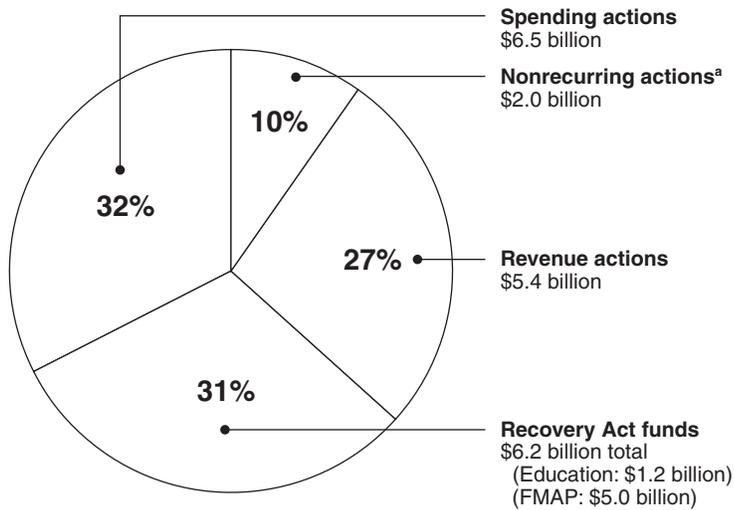
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<sup>4</sup>New York State operates on an April 1 through March 31 fiscal year.

<sup>5</sup>New York has two rainy-day funds—its tax Stabilization Reserve Fund and Rainy Day Reserve, which balanced at approximately \$1 billion and \$175 million respectively at the end of 2008-2009. Officials anticipate these balances remaining the same for the 2009-2010 fiscal year.

<sup>6</sup>This represents the 18 percent of SFSF funds that New York must use toward public safety and other governmental services, which may include education.

**Figure 1: Actions to Close Budget Gaps for Fiscal Years 2008-2009 and 2009-2010**



Source: New York - 2009-2010 Enacted Budget Report, April 28, 2009.

<sup>a</sup>The nonrecurring actions include a delay of a Medicaid cycle payment until fiscal year 2011-2012, increased business tax prepayments, and a transfer of New York Power Authority resources.

### New York Giving Some Preliminary Thought to the Phaseout of Recovery Act Funds

New York projects sizable budget gaps for the next 3 years. It projects to receive its remaining Recovery Act funds in the next fiscal year, which begins April 1, 2010—almost \$4.4 billion, net of the cost of federal tax changes. Absent additional federal aid, New York projects to close its future budget gaps largely from state spending reductions and revenue enhancements. The uncertainty about when the economy will experience an upswing will affect these projections. See table 1 for a comparison of budget gap projections with and without gap closing measures, which take Recovery Act monies into account.

**Table 1: Comparison of New York State's Projected Long Term Budget Gap Without and With Gap-Closing Measures**

Dollars in millions

<b>Fiscal year</b>	<b>Without gap-closing measures</b>	<b>With gap-closing measures</b>
2010-2011	\$(20,374)	\$(2,166)
2011-2012	(21,900)	(8,757)
2012-2013	(22,845)	(13,706)
<b>Cumulative total</b>	<b>\$(65,119)</b>	<b>\$(24,629)</b>

Source: New York's 2009-2010 Enacted Budget Financial Plan, April 28, 2009.

New York budget officials said that they have given preliminary thought to the phaseout of Recovery Act funds in the future, but the Governor's representative said it was too early to do any extensive planning. Senior budget officials said their goal, to the extent possible, is to use Recovery Act funds for actions they view as nonrecurring, such as using approximately \$2.26 billion made available as a result of the increased Medicaid FMAP to cover deteriorating receipts and new costs, most of which were related to the economic downturn.

The New York State Association of Counties expressed concern that the Enacted 2009-2010 state budget includes substantial Recovery Act funds, but does not adjust the spending plan to reflect the current economic reality, or the long-term budget deficits that will occur post-Recovery Act.<sup>7</sup> The Governor's representative said that New York cannot yet take more action than it already has because revenue projections are not firm, and the impact of the economic recession has not fully run its course. The Governor's representative said that a more thought-out exit strategy will be revealed around November or December 2009, when the 2010-2011 budget is presented to the state legislature.

<sup>7</sup>The New York State Association of Counties is a bipartisan municipal association serving all 62 counties of New York.

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## New York Medicaid Has Drawn over \$2 Billion in Increased FMAP and Modified Its Program to Address Concerns over Compliance with Certain Recovery Act Requirements

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008 through December 31, 2010.<sup>8</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>9</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the state's Medicaid enrollment grew from 4,121,588 to a projected 4,349,197, an increase of 5.5 percent.<sup>10</sup> While the increase was generally gradual over this period, there were three months where enrollment decreased (fig. 2). Most increases in enrollment were attributable to the population groups of non-disabled non-elderly adults and children and families. There was a decline during this period in

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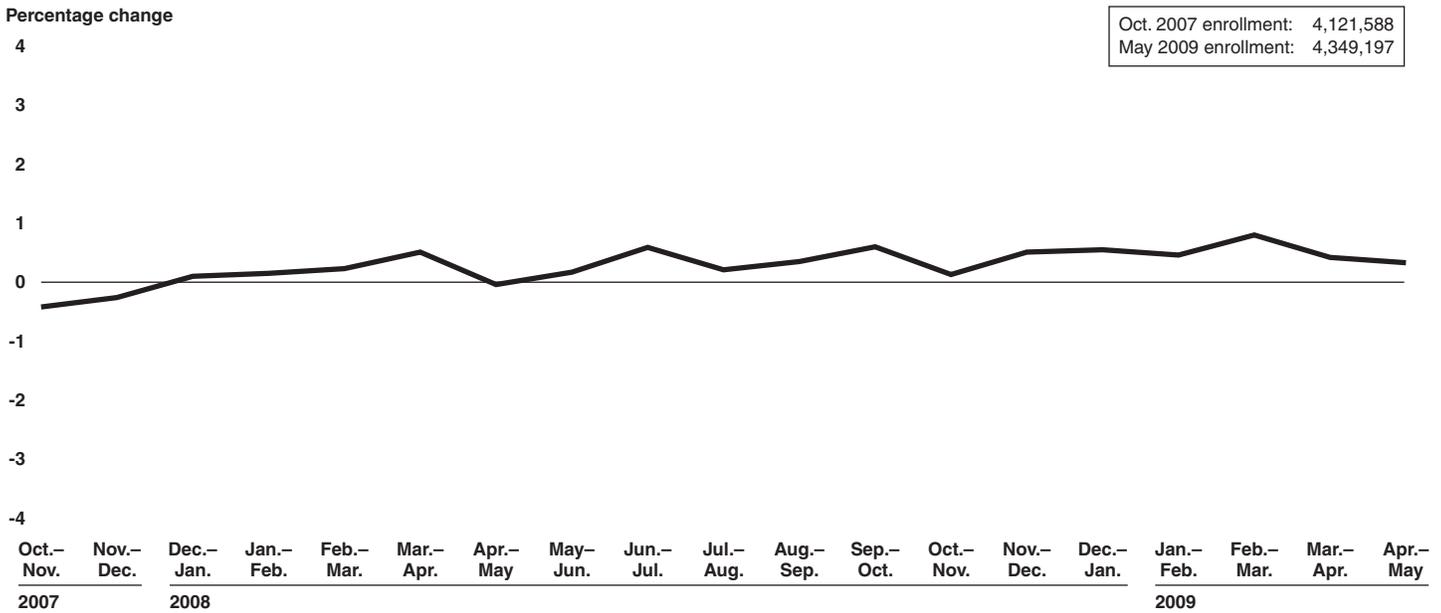
<sup>8</sup>See Recovery Act, div. B, title V, §5001.

<sup>9</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>10</sup>The state provided projected Medicaid enrollment data for March, April and May 2009.

the state’s “other” population category, which includes a Medicaid demonstration population group.<sup>11</sup>

**Figure 2: Monthly Percentage Change in Medicaid Enrollment for New York, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for March, April and May 2009.

As of June 29, 2009, New York had drawn down about \$2.6 billion in increased FMAP grant awards, which is about 80 percent of its awards to date.<sup>12</sup> New York officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit, cover the state’s increased Medicaid caseload and continue working on the state’s goals related to restructuring provider

<sup>11</sup>New York’s other population group includes a section 1115 demonstration program for adults who are aged 19 to 64 who have income or resources too high to qualify for traditional Medicaid. Section 1115 of the Social Security Act authorizes the Secretary of Health and Human Services to waive compliance with certain statutory requirements and to authorize costs that would otherwise not be included as Medicaid expenditures in connection with experimental or demonstration projects that in the judgment of the Secretary are likely to assist in promoting Medicaid’s objectives.

<sup>12</sup>New York received increased FMAP grant awards of over \$3.3 billion for the first three quarters of federal fiscal year 2009.

reimbursement for state fiscal year 2009-2010. New York officials also indicated that the funds made available as a result of the increased FMAP have allowed the state to continue working towards its goals of eliminating barriers at initial Medicaid enrollment, making small eligibility expansions, and restructuring the reimbursement system for institutional providers without having to cut Medicaid enrollees or benefits. Officials added that before the increased FMAP, New York was considering a mid-year deficit reduction program for fiscal year 2008-2009, which would have amounted to a \$3.2 billion reduction in state Medicaid spending. As the state is projecting an eight percent growth in Medicaid enrollment over the current fiscal year, officials noted that the ability to sustain this growth while reforming the program and expanding access is due to funds made available as a result of increased FMAP. Finally, New York officials indicated that the Medicaid program had incurred no additional costs related to the administrative and reporting requirements associated with use of these funds.

New York officials said that the state modified its accounting system to track the increased FMAP funds. For example, the state controller set up separate account and transaction codes to track revenues and expenditures related to the increased FMAP. New York officials said that they also rely on re-programmed CMS quarterly electronic reporting forms to track and report the increased FMAP funds. In terms of additional oversight, the officials noted that the leader of the Governor's sub-cabinet workgroup on Internal Controls and Fraud Prevention asked state agencies that receive these funds to develop and implement plans for internal controls related to their use, which will be reviewed by the leader. In addition, the state's Medicaid program is subject to review and audit by the State Office of the Comptroller and the Office of Inspector General in New York. A number of audits are active at any point in time in New York and funds available to the state as the result of increased FMAP would fall within the purview of such audits.

In addition, in response to concerns regarding maintaining eligibility for the increased FMAP, New York adjusted the method it used to allocate the

nonfederal share of Medicaid expenditures.<sup>13</sup> According to New York officials, the local share of the nonfederal share of Medicaid expenditures is based on a statutory formula that provides for a percentage increase each year, subject to an existing cap, thus limiting counties' exposure to Medicaid expenses. New York officials indicated that the percentage of the local share will be maintained at the September 30, 2008 level over the course of the recession adjustment period. New York officials will initially estimate the state and local shares of the nonfederal share, and will then reconcile these estimates based on subsequent actual data. Based on the reconciliation for the 2008-2009 fiscal year, the final amount of the localities' shares would then be calculated and adjusted amounts would be paid to the counties as warranted.

New York officials were also concerned that the implementation of proposed changes to the state's spousal impoverishment provisions under Medicaid as requested by CMS could be construed as a more restrictive method for establishing eligibility for Medicaid services, thus jeopardizing the state's eligibility for increased FMAP.<sup>14</sup> New York officials requested guidance from CMS and are awaiting clarification on this issue, while delaying implementation. In addition, the 2007 Single Audit for New York identified several material weaknesses related to the state's Medicaid program, including erroneous reporting of the federal Medicaid share, duplicate claims, and the potential overpayment of claims.<sup>15</sup> The audit indicated that state officials agreed with the findings and that corrective actions had been taken to address most of the weaknesses.

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<sup>13</sup>In some states, political subdivisions—such as cities and counties—may be required to help finance the state's share of Medicaid spending. Under the Recovery Act, a state that has such financing arrangements is not eligible for certain elements of the increased FMAP if it requires subdivisions to pay during a quarter of the recession adjustment period (between October 1, 2008 and December 31, 2010) a greater percentage of the nonfederal share than the percentage that would have otherwise been required under the state plan on September 30, 2008. See Recovery Act, div. B., title V, § 5001(g)(2).

<sup>14</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

<sup>15</sup>The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or non-profit 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 (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.

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## New York Highway Projects Under Way

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 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 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, \$1.12 billion was apportioned to New York in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$589 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 signs a project agreement. As of June 25, 2009, about \$2.1 million had been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

To meet the act's objectives—funding projects that can be started quickly and have the desired economic effect in terms of jobs and local benefits—the state targeted most state transportation funds to preventive maintenance efforts, such as cleaning bridges, or repaving. State officials emphasized that these projects extend the life of infrastructure and can be contracted for and completed relatively easily in the 3-year time frame required by the act. Some Recovery Act highway dollars are also being directed to more typical shovel-ready highway construction projects for which there are insufficient funds.

- An example of a project funded by the Recovery Act is the \$14.9 million Delaware Avenue reconstruction project in Albany that we visited. Unlike most New York Recovery Act highway projects that are managed by NYSDOT, Delaware Avenue is managed by the city using NYSDOT contract and construction requirements as its management framework. The city began advertising the project using its own funds in April 2009 and plans to complete it using Recovery Act funds by October 2010. According to NYSDOT, as of June 8, 2009, the construction contract had been awarded so work could begin;

however, the city-state reimbursement agreement is awaiting approval by the Office of the State Comptroller. The project has been on the State Transportation Improvement Program since 2004 and it was chosen in part because it was shovel ready. City officials told us that the project would have been scaled back considerably without Recovery Act funds. Although the county where the project is located is not an economically distressed area (EDA), the City of Albany has been hit hard by the recession. From 1997 to 2006, the city lost over 9,000 taxpayers and over \$600,000 in tax revenue. The Albany project expects to employ 40 people by the summer. Table 2 shows New York’s highway obligations by project type.

**Table 2: Highway Obligations for New York by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects				Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
	\$14	\$320	\$8	\$0	\$91	\$72	\$84	<b>\$589</b>
Percent of total obligations <sup>b</sup>	2.4	54.3	1.3	0.0	15.5	12.2	14.3	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

According to NYSDOT, as of June 17, 2009, 105 of these projects had been advertised for contract bids and 34 contracts had been awarded. Typically, according to FHWA officials who oversee the NYSDOT programs, it takes about 6 weeks to advertise and award a highway contract. Thus, only about \$2.1 million in Recovery Act funds had been reimbursed to New York by FHWA as of June 25, 2009.

Officials said that they generally have received more competitive bids on the initial group of Recovery Act projects than they would normally expect, resulting in contract prices as much as 5 to 10 percent lower than engineering cost estimates. FHWA officials said that this frees up funds for the next project on the long backlog of New York transportation projects. FHWA officials noted, however, that Metropolitan Planning Organizations in the state managing Recovery Act highway projects might take a different approach and reserve these funds to meet potential cost overruns. NYSDOT officials also told us that recent contract awards have been closer to expected costs.

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## New York Officials Are Confident That They Will Meet Key Recovery Act Transportation Requirements

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to

- Ensure that 50 percent of apportioned Recovery Act funds are obligated<sup>16</sup> within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.<sup>17</sup> The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated by any state within these time frames.
- Give priority to projects that can be completed within 3 years, and to projects located in EDAs. EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>18</sup>

New York met the 50 percent obligation requirement in May 2009. As of June 25, 2009, about 62.6 percent of the \$784 million that is subject to the 50 percent rule for the 120-day redistribution had been obligated. New York also transferred \$466,000 of Recovery Act highway funding that was subject to the 50 percent rule for the 120-day redistribution from FHWA to the Federal Transit Administration. According to FHWA guidance, once

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<sup>16</sup>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.

<sup>17</sup>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.

<sup>18</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of the each state to obligate their apportioned funds by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing the authority of some states to obligate funds and increasing the authority of other states.

transferred, these funds are no longer subject to the 50 percent obligation requirement.<sup>19</sup> In addition, New York State transportation officials are confident that 100 percent of Recovery Act funds will be obligated by the end of the calendar year.

Even before the Recovery Act was enacted, NYSDOT, in anticipation of such an act, began to identify projects on its list of backlog/delayed projects that were shovel ready and could be initiated and completed within a short period. As a result, as of June 2009, NYSDOT expected to spend about 81 percent of its highway apportionment within the first 3 years after the act took effect.

FHWA officials are generally satisfied with the effort NYSDOT has made to identify and fund EDA projects and will continue to monitor the state's progress in this area. Because NYSDOT began to identify potential projects before the act was passed, it did not initially give priority to projects in EDAs. According to senior NYSDOT officials, the department, however, had the objective of spreading whatever federal Recovery Act money became available around the state to maximize its effect. Also, since its initial project review, NYSDOT has emphasized the identification and funding of EDAs and, according to FHWA officials, are now pushing these projects to the head of the line for future funding. Thus, the highway projects certified as of June 4, 2009, included at least one in each of the 30 designated EDA counties in the state at that time.<sup>20</sup> The initial project identification and certification also resulted in about 25 percent of Recovery Act highway funds going to EDAs—areas where about 20 percent of the state's population lives. New York identifies EDAs using the criteria outlined in the Public Works and Economic Development Act of 1965, as amended, and uses the most recent unemployment (2007 and 2008) and per capita income (2006) data available. NYSDOT officials noted however, that some highway projects, such as the Delaware Avenue project, are located in cities that have been hard hit by the recession; however, because these cities are surrounded by affluent areas, the local county is not an EDA.

- We also visited 1 of the 11 bridges to be painted under a NYSDOT project that involves work in Herkimer and Oneida counties (the

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<sup>19</sup>Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

<sup>20</sup>According to FHWA, the number of EDAs in New York State as of June 18, 2009 was 35.

Culver Avenue Bridge in Utica, New York). All the bridges are located in EDAs. Officials noted that, generally, bridges must be cleaned and painted every 12 years or significant maintenance problems may occur. The contract for this project was let on March 5, 2009, and awarded April 15, 2009, for \$2.15 million—about 5 percent under estimate. Originally, 8 bridges were to be included in the project but the availability of Recovery Act funding allowed the state to add 3 more bridges. Officials stressed that the project was in jeopardy of not being done for another year or two.

The Governor of New York certified in March 2009 that the state would maintain its level of effort for Recovery Act-related transportation programs. NYSDOT's initial submission, developed in consultation with FHWA, was based on planned obligations during the period of February 17, 2009, through September 30, 2010. Subsequently, on April 22, the Secretary of the U.S. Department of Transportation provided additional guidance and gave the states the option to amend their certifications. Included in this guidance was the requirement that the state maintenance of effort certification be based on planned expenditures and not planned obligations. New York, with assistance from FHWA, resubmitted its maintenance of effort certification to reflect planned expenditures. The federal Department of Transportation is currently evaluating whether the states' method of calculating the amount they plan to expend for the covered programs is in compliance with DOT's guidance. In June 2009, the head of the New York State Budget Division's Revenue and Transportation Unit expressed concern that the basis of measurement for future maintenance of effort compliance by FHWA would only count expenditures for individual Recovery Act eligible projects. However, since New York's maintenance of effort certification was compiled on a program, not a project basis, (consistent with previous state transportation budgets) a maintenance of efforts test on a narrower Recovery Act project eligibility basis would place New York at a disadvantage in determining maintenance of effort compliance.

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## NYSDOT Preparing for Recovery Act Reporting

NYSDOT officials have focused efforts to date on complying with transportation requirements, and identifying and awarding contracts for Recovery Act transportation projects. In May, very limited highway job creation was reported. However, an increase is expected for June because of the jobs created by contracts awarded in May. NYSDOT officials remain confident that current highway construction reporting mechanisms, and the Recovery Act reporting requirements that have been incorporated into contracts using Recovery Act funds, will adequately

meet Recovery Act job creation reporting requirements. FHWA has assumed the responsibility of identifying indirect jobs generated by Recovery Act highway work.

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## New York Planning to Use SFSF Funds to Reduce Planned Budget Cuts

The Recovery Act created the SFSF program to be administered by Education. The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Furthermore, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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 June 30, 2009, New York had received \$2.02 billion of its total \$3 billion allocation for SFSF—\$1.65 billion is for education stabilization and \$368 million is for government services, according to New York State Division of the Budget officials. As of June 30, 2009, New York had not obligated or disbursed any of the SFSF funds. Based on the state's approved application, the state will allocate 95 percent of the education stabilization funds to local education agencies (LEA) and three percent to IHEs. The remaining two percent must be used to restore education spending in 2011, with any amount leftover to be distributed to LEAs. The state is determining total allocations for each LEA using formulas based on enrollment, school district wealth and student need and has placed no restrictions on the use of the funds beyond those in federal statute. New York is determining total allocations for each IHE using formulas based on

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enrollment. As of June 30, 2009, New York had not yet disbursed funds to LEAs and planned to disburse funds to IHEs before the end of the calendar year. The state application provided assurances to Education that the state will meet maintenance of effort requirements. New York State Division of the Budget officials said that the state is requiring that each LEA submit an application prior to September 1 addressing how it will spend SFSF funds and with confirmation of certain assurances regarding the use of the funds.

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**Almost 40 Percent of New York SFSF Funds to Be Disbursed within Year**

State officials offered projections on when the SFSF funds would be disbursed. Officials said that approximately half of the state's \$3 billion in SFSF funds was allocated to general categories in the fiscal year 2009-2010 Enacted Budget. Although LEAs and IHEs have not received their SFSF fund allocations, as of June 30, 2009, state officials project that 38 percent of the total amount will be disbursed before the end of fiscal year 2009-2010 (March 31, 2010). Officials project that approximately an additional 50 percent of the funding will be disbursed during fiscal year 2010-2011, with the remaining 12 percent disbursed between April 1 and September 30, 2011. This projection is based on the state's cash disbursement practices for school districts. Typically, school districts are awarded funding prior to July 1, the start of the academic year, and the disbursement of these funds to school districts occurs throughout the academic year.

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**Schools and Colleges Planning to Use Funds to Maintain and Expand Current Programs, Save Jobs, and Minimize Tuition Increases**

Prior to being disbursed, Recovery Act funds have already helped reduce cuts in the budgets for public schools and colleges. In particular, the Governor's fiscal year 2009-2010 Executive Budget, released in late 2008, proposed to cut public K-12 education funding by \$698 million from school year 2008-2009 levels by imposing a deficit reduction assessment and proposed to cut 10 percent of aid to community colleges. Planned SFSF funding eliminated these cuts. According to state officials, the state enacted legislation to use the SFSF funds to help restore the budgets of public schools and 2-year public colleges, which, they explained, will result in fewer teacher layoffs and reduced tuition increases, among other things. State officials said that the state financial plan assumes that state aid will increase to replace Recovery Act funding that will be terminated after the 2010-2011 school year, and higher education officials said that student tuition, state financial assistance and local share would have to be increased if other funding is not available to replace Recovery Act funding. However, some locality officials are planning to spend funds in ways that will reduce their budgets in the long term. To assess how some school

districts and colleges will use SFSF funds, we visited two school districts—New York City and Rochester City; two 2-year public colleges—Borough of Manhattan Community College (BMCC) and Hudson Valley Community College (HVCC); and the central offices of the City University of New York (CUNY) and the State University of New York (SUNY)—which, collectively, oversee all the community colleges in the state.

- The New York City School District will use SFSF funds to provide basic education services that would not be offered without Recovery Act funds, according to city officials. With more than a million students and approximately 1,500 schools, the New York City School District is the largest in the country. The district had a total budget of approximately \$18 billion in fiscal year 2008-2009 and anticipates receiving \$426 million in Recovery Act SFSF funding in fiscal year 2009-2010. The district lost 550 staff positions in the last 14 months.
- Rochester City School District officials said they are planning to use the funds to strategically modify their budget by realigning quality staff to areas of need rather than make a large number of staff cuts this year—saving 148 jobs. In addition, 16 programs are expected to be expanded, developed, or saved from being cut. The school district has 60 schools, 32,000 students and the highest rate of impoverished students among large school districts in New York. The LEA had a total budget of \$691 million in fiscal year 2008-2009. The LEA faced a deficit of approximately \$40 million in fiscal year 2009-2010 and anticipates receiving approximately \$15 million in SFSF funds. Enrollment has declined for the last 5 years and continues to decline, leading to a greater staff-to-student ratio than officials would prefer. The LEA plans to use SFSF funds to retrain certain teachers for positions that are in higher demand, such as English as a Second Language (ESL) teaching.
- CUNY will use the funds at 2-year colleges to cut the tuition increase from \$600 to \$350 and fund instructional activity and faculty, according to CUNY officials. CUNY is the largest urban university system in the country with 480,000 students and 23 campuses across the five boroughs of New York City. CUNY anticipates receiving \$13.7 million SFSF funds for fiscal year 2009-2010 and will distribute those funds to its campuses using a formula based on enrollment. As a result of receiving SFSF funds, CUNY will be able to partly fill its \$18 million budget gap in fiscal year 2009-2010. CUNY's 2-year colleges will have an additional \$270 to spend on each student due to Recovery Act funds.

- BMCC anticipates spending funds on expanding the campus' capacity and reducing the college's energy expenditure, according to a college official. BMCC has the largest enrollment among the six 2-year colleges in the CUNY system, has 22,400 students, and enrollment is growing. One of the college's buildings was damaged by the terrorist attack of September 11, 2001, and 70 classrooms were lost. BMCC has not received its SFSF allocation yet, or approval by CUNY of its planned uses for the funds. It plans to use SFSF funds to hire more teachers and custodians, extend hours, increase study areas, and replace light bulbs with energy-efficient bulbs. One official said that BMCC plans to continue funding any new teachers with other funding sources after the Recovery Act funds terminate.
- At its 2-year colleges, SUNY officials said the SFSF funds could be used to save and hire approximately 550 additional staff and will be used to decrease planned tuition increases to an average of \$125 instead of \$323. SUNY is the largest comprehensive state university system in the country with more than 438,000 students and 64 campuses. SUNY anticipates receiving approximately \$35 million in SFSF funds for fiscal year 2009-2010, equaling 2.2 percent of its fiscal year 2008-2009 operating budget for 2-year colleges. It will distribute the funds to its 2-year colleges using an enrollment-based formula. It is estimated that SUNY's 2-year colleges will have an additional \$270 to spend on each student due to Recovery Act funds.
- HVCC officials said they plan to use SFSF funds to hire six full-time instructors and three technical assistants, implement a tuition increase of \$200 rather than the originally proposed increase of \$400, and provide financial assistance to 500 to 600 low-income students who do not qualify for a Pell Grant or the State's Tuition Assistance Program. HVCC has the sixth largest enrollment among SUNY's 30 2-year colleges in the state. HVCC anticipates receiving \$1.9 million in SFSF funds, equaling 2.2 percent of its fiscal year 2008-2009 operating budget.

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### Much of SFSF Government Services Funds to Be Spent on Education

In addition to the SFSF education stabilization funds, the state was allocated \$368 million in SFSF government services funds. The State, in turn, allocated approximately half of this total for fiscal year 2009-2010. Much of it will be used for education purposes, according to state education officials, including the Teacher Mentor Intern Program and an academic improvement grant to the Roosevelt School District. Also, government service funds were combined with the education stabilization funds to minimize the tuition increases described above at 2-year colleges

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and provide them with extra funding. For example, SUNY is expected to receive almost \$27.7 million for its 2-year colleges from the SFSEF education stabilization funds and almost \$7.7 million from the SFSEF government service funds.

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## ESEA Title I, Part A, and IDEA, Parts B and C, Education Funds Flow to School Districts through Existing Mechanisms

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 formulae, 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 its fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>21</sup> The Department of Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as providing professional development to teachers. Education made the first half of states' ESEA Title I, Part A funding available on April 1, 2009, with New York receiving \$453.5 million of its approximately \$907.2 million total allocation. On June 15, 2009, the New York State Education Department (NYSED) announced ESEA Title I, Part A Recovery Act allocations for school districts for fiscal years 2009-2010 and 2010-2011. The NYSED had planned an initial disbursement to LEAs by the start of the school year, July 1; however, a school district official said the NYSED may instead disburse the total annual allocation to LEAs in September 2009. As of June 30, 2009, NYSED had not obligated or disbursed any of the ESEA Title I Recovery Act funds. The NYSED will require school districts to agree to a number of assurances regarding the use of the ESEA Title I Recovery Act funds before disbursing the funds; however, the application was in draft form as of June 17, 2009.

The Recovery Act also provided supplemental funds for programs authorized by Parts B and C of IDEA, the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free

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<sup>21</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

and appropriate public education and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-aged, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

The Department of Education allocated the first half of states' IDEA allocations on April 1, 2009, with New York receiving a total of \$409 million for all IDEA programs, according to New York State Division of the Budget. NYSED announced IDEA Recovery Act allocation amounts for LEAs on May 22, 2009. As of June 30, 2009, NYSED had not obligated or disbursed any of the IDEA Recovery Act funds. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation follows:

- \$17 million in Part B preschool grants,
- \$380 million in Part B grants to states for school-aged children and youth, and
- \$12 million in Part C grants for infants and families for early intervention services.

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### School Districts Plan to Use Funds to Expand ESEA Title I and IDEA Programs

To assess how some school districts are planning to use Recovery Act Title I and IDEA funds, we visited two school districts—New York City School District and Rochester City School District.

- New York City School District, the largest in the country, is generally planning to use ESEA Title I and IDEA Recovery Act funds to expand existing programs and save jobs, according to officials. The school district had a total budget of \$18 billion in fiscal year 2008-2009, and for fiscal years 2009-2010 and 2010-2011, it will receive a total of \$708 million in ESEA Title I Recovery Act funds and \$331million in IDEA Recovery Act funds. In recent years, the school district has had an increase in the number of students and schools eligible for ESEA Title I funding. With additional ESEA Title I funding from Recovery Act for fiscal year 2009-2010, the school district will expand its eligibility

criteria and estimates that 180 schools with more than 90,000 students will receive ESEA Title I funding for the first time. The officials are currently determining whether any schools will receive IDEA funds for the first time this fiscal year. The school district is considering hiring three to five consultants with Recovery Act IDEA funds to assist with monitoring and performing internal control functions. City officials are aware that Recovery Act funding may cease after fiscal year 2010-2011 and resources may not be available to fund the current expansion to ESEA Title I and IDEA services. Officials said the district may have to consider the same types of staff and service cuts they were proposing before the Recovery Act was passed.

- Rochester City School District officials said they plan to use ESEA Title I and IDEA Recovery Act funds for various initiatives, such as expanding bilingual education, hiring library media specialists, improving the school district data system, implementing more early intervention services for students who have not been identified as disabled but need additional support to succeed in school, and expanding a work experience program for disabled youth. The LEA is specifically looking for ways to reduce their budget, such as supplying more early intervention services to lower the school district's higher-than-average rate of students identified as disabled (18 percent compared to the 12 percent state average). In addition, officials are looking to streamline services for disabled students to avoid classrooms with multiple teachers and only one child. As described above, the school district has the highest rates of impoverished students among large school districts in New York with all 60 schools eligible for ESEA Title I funding. Its total budget was \$691 million in fiscal year 2008-2009. For fiscal years 2009-2010 and 2010-2011, the LEA will receive a total of \$20.2 million in ESEA Title I Recovery Act funds. It will also receive approximately \$8.9 million in IDEA Recovery Act funds, according to NYSED.

### State Plans to Use IDEA Part C Recovery Act Funds for Early Intervention

While the NYSED administers ESEA Title I and IDEA, Part B programs in New York, the New York Department of Health administers the IDEA, Part C programs for infants and toddlers. The department plans to use its Recovery Act, Part C funds to support the implementation of the Early Intervention Program at the state and local level. Initiatives that are planned for Recovery Act funding include the development, implementation, and training of users of a new Web-based information system for the program; expanded clinical program, training, and technical assistance initiatives to benefit local programs, providers, and families; and funding to support municipalities' administration of the program in

each of New York's 62 counties. One main challenge that the agency faces in using Recovery Act Part C funds is meeting the enhanced reporting requirements required of recipients. The agency is working to establish mechanisms to allow for the collecting and reporting of required information within 10 days of the end of each quarter, but officials said these efforts detract from the agencies' ability to procure, obligate, and expend funding in a manner that will meet the intended objective of the Recovery Act to promptly stimulate the economy.

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### State and School Districts Are Requesting Waivers for Certain Requirements and Seek More Guidance

The NYSED is still determining whether to request that Education waive certain statutory and regulatory requirements on the use of the ESEA Title I<sup>22</sup> and IDEA Recovery Act funds. In addition, the New York City School District is applying for a transportation for school choice / supplemental educational services waiver under ESEA Title I. School district officials said they need more guidance from Education regarding the carryover limitation and the public school choice requirement before determining to request waivers. Additionally, officials told us more guidance is needed on how to implement Education's decision to allow LEAs to set aside up to 15 percent of Recovery Act IDEA funds for early intervention services for students who are not currently identified as having a disability. Lastly, the school district lacks clarity on the definition of obligate in regards to obligating 85 percent of ESEA Title I Recovery Act funds by the deadline of September 30, 2010. Generally this would be defined as committing to spend a certain amount against a given appropriation. However, the school district says that most of these funds will be spent on personal service costs, which can change as time goes on due to resignations and leaves of absence. Although the anticipated personal service costs will be indicated in school budgets, school district officials cannot "obligate" a specific final amount upfront, and need some

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<sup>22</sup>Education will consider waiving the following requirements with respect to ESEA Title I Recovery Act funds: (1) a school in improvement's responsibility to spend 10 percent of its ESEA Title I funds on professional development, (2) a school district in improvement's responsibility to spend 10 percent of its ESEA Title I, Part A, Subpart 2 allocation on professional development, (3) a school district's obligation to spend an amount equal to at least 20 percent of its ESEA Title I, Part A, Subpart 2 allocation on transportation for public school choice and on supplemental education services such as tutoring, (4) a school district's responsibility to calculate the per-pupil amount for supplemental education services based on a district's fiscal year 2009 ESEA Title I, Part A, Subpart 2 allocation, (5) the prohibition on a state education agency's ability to grant to its districts waivers of the carryover limitation of 15 percent more than once every 3 years, and (6) the ESEA Title I, Part A maintenance of effort requirements.

flexibility in the interpretation of the 85 percent obligation deadline. The lack of clarity is affecting the school district's ability to finalize school budgets. The Rochester City School District plans to request waivers for the carryover limitation, spending requirements for supplemental education services, set-aside requirements for professional development, and maintenance of effort requirements. The State plans to release the ESEA Title I Recovery Act funds to LEAs by September 1, according to New York State Division of the Budget officials. According to one school district official, NYSED had previously announced that funds could be available by July 1. Rochester City School District officials said that releasing the funds in September poses a challenge to its school district to meet the Recovery Act objectives of releasing funds and saving jobs quickly and may require them to cover their start-up costs with local funds and suspend professional development for teachers this summer that was planned to be funded with ESEA Title I Recovery Act funds.

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## Plans Under Way to Expand WIA Youth Program by Using Recovery Act Funds for Summer Youth Employment Activities

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the WIA Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor and funds are distributed to states based on a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill which became the Recovery Act,<sup>23</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may include any set of allowable WIA Youth activities—such

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<sup>23</sup>H.R. Rep. No. 111-16, at 448 (2009).

as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>24</sup>

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**New York State  
Department of Labor  
Distributing Recovery Act  
Funding to Local  
Workforce Investment  
Areas**

New York received over \$71 million in Recovery Act funds for WIA youth activities, and after reserving 15 percent for statewide activities, allotted the remaining funds—\$60.8 million—to local workforce investment areas (LWIA) within 30 days as required by the Department of Labor guidance. The New York State Department of Labor (NYSDOL) is responsible for overseeing WIA programs, including the WIA Youth program. The state has 33 local workforce investment areas managed by a local workforce investment board (LWIB). NYSDOL did not set a target amount for spending on youth summer employment activities because each local area has the discretion to determine how to distribute its funds; however, it encouraged local areas to spend some of the funds on summer employment. NYSDOL plans to monitor expenditures in many ways. For example, the Internal Audit Unit within NYSDOL will track expenditures. Local areas to be audited will be selected utilizing a risk-based approach assessing their allocation, obligations, expenditures and accruals. NYSDOL will also review monitoring reports that the Division of Employment Workforce Solutions (DEWS) completes and the Single Audit reports submitted to the U.S. Department of Labor. In addition, DEWS will conduct monthly desk reviews, done at the auditor's desk, rather than in person during a site visit. Furthermore, NYSDOL will review the local area's monthly accrued expenditure reports and follow with DEWS representatives on any unusual activity, then followed up with the local areas if necessary.

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**The Number of New York  
Youth Served by  
Employment Programs Is  
Increasing**

As a result of receiving Recovery Act funds, NYSDOL officials have projected serving more youth than were served last summer by WIA or through other funding sources. In addition to the WIA Youth program, operated year-round with a summer employment component, several local areas in New York operated separate youth summer employment programs last year funded through other sources, including Temporary

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<sup>24</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where Federal and state law have different minimum wage rates, the higher standard applies.

Assistance for Needy Families (TANF) and a city tax levy. NYSDOL could not provide information on the number of youth served through all the various programs last year, as NYSDOL does not have authority and oversight responsibility over those funding sources. However, all three local areas we visited had operated such programs and expect to serve more youth this year given the Recovery Act funds. For example, the Buffalo and Erie County LWIB expects to serve approximately 2,900 youth this year—1,300 more than it served last year using other funding sources. Examples of implementation plans for New York City, Buffalo, and Utica follow.

**New York City:** Recovery Act funds for WIA youth summer employment activities will allow the city to increase the number of youth served by about 16 percent, while increasing the number of work sites by 7 percent for 2009 WIA summer programs. Specifically, about 50 percent of New York's WIA Recovery Act funding was allocated to New York City, and these funds will help fund approximately 51,000 youth jobs at about 7,000 work sites this summer. In contrast, according to the New York City LWIB, 43,000 youth received WIA summer youth employment opportunities at 6,500 work sites in 2008.

We visited the New York City LWIB and the Department of Youth and Community Development (DYCD), who will be responsible for implementing the WIA program in New York City. According to officials with those agencies, program officials have not identified and put in place all needed service providers for summer work experiences, but will have the entire list of approximately 7,000 work sites finalized by July 1. Further, the program had not begun enrolling youth because the application deadline had not closed. According to agency officials, as of May 22, 2009— the application deadline— they had received 139,500 applications and will need to spend one month enrolling youth into the program which runs from July 1 through August 15. Agency officials told us they did not request a waiver of existing requirements and there are no current or anticipated challenges in quickly obligating or expending funds for youth summer employment services.

**Buffalo:** We visited the Buffalo and Erie County Workforce Development Consortium, Inc. (WDC), which is a not-for-profit corporation designated primarily as a grants subrecipient of WIA funds. It functions as a fiscal agent and grants subrecipient for the City of Buffalo and the County of Erie for federal and state government programs. WDC also administers other contracts and grants that it periodically receives for purposes of job training and development. The organization also includes the local WIB,

which is responsible for developing policy and performing oversight of workforce development activities.

Several projects will combine green jobs with academic training, as well as weatherization construction skills, according to WDC officials. For example, the EnviroBuild program is an academic and green construction initiative, in which participants will work to earn their General Equivalency Diploma (GED) while also learning construction and green job skills. Participants in this program will receive \$7.25 per hour for their work experience and \$3.00 per hour for GED preparation class work. WDC officials stated they expect 50 percent of youth enrolled in this work and education program to receive their GEDs.

In Buffalo, the WDC, through the Buffalo Employment and Training Center (BETC) intends to partner with 120 community-based agencies and government agencies to place approximately 1,000 youth in work experience activities. The BETC also intends to provide comprehensive employment and training to about 400 youth by partnering with local organizations. For example, BETC will work in conjunction with the Buffalo Public School's Credit Recovery Program (CRP) to help young people that are at risk of dropping out of school. The purpose of the program is to provide students the ability to recover high school credits that they need to graduate while also giving them the opportunity to take part in a summer work experience. The BETC intends to provide 250 jobs to the youth enrolled in the CRP as an incentive for them to successfully complete the program. In addition, the BETC also intends to hire 600 to 800 youth using Recovery Act funds to implement new programs and initiatives designed around green jobs, conservation, recycling, public horticulture, landscape design architecture and maintenance, forestry, and the environmental sciences.

**Utica:** We visited the WIB of Herkimer-Madison-Oneida Counties, which is the entity that receives Recovery Act funding for the WIA Youth program for the three counties surrounding Utica. In 2008, the WIB received \$150,000 in TANF funding to implement youth summer activities for 181 youth. This year, the WIB plans to use approximately \$1.2 million in Recovery Act funding for local WIA Youth summer employment activities. The WIB of Herkimer-Madison-Oneida Counties plans to use the Recovery Act WIA Youth funds to provide approximately 480 to 550 youth with summer youth/work experience activities. These include worksite activities such as trail maintenance, landscaping, kitchen support, local camps, animal care, farm work, municipal parks, water quality

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measurement, solar kiln construction, bio-diesel making, and micro/hydro surveying.

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**Challenges to  
Implementing WIA  
Summer Youth  
Employment Activities  
Remain**

Buffalo and Erie County WDC officials told us recruitment of youth who are no longer in school is a challenge, and determining the eligibility of older youth is difficult. For example, many youth who are out of school and unemployed are still living at home with their parents and the aggregate family income makes them ineligible for the program. Officials stated other agencies can provide documentation for an unemployed family member, but it has been difficult for some youth to provide documentation for family members who are underemployed. Specifically, WIB officials in New York City told us it has been a burden to collect all the documentation of applicants for determining their eligibility under WIA. Further, according to NYSDOL officials, many applicants come from “broken homes” and have difficulty providing copies of their birth certificates, proof of citizenship, and other required documentation. New York City Department of Youth and Community Development officials stated their agency is trying to use technology to ease the process—by scanning paper documents for applicants that they can send via e-mail to other agencies.

Additional challenges for both the Herkimer-Madison-Oneida WIB and the Buffalo and Erie County WIB included identifying adequate work sites with meaningful employment opportunities, adequate supervision at work sites, and transportation of youth to work sites. Specifically in the Utica area, transportation for local youth to and from work sites is a challenge and the WIB plans to use Recovery Act funds to hire buses and vans to transport youth for the summer. In addition, Buffalo and Erie County WIB officials told us community-based organizations are suffering from reduced funding, so these traditional partners do not have the resources to provide adequate supervision for the expanded youth summer employment activities. Furthermore, Recovery Act funding will increase youth summer participation by 900 to 1,100 and WIB staff need to manage expectations regarding WIA youth summer employment opportunities. Because the number of participants will increase this summer, officials are concerned that youth participants will assume there will be the same employment opportunities next summer. To mitigate this issue, the Buffalo and Erie County WIB is attempting to brand 2009 Recovery Act WIA funds as one-time Recovery Act funding.

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## New York State Public Housing Capital Grants under Review

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>25</sup> 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 they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>26</sup>

New York 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 June 20, 2009, 36 of the state's 84 public housing agencies have obligated \$98.1 million, while 13 have expended \$339,401 as illustrated by figure 3. GAO visited three public housing agencies in New York: The Binghamton Public Housing Authority, the Buffalo Municipal Housing Authority, and the Glen Cove Housing Authority which is located on Long Island. We selected the Buffalo Municipal Housing Authority since it received the second largest capital fund allocation in New York.<sup>27</sup>

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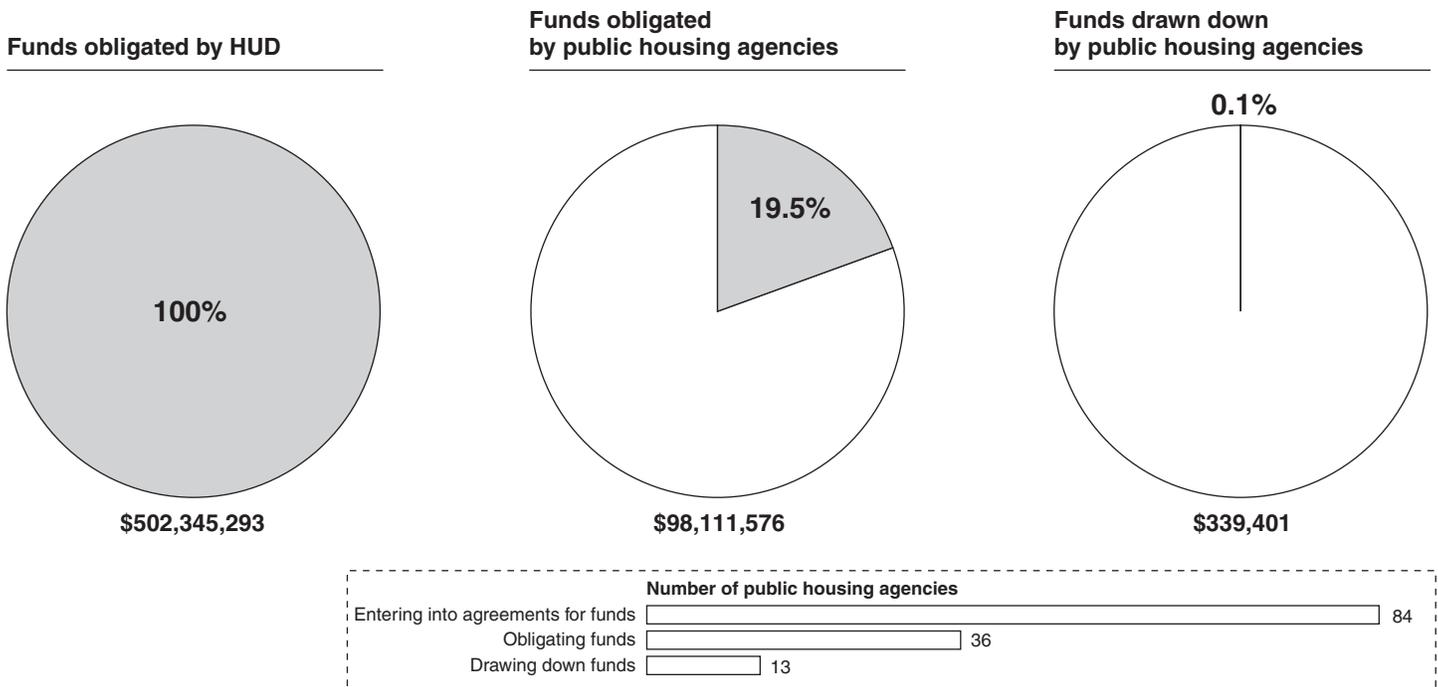
<sup>25</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>26</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for applications, and to funding limits.

<sup>27</sup>Although the New York City Public Housing Authority is the largest in the country, we did not visit it during this 2-month period because it was already the focus of work by HUD's Office of Inspector General, which is carrying out reviews of housing agencies' use of Recovery Act funds.

The Binghamton Public Housing Authority was selected as representative of medium-size housing agencies while Glen Cove was selected as it is a small public housing agency that has been designated as troubled by HUD.<sup>28</sup>

**Figure 3: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in New York**



Source: GAO analysis of HUD data.

### New York Public Housing Agencies Have Decided on Uses for Recovery Act Funds

The three public housing agencies we visited in New York received Capital Fund formula grants as follows: the Binghamton Public Housing Authority received \$1.3 million; the Buffalo Municipal Public Housing Authority received \$14.5 million; and the Glen Cove Public Housing Authority received \$555,508. As of June 20, 2009, these public housing agencies had obligated none of the funds, but each housing agency had developed plans

<sup>28</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies' public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring, 42 U.S.C. sec. 1437d(j).

outlining how the funds would be spent and submitted them to HUD for approval. Once HUD approval is secured, each housing agency plans to immediately follow its procurement process to award contracts for the proposals contained in their plans. All three housing agencies indicated that they expected no problem obligating all Recovery Act funding within the prescribed deadlines.

- The Binghamton Public Housing Authority plans to spend its entire allocation of \$1.3 million on the rehabilitation and expansion of a community center located in the Carlisle Housing Project. This initiative will allow the installation of a permanent computer lab for residents to use for education and employment training as well as construction of gymnasium to provide teens with a facility for activities suited to their age level. The project is scheduled to start on July 20, 2009, and be completed by March 1, 2010.
- The Buffalo Municipal Housing Authority developed an overall capital plan for its use of Recovery Act funds. Overall, its plan uses the act's funding to support 42 separate projects grouped into three major categories to be overseen by a project director for each category. For example, one category consists of projects aimed at increased energy efficiency. Another category addresses overall site improvements, and the last category is aimed at general management improvements and health and safety initiatives. These projects, utilizing \$14.5 million in Recovery Act funds, have varying estimated start and end dates, with the earliest projects starting about July 1, 2009, and the last projects scheduled for completion by March 6, 2011. The authority plans to issue separate contracts for all activities funded by the act so that these funds can be clearly identified and tracked.
- The Glen Cove Public Housing Authority intends to use its Recovery Act funding to conduct two major projects. The first project budgeted at \$375,000 will replace roofs and gutters on various units while the other estimated to cost \$275,000 is aimed at site improvements such as repaving and sidewalk repairs at its projects. Glen Cove Public Housing Authority officials expect to begin these projects in August of this year with the scheduled completion date estimated to be October 15, 2009.

All three public housing agencies used their 5-year plans as a basis to develop their project list for Recovery Act funding. Among the Recovery Act priorities for public housing agencies was the rehabilitation of vacant housing units. Both the Binghamton and Glen Cove Public Housing Authorities have vacancy rates of about 1 percent, so neither considered

the rehabilitation of vacant units an issue in developing its plan for Recovery Act funding. The Buffalo Municipal Housing Authority has a vacancy rate of slightly over 20 percent and is concerned about addressing that issue. These officials said the first step to lower this rate is to develop a new management system to allow it to process applications to fill the units quicker. They said that it takes about 160 days to fill a vacant unit with a new tenant. They attributed the time frame to their process for establishing eligibility for new tenants. They are using Recovery Act funding to develop an automated process to reduce this time and thus lower their vacancy rate. Another main reason for their high vacancy rate, according to these officials, is their high turnover rate, which they attributed to the unattractiveness of individual units and projects. Thus, significant Recovery Act funding is aimed at site improvements to enhance the overall appearance of their projects. In addition to normal site improvements, such as repaving and sidewalk repair, Recovery Act funds will be used to improve security lighting and the installation of surveillance cameras to deter crime.

None of the authorities indicated that they would have problems drawing down funds once HUD has approved their plans. Glen Cove, which is classified as a troubled housing authority by HUD based on its Public Housing Assessment score, noted that it must take extra steps to access their funds through HUD's Electronic Line of Credit and Control System. However, these officials said that this is a technical requirement that they have dealt with in the past and, while an administrative burden, poses no real impediment to drawing down funds.

None of the agencies expressed any concern about tracking Recovery Act funds. They stated that they are accustomed to working with HUD and all said that they have a good to excellent relationship with their local HUD office. They were all aware of the Recovery Act requirements regarding the transparency of funds. Each agency has plans to issue separate contracts for projects funded entirely by the Recovery Act so that there will be no cofunding of projects. For example, the Buffalo Municipal Public Housing Authority stated that all Recovery Act funds will be allocated through separate contracts so its expenditures can be clearly tracked. According to the executive director of each of the three agencies, Recovery Act funds will be coded in their accounting systems to clearly identify how they are spent.

When queried regarding the effects of the Davis-Bacon Act, all three agencies stated that act requirements would not be an issue, as they are accustomed to meeting the Davis-Bacon requirements. However, officials

at the Buffalo Municipal Housing Authority noted New York's Wicks Law, which, according to agency officials, affects all public projects over a certain threshold (\$500,000 for upstate, \$3 million dollars for New York City, and \$1.5 million for downstate counties). This law, according to agency officials, requires separate prime contracts for the electrical work, the plumbing work, and the heating/ventilation/air conditioning work, as well as the overall project. This adds to the administrative burden of coordinating the project and can drive up the cost. However, these officials stated that their general counsel feels that, for projects 100 per cent funded by the Recovery Act, the Wicks Law does not apply, which will ease their administrative burden.

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## New York Plans for Large Increase in Home Weatherization Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and Washington, D.C.<sup>29</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and Washington, D.C. using a formula based upon the number of low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocations. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. The release of the final 50 percent of the funding to the

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<sup>29</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

states will occur in the future, based on DOE progress reviews examining each state's performance in spending its first 50 percent of the funds.

DOE allocated to New York \$394.6 million in Recovery Act funding for the Weatherization Assistance Program for a 3-year period. This is in addition to the \$98.8 million the state received (\$36.6 million from DOE and \$62.2 million from the Low Income Home Energy Assistance Program) as its latest yearly allocation for the Weatherization Program. The New York State Division of Housing and Community Renewal (DHCR) is responsible for administering the program. In response to a Funding Opportunity Announcement from DOE issued on March 12, DHCR submitted its application for Recovery Act funds on March 23 and received its initial 10 percent funding allocation of \$39.5 million on April 13. Meanwhile, the state undertook a planning process that led to the development of its Weatherization Program Plan, which was issued for public comment on April 13. The plan was submitted to DOE for review and approval on May 12. DHCR expects that the state plan meets the requirements set forth in the guidance provided by DOE via e-mail updates and weekly conference calls. As of June 30, 2009, the state had not obligated or disbursed any of these funds.

Once DHCR receives its Notice of Grant Award, it can issue contracts to its subgrantees, which are the existing 64 organizations that provide weatherization services to the state's residents. Under DOE rules, a subgrantee is a not for profit or unit of local government. More than 50 of the existing subgrantees in New York are Community Action Agencies. Typically, but not exclusively, subgrantees service one county. For large urban cities, several agencies receive weatherization funds. For example, 15 subgrantees are funded in New York City to provide weatherization services to its residents. Once the Office of the State Comptroller approves the contracts as required by state law, DHCR can then draw down funds to provide funding to the subgrantees. DHCR officials hope this will be done by mid-August. However, they noted that the prior annual appropriation for Weatherization has allowed the program to begin; Recovery Act funds will allow the program to greatly expand.

According to DHCR officials, it has received its initial allocation of Recovery Act funding for weatherization of \$39.5 million, but has not drawn down any of these funds to date. In addition, the state legislature has appropriated \$263 million in Recovery Act funds for the weatherization program in the state's budget for fiscal year 2009-2010, which started on April 1. The Office of the State Comptroller has established an account for these funds. Once DOE approves the state's

plan and DHCR provides the Comptroller's Office with a notice of grant award, funds can be spent against this account. These Recovery Act funds will be provided a unique accounting code so that the expenditure of these funds will be clearly identified making them easy to track. In the meantime, DHCR has been planning for the major increase in weatherization services provided by the Recovery Act by developing new training and employment programs designed to increase the number of qualified workers for the program. However, due to a state hiring freeze, it is unclear at this time if DHCR will be able to hire additional staff. According to state officials, DHCR will implement the weatherization program with either state staff or contracted staff, or a combination of both.

Subgrantees have been notified by DHCR to anticipate the increased funding provided by the Recovery Act and to plan accordingly. Furthermore, the subgrantees have been told that the Recovery Act requires that funds be clearly identified, that the use of the funds must be transparent, and that the Recovery Act will require additional reporting requirements, such as job creation estimates. However, until DOE provides DHCR with further guidance relating to reporting requirements, DHCR indicated that it will not be able to clarify these requirements for the subgrantees. One crucial element is the applicability of the Davis-Bacon Act to Recovery Act funds.<sup>30</sup> Typically, acting as nonprofit organizations engaged in weatherization activities, subgrantees have not had to deal with the Davis-Bacon requirements. According to DHCR officials, DOE has told them that the department is working with U.S. Department of Labor to address this issue.

As stated in the plan submitted to DOE for review and approval, New York estimates that approximately 45,000 dwelling units will be weatherized with Recovery Act funds. Of the total \$394.6 million the state will receive, the planned initial allocation for the subgrantees is \$190.9 million. The allocation formula is based on the number of income eligible households and degree-days for each area served by the subgrantees. In addition, an extra \$65 million will be awarded to those subgrantees that prove to have the capacity to meet the increased production levels required by the added

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<sup>30</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

Recovery Act funding. A further \$50 million has been set aside to fund multifamily weatherization projects in such areas as public housing. The state has also set aside the maximum allowed by the Recovery Act for both administrative costs (\$19.7 million) and for training and technical assistance (\$69 million). DHCR said that it does not expect to use all the set aside funds for either administration or training and will reallocate whatever funds remain to subgrantees able to utilize additional funding.

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## Increased Edward Byrne Memorial Justice Assistance Grants Will Support Expanded and New Projects in New York

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>31</sup> The total JAG allocation for New York state and local governments under the Recovery Act is about \$110.6 million, a significant increase from the previous fiscal year 2008 allocation of about \$8.4 million. The New York Division of Criminal Justice Services (DCJS) administers JAG funds for the state.

As of June 30, 2009, New York has received its full state award of about \$67 million.<sup>32</sup> New York plans to use these funds to expand personnel and services in connection with recent drug law reform efforts, as well as to provide transitional jobs and permanent job placement services for the formerly incarcerated. New York's six areas for distributing JAG funds are described below (see figure 4 for estimated allocations by funding area).

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<sup>31</sup> We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>32</sup> Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

**Funding Area 1:** Hire residential drug treatment personnel to support recent drug law reform efforts;

**Funding Area 2:** Expand drug court services and personnel in high-volume courts, including the addition of new court personnel in high-volume counties;

**Funding Area 3:** Hire staff to implement recently imposed case sealing and research obligations connected with drug law reform;<sup>33</sup>

**Funding Area 4:** Support expansion of prosecution services and personnel in high-volume diversion courts;

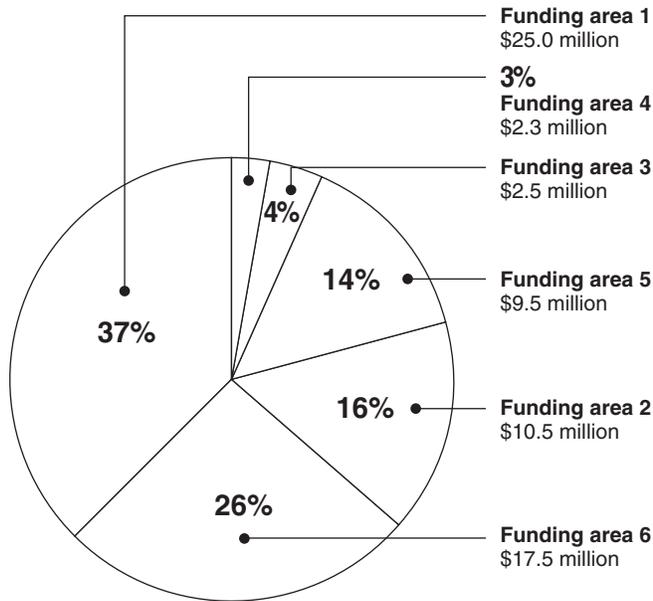
**Funding Area 5:** Add personnel and services in three or more new probation violation residential centers, and possible expansion of existing centers;

**Funding Area 6:** Create jobs through the support of established re-entry programs, as well as alternatives to incarceration initiatives.

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<sup>33</sup>DCJS is the repository agency for criminal history records in New York. DCJS officials stated that new drug reform law allows an offender convicted of a drug offense or certain other offenses to seal the instant conviction and up to three prior misdemeanor drug convictions after successful completion of treatment. These added sealing and unsealing provisions will place significant additional obligations on DCJS, according to DCJS officials.

**Figure 4: Estimated State Allocation of JAG Funds, by Funding Area**



Source: GAO analysis of New York Division of Criminal Justice Services data.

New York State plans to utilize the \$67 million in JAG funding to create jobs and expand services in connection with recent drug law reform legislation, as well as to provide transitional jobs and permanent job placement services for the formerly incarcerated. DCJS plans to use approximately \$25 million to hire residential drug treatment personnel to support expanded diversion opportunities for drug offenders and \$10.5 million to enhance drug court services in high-volume courts, including the addition of new court personnel in high-volume counties. According to DCJS officials, new opportunities for a non-incarceratory sentence for certain drug offenders will increase the burden on local probation departments, so DCJS plans to use \$9.5 million to provide additional personnel and services in three or more new probation violation residential centers, and possible expansion of existing centers. Also, DCJS plans to use \$2 million to hire prosecutors in high-volume diversion courts and \$2.5 million to hire personnel necessary to comply with its new obligations under the drug laws in the areas of research and record sealing.

In addition, DCJS officials told us that New York plans to commit \$17.5 million to fund four established re-entry organizations to provide transitional jobs and permanent job placement services for ex-offenders, which may help reduce recidivism and improve public safety. DCJS plans to use these funds to increase the marketability of this difficult-to-employ population, including \$1 million to support the State Department of Correctional Services' literacy program; \$2 million to support alternative to incarceration programs; \$1 million for a pilot juvenile re-entry program; and \$1.5 to assist with re-entry efforts upstate and in Long Island. This plan for distributing JAG funds is pending approval by the New York State Division of the Budget.

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## New York Is Using Existing Internal Control Mechanisms to Track and Monitor Recovery Act Spending

According to state officials, New York generally has good budget and accounting systems in place to separately identify and track funds received from various sources; therefore, they said that establishing discrete budget and accounting codes to track Recovery Act funds would pose no challenge to the state. So far, state officials have not heard of any challenges from either the state agencies or localities with regard to creating separate budget and accounting codes to track Recovery Act funds received and disbursed. However, a few agencies have expressed the need for additional guidance related to separate tracking of Recovery Act funds. For example, the New York City Department of Education officials said that there are several tools built into their budget system to ensure that funds are budgeted in compliance with basic instructional needs, mandates, and grant requirements, but they require more guidance from the U.S. Department of Education, the New York State Education Department (NYSED), and the federal, state, and city budget offices on the specific details they will need to track and report for Recovery Act funds. At the same time, New York City officials said that they are trying their best to move forward to build and implement the controls that they can reasonably anticipate, and will help ensure that their budgeting and financial systems can segregate and track the allocation and expenditure of Recovery Act funds. Likewise, the NYSDOL officials said that they are waiting for the U.S. Department of Labor to provide guidance on how the funding should be tagged for the Recovery Act WIA program before providing advice to the localities.

The State's Division of the Budget (DOB) has established discrete appropriations for about 100 Recovery Act funding items that are included in the enacted budget for fiscal year 2009-2010, which began on April 1, 2009. In order to access their Recovery Act appropriation authority, state agencies must send a certificate of approval along with a copy of the

federal grant award notice to DOB requesting authority to spend these moneys. Based on a technical memorandum issued in April 2009, special DOB procedures have been implemented for Recovery Act certificates to ensure that these transactions are processed separately, that proposed spending is consistent with Recovery Act purposes, and that state agencies are adhering to the reporting and accountability requirements of the act.

Following DOB's approval of state agencies' appropriation, the certificate is submitted to the Office of the State Comptroller (OSC), where the availability of the federal funding is verified and other accompanying documentation is reviewed before any entries are made into the state's Central Accounting System (CAS). As mentioned in our April 2009 report, OSC has issued an accounting bulletin detailing special accounting requirements to be applied to Recovery Act funds. The state will use CAS to centrally track the receipt and expenditure of Recovery Act funding across all agencies. This information will be used along with agency-specific reporting on individual projects/activities to meet Recovery Act quarterly reporting requirements. We received schedules from some agencies that reflect the discrete budget and accounting codes used to track the receipt and payment of funds through the state's CAS.

Some entities' Recovery Act funds, such as the public housing agencies', will not flow through the State's Central Accounting System. The public housing agencies we visited believe that their internal control systems are adequate to meet the Recovery Act requirements. Each has established processes to track projects and funds and have incorporated the identification and tracking of Recovery Act funds within the current accounting systems. The housing agencies have specific policies in place to review bids, evaluate contractors, and award contracts. Payment for work funded by the Recovery Act will only be made after a physical inspection and a pre-audit of the payment request, which is their normal process for such contracts. Each agency has a separation of duties for each step in the payment process.

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## New York Continues to Update and Refine Its Internal Controls to Comply with Its Internal Control Act and Professional Standards

In 1987, the New York State Legislature enacted the New York State Governmental Accountability, Audit and Internal Control Act (Internal Control Act).<sup>34</sup> The act requires, among other things, that each agency establish and maintain a system of internal control and a program of internal control review, designate an internal control officer, as well as periodically evaluate the need for an internal audit function in each agency. The Internal Control Act requires that the State Division of the Budget periodically (1) issue a list of agencies covered by the Act, and (2) issue a list of agencies required to have an internal audit function. Beyond these two statutory requirements, DOB has also taken administrative steps to facilitate and support the goals of the Internal Control Act through the issuance of additional guidance and the annual internal control certification requirement. Based on DOB's Governmental Internal Control and Internal Audit Requirements manual,<sup>35</sup> the system of internal control should be developed using the Committee of Sponsoring Organizations of the Treadway Commission (COSO) conceptual framework and should incorporate COSO's five basic components of internal control.<sup>36</sup> In addition, to fulfill the requirements of the Internal Control Act, OSC is responsible for developing the Standards for Internal Control in New York State Government.<sup>37</sup> Currently, 107 state agencies are required to submit internal control summaries and certifications annually to the New York State Budget Director,<sup>38</sup> and 35 state agencies are required to have an internal audit function.<sup>39</sup> Agencies that are required to have an internal audit unit are required to comply with the Institute of Internal Auditors'

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<sup>34</sup>N.Y. Exec. § 950-953.

<sup>35</sup>Budget Policy and Reporting Manual, Governmental Internal Control and Internal Audit Requirements, B-350.

<sup>36</sup>The five basic components of internal controls are control environment, risk assessment, control activities, information and communication, and monitoring.

<sup>37</sup>Standards for Internal Control in New York State Government, revised October 2007.

<sup>38</sup>The Internal Control Summary and Certification form provides supporting justification for an agency's or authority's level of compliance with the requirements of the Internal Control Act. The certification form requests information regarding specific actions taken, or needed to be taken, by agencies/authorities to comply with each of the Act's requirements. As of June 8, 2008, 91 agencies have submitted their internal control summaries and certifications.

<sup>39</sup>Agencies periodically evaluate the need to establish, maintain or modify an internal audit function. The Director of the Division of the Budget periodically issues a schedule of state agencies that are required to establish and maintain an internal audit function. This schedule was last updated in 2007.

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(IIA) International Standards for the Professional Practice of Internal Auditing.

In 2004, OSC issued a report that assessed State agencies' internal audit units' compliance with the Internal Control Act. OSC identified a significant degree of noncompliance with the Internal Control Act by the 34 agencies' internal audit units that were established under the Act. More than half of the 34 agencies had numerous instances of noncompliance, and most agencies needed at least some improvements. Prevalent problems involved the structure of the internal audit units, including director and staff qualifications, training, as well as individual and organizational independence. In addition, many internal audit units were not providing the proper oversight of their agencies' operations because they did not conduct risk assessments of agency operations, prepare audit plans to guide their work, evaluate their agencies' internal controls, or have a process to monitor and assess their overall effectiveness as an internal audit unit. In response to OSC's audit, DOB proposed a jointly sponsored internal audit best practices group to help agencies to comply with the act. Drawing upon this proposal, an Internal Control Taskforce was established in October 2004 as a joint effort of DOB, OSC, and the New York State Internal Control Association. In September 2006, the Internal Control Task Force issued a report, which recommended sweeping reforms in the way the internal control and internal audit functions are managed, monitored, and administered in New York State. According to OSC, while many recommendations require operating changes at the agency level, others call for clarification and greater specification in both the Budget Policy and Reporting Manual that governs the internal control program and the Standards for Internal Control in New York State Government.

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**New York State's Approach to Assessing Risks Relies on a Range of Factors**

As mentioned earlier, New York State Division of the Budget requires state agencies to use the COSO conceptual framework in assessing risks to the state agencies.<sup>40</sup> According to state officials, all agencies are required to develop risk-based work plans. The state's process for assessing risks includes a range of factors, such as consideration of prior audit findings, questionnaires to managers, emerging risks identified in consultation with management, and the results of data collection and analysis. In addition,

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<sup>40</sup>The conceptual framework includes identifying internal and external risk factors and analysis of the risks.

annually, as part of their internal control summary and certification, state agencies are required to identify and describe all high-risk activities and indicate those risk areas reviewed during the past fiscal year, as well as the actions taken or planned to eliminate the risks. According to an OSC official, state agencies have developed their approaches to identifying risks for specific programs; however, it is unclear how well an approach has been developed for Recovery Act funds. In addition, OSC also stated that subrecipient monitoring and performance is generally an area of high risk, and the extent to which state agencies have assessed subrecipients' capability to account for Recovery Act funds varies by agencies. OSC is currently reviewing state agencies' recently submitted internal control summaries and certifications to plan its risk-based audit approach for its upcoming audits. In addition, OSC's Office of State Government Accountability is expected to develop a program level risk assessment tool that the agencies can use to assess risks in their Recovery Act-funded program activities.

NYS DOT provides an example of how a specific state agency identifies risks. NYS DOT officials say that they use a systematic approach to identify and evaluate risk and related internal controls. Based on DOT's recent internal control summary and certification, its risk assessment process is managed by its Enterprise Risk Management Bureau in accordance with COSO and guidance provided by DOB. According to NYS DOT, annually, meetings are held with the department's managers to identify and discuss risks, the adequacy and effectiveness of existing controls, and potential corrective actions that could be implemented to mitigate identified risks. In addition, according to NYS DOT, a standardized risk assessment tool based on 24 risk factors is used to conduct interviews in NYS DOT's regions and main office. Information derived through the interviews is analyzed and then discussed with Division Directors and Executive Management. Risks are prioritized and corrective actions plans developed by program managers for areas identified as high risks to NYS DOT. For the state fiscal years 2006-2007 and 2007-2008, the Single Audit report revealed internal control weaknesses in NYS DOT's highway planning and construction programs including (1) the lack of a sanctioning policy for subrecipients who are not compliant with Single Audit requirements—a key element in strengthening existing procedures to enforce compliance and to help ensure subrecipients submit their audit reports within the required deadline, and (2) failure of four counties to perform Single Audit of highway planning and construction programs. NYS DOT said that it has (1) put a subrecipient sanctioning policy in place as of August 13, 2008, and (2) has revised its process to review subrecipients' Single Audit reports to include

procedures to verify that the major program identification and selection process was conducted in accordance with OMB Circular A-133 requirements.

According to NYSED officials, every 2 years, the NYSED undertakes a major assessment process to determine the agency's high-risk areas. Each manager completes a control self-assessment process, which identifies significant risks in his or her area. Each of the major program area manager conducts periodic meetings to discuss all high risk areas. NYSED has not yet completed its annual internal control summary and certification for 2009. The NYSED officials said that they are currently assembling a team to conduct risk assessment of the programs funded by the Recovery Act. Single Audit findings revealed internal control weaknesses at some of New York's school districts. For example, for New York City School District, the 2007 audit found that there were not sufficient controls over equipment purchased with federal funds. The city's Department of Education, with the assistance of a consultant, is modifying its automated inventory database system. For the Rochester City School District, the 2008 audit found that no certifications were completed by employees working and charged to federally funded programs. According to NYSED, the school district used a cross-functional team to develop a reporting system to be used for the completion of payroll time certifications for the district.

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### Lack of Sufficient Funds May Impede New York's Plans for Adequately Monitoring Recovery Act Funds

Some agencies, as well as the OSC, have developed plans to conduct additional monitoring to account for the increased federal funding under the Recovery Act; however, the lack of sufficient administrative funds to do so may impede their plans. New York agencies have experienced an additional 10 percent reduction in their budgets for the fiscal year that began on April 1, 2009, and as a result, an OSC official said, it is difficult to maintain a robust internal control environment.

On April 1, 2009, the Director of State Operations sent a memorandum to state agencies outlining the Recovery Act requirements and requested that agencies prepare a report documenting their processes for fraud prevention, contract management, and grants accountability by May 1, 2009, to help ensure compliance with the Recovery Act. Most agencies

have responded to this request, according to a state official.<sup>41</sup> An Internal Controls and Fraud Prevention Working Group was also established as part of the Governor's Economic Recovery and Reinvestment Cabinet, and the working group is responsible for working with agencies to provide additional guidance on internal control and fraud prevention to ensure compliance with the Recovery Act.<sup>42</sup> The Internal Controls and Fraud Prevention Working Group has assumed a number of monitoring responsibilities and has requested guidance from OSC in carrying out its work. In addition, the working group is in the process of coordinating internal control and fraud training with OSC and the State Inspector General.

OSC has committed to perform 10 additional audits of state agencies. According to a deputy comptroller of OSC, these planned audits will be determined by the agencies' internal control summaries and certifications. In addition, OSC has developed a locality audit strategy for Recovery Act funds and has plans for training in weatherization internal control issues at the local level. However, thus far, OSC has not received any additional funding or staff to perform internal control, risk assessment, or monitoring. OSC said that it has a very aggressive audit agenda that it cannot defer; however, monitoring will not be as aggressive as intended.

NYSED feels that it has good existing protocols for monitoring the ESEA Title I and IDEA programs funds that it will receive under the Recovery Act. NYSED is not sure whether any additional or modified oversight mechanisms will be used to monitor internal controls and compliance associated with Recovery Act ESEA Title I, IDEA, and SFSF funds. In addition, NYSED officials said that their program office routinely monitors subrecipients. According to NYSED, in deciding what districts to monitor, they will rate district's relative risks and plan to devote internal resources. NYSED is awaiting future Education guidance on reporting to determine whether additional monitoring is needed.

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<sup>41</sup>Twenty-six agencies were required to respond to this request, and 20 have done so as of June 7, 2009. According to a state official, the majority of the large agencies receiving significant Recovery Act funds have responded, including the state Department of Health, the state DOT, the NYSED, and SUNY. According to the chair of the Internal Control and Fraud Prevention Working Group, follow-up with the remaining agencies is being conducted.

<sup>42</sup>New York State Department of Transportation chairs the Internal Controls and Fraud Prevention Working Group.

With regard to monitoring of Recovery Act projects, according to NYSDOT officials, NYSDOT has instituted several actions to monitor Recovery Act funds, including: (1) designating a senior manager who has experience in areas such as strategic planning, operational planning, performance management, and risk management to oversee all Recovery Act activities and to report directly to the commissioner; (2) creating an agencywide action list, which is used by the agencywide Recovery Act team and others to track action items, identify lead individuals, establish completion goals and monitor progress; (3) holding weekly conference calls between main office program areas and the agency's 11 regional planning and program management offices to share information, address concerns, as well as to identify and monitor regional issues and concerns that need to be addressed; (4) increasing the number of temporary construction inspectors to provide the proper levels of field oversight for construction activities; (5) participating with the FHWA New York Division on field project reviews as part of FHWA's risk management plan; and (6) providing local project sponsors with quality control and quality assurance checklist to ensure proper project contract submissions for approval to NYSDOT. In addition, NYSDOT officials said that they have requested additional staff for monitoring Recovery Act efforts, but they do not expect to get any additional staff.

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**Single Audit Findings Are Major Factors in Agencies' Development of Risk Assessments and Monitoring**

NYSED, NYSDOT, and other agencies informed us that their agencies' use of Single Audit results is a key aspect of their annual process in assessing their agencies' risks and in conducting monitoring of their programs. For example, NYSED developed a comprehensive database that tracks Single Audit findings over a 4-year period. According to state officials, the database captures these findings by each of NYSED's approximately 700 school districts and includes a description of the corrective actions. The database is also used for subrecipient monitoring. NYSED requires all subrecipients to submit a copy of their Single Audit report, and it performs Single Audit monitoring and review every year on its localities. According to NYSED officials, in areas where there are audit findings, NYSED sends annual letters to the program managers in the localities. If the findings are recurring, NYSED may follow up with on-site visits. NYSDOT is responsible for ensuring that subrecipients have annual Single Audits. NYSDOT's Contract Audit Bureau maintains an active database tracking system for the submission of subrecipient Single Audit reports. When the Contract Audit Bureau receives an audit report, it is logged into the database and reviewed by the department staff. This review includes determining if the amounts reported approximate those expected based on NYSDOT expenditure data. According to NYSDOT officials, if issues were

identified, they would send a letter outlining the issues, request that they develop corrective action plans, and a time frame for implementation of corrective action, and would follow up with visits. According to NYSDOT officials, NYSDOT periodically sends out status reports to program managers requesting that they update the status of their corrective actions.

Each public housing agency we visited is required to conduct a Single Audit that is reviewed and approved by HUD. HUD requires that they address any findings that are disclosed by the audit, and each public housing agency we visited stated that their process is to work with HUD to address any issue that arises. None felt that the Recovery Act posed any new challenges to them in terms of internal controls over the use of these funds. For the Binghamton and Buffalo public housing agencies' Single Audit reporting, there were no deficiencies in internal controls that were considered to be material weaknesses. For Glen Cove, Single Audit findings revealed that Glen Cove had failed to take a physical count of its fixed assets for the previous 2 years. Glen Cove responded that it agreed with the finding and will develop a process to ensure that a count would take place by March 31, 2009.<sup>43</sup> New York officials informed us that they are currently awaiting further Single Audit guidance from OMB with regard to Recovery Act funds.

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## Agencies Are Still Awaiting Guidance to Assess Impact but Some Have Preliminary Estimates

Throughout April, May, and June 2009, the state focused its attention on using Recovery Act funding to improve the state budget deficit, and applying for and spending Recovery Act funds through its various program agencies. While state agencies have taken steps to adapt current reporting mechanisms to prepare to meet Recovery Act reporting requirements, some of these agencies continue to express concerns about meeting Recovery Act reporting requirements and continue to look to federal agencies and OMB for further guidance on how to define report variables such as jobs created and/or sustained.<sup>44</sup> Nevertheless, as covered in the various sections above, New York officials throughout the state agencies

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<sup>43</sup>For Binghamton, the Single Audit covered the fiscal year that ended June 30, 2007; for Buffalo, the Single Audit covered the period for fiscal year that ended June 30, 2008; and for Glen Cove, the Single Audit covered the period for fiscal year that ended March 31, 2008.

<sup>44</sup>After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

and at some of the localities we visited provided some preliminary estimates:

- The Delaware Avenue highway reconstruction project in Albany expects to employ 40 workers this summer.
- The New York City School District anticipates saving 14,000 jobs and hiring three to five people to track Recovery Act funds. In addition, the Rochester City School District anticipates that it will retain 148 staff due to SFSF; about 85 staff due to ESEA Title I funds; and about 56 staff due to IDEA funds.
- SUNY plans to save and hire 550 additional staff at its campuses and decrease tuition increases to an average of \$125 instead of \$323 with SFSF education stabilization funds. In addition, Hudson Valley Community College plans to use SFSF education stabilization funds to hire six full time instructors and three technical assistants and decrease the proposed tuition increase to \$200 instead of \$400. CUNY will be able to partly fill an \$18 million budget gap in fiscal year 2009-2010 with SFSF Recovery Act funds.
- For the Workforce Investment Act Summer Youth Employment Program, New York City anticipates that it will hire an additional 8,000 summer youth over last year's total of 43,000. In addition, the Buffalo and Erie County Workforce Development Consortium plans to hire 1,300 more youth than last year.

The three housing authorities we visited have considered how to measure the effects of projects funded by the Recovery Act. For example, the Binghamton Public Housing Authority hopes to see a reduction in apartment turnover rate, maintenance costs, and crime rate as a result of the new community center. This center, which will include a new gymnasium, will expand recreational opportunities for older youth. It also hopes to see a lower unemployment rate among residents as a result of expanded employment/educational programs made possible by the establishment of a permanent computer room. The Buffalo Municipal Housing Authority stated that its four main goals are a (1) reduction in the time it takes to fill vacant apartments, resulting in a lower vacancy rate, (2) reduction in energy costs, (3) lowering of the crime rate, and (4) increased resident satisfaction. The Glen Cove Housing Authority said that it believes that the various site improvements would increase resident satisfaction. All three authorities further stated that they were awaiting further guidance from HUD on other Recovery Act reporting requirements

and measurements. The most common example they cited was dealing with job creation estimates.

Finally, we note that the New York State Education Department is still awaiting reporting guidelines from the U.S. Department of Education. In that regard, the New York City School District officials are concerned that Education may require school districts to track student results specifically to Recovery Act spending. They do not think it is possible to isolate the effects of Recovery Act funding on a student due to the many funding sources affecting a student's school experience. They do, however, track and will be able to report education progress and outcomes for all students.

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## State Comments on This Summary

We provided the Governor of New York and representatives of oversight agencies with a draft of this appendix on June 18, 2009. Representatives from the Governor's office and the oversight agencies responded on June 22, 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 XIII: North Carolina

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## Overview

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

**Use of funds:** Our work in North Carolina focused on nine federal programs, selected primarily because they have begun disbursing funds to the state and include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, or are new programs. Program funds are being directed to helping North Carolina stabilize its budget and support local governments, particularly school districts and institutions of higher education (IHE), and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Increased Medicaid Federal Medical Assistance Percentage (FMAP) Funds.** As of June 29, 2009, North Carolina had drawn down over \$710 million in increased FMAP grant awards, which is 100 percent of its awards to date. North Carolina officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit.
- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** In total, North Carolina was allocated over \$1.42 billion in SFSF. When the state's initial application was approved on May 20, 2009, the state was awarded over \$1 billion of these funds. North Carolina has begun using these funds to restore state aid to institutions of higher education (IHE) in fiscal year 2009 and plans to provide funds to school districts in fiscal year 2010, helping to stabilize their budgets and, among other uses, retain staff.
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$736 million to North Carolina in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$423 million has been obligated. Funds have been obligated for 65 projects either begun or advertised for bids and largely involve road paving and widening. Of the 65 contracts, 55 representing \$309 million have been

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

awarded, and of these contracts, 33 representing \$200 million are underway.

- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** The U.S. Department of Education (Education) allocated the first half of states' IDEA allocations on April 1, 2009, with North Carolina receiving \$170 million. Of the \$170 million, \$163 million was for IDEA, Part B, and the additional funding was for IDEA, Part C. The state allocated Part B funds to school districts on April 29, 2009, to support education and related services for children and youth with disabilities, and the state plans to use Part C funds to retain staff and provide professional development.
- **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965.** Education allocated the first half of states' ESEA Title I, Part A, allocations on April 1, 2009, with North Carolina receiving \$129 million. North Carolina has begun making these funds available to school districts to help educate disadvantaged youth through, among other things, retaining teachers, professional development, parent participation, and expanding the school day.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$132 million in Recovery Act Weatherization funding to North Carolina for a 3-year period. Based on information available on June 23, 2009, DOE has provided \$66 million to North Carolina, and North Carolina has obligated none of these funds. North Carolina is planning to use the Recovery Act funding allocation for ramp-up activities, weatherizing homes, and for training weatherization contractors and compliance officers.
- **Workforce Investment Act Youth Program.** The North Carolina Department of Commerce (NCDOC), which administers North Carolina's workforce development system, has received about \$25 million in Recovery Act funds for the WIA youth program, of which about \$480,000 has been expended. Of the \$25 million, the state reserved 15 percent for statewide activities, and has allocated the remaining funds to the state's 24 local workforce boards. North Carolina plans to use WIA youth Recovery Act funds to create about 6,000 summer jobs in 2009 for its youth.
- **Edward Byrne Memorial Justice Assistance Grants (JAG).** The Department of Justice's Bureau of Justice Assistance (BJA) has awarded \$34.5 million directly to North Carolina in Recovery Act funding. Based on information available as of June 30, 2009, none of

these funds have been obligated by the Governor's Crime Commission, which administers these grants for the state.<sup>2</sup> Grant funds coming to North Carolina will be used for criminal justice improvement efforts and victims' services, and some of these funds will preserve jobs.

- **Public Housing Capital Fund.** North Carolina has 99 public housing agencies that have received \$83.4 million from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, 63 public housing agencies had obligated \$12.7 million and 35 had expended \$2 million. At the two housing authorities we visited, this money, which flows directly to public housing authorities, is being used for various capital improvements, including public housing rehabilitation, replacing water heaters, and building computer labs for public housing tenants.

**Safeguarding and transparency:** North Carolina is engaged in planning how it will enhance its accounting system to track Recovery Act funds, although modifications have not yet been made. State officials said that they are committed to meeting Recovery Act reporting deadlines, but cited certain challenges, particularly the high cost and staff time needed to modify their systems. The state is going beyond Recovery Act mandates by requiring agencies to account for funds on a weekly basis. In addition, to manage internal controls, North Carolina has developed a statewide program called Enhancing Accountability in Government through Leadership and Education (EAGLE). Subrecipient monitoring was one of the concerns that several state officials mentioned in regard to accountability for funds. The State Auditor's office plans to focus its Recovery Act work on subrecipient monitoring and on how the Recovery Act funds are being segregated from other federal funds coming through traditional funding streams.

**Assessing the effects of spending:** North Carolina agencies continue to express concern about the lack of clear federal guidance on assessing results of Recovery Act spending. A representative of the Governor has requested that all agencies provide written confirmation by June 24, 2009, of their readiness for quarterly reporting on jobs created and saved to the federal government beginning in October 2009. Agency officials with

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<sup>2</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's (BJA) solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

whom we spoke said that they would meet these requirements, and that in some cases they had begun planning how they would meet the requirements. They were concerned, however, about the lack of specific definitions of jobs created and saved from the federal government.

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## Funds Are Being Expended and Will Partially Mitigate the State's Budget Shortfall

### Falling State Revenues Created a Budget Gap That the State Will Address with Salary Cuts, Recovery Funds, and Other Steps

North Carolina budget officials told us that the state is facing a severe budget crisis resulting from a sharp and unexpected drop in actual and projected revenues. In its most recent April forecast, North Carolina state budget officials said that the budget shortfall increased to \$3.2 billion for the current fiscal year, ending June 30, and by approximately \$5 billion, or about 22 percent, for the biennial budget covering fiscal years 2009 and 2010. Under its constitution, North Carolina must have a balanced budget at the end of each fiscal year, and as a result has had to take several actions to ensure the budget is balanced. Furthermore, these officials also told us that this projected decrease was in addition to previous downward revisions in revenue projections for fiscal years 2009-10. For example, in February of this fiscal year, the state estimated a \$2.2 billion reduction in revenues. In total, as of June 12, 2009, the budget shortfall was projected to be about \$3.2 billion for the current fiscal year, or about 15 percent of total state spending. The shortfall is expected to grow to approximately \$5 billion each year or about 22 percent, for fiscal years 2009-10 and 2010-11.

According to the state budget officials, the following factors contributed to the erosion of the state's financial condition:

- Current 10.8 percent unemployment rate is a historic high for the state of North Carolina. North Carolina now has one of the highest unemployment rates in the country.
- Historic drops in revenue of about 11 percent, primarily from state income taxes. Previously, North Carolina's largest revenue decline was 5 percent.

- The state's corporate income tax receipts were down by 30 percent for the year.
- Sales tax revenue was also down by 40 percent for the year.

In response to these challenges, the state has taken a number of measures to meet a budget shortfall of \$3.2 billion for the current fiscal year, ending June 30, including the following:

- Further-tightened agency spending—as of April 9, 2009, agency spending was basically shut down for the remainder of the fiscal year, with the exception of payroll expenses.
- Transferring \$387 million out of the state's "Rainy Day Fund," leaving a balance of about \$150 million.
- Using \$359 million of SFSF funds over the next 2 years to cover this year's shortfall.
- The state's 16-university school system is raising tuition by approximately 8 percent.
- Transferring \$100 million to \$200 million from trust fund accounts to the general fund.
- Cutting all state employee salaries by 3 percent in May and June. In turn, the state has created a "flexible furlough plan" in which employees can take 10 hours of flexible time off between July and December of this year.

In addition to taking actions to address this year's budget shortfall, the state is currently deliberating its next biennial budget covering fiscal years 2009 and 2010. The governor submitted her budget proposal to the General Assembly on March 17, 2009, and the Senate passed a budget on April 9, 2009. The state House of Representatives passed its budget in mid-June based on significantly lower revenue projections than the Senate and Governor, whose budgets were completed prior to the April revised revenue forecasts. After the House passed its budget, both chambers were meeting in conference with the goal of passing the state budget to send to the governor by June 30.

Recovery Act funding has helped North Carolina balance its budget this year, but budget officials told us that additional budget cuts are likely over

the next 2 years, although they will be smaller than if Recovery Act funds were not available. State officials said that they see the Recovery Act funds as a way of buying North Carolina time on even-more difficult decisions. However, the state has not yet developed a formal strategy for ending the use of Recovery Act funds. According to state budget officials, using available Recovery Act funds has become a fiscal stabilization strategy, with the State Fiscal Stabilization Fund (SFSF) and increased Medicaid Federal Medical Assistance Percentage (FMAP) being key to the state's ability to balance its budget. For example, state budget officials said that if the increased FMAP funding had not been available, the state's General Assembly would have been forced to make even deeper across-the-board cuts to offset the state budget deficit, including in education, which is approximately 60 percent of the budget.

State recovery officials also told us many state agencies are struggling due to budget shortfalls and decreased staffing levels. The officials said that they are working with some state agencies and the Office of Management and Budget (OMB) to obtain administrative funds in order to conduct program compliance and monitoring. Recovery officials expressed concern that, so far, no funds have been made available to the state to provide oversight and accountability of Recovery Act dollars, noting the state does not have the funding or resources to support the extent of these activities.

While the state has committed to using Recovery Act funds to make up for a variety of budget gaps, state officials have expressed concerns about a sizeable structural gap in its budget forecasts when the stimulus funds are no longer available. To assist the state with understanding its current budget challenges, the state's recovery office has acquired a temporary staff person to look at some of the factors that may have caused its economic slowdown, and help plan for an exit strategy after Recovery Act funds expire. State officials told us that one of the potential lasting benefits of the Recovery Act may be that many of the management, accountability, and budgeting efficiencies required under the act will ultimately be adopted by the state government as standard operating practices.

North Carolina has begun to use some of its Recovery Act funds, as follows.

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## Medicaid

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>3</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>4</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

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### Increased FMAP Funds Have Helped North Carolina Maintain Its Medicaid Program; However, Reductions May Be Necessary in the Future

From October 2007 to May 2009, the state's Medicaid enrollment grew from 1,225,586 to 1,362,917, an increase of 11 percent.<sup>5</sup> The increase in enrollment was generally gradual during this period, with most of the increase attributable to the population group of children and families (see fig. 1).

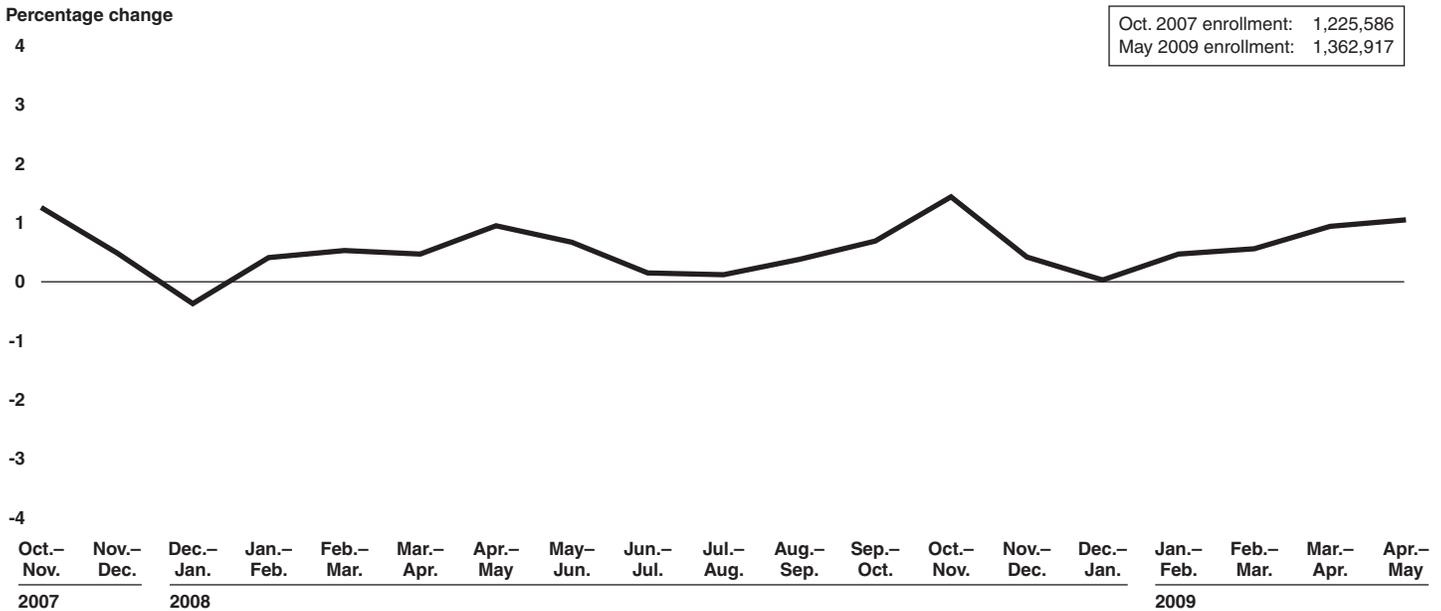
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<sup>3</sup>See Recovery Act, div. B, title V, §5001.

<sup>4</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>5</sup>The state provided projected Medicaid enrollment data for May 2009.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for North Carolina, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, North Carolina had drawn down over \$710 million in increased FMAP grant awards, which is 100 percent of its awards to date.<sup>6</sup> North Carolina officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit. State officials also indicated that even with the increased FMAP, cuts to Medicaid services may still be likely since the state’s revenues have shrunk since January 2008. The officials added that they are exploring options with the legislature to cut services and are assessing the impact such reductions may have on beneficiaries. In using the increased FMAP, North Carolina officials reported that the Medicaid program has incurred additional costs related to

- development of new, or adjustments to existing, reporting systems or other information technology systems; and
- personnel needed for routine administration of the state’s Medicaid program.

<sup>6</sup>North Carolina received increased FMAP grant awards of over \$710 million for the first three quarters of federal fiscal year 2009.

The state has few concerns about maintaining its eligibility for the increased FMAP funds.<sup>7</sup> It has taken a conservative approach in terms of making changes to its Medicaid program. Specifically, the state discusses proposed changes with officials from its CMS region and gets approval prior to implementation. For example, the state received assurances from CMS that certain changes to its Medicaid program, including an effort to increase the amount of income that Medicaid enrollees could disregard and still maintain their eligibility, would not affect its eligibility for increased FMAP. The state officials noted that in these cases, CMS has provided clear and timely responses.

Regarding the tracking of the increased FMAP, officials indicated that the state relies on new accounts to track separately the receipt and expenditure of increased FMAP funds. According to state officials, the Governor has set up a governmentwide Office of Economic Recovery and Investment (OERI), which is tasked with overseeing the accountability and efficient use of Recovery Act funds, including increased FMAP. Regarding the Single Audit, both the 2007 and 2008 audits identified material weaknesses in the state's Medicaid program. The 2007 Single Audit for North Carolina identified several material weaknesses related to the Medicaid program, two of which were related to inadequate application controls in the Eligibility Information System, the system used by counties to determine Medicaid eligibility. According to these state officials, the state has implemented corrective actions with individual counties to correct identified problems.<sup>8</sup> These corrective action plans include benchmarks for each county's Department of Social Services to use to monitor performance and outcomes. The 2008 Single Audit confirmed that the state had undertaken efforts that partially corrected several of the weaknesses identified in the 2007 audit. The 2008 Single Audit also identified one material weakness related to acquiring and maintaining all

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<sup>7</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

<sup>8</sup>The 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 Office of Management and Budget (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.

required information necessary to document eligibility of provider applicants.

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## Transportation: Highway Infrastructure Investments

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 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 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 generally 80 percent.

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## Recovery Act Funds Have Been Obligated and North Carolina Transportation Has Received Bids below Cost Estimates

As we previously reported in April 2009, \$736 million was apportioned to North Carolina in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$423 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 signs a project and a project agreement is executed. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects. As June 25, 2009, \$4.1 million had been reimbursed by FHWA.

The North Carolina Department of Transportation (NCDOT) has identified a number of highway infrastructure projects, and as of June 25, 2009, approximately 89 percent of the Recovery Act funds obligated had been targeted for pavement projects. (See table 1.) As reported in our April 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 (EDA). For example, according to NCDOT officials, a highway resurface project on U.S. 13 in Hertford County, which NCDOT officials said is located in an economically

distressed area, was selected<sup>9</sup> because the highway carries about 7,800 vehicles per day, which is high for a two-lane road, and many of those vehicles are large trucks used to support the agricultural industry.

**Table 1: Highway Obligations for North Carolina by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$78	\$159	\$138	\$0	\$11	\$3	\$34	<b>\$423</b>
Percent of total obligations <sup>b</sup>	18.5	37.5	32.6	0.0	2.7	0.7	7.9	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

<sup>b</sup>Total may not add to 100 due to rounding.

According to NCDOT, as of June 30, 2009, the department had advertised 65 contracts representing \$335 million in Recovery Act funding. Of the 65 contracts, 55 representing \$309 million have been awarded, and of these contracts 33 representing \$200 million are underway. Approximately 27 of the 65 projects advertised for bid, representing \$70 million, are anticipated to be complete by December 1, 2009.

NCDOT officials told us that construction contracts for Recovery Act projects are being awarded for less than the estimated costs. We reviewed bids that were submitted for three selected Recovery Act highway projects and found the bids were between 16 and 34 percent under the department’s estimated costs. For example, a bid for improvements to a major route in the city of King<sup>10</sup> was 16 percent less than the estimated cost of \$18 million. According to NCDOT officials, lower bids have come

<sup>9</sup>We selected this county because the highway project was located in a rural and economically distressed area. In addition, we factored in the proposed timing of the contract award and the amount of funds the highway division was awarded. NCDOT has 14 highway divisions and each division represents a number of counties. The majority of the state’s Recovery Act projects will be administrated by NCDOT.

<sup>10</sup>We selected this location because the highway project was located in an urban area. In addition we factored in the proposed timing of the contract award and the amount of funds the highway division was awarded.

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in because contractors have had difficulties finding work in the current economy. The officials believe the current bidding climate will continue but they do not plan to change their estimating practices because the bids are competitive.

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North Carolina  
Transportation Officials  
Expect to Meet Obligation  
and Maintenance-of-  
Efforts Requirements, but  
State's Equity Allocation  
Formula Impacted the  
Selection of Projects in  
Economically Distressed  
Areas

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to do the following:

- Ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The U.S. 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 (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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 planned to expend from State sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>11</sup>

North Carolina met the 50 percent obligation requirement. As of June 25, 2009, 61 percent of the \$515 million that is subject to the 50 percent rule for the 120-day distribution had been obligated. NCDOT officials noted

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<sup>11</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the authority to obligate funds and increasing the authority of other states.

that the department has estimated that it will expend most of the funds (about 95 percent) in fiscal years 2009-2012.

In an effort to be proactive in anticipation of the Recovery Act, in November 2008 NCDOT pursued a strategy to identify projects that can be completed within 3 years. NCDOT officials stated that they used several sources to identify projects such as a potential deferred 6-month project list, out-year and Statewide Transportation Improvement Program projects, division-managed projects,<sup>12</sup> and input from public transportation planners and providers.

According to NCDOT officials, the department used the state's Equity Allocation Formula as the guiding principle for distributing funds, which impacted which projects would be selected for Recovery Act funding. As we reported in April, the Equity Allocation Formula is a state statutory funding formula that creates a target value for programming future expenditures in various regions of the state. NCDOT officials stated that since 80 percent of North Carolina's roads are managed by the state, the equity formula ensures that each area will obtain its fair share of the federal and state funds for highway projects. The next factors used to select projects were whether the projects could be completed in 3 years, the projects' role in achieving NCDOT's mission and goals, and identifying projects in EDAs. The NCDOT officials noted that their overriding concern was the projects had to be "shovel ready,"<sup>13</sup> which limited the projects from which NCDOT could select, and also noted that after applying the state's Equity Allocation Formula about two-thirds of the funds would go to EDAs. In a review of a NCDOT list of potential Recovery Act projects, we found that not all projects in EDAs were selected and at least one was not selected because of the Equity Allocation Formula. According to FHWA NC Division officials, one of the criteria was to consider EDAs as part of the selection process but there were other factors considered such as projects had to (1) be completed with 3 years and (2) create jobs across the state.

As we reported in April, North Carolina submitted a "conditional" maintenance of effort certification, meaning that the certification was

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<sup>12</sup>The NCDOT has 14 highway divisions that represent several counties and manage highway projects.

<sup>13</sup>Shovel-ready means the projects could be started and completed expeditiously, in accordance with Recovery Act requirements.

subject to conditions or assumptions, future legislative action, future revenues, or other conditions. Specifically, North Carolina stated that final state funding amounts are dependent upon actual revenue collections. On April 22, the Secretary of the U.S. Department of Transportation informed states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave states the option of amending their certifications by May 22. North Carolina resubmitted its certification on May 19, 2009. According to U.S. Department of Transportation officials, the department has reviewed North Carolina's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. The department is currently evaluating whether the states' method of calculating the amounts they planned to expend for the covered programs is in compliance with DOT guidance.

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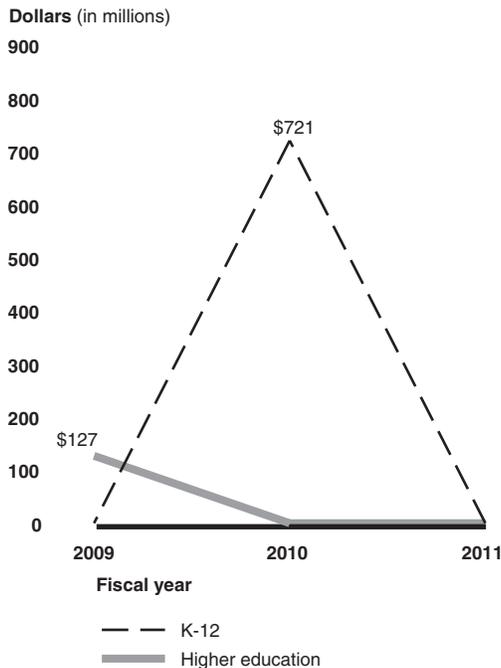
## State Fiscal Stabilization Fund

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

**Stabilization Funds Have Helped North Carolina to Address Budget Shortfalls, but Districts and IHEs Told Us More Information Would Help Them Plan for Next School Year**

In total, North Carolina was allocated over \$1.42 billion in SFSF. Of these funds, about \$1.16 billion—81.8 percent—are education stabilization funds and \$259 million—18.2 percent—are government services funds. When the state’s initial application was approved on May 20, the state was awarded over \$1 billion of these funds and will be eligible for the additional funds in the fall of 2009. To restore state support for K-12 and higher education, the state plans to divide the \$1.16 billion in education stabilization funds. The state provided funds to IHEs in fiscal year 2009—which ended on June 30, 2009—and plans to provide funds to districts in fiscal year 2010 to restore the levels of state support for education. Because the North Carolina legislature must pass an appropriations bill for funds to be disbursed, funding figures for fiscal year 2010 will not be final until the budget is signed. As of June 26, 2009 the budget was still under consideration. See figure 4 below for additional information about these funds. These expenditures will leave a balance of approximately \$314 million in education stabilization funds. State documents show that the state plans to use these remaining funds in fiscal year 2011, but it is not yet clear how these funds will be used.

**Figure 2: Planned Annual Expenditures of Education Stabilization Funds**



Source: GAO analysis of North Carolina’s application for SFSF funds.

In a letter accompanying the state's application, Governor Perdue indicated that the state would use SFSF funds to cover the shortfall in the current fiscal year, in addition to taking several other steps such as furloughing staff. The Governor requested that the state be permitted to use about \$127 million from the education stabilization fund to cover May and June 2009 payroll in IHEs. Another \$232 million of the SFSF funds would come from the government services fund and will be used for public safety, according to the state application. She noted that these steps were in response to agencies' budgets being hurt by the state revenue shortfall. Education approved these steps in a follow-up letter. State budget officials told us that SFSF funds were a critical element of the state's efforts to close its budget gap, and that without these funds many more individuals would likely lose their jobs.

Community colleges received their allocations of SFSF funds on June 4, 2009. In total, the state community college system received about \$42 million for fiscal year 2009. The colleges were required to use these funds to cover payroll obligations for May 2009. Officials from the Cape Fear Community College<sup>14</sup> said that they would not have been able to meet their payroll obligations without SFSF funds.

The state planned to use the additional \$85 million from the education stabilization fund for fiscal year 2009 to cover June payroll for state universities, according to an official from the state university system. The two state universities that we spoke with—University of North Carolina-Charlotte and Fayetteville State University<sup>15</sup>—were notified in early June that they would be receiving SFSF funds.

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<sup>14</sup>We selected Cape Fear Community College because it is one of the largest community colleges in the state.

<sup>15</sup>We selected the University of North Carolina-Charlotte because it is one of the largest 4-year institutions in the state. We selected Fayetteville State University because it is one of the nation's Historically Black Colleges and Universities (HBCU). In our review of Recovery Act implementation across the United States, we wanted to include the perspective of minority-serving institutions.

School district<sup>16</sup>, community college, and university officials did not yet know whether they would receive SFSF funds in fiscal year 2010, or how much they would receive, which could affect decisions about layoffs. These officials told us that they had initially planned for a 3 to 7 percent budget cut next year, but that they now anticipate cuts could be as high as 11 percent. They hoped that SFSF funds could fill their budget gaps, but said that they did not yet know whether they would receive funds. For example, Robeson County School District officials said that they did not know whether they would receive any additional funds, and that if they don't receive information about expected SFSF allocations for fiscal year 2010 by June 30, they will need to begin making layoffs. Similarly, officials from one charter school we visited said that if there is an 11 percent cut in state funds, layoffs will be required, but they did not know how much SFSF funding they will receive. State officials provided estimates of how much districts would receive based on the most recent budget bill, but the documents indicate that these estimates are subject to change until the legislature finalizes the budget. While local districts do not know how much funding they will receive, they expect to use the funds to pay staff.

Community college officials said that the state legislature controls tuition and that, as a result, SFSF funds would not have a direct impact on tuition. However, one official added that by improving the state's fiscal situation the funds could indirectly mitigate tuition.

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## ESEA Title I, Part A

The Recovery Act provides new funds to help local school districts 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 school districts using existing federal funding formulae, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, local educational agencies (LEA) are required to comply with current statutory and regulatory requirements, and must

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<sup>16</sup>We visited Charlotte-Mecklenburg Schools and the Public Schools of Robeson County because both districts had a number of schools categorized as Needs Improvement, and because Robeson is considered a rural school district. In addition, we visited two charter schools, Sugar Creek Charter School, and the Roger Bacon Academy, that are also classified as districts for funding purposes. These were selected based on geographic distribution.

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obligate 85 percent of these funds by September 30, 2010.<sup>17</sup> Education is urging local districts to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education allocated the first half of states' ESEA Title I, Part A, allocations on April 1, 2009, with North Carolina receiving \$129 million.

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### Districts Were Planning to Expend Recovery Act Title I Funds

North Carolina is currently making funds available to districts. On April 24, the state announced districts' allocations for ESEA Title I Recovery Act funds, and on May 4 began making those funds available to districts. In order to access these funds, district officials told us they must submit a planned budget to the North Carolina Department of Public Instruction (DPI). After the plan has been accepted, the districts may begin to obligate and expend funds. As of June 19, 31 districts or charter schools had submitted applications out of 115 districts and approximately 60 charter schools. The state has held a statewide ESEA Title I training conference and provided several question and answer documents, information about how much districts will be receiving, and weekly e-mails to keep districts informed about Recovery Act ESEA Title I requirements.

Some localities had begun receiving Recovery Act ESEA Title I funds. Robeson County Public Schools had begun distributing these funds to schools, which, according to district officials, were using the funds to retain 46 teaching positions. Officials from Charlotte-Mecklenburg Public Schools said that they submitted a budget for Recovery Act ESEA Title I funds on June 23, and that they were planning to use funds for professional development, parent participation, and pre-kindergarten. They specifically mentioned that they chose to focus on these activities because they could improve district capacity without creating a long-term funding obligation. Officials from one of the two charter schools we visited said that they had received funds as of June 25. Local education officials said that it was very difficult to plan their budget because they do not yet know how much they will receive in state funds and how much in SFSF. Robeson officials said that the additional funds will be used as the district normally uses ESEA Title I funds, which is for elementary schools instead of secondary schools or preschool. Officials from both districts

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<sup>17</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

said that few if any new schools would receive ESEA Title I funds as a result of the Recovery Act. Both districts that we visited would like to receive flexibility with the carryover provisions,<sup>18</sup> and Robeson officials said that they would also like flexibility with certain set-aside requirements so that they could use those funds for other district needs. The state is planning to request waivers for the carryover, set-aside, and maintenance-of-effort requirements.<sup>19</sup>

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## Individuals with Disabilities Education Act, Parts B and C

The Recovery Act provided supplemental funding for programs authorized by the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. IDEA programs receiving this funding include those that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education (Part B) and that provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families (Part C). States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements. Education allocated the first half of states' IDEA allocations on April 1, 2009, with North Carolina receiving \$170 million. Of the \$170 million, \$163 million was for IDEA Part B, and additional funding was for IDEA Part C.

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<sup>18</sup>LEAs are required to obligate at least 85 percent of their ESEA Title I funds each fiscal year and may carry over no more than 15 percent for 1 additional fiscal year, unless granted a waiver by the state. The state may only grant an LEA a waiver once every 3 years; however, Education may waive this limitation.

<sup>19</sup>Education may waive a number of ESEA Title I statutory requirements with respect to Recovery Act funds, including (1) the requirement that an LEA in improvement status spend 10 percent of ESEA Title I funds on professional development; (2) an LEA's obligation to spend an amount equal to at least 20 percent of its ESEA Title I, Part A, Subpart 2, allocation on transportation for school choice and supplemental educational services; and (3) the Title I, Part A, maintenance-of-effort requirements.

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## Districts Have Received IDEA Part B Funds, but Some Are Concerned about Maintenance-of-Effort Requirements

North Carolina allocated IDEA funds to districts on April 29, 2009. The state has provided guidance and several memorandums to assist districts in using IDEA Part B funds. A state IDEA official said that their biggest concern was the local maintenance-of-effort requirements. Specifically, the official said that the state is concerned that districts will inappropriately take funds from IDEA and use them to fill in for lost dollars in other areas. The state has provided several documents to districts to outline the maintenance-of-effort requirements and clarify which districts are eligible to have their maintenance-of-effort level reduced.<sup>20</sup> According to a state IDEA official, 63 of the state's 115 districts can reduce their maintenance of effort level by up to 50 percent of their increase in IDEA, Part B, funds since the previous year. These are districts that have met requirements for providing services to children with disabilities and have a performance designation of at least "Meets Requirements." The official also said that Recovery Act funds had been an opportunity to start a conversation with charter schools about the services that charter schools provide for students with disabilities. Charter school officials with whom we spoke said that they would use IDEA, Part B, funds to hire additional staff to work with students with disabilities and purchase materials.

Charlotte-Mecklenburg public education officials said that their Recovery Act IDEA, Part B, dollars would be focused on early intervention services that would reduce the need for services later on. Specifically, the funds would go to technology tools that would put Individual Education Plans (IEP) online, and to hiring additional staff. In contrast, Robeson officials said that funds would be used primarily to retain staff members who might otherwise be released. Charlotte-Mecklenburg officials said they would welcome flexibility with the maintenance-of-effort requirements, but Robeson County officials did not expect maintenance of effort to be problematic for their district.

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<sup>20</sup>Under certain circumstances, in any fiscal year that a school district's IDEA, Part B, allocation exceeds the amount the school district received in the previous year, the school district may reduce the level of state and local expenditures by up to 50 percent of the amount of the increase, as long as the school district uses those freed-up local funds for activities that are authorized under the ESEA.

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## North Carolina Has Also Received IDEA, Part C, Funds

Officials from the North Carolina Department of Health and Human Services Division of Public Health said that they had received half of the IDEA, Part C, Recovery Act allocation. They said that they had proposed using the funding to retain and hire staff and for professional development to ensure the state's continued ability to provide Part C services. The state's proposal was undergoing internal review at the North Carolina Department of Health and Human Services and OERI. The state had received guidance from Education, and officials said that they did not have major outstanding questions.

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## North Carolina Public Housing Agencies

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>21</sup> The Recovery Act requires the 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 they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already underway or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>22</sup> North Carolina has 99 public housing agencies that have received Recovery Act formula grant awards. In total these public housing agencies received \$83.4 million from the Public Housing

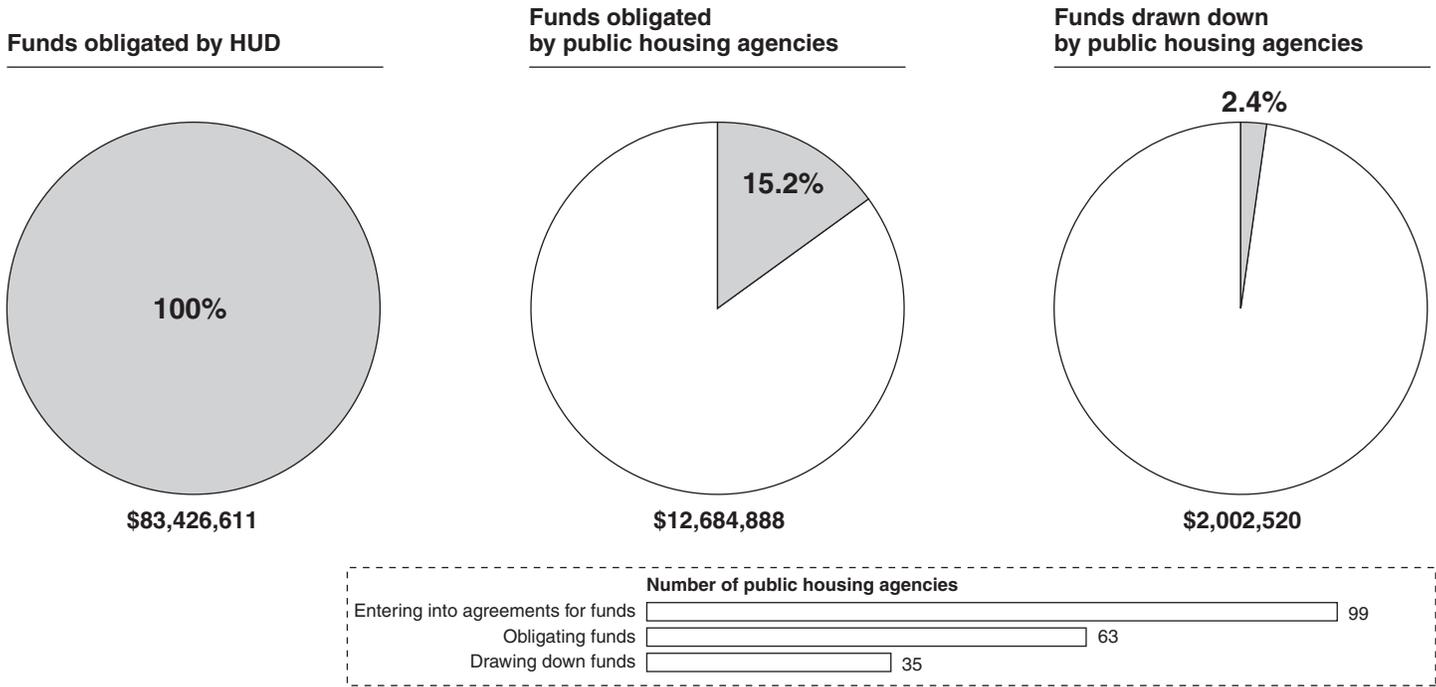
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<sup>21</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>22</sup>HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application, and to funding limits.

Capital Fund formula grant awards. As of June 20, 2009, 63 public housing agencies had obligated \$12.7 million and 35 had expended \$2 million. GAO visited two public housing agencies in North Carolina—the Housing Authority of the Town of Beaufort and the Housing Authority of the City of Charlotte. We selected the Charlotte Housing Authority because it received the largest capital fund grant allocation in North Carolina and selected the Beaufort Housing Authority because it received one of the smallest allocations.

**Figure 3: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in North Carolina**



Source: GAO analysis of HUD data.

### North Carolina Public Housing Agencies Have Obligated Recovery Act Funds to Rehabilitate Various Units

The two Public Housing Agencies we visited in North Carolina received Capital Fund formula grants totaling \$7.7 million. As of June 20, 2009, the Beaufort Housing Authority had obligated \$201,222, or 100 percent of its total award. It had drawn down \$125,363. Also, Charlotte Housing Authority had obligated \$218,289, or 3 percent of its \$7.5 million award. It had not drawn down any funds because according to Charlotte Housing Authority officials, they did not want to combine closing the agency's

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fiscal year accounting cycle in March 2009 with drawing down Recovery Act funds, so they decided to obtain the funds during the next fiscal year.

The public housing agencies have begun funding a variety of types of projects. Beaufort Public Housing Authority officials stated that they plan to rehabilitate 100 units, which include duplexes, triplexes, and some single dwellings. Also, the Charlotte Housing Authority has plans to rehabilitate 609 units, and currently the authority has no vacant units. The rehabilitation includes such activities as replacing 522 water heaters and appliances and installing site-security poles and Internet cameras at 22 sites. We visited the Southside Homes for which the Charlotte Housing Authority is expected to use \$266,454 in Recovery Act funds. During the visit, we toured the community center where proposed plans are to remodel the center's offices and build a computer lab and purchase computers for tenants to use. Also, the Charlotte Housing Authority plans to use \$3.3 million to demolish the Boulevard Homes. Demolition will cost \$2 million, and \$1.3 million will be used to relocate the tenants.

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### North Carolina Public Housing Agencies Took Steps to Prioritize Projects and One Initially Faced Challenges in Obtaining Recovery Act Funds

The two Public Housing Agencies that we visited in North Carolina took steps to give priority consideration to the rehabilitation of vacant rental units, and projects that are underway or included in the 5-year plan.<sup>23</sup> According to the Beaufort Housing Authority Executive Director, the agency had already implemented the current year's portion of its 5-year plan when it was notified about the Recovery Act funding. With the Recovery Act funding, the agency was able to undertake additional projects in its 5-year plan. The Beaufort Housing Authority told us that as units become vacant, they will be taken offline until they are rehabilitated. However, the Charlotte Housing Authority proposed projects for Recovery Act funds that were not part of its existing 5-Year Plan and a public

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<sup>23</sup>The Public Housing Authority Plan is a comprehensive guide to public housing agency policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the Plan: the 5-Year Plan, which each public housing agency submits to HUD once every 5th public housing agency fiscal year, and the Annual Plan, which is submitted to HUD every year.

hearing was required to approve the projects.<sup>24</sup> A public hearing was held on April 8, 2009, with Charlotte Housing Authority Board of Commissioners, Resident Advisory Council, and other interested residents to review the additional allocation of capital funding the agency had received under the Recovery Act. The Board of Commissioners approved the Charlotte Housing Authority's Recovery Act projects. According to Charlotte Housing Authority officials, they did not have any vacant units.

The Beaufort Housing Authority faced challenges when initially drawing down funds from HUD. The Beaufort Housing Authority's Executive Director said the agency experienced challenges when registering as part of a new process for accessing Recovery Act funds from the Central Contractor Registration system. According to the Executive Director, the system had incorrectly identified the Beaufort Housing Authority, which took over a month to correct, in part because of a lack of guidance from HUD on how to register and submit an application in the system. Also, the Executive Director mentioned that since registering with the system has never been required, the HUD field office was not trained to help with the process. After these issues were resolved, the Executive Director stated the agency was able to draw down Recovery Act funds from the system.

Charlotte Housing Authority officials said that they had to change their procurement policies, as required to expedite awards. Specifically, the Charlotte Housing Authority amended its procurement policies in May 2009 and required that the Public Housing Authority shall give priority to Capital Fund Stimulus Grant projects that can award contracts based on bids within 120 days from February 17, 2009. Charlotte Housing Authority officials stated that as a result of the revised policies, they will expect to be able to meet the accelerated requirements to obligate and expend funds within the time frames of the Recovery Act.

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<sup>24</sup>In 2001, the North Carolina State Legislature passed General Statute 159-42 entitled "special regulations pertaining to public housing authorities." According to state officials, the statute requires housing authorities to adopt a project ordinance as defined in General Statute 159-13.2 for those programs that span 2 or more fiscal years. In an effort to clearly show compliance with the State statute, the public housing agency staff was to prepare a grant project ordinance and have the Board of Commissioners adopt the project ordinance by resolution.

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**Selected North Carolina Public Housing Agencies Report They Have Established Processes to Track and Safeguard Recovery Act Funds, but Could Use More Guidance**

Officials from the Public Housing Agencies we visited in North Carolina told us they have established processes to track and safeguard Recovery Act projects and funds. Specifically, the agencies plan to use a unique identifier in the general ledger and use existing processes for tracking Recovery Act funds. For added assurance, both agencies plan to use Excel spreadsheets and compare the information to the general ledger to track Recovery Act funds.

Officials from the Beaufort and Charlotte Housing Authorities indicated that HUD has not yet provided guidance on how to measure the effects of Recovery Act spending. However, they plan to use contractors' information to measure the effects of Recovery Act spending. Specifically, the Beaufort Housing Authority plans to review contractors' payroll reports to determine the jobs created and sustained. Likewise, the Charlotte Housing Authority plans to use contractor reports that show jobs created and sustained. Charlotte Housing Authority officials indicated that it would be helpful to obtain guidance as soon as possible.

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**North Carolina Edward Byrne Memorial Justice Assistance Grant (JAG) Program**

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information-sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>25</sup> The total JAG allocation for North Carolina state and local governments under the Recovery Act is about \$56.3 million, a significant increase from the previous fiscal year 2008 allocation of about \$4.1 million.

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<sup>25</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

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North Carolina Has Selected Local Justice Assistance Grant Program Projects, Which the Governor Has Approved

As of June 23, 2009, North Carolina had received its full state award of about \$34.5 million.<sup>26</sup> The North Carolina Governor's Crime Commission (GCC), which administers JAG funds for the state, plans to use the funds in two main areas: Criminal Justice Improvement and Crime Victims' Services. Criminal Justice Improvement funding priorities include such things as overtime requests to ensure that departments can maintain full coverage and requests for equipment, including weapons, uniforms, and communications devices. Crime Victims' Services funding priorities include such things as (1) sexual assault and domestic violence services, (2) child abuse and neglect services, (3) law enforcement, prosecutors' office, and court officials, (4) services for underserved crime victims, and (5) supervised visitation centers.

According to GCC officials, the process for identifying, prioritizing, and selecting eligible local projects for funding was conducted by GCC committees between July and September 2008. GCC officials said that their original priorities were aligned with the Recovery Act priorities once officials were aware that GCC would be receiving Recovery Act funding. The committees conducted research on crime trends and coordinated with local police departments on issues such as prisoner reentry and used this information to determine funding priorities. After applications were reviewed and scored, GCC officials selected 85 eligible projects for JAG funding that supported funding priorities. For example, the North Carolina Department of Corrections Tyrrell Prison Work Farm is an eligible project that is expected to receive Recovery Act funding to preserve four positions for 2 years at a 58-bed substance-abuse treatment program.

The list of Recovery Act projects to be funded was submitted and approved by the Governor on May 29, 2009. According to GCC officials, funding for JAG grants can not be given prior to July 1st and until officials receive the signed grant award and acceptance of all special conditions from the subgrantee. GCC officials expect to be able to allocate funds to projects in July.

While subrecipients have not yet received any funding, GCC officials were initially concerned about some subrecipients' ability to report the JAG programmatic performance measures within 30 days after the end of each quarter, as required by BJA. Specifically, GCC officials are concerned that some of the new nonprofits that are expected to receive funding may be

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<sup>26</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

more challenged than others to meet the reporting requirements and the reporting deadlines. For those agencies that the GCC identified as potentially having challenges with the increased reporting requirements, officials have made preaward site visits with their staff to identify strategies to assist them in submitting reports ahead of or by deadlines. If, as a result of these meetings, GCC officials believe the agency does not have the capacity to efficiently manage a Recovery Act grant, they do not plan to pursue funding for that agency. GCC officials said that BJA was supposed to develop a performance-management tool to assist gang-prevention pilot programs with assembling the BJA reporting requirements. However, GCC has not yet received this guidance. Furthermore, GCC officials said that they plan to hold their grant award workshops in June to explain the Recovery Act requirements to potential recipients.

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## U.S. Department of Energy Recovery Act Weatherization Assistance Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia. This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its State Plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the

state's compliance with the Recovery Act's reporting and other requirements.

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**North Carolina Has Plans in Place for Managing and Safeguarding Weatherization Recovery Act Funds, but Challenges Remain**

DOE allocated to North Carolina \$132 million for the Recovery Act Weatherization Assistance Program for a 3-year period. The Office of Economic Opportunity (OEO) of North Carolina's Department of Health and Human Services is responsible for administering the program, and the program is administered locally through 30 subgrantees, generally community action agencies, which serve all 100 of the state's counties. In order to develop the weatherization plan, OEO received a Funding Opportunity Announcement on March 24 and received additional guidance from DOE. Additionally, officials said that they received a visit from DOE's District 4 Program Management Officer in order to go over the special reporting requirements. OEO developed a plan designed to assist low-income households in reducing their fuel costs and to contribute to national energy conservation through increased energy efficiency and consumer education. According to OEO officials, this plan was submitted to DOE for review and approval on May 12. OEO officials expect that DOE will approve the plan in less than 60 days. Additionally, officials said that the plan was submitted for review to the North Carolina Office of Economic Recovery and Investment (OERI). According to OEO officials, OERI reviewed the application to make sure that the weatherization plan did not include any new subrecipients that might cause concerns or problems with tracking and reporting the Recovery Act funding. Additionally, OERI wants additional education to be provided to subrecipients so they have a clear understanding of the Recovery Act requirements, and in response OEO officials plan to provide training on the weatherization elements to both subgrantees and subcontractors.

On April 1, 2009, DOE provided the initial 10 percent allocation (approximately \$13.2 million) to North Carolina, and once DOE reviewed North Carolina's weatherization plan, DOE provided an additional 40 percent allocation (approximately \$52.8 million). After demonstrating successful implementation of its plan, North Carolina will receive the remaining funding. However, OEO officials said that none of the Recovery Act funding will be spent prior to June 30. OEO plans to weatherize approximately 24,224 units with a total annual estimated energy savings of

434,412 MBtu.<sup>27</sup> Of the total \$132 million the state will receive, the planned allocation is \$109 million for weatherization production and \$23 million for training and technical assistance.

OEO officials said that they plan to identify an external group that will assist with the monitoring and oversight of the Recovery Act funds. However, officials acknowledged that while this is part of the plan, they currently do not have the funding or staff to do all of the training and monitoring that they would like to do. To assist in oversight of the weatherization program, an OERI official said that the state plans to undertake a vigorous risk assessment as part of its responsibilities. As part of this effort, OERI planned to issue a Request for Proposal in June for compliance contractors for weatherization audits. The scope of work covered for a weatherization compliance audit would include a review prior to any work being performed on a dwelling to ensure the need for such energy improvements, as well as a review after the weatherization was completed to ensure the work was actually performed. An OERI official said that they believe they can use Recovery Act funds to hire these contractors. Furthermore, one of North Carolina's local subgrantees that we visited said that it also plans to hire and train compliance "quality assurance" teams that would then do pre- and post-audits of weatherization projects at the individual house level.

At the local level, agency officials in charge of administering a subgrant said that the Recovery Act funding will provide additional funds that will allow the agency to weatherize additional properties. According to officials from one community action agency that uses contractors to do the weatherization, they will review contractors' qualifications to ensure that the contractors are familiar with DOE's weatherization requirements. Officials plan to inquire and collect information on whether the contractors have received DOE's training on how to weatherize homes according to industry standards. Additionally, officials said that they plan to use a portion of the funding that they receive for training and technical assistance to cover the costs associated with training and technical assistance for the agency's weatherization coordinator and any other agency staff involved in the program. Officials said that the state will

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<sup>27</sup>MBtu stands for 1 million British thermal units. The Btu is a unit of energy used for power, steam generation, heating, and air conditioning measurement. It represents the quantity of heat required to raise the temperature of 1 pound of liquid water by 1 degree Fahrenheit at the temperature at which water has its greatest density (approximately 39 degrees Fahrenheit).

provide additional guidance on the acceptable expenses that can be incurred to train subcontractors. Furthermore, officials identified evaluating the impact of Recovery Act funds as a potential challenge. Specifically, they are struggling to develop data on the creation and retention of jobs because the funds are short term and will be used within 16 to 18 months.

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## WIA Youth Program

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) youth program to facilitate the employment and training of youth. The WIA youth program is designed to provide low-income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA youth performance measures, only the work-readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act,<sup>28</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>29</sup>

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<sup>28</sup>H.R. Rep. No. 111-16 (2009), 448.

<sup>29</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies.

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## Recovery Act Funds Have Resulted in More Local Boards Providing Summer Youth Employment Activities

The North Carolina Department of Commerce (NCDOC), which administers North Carolina's workforce-development system, has received about \$25 million in Recovery Act funds for the WIA youth program, of which about \$480,000 has been expended as of June 5, 2009. Of the \$25 million, the state reserved 15 percent for statewide activities, and has allocated the remaining funds to the state's 24 local workforce boards. NCDOC officials said that the major statewide summer youth activity resulting from the use of these state-level funds was marketing the program. NCDOC did not set a target amount for local boards to spend on summer youth employment activities, but gave local areas the flexibility to provide a combination of services for youth. State officials told us that they anticipate that all local boards will have stand-alone summer youth employment activities in 2009, and that local workforce boards estimated that they would spend about \$18.4 million on these activities in 2009. The state plans to serve approximately 6,000 youths this summer. Few local workforce boards operated a similar program in the summer of 2008.

NCDOC officials told us that they do not anticipate major challenges managing and overseeing the 2009 summer youth employment activities. They said that they follow specific procurement policies and ensure that local boards also have appropriate policies. They also noted that they will separately track all Recovery Act funds to ensure that these funds are spent appropriately. NCDOC will conduct programmatic and fiscal monitoring of local boards, such as reviewing their payroll, procurement, and participant-eligibility policies and practices. In addition, NCDOC will also monitor a random sample of work sites. State NCDOC officials said, however, that they would like guidance about how local boards should track jobs created and jobs saved.

Officials from one local workforce development board that we visited, the Cape Fear Workforce Development Board,<sup>30</sup> said that enrollment is likely to increase due to the Recovery Act and did not anticipate any major challenges. Cape Fear Board officials said that enrollment would likely exceed 250 youths this year, which was higher than in prior years, and that they expected to receive more applications than they had slots. The Cape Fear Board has operated a stand-alone summer youth program for years, and officials did not expect any major challenges as a result of Recovery

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<sup>30</sup>Local workforce development boards were selected based on the amount of WIA youth funds they received and geographic distribution.

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Act funds. Cape Fear Board officials said that “green” jobs would be a focus of this year’s efforts.

In contrast, the Charlotte-Mecklenburg Workforce Development Board will be operating a stand-alone program for the first time this summer. Officials from the Charlotte-Mecklenburg board said that they would serve approximately 450 youths this summer, and that the biggest challenges were recruiting youths and using a Request for Proposal process under the tight time frames necessary to have an operational program by the summer.

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## State Agencies Making Progress with Accountability, but Gaps May Remain in Localities

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### Agencies’ Efforts to Move Ahead with Modifying Accounting Systems to Track Funds Separately

As we reported in May 2009, several of North Carolina’s state agency accounting systems will need to be modified to track Recovery Act funds as required by the Recovery Act. Officials from the Office of the State Controller (OSC) told us that they are continuing with their planning efforts for system modifications related to the Recovery Act requirements but have not yet made any system modifications. Current plans include modifications to the E-procurement system, the North Carolina Accounting System, and the Interactive Purchasing System. These officials told us that they are committed to meeting the Recovery Act’s July 1, 2009, deadline with their current level of resources, with one possible exception. These officials expressed concern with the Recovery Act requirement to use the DUNS (Data Universal Numbering System) number, which is a nine-digit identification number that is assigned to an entity and identifies specific information about the entity such as the entity’s business name and address. The OSC received a cost estimate from Dun & Bradstreet stating that the initial cost for merging the North Carolina data with the Dun & Bradstreet database would be \$140,000, with an annual estimate for adding new vendors of \$7,800. According to the OSC officials, the cost estimates do not include the cost of merging data in any of the university or community college systems with the Dun & Bradstreet database, which would increase the cost to approximately \$1 million. Officials said that implementing and maintaining the DUNS number for the entire state and

across several systems would require additional staff and funding. Officials stated that they asked OMB for additional guidance on this requirement and are waiting to make any system modifications until they receive the OMB guidance. Furthermore, a local North Carolina Public Housing Authority official said that the housing authority had experienced difficulty in using its DUNS number, which made accessing Recovery Act funds a difficult and lengthy process. The official said that the new process for accessing Recovery Act funds required the use of the DUNS number and registration on the Central Contractor Registration system, which was not the process used before to access funds. According to the authority official, the system had incorrectly identified the Beaufort Housing Authority, which took time to correct, in part because of a lack of guidance from HUD on how to register.

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### Challenges Exist in Tracking Recovery Act Funds

On March 30, 2009, the State Budget Director, State Controller, and OERI Director jointly issued *NC/ARRA Directive #1—Budgeting and Accounting for Federal Recovery Funds* to agency heads and chancellors of universities and chief financial officers of agencies and universities, which included among other things a requirement that every state government entity receiving Recovery Act funds use a unique 4-digit budget fund code as Recovery Act funds are received and expended. In addition, the directive emphasized that funds received as a result of the Recovery Act may not be commingled with other funds, even if they are used to enhance, supplement, or expand existing programs. Also in March, the Director of Fiscal Management, within North Carolina’s Department of State Treasurer’s Office, State and Local Government Finance Division, and the Local Government Commission,<sup>31</sup> sent a memorandum to local government and public housing authority officials and their independent auditors regarding Recovery Act fiscal management issues. Specifically, this memorandum stated that any local government that receives a direct grant from a federal agency should inform the OERI of the grant and supply a copy of the grant agreement to OERI, and local units must budget

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<sup>31</sup>North Carolina’s Local Government Commission is composed of nine members: the State Treasurer, the Secretary of State, the State Auditor, the Secretary of Revenue, and five others by appointment. One key function is monitoring certain fiscal and accounting standards prescribed for units of local government by the Local Government Budget and Fiscal Control Act. In addition, the Commission furnishes on-site assistance to local governments concerning existing financial and accounting systems, as well as aid in establishing new systems.

and account for Recovery Act funds in a way that tracks all receipts and expenditures of those funds by project.

As we reported in May 2009, OERI was set up by the state to help agencies track, monitor, and report on Recovery Act funds. The state Web site [www.NCcrecovery.gov](http://www.NCcrecovery.gov) is designed to maintain a record of how Recovery Act funds are being spent in a way that is transparent and accountable. In the meantime, OERI is tracking the state's Recovery Act funds on an Excel spreadsheet. OERI officials told us that the current system relies heavily on the state agencies reporting complete and accurate information to OERI. OERI in turn uses the information provided by the agencies to update its spreadsheet. When asked how OERI can be certain that it has a complete and accurate compilation of North Carolina's Recovery Act funds, these officials told us that OERI's tracking is not all-inclusive, but at this time it is the most comprehensive report available. For example, OERI does not currently receive obligation or expenditure information from localities, universities, or community colleges. OERI officials added that they are currently working with OSC to create a report from the statewide information system that OERI can use to reconcile its spreadsheet for the agencies that use the statewide system.

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### State Is Requiring Weekly Reporting and Other Accountability Mechanisms

Beginning October 10, 2009, each state that has received Recovery Act funds is required to submit a quarterly report to each federal agency that provided funds to meet the reporting requirements of Section 1512 of the Recovery Act. Three of the first four management directives issued by North Carolina's OERI Director to state agency senior management addressed reporting and other accountability mechanisms requiring (1) weekly reporting from state agencies; (2) centralized review of grant applications; and (3) state agency readiness reviews.

**Weekly Reporting of Expended Funds by State Agencies:** In his first management directive issued on April 9, 2009, OERI's Director stated that state agencies were to report to OERI on a weekly basis the amount of Recovery Act funds they had obligated, disbursed, and drawn down.

**Submit Grant Applications to OERI for Review:** The second directive was issued 5 days later and stated that prior to submission to the federal entity, state agencies (not universities) were to submit all applications for funding under the Recovery Act to OERI for review and approval. According to the directive, OERI will pay particular attention to agencies' requests for technical assistance or administrative funds, or both, and their proposed use of those funds.

**State Agency Readiness Assessment:** On June 3, 2009, the Director of OERI issued a directive requiring that state agencies identified as a prime recipient of Recovery Act funds provide OERI with written confirmation, by returning its completed *Prime Recipient Readiness Assessment* form no later than June 24, 2009, of their readiness for reporting quarterly to the federal government. The directive stated that this was being done as an initial trial run for the October submission of first quarterly reports to OMB. The directive also acknowledged that although the data elements had not been finalized by the federal government, OERI did not expect significant changes from the proposal contained in the notice published in the Federal Register.<sup>32</sup> For any areas that were not in compliance, agencies were to submit a Plan of Compliance along with their Prime Recipient Readiness Assessment form, including specific strategies and the expected completion date (not to exceed June 30) for each strategy.

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**North Carolina Is Using Its Statutory Internal Control Program and Other Initiatives for Recovery Act Programs**

In North Carolina, the Office of the State Controller (OSC) is statutorily responsible for establishing internal control standards. North Carolina's State Governmental Accountability and Internal Control Act<sup>33</sup> charges OSC with the establishment of comprehensive standards, policies, and procedures to ensure a strong and effective system of internal controls. OSC is meeting this requirement by implementing the EAGLE program (Enhancing Accountability in Government through Leadership and Education). The underlying foundation of the EAGLE program was based on the widely accepted internal control framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The purpose was not only to establish adequate internal control, but also to increase fiscal accountability within state government.

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**Management and Oversight Agencies Use Risk Assessments to Enhance Accountability**

Conducting risk assessments means performing comprehensive reviews and analyses of program operations to determine if risks exist and the nature and extent of risks that have been identified. In North Carolina, the OSC in conjunction with the state's EAGLE program requires agencies to

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<sup>32</sup>In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), OMB invited (through a notice in the April 1, 2009, issue of the Federal Register) the general public and federal agencies to comment on the standard data elements that were being reviewed for use in complying with reporting requirements under section 1512 of the American Recovery and Investment Act of 2009. 74 Fed. Reg. 14,824.

<sup>33</sup>N.C. Gen. Stat. §§ 143D-1 to 143D-12.

perform annual risk assessments. The state views risk assessment as a benefit to the agencies as it identifies risks and compensating controls that reduce the possibility of material misstatements of financial reports and misappropriation of assets, as well as opportunities to increase efficiency and effectiveness in business processes and operations. In addition to these statewide risk assessments, we identified three other state agencies in North Carolina that perform risk assessments during the course of developing their annual audit plan to help ensure that federal funds are spent for their intended purposes.

**Statewide:** North Carolina is using a phased approach to implement the EAGLE program. In Phase I, state agencies and state universities are required to perform an annual assessment of internal control over financial reporting. The State contracted with Ernst & Young (E&Y) and worked jointly with E&Y to develop and implement a comprehensive risk-assessment program, using a top-down approach, in which entity-level controls are considered first, followed by transaction-level controls. In January 2008, the State Controller requested each agency to appoint an Internal Control Officer to lead the agency's risk-assessment team and monitor the agency's compliance with EAGLE requirements. Phase II of the program will be "efficiency of operations" and Phase III will be "compliance with laws and regulations." These three phases can be found in COSO's Internal Control—Integrate Framework, which defines internal control as a process to provide reasonable assurance of achieving the following objectives: internal control over financial reporting; efficiency of operations; and compliance with laws and regulations.<sup>34</sup> Although all state agencies have now implemented Phase I of the EAGLE program, 14 of the state universities and the 58 community colleges have not yet implemented the EAGLE program. OSC plans to begin Phase I implementation of EAGLE at these remaining universities and the community colleges in the fall of 2009.

North Carolina's statewide internal control program has been the subject of several newsletters and other publications. In the Institute of Internal Auditors' November/December 2008 issue of *Internal Auditor Magazine*,

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<sup>34</sup>COSO, *Internal Control – Integrated Framework*, 1992 and 1994.

a feature article acknowledged North Carolina for being a national leader in both fiscal management and governmental accountability.<sup>35</sup>

**State Auditor's Office:** As discussed in our April 23, 2009, report,<sup>36</sup> the State Auditor uses a risk-based approach to auditing and plans to focus the State Auditor's Recovery Act work on subrecipient monitoring and on how the Recovery Act funds are being segregated from other federal funds coming through traditional funding streams. A briefing document dated June 3, 2009, reiterated this focus of work and discussed how the influx of Recovery Act funds and the associated risks has caused the Office of the State Auditor to alter its normal auditing and reporting practices for federal grant funds. Specifically, the State Auditor will evaluate the design of internal control over Recovery Act funds early in the fiscal year and issue a statewide report on the evaluation by mid-year. Subsequently, the State Auditor will perform an evaluation of the state's during-the-award subrecipient monitoring efforts and report near year-end. Finally, the state will complete remaining procedures related to the audit of the state's major federal programs and report the results as required by OMB.

**North Carolina Department of Transportation's Office of Inspector General (DOT/OIG):** DOT/OIG also uses a risk-based approach to auditing recipients of federal transportation grant dollars. DOT/OIG is planning to modify its risk assessment to ensure Recovery Act-funded projects are the agency's highest priority. In addition, the North Carolina DOT/OIG External Audit Branch, Single Audit Compliance Branch, Manager told us that nonprofit entities, as a whole, are considered high-risk, and with this in mind the DOT/OIG developed separate policies and procedures specifically designed for oversight and monitoring of federal and state grants to nonprofit entities.

**Office of Internal Audit:** On August 23, 2007, North Carolina's Internal Audit Act was ratified requiring each state agency with an annual operating budget that exceeds \$10 million, has more than 100 full-time equivalent employees, or receives and processes more than \$10 million in

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<sup>35</sup>Ron Marden, "EAGLE: North Carolina's Statewide Internal Control Program," *Internal Auditor Magazine* (November/December 2008).

<sup>36</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009).

cash in a fiscal year to establish an internal audit program.<sup>37</sup> The Office of Internal Audit (OIA) is housed within Office of State Budget and Management and provides internal audit services for eight state agencies: (1) Department of Administration (DOA); (2) NCDOC; (3) State Auditor's Office; (4) Department of Labor; (5) Community Colleges Central Office; (6) OSBM; (7) Governor's Office; and (8) Wildlife Resource Commission.

Annually, OIA is to perform a risk assessment of each of these eight state agencies. It started performing these risk assessments in August 2008. No risk assessment was done for the Governor's Office because of the change in administration. OIA's Audit Director stated that the influx of Recovery Act funds and other changes to criteria used in the risk assessment will most likely result in significant changes to OIA's audit plan. Specifically, the Director noted that in fiscal year 2009 the State Energy Office was housed within the DOA. According to state officials, proposed legislation would relocate the State Energy Office to be under NCDOC. The proposed legislation has passed North Carolina's House of Representatives and is now in the Senate. Now, with the influx of a large amount of Recovery Act funds to the State Energy Office, NCDOC will most likely end up with the highest risk rating.

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### Plans for Monitoring and Oversight of North Carolina's Recovery Act Funds Present Challenges

As noted by the North Carolina State Auditor, monitoring an ongoing grant project is a challenge. According to the State Auditor, the state agencies do not have sufficient staff dedicated to on-site monitoring, which is the most effective way of monitoring while a grant project is ongoing. On-site monitors may inspect accounting records supporting financial reports, examine invoices and other documents supporting expenditures, recalculate salaries charged to grant programs, and review evidence supporting the achievement of performance goals.

According to a State Auditor's June 3, 2009, briefing document, a portion of Recovery Act funding is being set aside for administration and oversight, and as a result state agencies may be able to temporarily strengthen on-site monitoring by contracting with Certified Public Accountant firms. Such an arrangement may include asking the firm to help develop monitoring procedures to be performed and then commissioning an "agreed-upon-procedures" engagement, whereby the firm will perform the specific monitoring procedures designated by the

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<sup>37</sup>N.C. Gen. Stat. §§ 143-745 to 143-747.

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state agency and report the results of the procedures. It would then be the state agency's responsibility to follow up on problems reported and ensure that corrective action is taken. One audit manager at DOT/OIG told us that, due to lack of funding, his staff auditors have not traveled to subrecipients to perform oversight and monitoring site visits since October 2008. However, he added that since Recovery Act funds come from the federal government he believes there will be funds available for travel to audit subrecipients.

OERI plans to issue a Request for Proposal in June for compliance contractors for weatherization and other Recovery Act grant compliance audits. One of the Director's concerns has been the capacity of the nonprofit community action agencies to handle the Recovery Act funds because the state has not looked at how well these agencies have been performing in a long time. OERI's Director said that the states are getting an indication that they can use some of their Recovery Act funds for administrative funds and therefore he is developing a budget with this in mind.

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### Some North Carolina Localities May Not Be Fully Prepared to Ensure Accountability for Funds

North Carolina's State Auditor said that subrecipient monitoring at the local level is an area that is considered a high risk and that more scrutiny and extensive reviews are required to ensure that Recovery Act funds are used appropriately. According to the State Auditor, subrecipient monitoring includes: (1) informing the subrecipient about the federal award information and applicable compliance requirements at the time of the award, (2) monitoring the subrecipient's use of federal awards through reporting, site visits, regular contact, or other means to provide reasonable assurance that the subrecipient administers federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved, and (3) auditing subrecipients to ensure that they are meeting audit requirements and are taking timely and appropriate corrective action on all audit findings. In North Carolina's 2007 Single Audit report, 5 of the 18 findings were related to insufficient subrecipient monitoring. Specifically, the State Auditor identified small rural localities that will be receiving Recovery Act funds as risk areas since the Recovery Act funding will have additional reporting requirements and these areas may not have sufficient financial staff to comply with the reporting requirements. The State Auditor notified the Director of OERI to ensure that the office was aware of any identified subrecipient monitoring weaknesses and the need for a sound subrecipient monitoring program.

North Carolina's State Auditor said that the weatherization program is an area that is considered a high risk and that more scrutiny is required to ensure that Recovery Act funds are used appropriately. Specifically, the State Auditor said that the weatherization program has an increased level of risk because it will receive significantly more funds than in prior years, and because the program's current staff capacity may not be able to oversee the tracking and monitoring of funds. According to North Carolina officials in charge of the weatherization program, the program recently lost its Director, and only three of its five staff positions are currently filled. Officials said that staff levels have not increased as a result of the Recovery Act funding; however, officials said that they plan to identify an external group that will assist with the monitoring and oversight of the Recovery Act funds. Furthermore, officials said that they plan to put in place a new process to ensure that work is done properly by reviewing weatherization work both before and after a job is done. However, officials acknowledged that while this is part of the plan, they currently do not have the funding or staff to do all of the training and monitoring that they would like to do. Furthermore, an OERI official expressed concern over the capacity of the community action agencies, which administer the weatherization program, to handle Recovery Act funding. According to an OERI official, the state has not looked at how well these agencies have been performing in a long time. OERI is planning to bring on contractors to assess the capability of these existing agencies.

North Carolina State and Local Government Finance Division officials said that each locality is required to submit an annual audit. Officials said that most audits usually identify some type of an error. However, localities that have material weaknesses or financial issues that are identified in the audit are put on a watch list. If the issues are not resolved by the next audit, they will remain on a watch list. Officials said that of 1,200 localities, there are approximately 80 on the watch list. Officials said that these are mainly small towns and approximately six counties, and that the list is growing due to the poor economy as it is hard for small towns to hire and keep trained staff members that have a finance background.

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## Plans to Assess Impact of Recovery Funds Are Being Developed

State and local agencies told us that they planned to comply with the Recovery Act requirement that they provide quarterly reports on jobs created and jobs retained,<sup>38</sup> but that they were still waiting for guidance. As described above, the Director of OERI issued a directive requiring state agencies to provide OERI with written confirmation by June 24, 2009, of their readiness for quarterly reporting on jobs created and saved to the federal government. In these reports, nearly all agencies reported that they understood the Recovery Act reporting requirements and would be ready to meet the quarterly reporting requirement starting on July 31, 2009. Agency officials with whom we spoke said that they would meet these requirements, and that in some cases they had begun planning how they would meet the requirements. For example, DPI is in the process of developing a Web site that districts can use to enter jobs created and jobs saved information. Officials from the Beaufort Public Housing Authority plan to review the contractor's payroll to determine the jobs created and sustained. However, agency officials told us that they were concerned about the lack of guidance on reporting on the impact of Recovery Act funds. Officials in the Governor's Crime Commission (GCC) told us that they were concerned that they did not yet have specific definitions of jobs created and retained from the federal government. They noted that the sooner they obtain this guidance on assessing the effectiveness of Recovery Act spending, the more quickly the agency can start taking the steps necessary to implement this requirement.

Officials from several state Recovery Act programs told us that they would be using state program performance measures to evaluate impact, but that they were not planning any additional evaluations. For example, ESEA Title I, Part A, officials told us that they would measure academic outcomes for schools receiving ESEA Title I, Part A, funds under the Recovery Act, but that there were no other impact evaluations for the Recovery Act funds. For SFSF, which was not a preexisting program, state officials said that the state may use its own performance measures.

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## State Comments on This Summary

We provided the Governor of North Carolina with a draft of this appendix on June 24, 2009. The Director of OERI responded for the Governor on June 26, 2009. In general, the comments were either technical or were status updates. These were incorporated as appropriate.

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<sup>38</sup>Recovery Act, div. A, titleXV, § 1512.

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## Staff Acknowledgments

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# Appendix XIV: Ohio

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> 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/>.

**Use of funds:** GAO's work focused on nine selected federal programs, selected primarily because they have begun disbursing funds to states, include new programs, or include existing programs receiving significant amounts of Recovery Act funds. Program funds are being targeted to help Ohio stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, Ohio had drawn down over \$711 million in increased FMAP grant awards, which is more than 85 percent of the over \$832 million received for the first three quarters of federal fiscal year 2009. Ohio is using funds made available as a result of the increased FMAP to off-set the state's budget deficit which allows the state to maintain Medicaid eligibility, attempt to avoid reductions in services, and to assist the state in responding to rapid program enrollment growth, which is currently almost 20,000 new enrollees per month. Officials also noted that the increased FMAP has allowed the state to retain the small population expansions that the state legislature authorized in 2008. These targeted expansions include pregnant women, foster care children, and disabled individuals returning to work.
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$935.7 million in Recovery Act funds to Ohio. As of June 25, 2009, \$384 million had been obligated for projects involving highway pavement, bridge, rail, and port improvements. For example, the Ohio Department of Transportation (ODOT) selected a project in Cuyahoga County to widen the ramp and replace the asphalt shoulders between two major interstate highways. Construction began on this project in early June 2009 and is expected to be completed by October 31, 2009.

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

- **State Fiscal Stabilization Fund (SFSF).** Ohio expects to receive \$1.79 billion in SFSF funds for state fiscal year 2010 and 2011 budgets. In the state's approved SFSF application to the U.S. Department of Education (Education), about 92.5 percent of Ohio's share of SFSF funds will go to education, including higher education, and 7.5 percent will go to other government services, such as the Department of Rehabilitation and Corrections.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded Ohio \$186.3 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$372.7 million. Ohio plans to make these funds available to local education agencies after the state budget passes, to help local districts build their long-term capacity to serve disadvantaged youth, for example, by providing professional development to teachers. For example, a Cleveland Municipal School District official said by using these funds, up to 200 teachers will be offered the opportunity to work full-time as mentors for students and professional development coaches for other teachers. These teachers must agree to retire or resign after 2 years, when the Recovery Act ends.
- **Individuals with Disabilities Education Act (IDEA), Part B & C.** Education has awarded Ohio \$232.8 million in Recovery Act IDEA, Part B & C, funds, or 50 percent of its total allocation of \$465.5 million. Ohio plans to make these funds available to local education agencies after the state budget passes, to support special education and related services for infants, toddlers, children, and youth with disabilities. Cleveland Municipal School District and Youngstown City School District officials told us that they plan to use Recovery Act IDEA funds to emphasize professional development because (1) the money would be well spent and (2) continuing funding commitments could be avoided.
- **Weatherization Assistance Program.** In March 2009, the U.S. Department of Energy (DOE) allocated about \$266.8 million for Ohio's Weatherization Assistance Program for a 3-year period. Based on information available on June 18, 2009, DOE has awarded Ohio approximately \$133.4 million and Ohio has obligated about \$20.3 million of these funds. Ohio plans to begin production activities in July 2009 to weatherize approximately 32,000 dwelling units. The Ohio Weatherization Training Center will train and certify weatherization contractors and inspectors.

- **Workforce Investment Act Youth Program.** The U.S. Department of Labor has allotted Ohio about \$56.2 million in Recovery Act funds for the Workforce Investment Act Youth program, and Ohio has reserved 15 percent of the funds for statewide activities. The Ohio Department of Job and Family Services set an overall target for local areas to spend 70 percent of the funds by October 31, 2009. While state officials said that last summer 479 youth were served statewide using Workforce Investment Act funds, local areas planned to serve 14,205 youth this summer with Workforce Investment Act Recovery Act funds.
- **Edward Byrne Memorial Justice Assistance grants (JAG).** The Department of Justice's Bureau of Justice Assistance has awarded about \$38 million directly to Ohio in Recovery Act funding. Based on information available as of June 30, 2009, none of these funds have been obligated by Ohio's Office of Criminal Justice Services, which administers these grants for the state.<sup>2</sup> Currently, Ohio is evaluating 540 local government project applications and expects to notify localities of their awards by July 31, 2009. Although OCJS is in the process of allocating state JAG funds to localities, some local awards directly from BJA have been made, according to officials at the City of Columbus Department of Public Safety. The City of Columbus is using \$1.2 million of Recovery Act JAG funds to pay the salaries, from March 2, 2009 through December 31, 2009, of 26 police cadets. From March through June, the City paid the cadet salaries from operating budgets and expects to be reimbursed from the allocation they share with Franklin County.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$128.3 million in Recovery Act funding to 52 public housing agencies in Ohio. GAO visited three of these public housing authorities—Columbus Metropolitan Housing Authority, Cuyahoga Metropolitan Housing Authority, and the London Metropolitan Housing Authority—which received capital fund formula grants totaling approximately \$44.3 million. These funds, which flow directly to public housing authorities, are being used for various capital improvements, including construction of new housing units, rehabilitation of long-standing vacant units, upgrading units to meet

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<sup>2</sup>Although we highlight one example in Columbus of Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments, we did not review these funds in this report because the Bureau of Justice Assistance's (BJA) solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

Americans with Disabilities Act standards, and replacing windows and doors. For example, the London Metropolitan Housing Authority plans to spend approximately \$153,000 to replace the roofs on multiple public housing buildings.

**Safeguarding and transparency:** Ohio is in the process of refining its internal control processes to ensure that it can track and report on Recovery Act funding in accordance with federal and state laws. First, Ohio has developed a centralized Web-based hub to collect financial data, performance metrics, and other information on Recovery Act programs in the state. Second, the state is restructuring its internal control processes to ensure greater accountability for federal and state funds, including Recovery Act funds. Third, the state has a new State Audit Committee that among other things, is working to ensure consistent and speedy response to audit findings.

**Assessing the effects of spending:** Ohio agencies are exploring ways to assess the impact of Recovery Act funds, but they continue to express concern about the lack of clear federal guidance. Some agencies are using existing federal program guidance on job creation, such as FHWA's Federal-Aid Highway Surface Transportation Program. Other agencies are waiting for additional guidance on how and what to measure to assess Recovery Act impact. Officials are concerned about how they are to assess jobs created and jobs saved. For example, ODOT officials told us that FHWA's guidance appears to provide only a monthly snapshot of employment information.

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## Use of Recovery Act Funds to Stabilize State Budgets

Ohio enacted its biennial budget for fiscal years 2008 through 2009. Since the budget passed, the state has revised it four times because of declining revenues and the continuing deterioration of the state's budget situation. State officials said that, by law, Ohio cannot carry a budget deficit; when revenue estimates decline, as they have since 2008, the state has to reduce spending or take other actions to bring the budget back into balance. From March through December 2008, Ohio reduced state agency budgets by about \$1.056 billion—or about 3 percent of the state share of the biennial budget. State officials said that most of the agencies have been able to absorb the reductions through administrative cuts, but there have been disruptions to services. For example, state funds sent to counties to administer federal programs, such as Temporary Assistance for Needy Families and Medicaid, were cut by 8.76 percent. For some counties, this resulted in layoffs or reductions in hours. In April 2009, the budget situation deteriorated further. Senior state budget officials told us that

they now face a revenue gap of over \$900 million. They are currently working with the legislature to close the gap and have identified about \$182 million in administrative actions to reduce spending. The Ohio Office of Budget and Management (OBM) asked state agencies to review all existing contracts to determine if any could be terminated. Of 4,330 contracts, the state issued stop work orders on 588, or 13.6 percent, of them. Ohio officials are in the final stages of approving a plan to take about \$730 million from the state's rainy-day fund to address the remaining shortfall.

Recovery Act funds were used to mitigate the effects of the December 2008 budget revision even before enactment of the Recovery Act. Revenue estimates had fallen 3.3 percent from what was forecast, and in December 2008, the Governor's budget office assumed that additional federal assistance would be forthcoming. By including funds made available as a result of the increased FMAP in the assumptions used to revise the budget, cuts to state agency budgets were less severe. Recovery Act funds have played a significant role in helping the state balance the budget for the next biennium as well. Recovery Act funds make up 4.9 percent of the estimated general revenues in the 2010-2011 biennial budget. For example, the state provides 2-year and 4-year public colleges and universities with state funding, in part, to help schools keep down the cost of tuition. In state fiscal year 2009, the state provided \$1.84 billion in state funds for this activity. The state plans to reduce state funding to about \$1.68 billion in 2010 and 2011 but will provide about \$309 million from the Recovery Act each year to make up the difference. Although state officials said they are concerned about what happens when Recovery Act dollars are no longer available, they have been focused on the coming biennium (2010-2011). These state officials said key legislators have queried state agency officials during budget deliberations about plans for the next biennium (2012-2013) when Recovery Act funds are not available. State budget officials said that if the economy does not improve and revenues do not increase, all options will be on the table for discussion and debate.

To implement the Office of Management and Budget's (OMB) guidance on state administrative costs, state officials plan to amend Ohio's statewide cost allocation plan (SWCAP) to allow for charge backs for costs associated with centralized services such as information technology, internal audits, and the Inspector General. To maximize the impact of Recovery Act resources in the state, OBM officials said that individual state agencies will not be able to charge administrative costs. OBM officials said they expect to charge about \$2 million in administrative

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costs—or about .025 percent of the total funds Ohio expects to receive from the Recovery Act.

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## Medicaid FMAP Funds

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>3</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>4</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, Ohio's Medicaid enrollment grew from 1,753,945 to 1,947,445, an increase of about 11 percent.<sup>5</sup> The increase was generally gradual over this period, with January 2009 to May 2009 showing a steady increase in enrollment. (See fig. 1.) Most of the increase in enrollment was attributable to the population group of children and families.

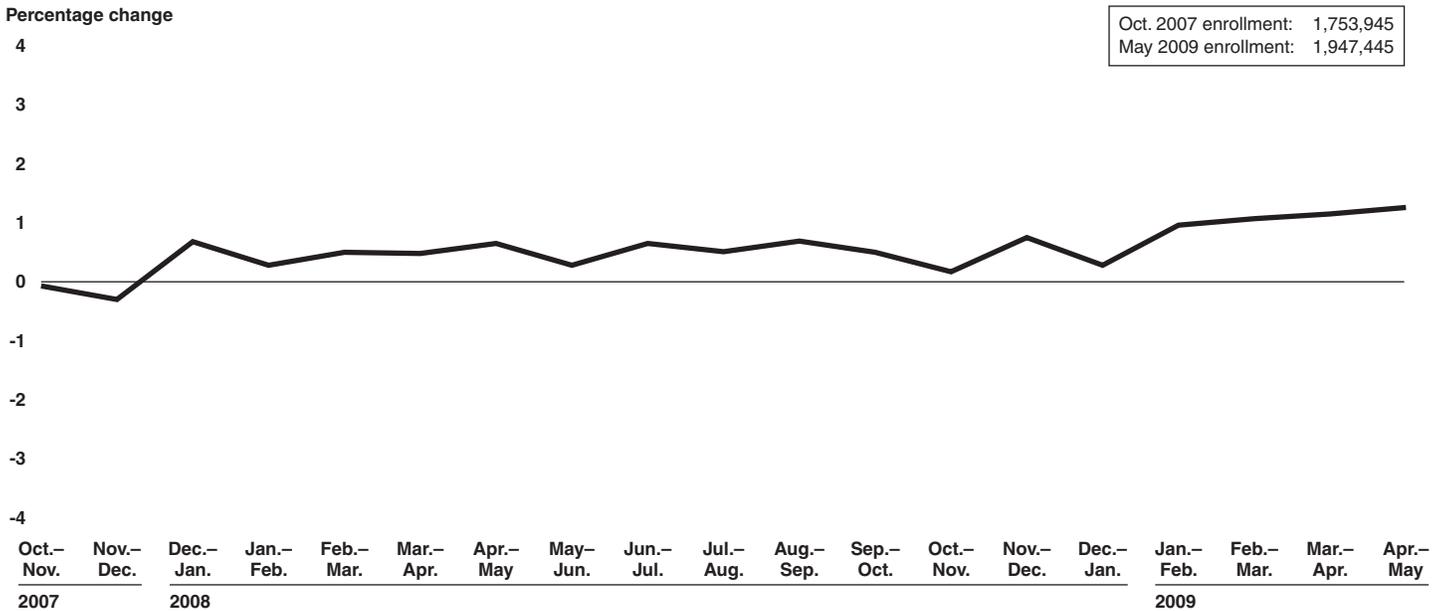
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<sup>3</sup>See Recovery Act, div. B, title V, § 5001.

<sup>4</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>5</sup>The state provided projected Medicaid enrollment data for May 2009.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Ohio, October 2007 to May 2009**



Source: GAO analysis of state reported data.  
 Note: State estimated enrollment for May 2009.

As of June 29, 2009, Ohio had drawn down over \$711 million in increased FMAP grant awards, which is more than 85 percent of its awards to date.<sup>6</sup> Ohio officials reported that the increased FMAP funds are credited to the state’s general revenue fund. Funds made available as a result of the increased FMAP will be used to offset the state budget deficit, allowing the state to maintain Medicaid eligibility, attempt to avoid reductions in services, and assist the state in responding to rapid program enrollment growth, which is currently about 20,000 new enrollees per month. Officials also noted that the increased FMAP has allowed the state to retain the small population expansions that the state legislature authorized in 2008. These targeted expansions include pregnant women, foster care children, and disabled individuals returning to work. In using the increased FMAP, Ohio officials reported that the Medicaid program has incurred additional costs related to

<sup>6</sup>Ohio received increased FMAP grant awards of over \$832 million for the first three quarters of federal fiscal year 2009.

- the development of new or adjustments to existing reporting systems or other information systems,
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP, and
- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP.

In addition, although state officials indicated that they did not have any current concerns about the state maintaining its eligibility for the increased FMAP, they noted that when they recently renewed a Medicaid demonstration waiver, they opted not to reduce the number of slots for eligible individuals because of concerns that this could affect the state's eligibility for increased FMAP.<sup>7</sup>

In terms of tracking increased FMAP funds, state officials indicated that Ohio developed unique accounting codes to identify increased FMAP funds and that it relies on existing systems to track these funds. To ensure the accuracy and completeness of the increased FMAP data, state officials manually record all federal draws related to the increased FMAP funds on a daily basis, which they then compare to the state's accounting system and the federal government's payment system. The officials reconcile any identified discrepancies on a monthly basis.

The 2007 Single Audit Act audit (Single Audit) report for Ohio identified two material weaknesses that affect the Medicaid program: (1) a lack of internal testing of automated controls for information systems used to record and process Medicaid eligibility and financial information and (2) untimely completion of modifications to the information system the state uses to determine Medicaid eligibility and benefits amounts.<sup>8,9</sup> In

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<sup>7</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, § 5001(f)(1)(A).

<sup>8</sup>The 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 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.

<sup>9</sup>According to a federal official, the statewide Single Audit for 2008 is scheduled to be completed in December 2009.

responding to the first audit finding, the state Medicaid program noted that it did not have the resources to test the automated controls for its information systems, and for the second finding, indicated that other programming issues were of a higher priority.<sup>10</sup> In an update to its corrective action plan, a Medicaid official acknowledged that the program continued to face budgetary constraints but would work with the state's Office of Internal Audit to review applicable systems and processes to comply with requirements. To address the second finding, state officials told us that they were planning to develop a new system for eligibility determinations. However, due to budget constraints, they could not initiate the project. Therefore, they continue to rely on the current eligibility system and are in the process of making corrective actions to address weakness identified in the 2007 audit.

The Auditor of State also issued a management letter to the JFS in connection with its 2007 single audit highlighting concerns, such as duplicate requests for prior authorization and the potential for overpayment of Medicaid claims, which it identified during its audit of the Medicaid program.<sup>11</sup> JFS officials indicated that findings identified in the management letter were reviewed and taken under advisement by the appropriate program or administrative area within JFS. However, a JFS official also said that JFS does not track corrective actions taken in response to management letters.<sup>12</sup>

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## Highway Infrastructure Investment

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 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 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

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<sup>10</sup>The Ohio Department of Job and Family Services (JFS) administers the state's Medicaid program.

<sup>11</sup>Ohio Department of Job & Family Services, "Management Letter for the Year Ended June 30, 2007," April 25, 2008, Columbus, Ohio.

<sup>12</sup>Neither Generally Accepted Government Auditing Standards nor OMB's Circular A-133 require management to respond to issues raised in management letters.

Act is up to 100 percent, while the federal share under the existing federal-aid highway program is generally 80 percent.

In March 2009, Ohio was apportioned \$935.7 million for highway infrastructure and other eligible projects. As of June 25, 2009, \$384 million had been obligated. The U.S. Department of Transportation has interpreted “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 agreement and the project agreement is executed. As of June 25, 2009, \$118,286 has been reimbursed to the state by the Federal Highway Administration (FHWA). States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

Ohio selected mostly highway pavement and bridge improvement projects to receive Recovery Act funding. Ohio selected projects that (1) could be quickly started, (2) had a high potential for maximizing job creation and retention, and (3) were located within economically distressed areas (EDA). According to FHWA data, more than a third of Ohio’s Recovery Act funds had been obligated as of June 25, 2009, were for pavement improvement projects. Table 1 shows obligations as of June 25, 2009, by highway project type.

**Table 1: Highway Obligations for Ohio by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total <sup>b</sup>
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$105	\$139	\$5	\$22	\$15	\$46	\$54	<b>\$384</b>
Percent of total obligations	27.3	36.1	1.2	5.7	3.8	11.9	13.9	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>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.

<sup>b</sup>Totals may not add to 100 due to rounding.

Of the first \$384 million obligated funds, \$139 million, or 36.1 percent, funded highway pavement improvement projects. Bridge improvements accounted for another \$46 million, or 11.9 percent, of the obligated funds.

The two Ohio projects we visited—in Cuyahoga County and Hancock County—were in the early construction process. The Cuyahoga project involves repaving the shoulders and widening the ramp between two major interstates. Construction began on this project in early June 2009 and is expected to be completed by October 31, 2009. The Hancock County project involved repairing and replacing concrete barriers along Interstate 75 and U.S. Route 68. As of June 11, 2009, the contractor had been selected and the project is to be completed by August 30, 2009.

As of June 25, 2009, Ohio had awarded 52 contracts valued at \$92.1 million. Generally, contract bids are coming in under the state's estimated cost. For example, the Ohio Department of Transportation's (ODOT) review of the bids for the first 17 Recovery Act projects found that bids are coming in about 8.0 percent under state estimates. According to ODOT officials, the bids are coming in under estimated costs because of the current economic situation. ODOT officials suspect that as construction season gets under way, contractors' workloads increase, and the economy improves, bids will no longer come in under estimates. At the Hancock County project we visited, we found that all three bids received were over the state's estimated amount. ODOT District 1 officials attributed the higher bid amounts to the increase in cost because of maintenance of traffic issues, like short-term lane closures affecting the cost of placing asphalt on the project.

The Recovery Act includes a number of specific requirements for highway infrastructure spending. First, the states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated<sup>13</sup> within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. As of June 25, 2009, Ohio had obligated \$338.9 million, or 51.7 percent of the \$654.9 million that is subject to the 50 percent rule, for the 120-day redistribution. To help ensure the state meets this requirement, ODOT reallocated \$119.0 million

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<sup>13</sup>The U.S. Department of Transportation has interpreted "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.

of the \$200.0 million of Recovery Act funding targeted for the Cleveland Innerbelt project to 53 additional projects. According to ODOT officials, these funds were reallocated to projects that could be started more quickly so that funds could be obligated by the June 29, 2009, deadline.

Ohio expects all but one of the transportation projects receiving Recovery Act funds to be completed within 3 years—the Cleveland Innerbelt Bridge project is the exception—and most will be in EDAs. The Cleveland Innerbelt Bridge is a major project that involves a 50-year-old bridge that is deteriorating faster than expected. It is estimated that it will take over 4 years to rebuild this bridge that will be used to carry westbound Interstate 90 traffic. ODOT told us that while the Innerbelt Bridge will take longer than 3 years to complete, Recovery Act funding would be spent in the first 3 years with state and other federal funds used in later years.

Of the 210 transportation projects identified by ODOT, 194, or about 92 percent, are located within EDA counties. As of June 25, 2009, \$357 million of the ODOT's Recovery Act highway infrastructure investment funds obligated has been for projects located within EDA counties. This is 93 percent of the \$384 million obligated. While targeting EDAs was a factor in project selection, it was not the only consideration. According to ODOT officials, 79 of Ohio's 88 counties are considered economically distressed as defined by Section 301 of the Public Works and Economic Development Act of 1965. Since nearly 90 percent of Ohio is considered to be economically distressed, selecting projects located in EDAs was not difficult. FHWA Ohio Division officials met with ODOT officials to discuss the steps to be taken to fulfill the requirements that priority be given ensure that priority is given to selecting projects in EDAs. While FHWA provided guidance to ODOT, it did not provide targets for what percentage of projects or project funding should be in EDAs.

The Recovery Act required the governor of each state to 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 planned to expend from state sources as of February 17, 2009, for the period

beginning on that date and extending through September 30, 2010.<sup>14</sup> In March 2009, the Governor of Ohio submitted the state's maintenance of effort (MOE) certification. As we reported in April, the state submitted conditional certifications and the U.S. Department of Transportation (DOT) informed us that it was reviewing these certifications to determine if they were consistent with the law.

On April 20, 2009, DOT informed states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave states the option of amending their original certifications. Ohio received a letter from DOT informing the Governor that the Ohio certification appeared to condition the MOE amount on future events or other matters. The letter noted that there was a possibility that Ohio may need to amend the certification amount because of the method it used to calculate the funding levels and advised Ohio to resubmit its certification. Ohio resubmitted its certification on May 21, 2009. Ohio's amended certification excludes all conditions and assumptions that could affect achieving funding levels. Further, Ohio changed its maintenance amount calculation from encumbered funds to a cash basis per FHWA guidance, resulting in changes to the amount of state spending for the covered transportation programs. According to DOT officials, the department is reviewing Ohio's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. DOT is currently validating whether the states' method of calculating the amounts they planned to expend for the covered program is in compliance with DOT guidance.

Even with DOT guidance and the amended certification, officials are unclear on what is required to meet the MOE requirement. More specifically, Ohio officials do not know whether the state must meet only the total MOE amount or whether it must meet the amount spent in each program. For example, if Ohio spends more in one transportation program than anticipated but less in other programs, and the overall amount spent equals or exceeds the total certified MOE amount, ODOT officials did not

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<sup>14</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

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know if that means the state has met its MOE requirement. On May 29, 2009, ODOT officials requested clarification from DOT on this issue but, as of June 25, 2009, had not received clarification.

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## State Fiscal Stabilization Fund

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include assurances that the state will meet MOE 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

Ohio submitted an amended application to Education on June 4, 2009, that was approved on June 10, 2009.<sup>15</sup> As of June 17, 2009, Ohio has received \$1.2 billion of its total \$1.79 billion in SFSF funds for its fiscal years 2010 and 2011 budgets. The state's SFSF application allocates 58.7 percent of the government services funds to state aid for IHEs. As a result, about 92.5 percent of Ohio's share of the SFSF will go to education, including higher education, and 7.5 percent to other government services, such as the Department of Rehabilitation and Corrections. The state is requiring local

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<sup>15</sup>Ohio's application provided assurance that the state will meet MOE requirements.

education agencies (LEA) to provide assurances to the state that, in spending their SFSF monies, the LEA will comply with the requirements of the Recovery Act. Ohio Department of Education officials told us that almost all of its LEAs had submitted their assurances for SFSF, and that upon passage of the budget, the state will be able to commit almost all of the SFSF monies for LEAs. Likewise, upon passage of the budget, the Ohio Board of Regents expects to commit to its public IHEs all SFSF monies appropriated in the budget to IHEs, amounting to about \$400 million each year for fiscal years 2010 and 2011.

The state plans to allocate the share of the education stabilization funds to school districts, charter schools, and public IHEs through formulas that are designed to allow the state to share in the operating costs of those institutions. For example, the state supports instruction at public IHEs to control the rising cost of tuition. The IHE share of the SFSF will contribute to the state share of instruction at those institutions. School district officials we spoke with said they were used to working with different federal funding streams and anticipated no challenges tracking and reporting on the uses of Recovery Act funds. These districts expected the funds to be appropriated by the state legislature for the 2009-2010 school year and to be available in July 2009. School district officials in Youngstown and Cleveland<sup>16</sup> said they had been given guidance from the Ohio Department of Education (ODE) that mirrored the guidance of Education on the use of funds. In contrast, officials with the IHEs we visited said they received written notification the week of June 1, 2009, that SFSF funds would require separate tracking and reporting. A senior official with Ohio's Board of Regents said the board has issued initial guidance on allowable uses of funds and how to track and report on the use of the funds, and this guidance will be updated based on future federal guidance. Officials at the IHEs we visited also did not anticipate challenges tracking and reporting on the uses of Recovery Act funds.

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## ESEA Title I, Part A, and IDEA, Part B and C, Funding

Ohio's schools are receiving Recovery Act funding under both Title I, Part A of the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act (IDEA), Part B and C. The following describes each program.

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<sup>16</sup>GAO visited the Cleveland Municipal School District and the Youngstown City School District because both were among the top 10 districts in the state in terms of ESEA Title I appropriations and both had schools in improvement status.

**ESEA Title I, Part A.** 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 their fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010.<sup>17</sup> Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' ESEA Title I, Part A funding available on April 1, 2009, with Ohio receiving \$186.3 million of its approximately \$372.7 million total allocation.

**IDEA, Parts B and C:** The Recovery Act provided supplemental funding for programs authorized by Parts B and C of IDEA, the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure that preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit applications to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

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<sup>17</sup>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 all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

Education allocated the first half of states' IDEA allocations on April 1, 2009, with Ohio receiving a total of \$232.8 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was

- \$6.7 million for Part B preschool grants;
- \$218.9 million for Part B grants to states for school-aged children and youth; and
- \$7.2 million for Part C grants to infants, toddlers, and families.

Although LEAs cannot spend funds until the state's biennial budget passes, ODE has provided LEAs with allocation amounts under ESEA, Title I, Part A and IDEA Part B to allow them to plan for the use of funds for the upcoming school year. These funds will be available as soon as the budget passes.

Each year, LEAs must complete and submit grant applications to outline their plans for the use of their formula grants before funds are released to them. The electronic consolidated application is maintained within ODE's e-grant system and contains information on all formula-driven grants, such as regular ESEA, Title I, Part A and IDEA Part B grants. This year, an additional application, a Recovery Act consolidated application, was created to maintain the formula-driven grants appropriated under the Recovery Act, such as the Recovery Act ESEA Title I and IDEA grants. As of June 30, 2009, ODE officials identified that 214 LEAs had substantially approvable applications for Title I, Part A, and these districts will receive \$102.6 million or 27.5 percent of the state's total allocation, upon passage of the state's budget. For IDEA Part B grants to school-age children and youth, 229 LEAs had substantially approvable applications, and these districts will receive \$113.0 million of the state's total allocation for that program.

According to state officials, as part of the Recovery Act consolidated applications, ODE included guidance intended to help LEAs think through opportunities and options for spending Recovery Act funds. Earlier, ODE issued guidance on allowable uses of IDEA Recovery Act funds, spending parameters, and additional information on use of Recovery Act funds intended for children with disabilities.

Officials of both school districts we visited, in Youngstown and Cleveland, said that they still needed more information on restrictions and reporting,

but they said that the state had provided helpful communication and guidance to date. One of Cleveland's uses of ESEA Title I funds will be a program in which up to 200 teachers will be offered the opportunity to be paid with Recovery Act ESEA Title I funds to work full-time as mentors for students and professional development coaches for other teachers. As part of receiving these funds, these teachers must agree to retire or resign after 2 years, when the Recovery Act funding ends. When the program ends, the district says that the employee departures will help mitigate a projected budget shortfall. Youngstown City School District was in the preliminary planning stages at the time of our interview, but provided several potential uses for funds, many aimed at increasing use of technology in the classroom, engaging parents, and providing professional development for teachers.

Similarly, officials' preliminary plans for IDEA Part B funds emphasized professional development, both because they thought that money spent on professional development efforts would be money well spent, and because professional development programs can avoid continuing funding commitments for LEAs, by hiring individuals on a temporary basis or offering training or reference materials to teachers that represent a onetime cost. Cleveland officials expressed concerns about purchasing additional assistive technology, because they believed that they have been meeting students' needs under IDEA and wanted to avoid offering students "super IEPs" (individualized education programs). A senior school district official said that the district wanted to be careful not to begin embedding various enhancements in IEPs that had not been deemed necessary and appropriate until now, and further, would be concerned with how the district would maintain those enhancements after Recovery Act resources are gone. According to ODE officials, LEAs are waiting to receive more guidance from Education on potential flexibility in the use of funds under both ESEA Title I and IDEA, given the significant increase in funds that Recovery Act represents. IDEA Part C is administered through the Ohio Department of Health, and the Bureau Chief for the IDEA Part C program said that his agency was still in the planning phase for specific uses of these funds and was seeking specific guidance from Education regarding several options.

ODE is considering asking Education for a number of waivers, including one for the requirement that districts spend an amount equal to at least 20 percent of their ESEA Title I, Part A, subpart 2, allocation for providing supplemental educational services and transportation for school choice. Supplemental educational services may include tutoring and after-school services, but ODE is concerned that increasing such offerings for the

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limited time that Recovery Act funds will be available might not yield high-quality services. Also, to give LEAs more time to spend the increased funds under ESEA Title I, ODE is also considering requesting that Education waive the requirement that LEAs carry over no more than 15 percent of ESEA Title I funds any year, but apply the waiver exclusively to the Recovery Act funds.

Officials in both districts we visited expressed confidence that they could report and track Recovery Act funds separately and report on impacts to the state, although officials in both said they are considering hiring an employee to oversee and coordinate Recovery Act spending. Separately, Ohio LEAs also must report monthly to the Auditor of State on uses of Recovery Act funds. ODE's Office of Internal Audits plans to perform various tests specific to the Recovery Act funding, including testing the accuracy, integrity, and completeness of fiscal and program data from the LEAs. The Bureau Chief for the IDEA Part C program said that he saw no problems at the state level with tracking funds separately, and that the agency will work with subgrantees that have varying abilities to manage the tracking of multiple funding sources. According to this official, the Ohio Department of Health has had regular conference calls with potential subgrantees, and has planned a webinar during which officials will present in detail these components.

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## Weatherization Assistance Program

The Recovery Act appropriated \$5.0 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>18</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225.0 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

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<sup>18</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

DOE allocates weatherization funds among the states and the District of Columbia using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

In March 2009, DOE allocated to Ohio approximately \$266.8 million in funding for the Recovery Act Weatherization Assistance Program for a 3-year period. The Ohio Department of Development (ODOD) is responsible for administering the program and will disburse funds directly to 34 grantees that currently provide weatherization services. ODOD received a Funding Opportunity Announcement on March 12, 2009, and submitted its funding application on March 23, 2009. On March 27, 2009, DOE provided the initial 10 percent allocation (approximately \$26.7 million) to Ohio. ODOD used available guidance and several conference calls with DOE to develop a state plan to implement the program, which it submitted to DOE on May 12, 2009. As of June 18, 2009, ODOD has obligated about \$20.3 million of its initial funding to 32 grantees and the Ohio Weatherization Training Center. On the same day, DOE announced its approval of the state plan, and awarded Ohio the next 40 percent (approximately \$106.7 million) of its allocated funds.

ODOD anticipates receiving a total of approximately \$266.8 million. It plans to allocate approximately \$260.3 million of the total funding for local weatherization agency providers and other contracts, approximately \$3.2 million for the operation of the Ohio Weatherization Training Center to provide training and technical assistance, and approximately \$3.3 million for additional costs, including administration, travel, materials and supplies, equipment, and other indirect costs. An ODOD official explained that these providers will "ramp up" with activities, such as hiring additional staff and purchasing equipment and materials, because the initial allocation cannot be used for production activities. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans.

An ODOD official also noted that prevailing wage guidance is unclear. The official noted that several weatherization-specific positions are hard to define based upon current wage/job definitions. ODOD officials also stated that additional inspectors and contractors will be trained and certified at the Ohio Weatherization Training Center, which operates five training facilities throughout the state. An ODOD official stated that the 40 percent allocation (approximately \$106.7 million) will be used for production activities, planned to begin in July 2009. As stated in the Ohio plan, ODOD's goals include reducing energy usage by at least 634,000 MBtus and weatherizing approximately 32,000 dwelling units.

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## WIA Youth Program

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low-income in-school and out-of-school youth ages 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the U.S. Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act, the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth.<sup>19</sup> Summer employment may 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. Work experience may be provided at public

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<sup>19</sup>H.R. Conf. Rep. No. 111-16, at 448 (2009).

sector, private sector, or non-profit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>20</sup>

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. 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 JFS official. For our review of the summer youth employment activities, we visited four counties—Franklin, Licking, Montgomery, and Union. We selected these counties to give us a mix of population sizes and of recent experience operating summer youth programs.

Ohio received \$56.2 million in Recovery Act funds for the WIA Youth program and reserved 15 percent for statewide activities.<sup>21</sup> JFS did not set a target amount to be spent on summer youth employment activities. However, JFS did 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 their local area or, eventually, the state, according to JFS. Local officials in one of the four counties we visited expressed concerns about their ability to meet the state's expenditure rate targets.

Statewide, as a result of receiving the Recovery Act funds, local officials have projected serving more youth than were served last summer by WIA or through other funding sources. While state officials report that Ohio served 479 youth statewide using WIA funds last summer, local areas planned to serve 14,205 youth statewide this summer, according to the most recent amendments to their plans. Beyond the WIA Youth program, several local areas in Ohio had operated separate summer youth employment activities last year funded through other non-WIA sources. JFS could not provide information on the number of youth served through

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<sup>20</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies.

<sup>21</sup>Ohio intends to use its statewide funds—\$8.7 million—to fund two special youth initiatives, one with projects beginning between September 1, 2009, and December 10, 2009, and the other during the summer.

these other programs. However, two of the four local areas we visited had operated such activities, and both expect to serve many more youth this year given the Recovery Act funds. For example, Franklin County expects to serve 2,500 youth this year—twice the number it served last year using other funding sources.<sup>22</sup> State and local officials have made progress in getting key pieces in place, and while state officials are generally optimistic about their ability to meet their targets, it may be too soon to know whether they are on track. At the time of our visits to the four counties, they were enrolling youth or determining their eligibility/evaluating applications.

The counties we visited were using their Recovery Act funds for providing work experience, and some were combining it with occupational skills or other academic training. Most had initial sessions that included work readiness training, employer screening, and, in three of the four sites we visited—Franklin, Montgomery, and Union—financial literacy training. For example, Franklin County has arranged for a local bank to help participating youth set up bank accounts into which their paychecks will be automatically deposited. Youth will receive debit cards to access their account and will receive basic financial counseling. Work sites ranged from community colleges, public schools, and community action agencies to hospitals and rural electric cooperatives. Green jobs were available in all local areas we visited, but officials were not always clear on what constituted a green job. The jobs they cited included natural resource conservation, an automotive fuel technology project at a university, as well as jobs in energy efficiency and weatherization.

County officials that we met with in Ohio are developing their own work readiness assessment tool. For example, Union County is developing an approach that would use a blend of available instruments, and would ask youth specific questions about their own work preparedness and about how they might respond in certain hypothetical work situations. Montgomery County officials had not yet determined what approach they would be using at the time of our visit and reported that developing a work readiness measure was one of their greatest challenges.

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<sup>22</sup>Franklin County had previously used a combination of city funds, WIA and Temporary Assistance for Needy Families (TANF), but expects to receive very little in TANF funding this year for the program because of budget cuts. Their projections for this year include a combination of city and county funds and those from the Recovery Act.

Regarding monitoring of employment activities, JFS will use an approach similar to what it has used in the past, but it will monitor more frequently, according to officials. JFS plans to complete risk assessments to guide its monitoring efforts and plans to make at least one on-site visit each month to each local area. At the local level, the programs we visited were all planning to monitor work sites.

Although we heard positive comments about the expanded summer youth activities, implementing such an effort in a short period of time presented challenges. The nature of some of the challenges that local areas faced depended, in part, upon whether they had recent experience operating stand-alone work experience activities. Two local areas we visited—Licking and Union Counties—had to build the activities from the ground up and had to quickly make some basic decisions: how to structure the activities, how to recruit work sites and participants, and whether to use vendors or whether to administer the activities in-house. However, two other areas—Franklin and Montgomery Counties—had well-developed summer youth employment programs. While these areas already had some of these basic structures in place, they had to quickly expand their existing activities.

Across the local areas we visited, staff were challenged to address the needs of the growing number of youth they needed to serve. Expected increases in enrollments are leaving local areas' staff and facilities stretched thin. To address this challenge, some counties are reassigning employees from other programs to work on the WIA Recovery Act summer youth employment activities, and in one county to possibly avert layoffs because of budget cuts in other areas. Montgomery County arranged for additional staff for the summer by using a temporary placement agency. To help increase its capacity and outreach, Franklin County will be using a mobile unit and local library branches to provide employment services.

Although finding eligible youth was not cited as a challenge, the counties we visited were concerned about being able to quickly ensure that the large number of applicants was screened and that they had the documentation requirements (including proof of family income) for WIA's eligibility criteria. To address this issue, Franklin and Montgomery Counties are using an online portal for youth to input eligibility information and do initial prescreening.

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## The Edward Byrne Memorial Justice Assistance Grant

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>23</sup> The total JAG allocation for Ohio state and local governments under the Recovery Act is about \$61.6 million, a significant increase from the previous fiscal year 2008 allocation of about \$4.7 million.

As of June 30, 2009, Ohio had received its full state award of about \$38 million, and is in the process of evaluating applications of proposed projects submitted by state and local entities; no funds have been obligated or expended.<sup>24</sup> These applications were due on May 1, 2009, and 540 were received by that date, according to the Office of Criminal Justice Services (OCJS), the state administering agency.<sup>25</sup> OCJS plans to notify subrecipients of their awards by July 31, 2009, and approved projects will begin from August 1, 2009, through December 31, 2010.<sup>26</sup> In making the grant award, BJA imposed a special condition that prevents Ohio from obligating, expending, or drawing down funds under the award until OCJS submitted all delinquent reports for grants funded by the Office of Justice Programs, which it did, and on June 15, 2009, BJA removed the special condition of the grant award.

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<sup>23</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>24</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

<sup>25</sup>Ohio received about 1,200 letters of intent (project proposals without applications) through the <http://www.recovery.ohio.gov/> Web site through the end of April 2009.

<sup>26</sup>According to an OCJS official, OCJS does not have to seek any additional appropriations before spending its funds; authority is granted in its biennial budget.

OCJS sets the priorities for how the state's JAG funding is awarded. Staff work with local planners to learn the justice issues in the state, and the office has issue area expert groups who are also knowledgeable about localities and crime issues. In addition, the Statistical Analysis Center in OCJS looks at crime trends and patterns. According to Ohio's application for state funding, funding priorities for JAG funds are based on the state's current nine purpose areas: law enforcement, prevention and education, corrections and community corrections, prosecution, court and victim services, research, evaluation, technology improvement, and JAG law enforcement programs.

OCJS's selection criteria for specific projects to be funded with its JAG funds include the project's potential for creating and preserving jobs; potential for stimulating the economy; and capability to separately track, account for, and report on the funds. In addition, OCJS is looking at past successful programs and using those models to help make funding decisions. The office also will strive to fund projects in areas with high populations, historically depressed regions, and Appalachia. OCJS plans to use 10 percent of the federal funds for administrative costs, in particular to fund positions to monitor local projects' compliance with state and federal guidelines. OCJS is currently discussing with the Governor's office whether state agencies will be receiving any of the state's pass-through funds, given the number of funding requests from localities.<sup>27</sup>

Although OCJS is in the process of allocating state JAG funds to localities, some local awards directly from BJA have been made, according to officials at the City of Columbus Department of Public Safety. The City of Columbus is using \$1.2 million of Recovery Act funds to pay the salaries, from March 2, 2009 through December 31, 2009, of 26 police cadets.<sup>28</sup> However, if an income tax increase in Columbus is not passed by voters in

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<sup>27</sup>JAG required that states pass through a formula-based share of funds to local entities within the state; however, state administering agencies may chose to fund projects that will be administered by the state but directly benefit local government if affected local entities agree to the projects.

<sup>28</sup>The \$1.2 million is part of about \$4.2 million in Recovery Act local JAG funds that went to Franklin County, who passes a portion of the funds to the City of Columbus per an interlocal agreement. Franklin County received the funds in June; at the end of June, the City of Columbus will make a claim for reimbursement for the cadet salaries it paid between March and June 2009. The cadet salaries were initially paid from operating budgets, according to an official at the Columbus Department of Public Safety.

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August, the cadets face probable layoffs after December 2009, according to an official at the Columbus Department of Public Safety.

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## Public Housing Capital Fund

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>29</sup> 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 they are made available for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already under way or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>30</sup>

Ohio has 52 public housing agencies that have received Recovery Act formula grant awards. In total, these agencies received approximately \$128.3 million in Public Housing Capital Fund grant awards. As of June 20, 2009, the state's public housing agencies have obligated approximately \$8.1 million and have expended \$794,847. GAO visited three public housing agencies in Ohio: the Columbus Metropolitan Housing Authority, Cuyahoga Metropolitan Housing Authority, and London Metropolitan Housing Authority. The Columbus Metropolitan Housing Authority was

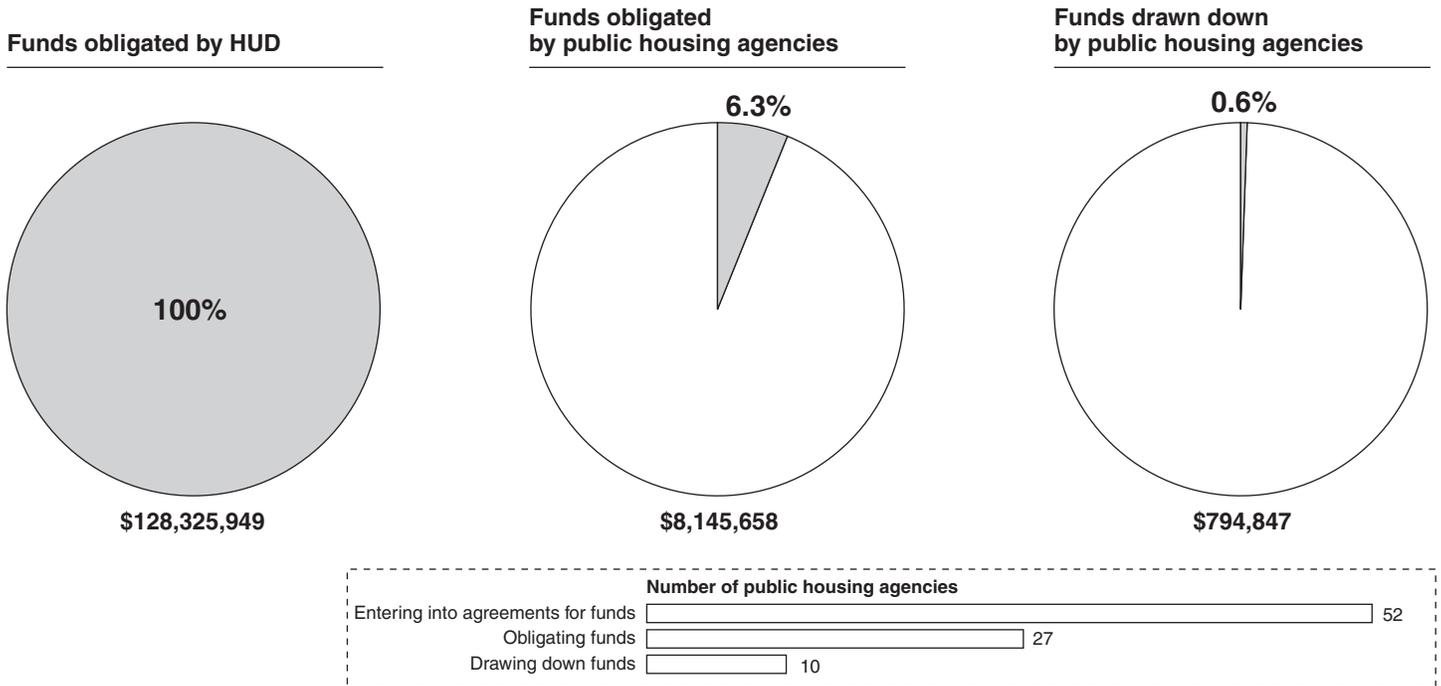
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<sup>29</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>30</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application and to funding limits.

selected to continue our Recovery Act longitudinal study of that organization. We selected the Cuyahoga Metropolitan Housing Authority because it is a large public housing agency and it received the largest fund allocation in Ohio. Finally, we selected the London Metropolitan Housing Authority because it is a small public housing agency and was one of the first agencies to draw down Recovery Act funds. Figure 2 shows the funds allocated by HUD that have been obligated and drawn down by Ohio public housing agencies.

**Figure 2: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Ohio**



Source: GAO analysis of HUD data.

The three public housing agencies that we visited in Ohio received capital fund formula grants totaling approximately \$44.3 million. As of June 20, 2009, these public housing agencies had obligated about \$1.9 million, or 4.3 percent of the total award. The Cuyahoga Metropolitan Housing Authority had obligated approximately \$1.5 million in Recovery Act funds and had drawn down \$239,028 for architect fees. The London Metropolitan Housing Authority had also drawn down \$9,375 for architect fees and expected to draw down an additional \$80,000 in June 2009 to purchase construction materials. The Columbus Metropolitan Housing Authority had not drawn down any funds because it was still in the process of completing required

environmental reviews for each of its projects and had not received any invoices for services provided by the architecture and engineering firms that it contracted with for the initial design work on Recovery Act-funded projects. The Columbus Metropolitan Housing Authority expected to make its first drawdown in June 2009.

The three public housing agencies that we visited are funding 16 different projects with the Public Housing Capital Fund grant awards. They include major projects, such as the construction of new public housing, rehabilitation of long-standing vacant housing units, and upgrading units to meet the Americans with Disabilities Act standards, to more basic household improvements, such as kitchen and bathroom renovations, window and door replacements, new flooring, and new furnace installations. The projects range in cost from a \$12 million mixed financing community redevelopment initiative being pursued by the Cuyahoga Metropolitan Housing Authority to a multibuilding roof replacement project of approximately \$153,000 at the London Metropolitan Housing Authority. More than 1,300 housing units will be directly improved through the projects that these three public housing agencies are pursuing, which include the construction of 192 new public housing units and the renovation of 161 long-standing vacant units. In addition, 1,495 public housing units will benefit from several roof replacement projects to be completed with Recovery Act funds. The London Metropolitan Housing Authority's roof replacement project is one of the first projects to begin construction, with an expected start date of June 2009. All 16 projects will be under construction by January 2010, and 12 of the projects are expected to be complete by December 2010.

All three public housing agencies bid and awarded initial design work to architecture and engineering firms for many of the projects within the first 120 days after the Recovery Act funding was made available in March 2009. The Columbus Metropolitan Housing Authority awarded contracts for its initial engineering design work in April 2009. The Cuyahoga Metropolitan Housing Authority will competitively award specific work orders for projects, but chose to expedite its design work, using architecture and engineering firms that already have indefinite delivery, indefinite quantity contracts with the agency. Both the Cuyahoga Metropolitan Housing Authority and the London Metropolitan Housing Authority are using Recovery Act funds for projects already included in their respective capital fund program 5-year action plans. The Columbus Metropolitan Housing Authority chose projects that were not originally in its 5-year capital fund plan and has submitted a revised capital fund program 5-year action plan to HUD that incorporates these projects. A

London Metropolitan Housing Authority official explained that the first phase of the roof replacement project, which is currently in the 5-year plan, was already under way. Taking into consideration the accelerated requirement to obligate and expend Recovery Act funds<sup>31</sup> and the condition of the roofs on the housing units, the London Metropolitan Housing Authority chose to accelerate the remaining phases of the roof renovation project with Recovery Act funds. Anticipating the passage of the Recovery Act, the Columbus Metropolitan Housing Authority began planning its projects in December 2008, focusing on rehabilitating housing units. Neither the Columbus Metropolitan Housing Authority nor the London Metropolitan Housing Authority gave priority to vacant units because these agencies do not have long-standing vacancies. In contrast, the Cuyahoga Metropolitan Housing Authority is funding a vacancy reduction project, which will renovate approximately 157 long-standing vacant units.<sup>32</sup>

None of the three public housing agencies identified any problems in accessing, obligating, or expending Recovery Act funds. While Recovery Act funds have accelerated obligation and expenditure time frames, none of the public housing agencies was concerned about meeting them because each agency selected its projects to meet the accelerated time frames. For example, the Columbus Metropolitan Housing Authority chose projects that could start quickly and would have the greatest impact on the agency's housing stock. One public housing official was unaware of HUD's reporting requirements under the Recovery Act, but planned to adhere to any future guidance on reporting the use of Recovery Act funds. Officials had received some guidance from HUD regarding the current competitive grant process. Two of the three public housing agencies we visited are planning to apply for the competitive grant to fund additional capital projects.

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<sup>31</sup>The Recovery Act requires public housing authorities to obligate all Recovery Act funds within 1 year, expend at least 60 percent within 2 years, and expend all the funds within 3 years, in contrast to regularly appropriated public housing capital funds, which must be obligated within 2 years and expended within 4 years.

<sup>32</sup>The budgeted numbers used for the vacancy reduction were projected costs. When bids are received for this work, and if the costs exceed the budgeted amounts, the balance will be supplemented with Public Housing Capital Fund Program funds or funds will be reprogrammed within the line items under the Recovery Act budget. Also, another four long-standing vacant housing units are being renovated as part of a separate Recovery Act-funded project that is upgrading units to meet Americans with Disabilities Act standards.

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## Safeguards and Internal Controls

Ohio is in the process of refining its internal control processes to help ensure that it can track and report on Recovery Act funding in accordance with federal and state laws. First, Ohio has developed a centralized Web-based hub to collect financial data, performance metrics, and other information on Recovery Act programs in the state. Second, the state is in the process of restructuring its internal control processes to provide greater accountability for federal and state funds, including Recovery Act funds. Third, the state has a new Audit Committee that among other things, is working to facilitate consistent and speedy response to audit findings.

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## Tracking and Reporting on Recovery Act Funds

According to an Office of Budget and Management (OBM) official, Ohio has nearly completed development of a centralized reporting system for Recovery Act programs that allows state agencies to submit information electronically via a Web-based portal. This portal, designed to store both qualitative and quantitative data, will serve as the source for reports required by the federal government and will be populated with financial information from the Ohio Administrative Knowledge System (OAKS) by June 2009. OAKS is Ohio's official book of record and is used by state agencies and state-supported colleges and universities to process and capture information about financial transactions.

The OBM lead programmer told us that OBM plans to have most programs in the portal by the end of June 2009 and plans to produce the first report in July 2009. While state officials anticipate that additional modifications will be necessary in order to produce the section 1512 reports mandated by the Recovery Act,<sup>33</sup> these officials said they would be able to comply with federal specifications, when they are promulgated, in time to produce the first reports by the statutory reporting deadline of October 10, 2009.

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## Internal Control Processes

Ohio has made strides in refining its internal control processes to accommodate the Recovery Act funds. Internal controls help program managers achieve desired results through effective stewardship of public resources. The Committee of Sponsoring Organizations of the Treadway Commission's (COSO) standards for internal control include five key elements: control environment, risk assessment, control activities,

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<sup>33</sup>Recovery Act, div. A, title XV, § 1512.

information and communications, and monitoring.<sup>34</sup> These standards apply to the programmatic, financial, and compliance aspects of agencies' operations.

- **Control environment:** At the statewide level, OBM has made strides to develop a strong control environment for Recovery Act funds. A series of guidance on establishing a framework for managing these funds is available on OBM's Web site. OBM issued its first set of guidance on February 27, 2009, instructing state agencies to supply information on timelines to apply for Recovery Act funding. The most recent set of guidance, the eighth, dated May 4, 2009, dealt with procurement policies.
- **Risk assessment:** OBM issued guidance on risk assessment in March 2009, highlighting the significance of risk mitigation strategies that all state agencies should have in place to ensure that management controls are operating effectively to identify and prevent wasteful spending and minimize waste, fraud, and abuse. The new Office of Internal Audit (OIA) is working with state agencies to develop and evaluate these risk assessments. Based on these agency risk assessments, OIA told us that they were developing an oversight strategy that the office will present to the Audit Committee.
- **Control activities and monitoring:** There are a number of oversight bodies in Ohio with responsibility for monitoring Recovery Act-funded projects. For example, the state recently appointed a deputy inspector general who would be responsible for overseeing and monitoring state agencies' distribution of Recovery Act funds, reviewing contracts associated with projects paid for by Recovery Act funds, and investigating all wrongful acts or omissions committed by officers or employees of, or contractors with, state agencies. The Auditor of State is also developing plans to assess the safeguards in place at state agencies for tracking and accounting for Recovery Act funds.

Most major programs undergo a compliance review by the Auditor of State each year; smaller programs are also reviewed but less frequently. Very small programs are not always captured in the Auditor of State's annual compliance reviews. For example, the Weatherization Assistance Program has been very small in the last few years.

However, Ohio has been allocated more than \$266.0 million from the

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<sup>34</sup>COSO, Internal Control - Integrated Framework, 1992 and 1994.

Recovery Act, and the program's internal controls have not been reviewed for more than 10 years.

When federal funds are passed through to subrecipients and contractors, state agencies are responsible for overseeing these funds, and in some cases, the controls necessary to monitor subrecipients are not in place. For example, Ohio's JFS oversees the Medicaid program, Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, and WIA program. Our analysis of the Single Audit report findings for fiscal year 2007 found frequent citations of problems with operations at the local JFS offices. In one recent case, the Auditor of State declared a local workforce investment board "unauditable," but JFS officials responsible for overseeing the fiscal operations of the department were not aware of the status of this subrecipient until we brought it to their attention. JFS then contacted the Auditor of State to get additional information and the subrecipient to identify corrective actions. On the other hand, according to an official at ODE, it monitors school districts, charter schools, and other grantees and monitors subrecipient drawdowns, performance metrics, and financial and compliance audits.

Some Recovery Act funds do not go through the state at all but are provided directly to subunits of governments, public housing authorities, and other grantees. The Auditor of State is also responsible for financial and compliance audits for these subunits of government. It has (1) developed a Web-based tool for subunits of government to report in real-time the amount of Recovery Act funding the government has received, (2) planned outreach and training for JFS and local governments and joint training programs for school districts with ODE on Recovery Act requirements; and (3) issued additional guidance for its auditees on how to track and report on Recovery Act spending.

- **Information and communication:** The Web-based portal described earlier will be the central depository for all information related to Recovery Act spending. Quantitative and qualitative information on each Recovery Act funded program will be available on this portal. Financial information from the state's financial accounting system will feed directly to the portal, and performance metrics, state agency assurances, and other information will be linked to the Web page for each program. Program managers, auditors, and GAO will have access to this information on a real-time basis.

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Officials in OBM's OIA told us that they will present their audit plan for fiscal year 2010 to the state's Audit Committee on June 30, 2009. In its plan, OIA will provide details about how it intends to monitor the internal control processes.

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## State Audit Committee

The State of Ohio established its Audit Committee in November 2007. The committee assists the Governor and Director of OBM in fulfilling their oversight responsibilities in the areas of financial reporting, internal controls and risk assessment, audit processes, and compliance with laws, rules, and regulations. OBM's OIA assists the Audit Committee with its responsibilities by furnishing it with analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed, and by promoting effective control at a reasonable cost. The committee must meet at least four times annually. Among the responsibilities of the committee is to provide a forum to discuss the status of audit resolution.

The Auditor of State is the constitutional officer in Ohio responsible for auditing all public offices in the state, including state agencies, boards, commissions, cities, villages, schools, universities, counties, and townships. Among other duties, the Auditor of State's office prepares and reports on the statewide Single Audit for Ohio.<sup>35</sup> The State of Ohio's fiscal year ends on June 30; therefore, its Single Audit report is due by March 31 the following year (9 months after fiscal year-end). However, Ohio has requested and was granted a 9-month extension to submit its statewide Single Audit report; as a result, the fiscal year 2008 Single Audit report will not be submitted until December 31, 2009. According to OBM, the fiscal year 2008 statewide Single Audit report is delayed because state agencies, as well as OBM's financial reporting accountants, are constructing financial statements from OAKS (a new financial accounting system) for the first time.

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<sup>35</sup>The Single Audit Act, 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 have a Single Audit conducted for that year subject to applicable requirements, which are generally set out in the 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.

Findings relevant to federal programs managed by state agencies are included in the statewide Single Audit report and the related state agency management letters. It is the responsibility of management in each state agency to implement corrective actions to resolve these findings.

- According to an ODE official, audit coordinators with ODE will notify program offices of Single Audit report findings and any questioned costs associated with LEAs to obtain additional information for determining the validity of the claim, and work with various program offices to go over improvement plans and determine if refunds are necessary. ODE will use these Single Audit report results in developing risk assessments for its subrecipient monitoring process.
- At the Ohio Department of Transportation (ODOT), audit staff run several database queries at the beginning of the year to identify a complete list of all subrecipients for that year. Then they obtain and review Single Audit reports to identify material weaknesses and significant deficiencies. Based on this review, ODOT prepares a report summarizing the Single Audit report and management letter findings. These reports are reviewed by the Audit Administrator and ODOT management. ODOT uses Single Audit report results as one of the factors in determining whether a grantee receives a desk review or a site visit.

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## Assessing the Impact of Recovery Act Funds

As recipients of Recovery Act funds and as partners with the federal government in achieving Recovery Act goals, states and local units of government are expected to invest Recovery Act funds with a high level of transparency and to be held accountable for results under the Recovery Act. As a means of implementing that goal, guidance has been issued and will continue to be issued to federal agencies, as well as to direct recipients of funding. To date, the Office of Management and Budget (OMB) has issued three broad sets of guidance to the heads of federal departments and agencies for implementing and managing activities enacted under the Recovery Act. OMB has also issued detailed proposed standard data elements that will be required for recipients to report their use of Recovery Act funds.<sup>36</sup>

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<sup>36</sup>In response to requests for more guidance on the recipient reporting process and required data, OMB-in consultation with a broad range of stakeholders-issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009.

Recipients of Recovery Act funds must report the total amount of recovery funds received from each federal agency and the amount obligated or expended on the projects or activities. Recipient reports must also include a list of all projects and activities for which Recovery Act funds were obligated or expended, including the name and description of the project or activity, an evaluation of its completion status, the estimated number of jobs created and the number of jobs retained by the project or activity, and information on any subcontracts by the recipient, as specified in the Recovery Act.<sup>37</sup> Ohio OBM officials told us that the emphasis on measuring the impact of Recovery Act funding has focused, thus far, on job creation. However, they noted that without comprehensive guidance on what federal agencies want reported, states will struggle to assess impact on some of these other outcomes. In Ohio, some state and local agencies are using existing federal program guidance or performance measures to evaluate impact, particularly for ongoing programs, such as FHWA's Federal-Aid Highway Surface Transportation Program. Other agencies are waiting for additional guidance on how and what to measure to assess impact.

While some Ohio agencies are waiting for guidance, others are proceeding on their own. For example, officials of Ohio's JFS responsible for the summer youth program under WIA as well as officials from ODE responsible for ESEA Title I and IDEA programs told us they had not yet received any specific guidance on measuring jobs created or preserved. Further, officials from the London Public Housing Authority appeared unaware of the requirements to track Recovery Act funding and assess its impact. They told us that they are awaiting guidance from HUD on performance measures and metrics and assume they will manually collect the data.

In planning to dispense Edward Byrne Memorial Justice Assistance grants, the Office of Criminal Justice Services (OCJS) has advised potential grant recipients to be prepared to track and report on the specific outcomes and benefits attributable to use of Recovery Act funds. However, the specific performance reporting requirements are not yet known. OCJS is waiting for guidance from OMB as well as performance measures being developed by the federal Bureau of Justice Assistance.

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<sup>37</sup>Recovery Act, div. A, title XV, § 1512.

Officials from the Columbus Metropolitan Housing Authority told us that they plan to track the number of jobs created and preserved by including these performance measures in contracts, requiring the prime contractor and subcontractors to report these data to the housing authority for recording in a spreadsheet. However, neither a reporting format nor guidance had been provided by HUD to help the housing authority determine what steps it needs to take. Officials stated that they will use two existing performance measures already being reported to HUD—direct employment and business opportunities resulting from activities to those receiving HUD financial assistance and participation of minority business enterprises in general contractor and subcontractor awards. Cuyahoga Metropolitan Housing Authority officials told us that they have retained the services of a private vendor to track and report on jobs created and retained with Recovery Act funding based on analyses of construction-related items and contractor records.

At ODOT, officials told us that they are following FHWA-provided guidance designed to satisfy the Recovery Act reporting requirement that states collect and analyze certain employment data for each funded contract. ODOT requires contractors and subcontractors to complete the Monthly Employment Report (Form FHWA 1589). By contract, the contractors and subcontractors must report monthly direct on-the-project jobs for their workforces and the workforces of their subcontractors active during the reporting month. Contractors electronically report employment data to ODOT using the Contract Management System. In turn, ODOT reports the employment data to FHWA using the Monthly Summary Employment Report (Form FHWA 1587). However, ODOT officials are concerned about how to assess jobs created and jobs retained through use of Recovery Act funds. Based on federal calculations for transportation investment, ODOT officials estimated that 21,257 jobs would be created or retained through the transportation projects funded by the Recovery Act funding. While contractors are required to collect payroll data at the subcontractor level, determining the total number of jobs created may be a challenge because the numbers of employees on any transportation project vary day to day depending on the work planned for that day.

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## State Comments on This Summary

We provided the Governor of Ohio with a draft of this appendix on June 19, 2009, and representatives of the Governor's office responded on June 22, 2009.

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In general, they agreed with our draft and provide some clarifying information, which we incorporated. The officials also provided technical suggestions that were incorporated, as appropriate.

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## GAO Contacts

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## Staff Acknowledgments

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# Appendix XV: Pennsylvania

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## Overview

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

**Use of funds:** GAO's work focused on nine federal programs, selected primarily because they have begun disbursing funds to states, include new programs, or include existing programs receiving significant amounts of Recovery Act funds or a significant increase in funding. Program funds are being directed to help Pennsylvania stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, Pennsylvania has received nearly \$1.1 billion in increased FMAP grant awards, of which it has drawn down just over \$957 million. This is over 87 percent of the awards to date. Pennsylvania is planning to use the funds made available as a result of the increased FMAP to cover the state's increased Medicaid caseload, ensure that prompt payment requirements are met, maintain current populations and benefits, and offset the state budget deficit.<sup>2</sup>
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$1.026 billion in Recovery Act funds to Pennsylvania, of which 30 percent was required to be suballocated to metropolitan and other areas. As of June 25, 2009, the federal government had obligated \$729 million, and Pennsylvania had advertised for bids on \$754 million. For example, one project in Bedford County is a bridge rehabilitation that is expected to begin in mid-July 2009 and be completed by November 2009. A transportation enhancement project in Chester County to construct and upgrade over 1,000 access ramps for people

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

with disabilities began in May 2009 and is expected to be completed in May 2010. Pennsylvania plans to use Recovery Act funds for 242 projects mainly for bridge rehabilitation and roadway resurfacing. This includes work on approximately 400 bridges, about 100 of which are structurally deficient.

- **U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF).** As of June 30, 2009, Pennsylvania had not yet received its initial allocation of \$1.3 billion of its total \$1.9 billion allocation for SFSF. The Governor submitted a preliminary application to Education for initial funding on April 24, 2009, and submitted a final application on June 26, 2009. Pennsylvania will file an amended application thereafter, if necessary, based on the education provisions of the final fiscal year 2009-10 budget. According to state officials, the Governor's budget proposes to use the SFSF funds to increase education spending for school districts, whereas the Pennsylvania Senate has passed a bill to use the SFSF funds to hold education funding level. Local school districts will be uncertain about the SFSF funding until Pennsylvania adopts its budget for the fiscal year beginning July 1, 2009.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded Pennsylvania \$200 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$400 million. Of these funds Pennsylvania has allocated \$385 million to state local education agencies, based on information available as of June 30, 2009. Pennsylvania plans to make these funds available to local education agencies on or after July 1, 2009, to help educate disadvantaged youth. For example, the School District of Philadelphia plans to use the funds to provide a 4-week summer school program and to increase the number of school counselors, and the Harrisburg School District will use the funds to avoid teacher layoffs.
- **Individuals with Disabilities Education Act (IDEA), Part B & C.** Education has awarded \$228 million in Recovery Act IDEA, Part B & C, funds, or 50 percent of its total allocation of \$456 million. Of these funds, Pennsylvania has allocated \$408 million to local education agencies, based on information as of June 26, 2009. Pennsylvania plans to make these funds available to local education agencies on or after July 1, 2009, to support special education and related services for children and youth with disabilities. For example, the School District of Philadelphia plans to fund teacher professional development and hire coaches to help special education teachers.

- **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 had provided Pennsylvania with its initial 10 percent allocation of funds for this program (approximately \$25 million), and Pennsylvania had obligated none of these funds as of June 30, 2009. Pennsylvania plans to begin disbursing its Recovery Act funds in July 2009 to weatherize at least 29,700 houses and create an estimated 940 jobs.
- **Workforce Investment Act Youth program.** The U.S. Department of Labor allotted about \$40.6 million to Pennsylvania in Workforce Investment Act Youth Recovery Act funds. Pennsylvania has allocated \$34.6 million to local workforce boards, but only 40 percent of the allocations were available for the local boards to spend before July 1, 2009; state officials expect the balance to be available on or after July 1 when they expect Pennsylvania to enact its state budget. The workforce boards' summer youth programs are set to begin operating in early July. Workforce boards in Pennsylvania plan to use 70 to 90 percent of Recovery Act funds under this program by September 30, 2009, to create about 8,700 summer jobs for their youth.
- **Edward Byrne Memorial Justice Assistance grants.** The Department of Justice's Bureau of Justice Assistance has awarded \$45.5 million directly to Pennsylvania in Recovery Act funding. As of June 30, 2009, none of these funds had been obligated by the Pennsylvania Commission on Crime and Delinquency, which administers these grants for the state.<sup>3</sup> The commission issued the first in a series of requests for proposals on June 18, 2009. The commission plans to use its state grant funds to fund initiatives such as criminal records improvement, data management focusing on technology, assistance with local criminal justice strategic planning, data collection and program evaluation, gun violence reduction, and mental health programs.
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$212 million in Recovery Act funding to 82 public housing agencies in Pennsylvania. Based on information available as of June 20, 2009, about \$5.8 million (2.7 percent) had been obligated by 42 of those agencies. At the two

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<sup>3</sup>We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

housing authorities we visited (in Harrisburg and Philadelphia), this money, which flows directly to public housing authorities, will be used for various capital improvements, including rehabilitating vacant housing units and, to a lesser extent, constructing new units, upgrading electrical and mechanical systems to meet building codes, and installing energy-efficient equipment.

**Safeguarding and transparency:** Pennsylvania will take several actions to safeguard Recovery Act funds and ensure transparency. It will use its existing integrated accounting system to track Recovery Act funds flowing through the state government. In June 2009, the Bureau of Audits completed its risk assessment of about 90 programs receiving Recovery Act funds and designated each program as high, medium, or low risk. The bureau also plans to focus attention on resolving Single Audit report findings and reducing the number of repeat findings. Agencies will be required to report quarterly on the status of corrective actions for Single Audit report findings, and the first quarterly reports will be due in October 2009. The Pennsylvania Stimulus Oversight Commission, chaired by the Chief Accountability Officer, holds public meetings to discuss progress on implementing Recovery Act programs. Pennsylvania's Auditor General also anticipates work auditing and investigating Recovery Act funds received by state and local agencies.

**Assessing the effects of spending:** Pennsylvania's Chief Accountability Officer is responsible for developing and using performance measures to demonstrate outcomes associated with Recovery Act spending and projects. Pennsylvania agencies continue to express concern about the lack of federal guidance on assessing the results of Recovery Act spending. Both state and local officials said they are awaiting further guidance from the federal government, particularly related to additional performance measures they may have to track.

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## Recovery Act Funding Will Help Minimize Reductions in Essential Services and Need for Tax Increases, but Work Remains to Balance the Budget

Budget officials have indicated that Recovery Act funding will help Pennsylvania narrow its estimated \$3.2 billion budget gap for state fiscal year 2008-09, but lower-than-expected revenue collections have complicated efforts to balance the budget. The Pennsylvania Department of Revenue reported that as of June 1, 2009, general fund revenues collected were \$2.8 billion—or 10.9 percent—less than estimated for fiscal year 2008-09. In addition, the Secretary of the Budget reported mandatory cost increases of \$421 million across 2008-09 (\$145 million) and 2009-10 (\$276 million) because of increased demand for services during the recession. Further, the Secretary of the Budget notified the General Assembly that her office does not expect revenues to grow next fiscal year, which may contribute to a budget gap—where anticipated expenditures are greater than anticipated revenues—in fiscal year 2009-10.<sup>4</sup>

While Recovery Act funds are expected to minimize reductions in essential services and the need for state tax increases, additional actions have been taken and proposed to reduce Pennsylvania's budget gap in state fiscal year 2008-09 and balance the fiscal year 2009-10 budget. The Governor instituted several measures to reduce the budget gap in state fiscal year 2008-09, including prohibiting out-of-state travel by state employees, reducing the state's contributions to the employees' health care fund, and freezing hiring. As we reported in April, the Governor also proposed to cut spending by more than \$500 million and to draw \$250 million from Pennsylvania's Rainy Day Fund to help avoid further cuts in fiscal year 2008-09. The Governor has also proposed several actions to balance the state's budget in fiscal year 2009-10, including eliminating 2,995 authorized positions, reducing the general fund budget by 8.8 percent for all areas other than education, public welfare, corrections, and probation and parole; and lowering spending by approximately \$1 billion by reducing funding for 346 programs and eliminating funding for 101 other programs. The Governor has further proposed increasing revenue by raising the cigarette tax 10 cents per pack, levying a tax on other tobacco products, and transferring lease payments from natural gas production to the general fund. In addition, the Governor has proposed using \$375 million of the Rainy Day Fund in fiscal year 2009-10, leaving a balance of \$128 million.<sup>5</sup> In June 2009, the Governor announced additional actions to balance the fiscal year 2009-10 budget, including temporarily increasing the state's

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<sup>4</sup>Pennsylvania's state fiscal year begins on July 1 and ends on June 30.

<sup>5</sup>As of February 2009, Pennsylvania's Rainy Day Fund balance was \$753 million.

personal income tax rate from 3.07 to 3.57 percent and cutting an additional \$500 million across state agencies.

The extent to which the infusion of Recovery Act funds will contribute to Pennsylvania's fiscal stability is difficult to assess at this time in part because the General Assembly has not appropriated federal Recovery Act funds for state use. Under Pennsylvania law, federal funds must, in general, be appropriated by the General Assembly.<sup>6</sup> The Governor submitted a supplemental budget request to begin spending some Recovery Act funds in fiscal year 2008-09, but the General Assembly had not passed the supplemental appropriations bill as of June 30, 2009. For fiscal year 2009-10, the Senate has passed an appropriations bill—Senate Bill 850<sup>7</sup>—that differs substantially in some key respects from the Governor's proposed budget.<sup>8</sup> The Governor's proposed budget and the Senate bill differ on issues such as targeted taxes to increase revenues, the use of Pennsylvania's Rainy Day Fund, and education funding (discussed below). As of June 30, 2009, the General Assembly had not passed and the Governor had not signed a budget for fiscal year 2009-10, which begins July 1, 2009.

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. 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, implementing \$1 billion in systemic budget cuts to control out-year spending, emphasizing onetime uses of funds where possible, and requiring agencies to use limited-term positions when hiring individuals using Recovery Act funds. State budget officials acknowledged that Pennsylvania may need to make additional cuts or consider revenue enhancements depending on how quickly the economy improves.

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<sup>6</sup>72 Pa. Cons. Stat. § 4615.

<sup>7</sup>S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

<sup>8</sup>According to the Secretary of the Budget, Senate Bill 850 was based on a projected 2008-09 budget shortfall of \$2.9 billion and assumed 1 percent growth in revenues. Based on her analysis, this budget proposal would result in a shortfall of \$1.5 billion.

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## Increased FMAP Funds Have Allowed Pennsylvania to Avoid Medicaid Program Reductions

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>9</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>10</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, Pennsylvania's Medicaid enrollment grew from 1,908,983 to 2,020,553, an increase of about 6 percent.<sup>11</sup> Increases in enrollment varied during this period. (See fig. 1.) Most of the increase in enrollment was attributable to the population groups of disabled individuals and children and families.

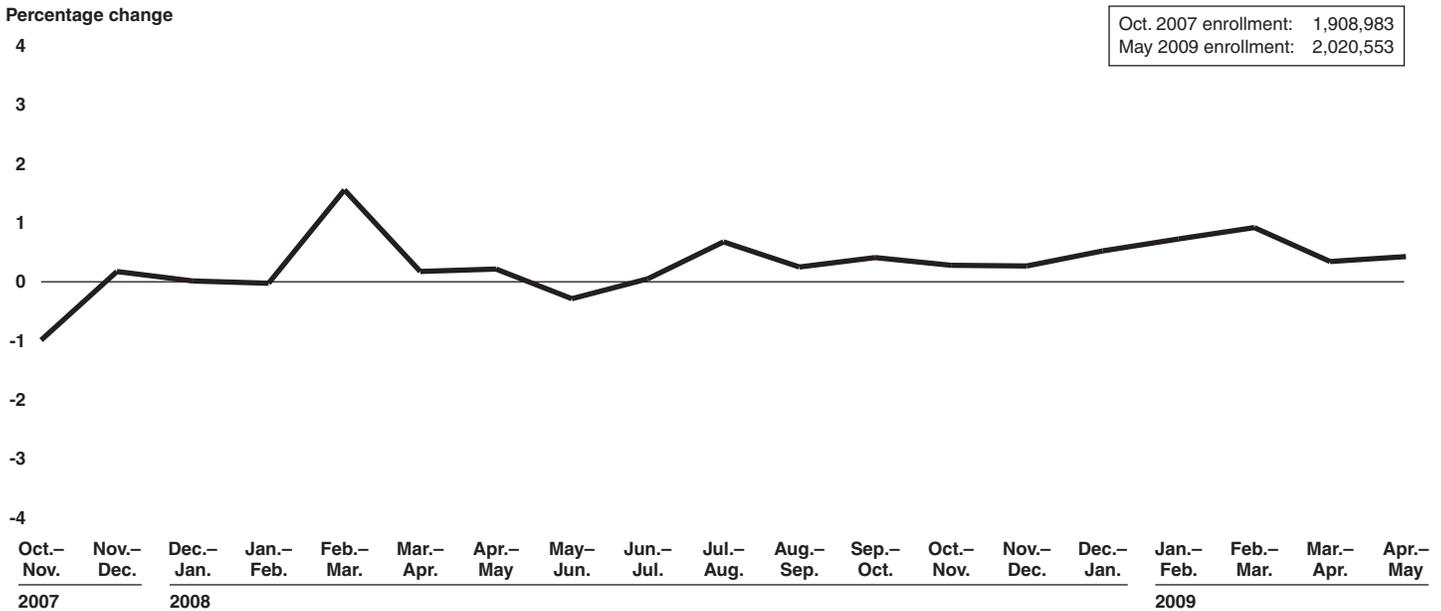
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<sup>9</sup>See Recovery Act, div. B, title V, § 5001.

<sup>10</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>11</sup>The state provided projected Medicaid enrollment data for May 2009.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Pennsylvania, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Pennsylvania had drawn down just over \$957 million in increased FMAP grant awards, which is over 87 percent of its awards to date.<sup>12</sup> Pennsylvania officials reported that they are planning to use the funds made available as a result of the increased FMAP to offset the state budget deficit, cover the state’s increased Medicaid caseload, ensure that prompt payment requirements are met, and maintain current populations and benefits, pending state approval to do so.<sup>13</sup> Pennsylvania officials also noted that given the decline in state revenues, program cuts in Medicaid would have been inevitable as the state faced a \$2.3 billion dollar gap

<sup>12</sup>Pennsylvania received increased FMAP grant awards of nearly \$1.1 billion for the first three quarters of federal fiscal year 2009.

<sup>13</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

between revenues and spending as of December 2008.<sup>14</sup> Officials added that the increased FMAP has allowed the state to maintain its Medicaid program. In the absence of these funds, officials noted that Pennsylvania would have seen a substantial reduction in funding for a number of programs because of declining state revenue. In using the increased FMAP, Pennsylvania officials reported that the Medicaid program has incurred additional costs related to development of new or adjustments to existing reporting systems or other information technology systems.

When asked about concerns related to maintaining eligibility for increased FMAP, state officials indicated that they have proceeded with caution with respect to making any programmatic changes that could be perceived as affecting eligibility.<sup>15</sup> For example, the state issued operational guidelines to codify the amount of time allowed for Medicaid applicants to provide documentation of citizenship, but chose to rescind them out of concern that it could be viewed as limiting eligibility. Similarly, the officials noted that they have asked CMS for clarification on its interpretation of maintenance of eligibility requirements as they relate to Medicaid service definitions under waiver programs and prior authorization requirements. Until CMS provides answers to specific questions, the state will not take any related actions out of concern that doing so could risk its eligibility for increased FMAP.

Regarding the tracking of increased FMAP, state officials indicated that the state will rely on existing accounting systems with unique account code structures, one of which is specific to increased FMAP, to track these funds. The officials also noted that they rely on the state's claims processing system, PROMISE (Provider Reimbursement and Operations Management Information System) to ensure that filed claims meet the Medicaid requirement for allowable expenditures. The officials added that the Bureau of Program Integrity also provides oversight by identifying and reviewing potential fraud, abuse, and wasteful practices by providers of medical assistance services. In addition, as part of the state's oversight of stimulus funding, the state's Office of the Comptroller will be conducting independent reviews of the Medicaid program. In addition, the 2007 Single

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<sup>14</sup>As of June 2009, the estimated shortfall is \$3.2 billion.

<sup>15</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid programs on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

Audit report<sup>16</sup> for Pennsylvania identified a number of material weaknesses related to the Medicaid program. The state generally agreed with the material weaknesses that were identified, and in some cases, specified the corrective actions it undertook to address them. Specifically, state officials noted that they have been aggressively addressing the issue of documentation of eligibility determinations through training and information technology enhancements and have undertaken efforts to ensure that eligibility determinations are standard, automated, and more routine in nature. In addition, state officials said that the inaccurate reporting of \$217 million was the result of an incorrect journal entry that occurred when the state moved to an accrual basis of accounting.

## More Than Half of Pennsylvania's Highway Funds Have Been Obligated, and Most Recovery Act Funds Will Be Used for Bridges and Roadway Resurfacing

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 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 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 June 25, 2009, \$729 million had been obligated. The U.S. Department of Transportation 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 and the project agreement is executed. As of June 25, 2009, \$3.4 million had been reimbursed by FHWA. States request reimbursement

<sup>16</sup>The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or non-profit 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 (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.

from FHWA as the states make payments to contractors working on approved projects.

Pennsylvania has also begun to award contracts and start work. As of June 26, 2009, Pennsylvania had awarded contracts for 149 projects representing about \$349 million. Of these, 118 contracts representing about \$250 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 74 projects by the end of August 2009. A department official noted that bids had been opened on 168 of 242 projects, leaving bids for 74 projects to be opened. PennDOT officials expect all work to be completed on the 242 Recovery Act projects within 3 years of the date the Recovery Act was enacted.

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### Pennsylvania Will Use Recovery Act Funds for Bridges and Resurfacing Needs, and Bid Amounts Have Been Less Than Estimated

Pennsylvania selected projects that can be awarded quickly and focused on bridge deficiencies and roadway pavement needs (resurfacing). FHWA data show that as of June 25, 2009, most of the Recovery Act funds for Pennsylvania have been obligated for pavement improvements and bridges; lesser amounts have been obligated for other projects, such as transportation enhancements. (See table 1 for the amount of funds obligated by project type.) We looked at two projects: a bridge rehabilitation project in Bedford County and a transportation enhancement project to construct and upgrade over 1,000 access ramps for people with disabilities in Chester County. The Bedford project had not yet begun, but the Chester project began design work in May 2009. PennDOT officials said the Bedford project would begin in July 2009 and be completed by November 2009. The Chester project is expected to be completed by May 2010. Pennsylvania has a need for bridge projects. In September 2008, we reported that about 26 percent of bridges in Pennsylvania (about 5,800 bridges out of 22,325) were structurally deficient—a reflection of the state’s consistently poor bridge conditions.<sup>17</sup> Recovery Act funds will be used to support work on approximately 400 bridges, about 100 of which are structurally deficient.

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<sup>17</sup>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).

**Table 1: Highway Obligations for Pennsylvania by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects				Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
	\$0	\$285	\$9	\$0	\$28	\$209	\$198	<b>\$729</b>
Percent of total obligations	0	39.1	1.2	0	3.8	28.7	27.2	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

According to PennDOT, bids for Recovery Act highway and bridge projects have been less than estimated. As of June 26, 2009, total bid amounts were 14.6 percent (or about \$69 million) less than original project cost estimates. PennDOT officials attributed this to the economic downturn, which has made contractors eager for the work. Department officials were reluctant to predict whether this bidding environment may continue and instead are using certain measures, such as the number of bidders, to monitor the bidding climate. Since the bidding climate can change quickly, PennDOT and FHWA officials told us that it is too early to change project cost estimating practices. FHWA officials told us that bidding is tracked over time and procedures used to develop cost estimates will eventually reflect any change in the bid climate.

**Pennsylvania Expects to Meet All Recovery Act Requirements for Highway Funds, but Its Maintenance of Effort Calculation Is under Review**

The Recovery Act includes a number of specific requirements for highway infrastructure spending. First, states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.<sup>18</sup> 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

<sup>18</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway programs, FHWA assesses the ability of each state to obligate its apportioned funds by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing the authority for some states to obligate funds and increasing the authority of other states.

metropolitan, regional, and local use. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. As of June 25, 2009, 66.9 percent of the \$719 million in Recovery Act funds that are subject to the 50 percent rule for the 120-day redistribution had been obligated. PennDOT stated that it plans to meet the requirement of the law in order to take advantage of any additional funds that FHWA may not be able to obligate for other states.

Second, the Recovery Act requires states to give priority to projects that can be completed within 3 years and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended. Pennsylvania expects to have all of its 242 Recovery Act projects completed within 3 years. However, PennDOT officials acknowledged that their first priority was not selecting projects that could be completed within 3 years but rather getting projects out quickly to spur employment. This focus was consistent with guidance provided by PennDOT to its planning partners in advance of the Recovery Act advising them to develop lists of candidate projects that focused on system preservation and could be advanced within 6 months of the signing of the legislation. A PennDOT official told us that some of the planning partners accelerated this to 3 months. PennDOT officials said they were following the direction of the U.S. Department of Transportation, which had urged states and metropolitan planning organizations to be ready to approve projects literally within hours after the Recovery Act was signed.

As of June 26, 2009, \$325 million had been obligated for projects in EDAs located in Pennsylvania. All EDAs in Pennsylvania except for one (Mifflin County) had Recovery Act highway projects selected and all non-EDAs in Pennsylvania except for one (Elk County) also had Recovery Act projects selected. PennDOT officials said the one EDA did not have projects selected because it did not have “shovel-ready projects.” PennDOT officials said both counties had projects selected in the regular—that is, non-Recovery Act—Federal-Aid Highway Program. PennDOT officials acknowledged that projects were selected before they had received EDA guidance from the U.S. Department of Transportation in late February 2009. After receiving the guidance, which largely left compliance up to the states, PennDOT revisited its project selections and decided to make no changes. Options were considered, including taking projects away from non-EDAs and awarding projects to EDAs. However, a decision was made to “stay the course” since this was believed to provide the greatest potential to provide jobs in an expeditious manner. FHWA officials told us that they reviewed Pennsylvania’s selection of projects and were

comfortable that Pennsylvania made a good faith effort to comply with giving priority to selecting Recovery Act projects in EDAs.

Finally, the Recovery Act required the Governor of each state to 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010. On March 17, 2009, the Governor of Pennsylvania submitted a certification that the state would maintain its level of transportation spending as required by the Recovery Act. However, the certification letter contained an explanation that the spending estimates were based on the best information available at the time of the letter. On April 20, 2009, the U.S. Secretary of Transportation informed Pennsylvania that its certification did not comply with section 1201 or implementing guidelines. The Secretary provided additional guidance on preparing the certification as well as an opportunity for Pennsylvania to review and amend its original certification by May 22, 2009. The state submitted an amended certification letter on May 20, 2009. According to U.S. Department of Transportation officials, the department reviewed Pennsylvania's resubmitted certification letter and concluded that the form of the certification was consistent with the additional guidance.

PennDOT officials noted that the amended level of effort certification removed the original condition statement and recalculated planned state spending on covered programs on the expenditure basis, not the obligation basis, as required by the additional federal guidance. PennDOT faced several challenges in recalculating its level of effort, such as the lack of a cash flow model for expenditures, the use of projected figures for three different state fiscal years, and the impact of a possible reduction of current financial support for Pennsylvania's transportation programs from the Pennsylvania Turnpike Commission. The recalculation resulted in the total planned state spending on the covered transportation programs increasing by \$6 million (\$2.195 billion in the amended certification compared with \$2.189 billion in the original certification). The U.S. Department of Transportation is currently evaluating whether the states' methods of calculating the amounts that they planned to expend for the covered programs are in compliance with Transportation's guidance.

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## Funding Available for Education Remains Uncertain Until Pennsylvania Adopts Its Budget

As part of our review of Recovery Act education funding, we looked at three programs administered by the U.S. Department of Education (Education): the State Fiscal Stabilization Fund (SFSF); Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA); and the Individuals with Disabilities Education Act (IDEA), Part B & C. We met with Pennsylvania Department of Education officials and visited two school districts—Harrisburg School District and School District of Philadelphia. We selected these districts because they are to receive some of the largest ESEA Title I, Part A, Recovery Act suballocations within Pennsylvania and have a number of schools in improvement status.<sup>19</sup> The Harrisburg School District has an approximate student enrollment of 8,000. The School District of Philadelphia is the eighth largest school district in the nation and represents about 9 percent of the entire student population in the state. The approximate population of the School District of Philadelphia is 173,000.

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.<sup>20</sup> State officials said that for the 2008-09 school year, Pennsylvania enacted a new school funding formula with "adequacy targets" for each school district. The formula is based on the actual enrollments, numbers of low-income students and English as a second language-learners, the size of the school district, and regional cost differences. For fiscal year 2009-10, the Governor's application for SFSF funds proposes 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 proposes 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.<sup>21</sup> The Senate bill provides about \$5.2 billion in

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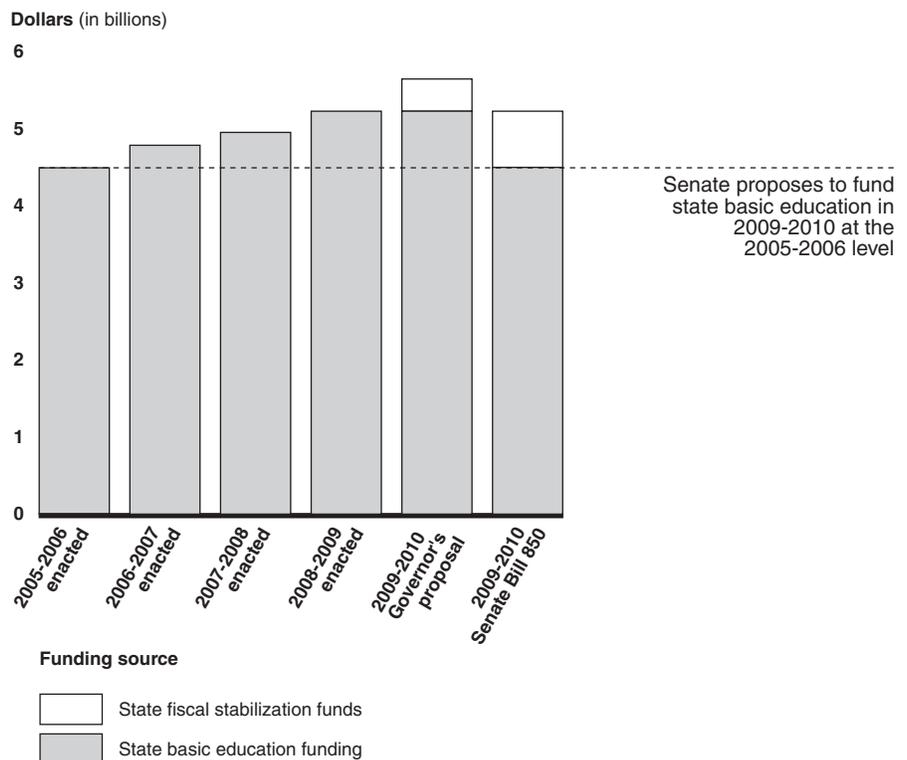
<sup>19</sup>ESEA Title I, Part A requires states accepting funds to, among other things, develop academic standards and tests, measure student proficiency in certain grades and subjects, and determine whether schools are meeting proficiency goals. Schools that fail to meet state academic goals for 2 or more years are to be identified for improvement and are required to take a series of actions intended to improve student performance.

<sup>20</sup>According to state education officials, local schools districts may obligate ESEA Title I, Part A and IDEA Recovery Act funds as soon as their applications are received in an approvable form.

<sup>21</sup>S.B. 850, Gen Assembly of 2009, Reg. Sess. (PA 2009).

state basic education funding to school districts. As shown in figure 2, school districts would get the same funding for 2009-10 school year that they had during 2008-09 school year under Senate Bill 850, but school districts would receive an increase in funding under the Governor’s budget.

**Figure 2: Pennsylvania Governor’s Budget and State Senate Bill 850’s Proposed Use of Recovery Act Education Stabilization Funds for the 2009-10 School Year**



Source: State budget documents and proposed budgets.

### School Districts Are Uncertain of State Fiscal Stabilization Fund Allocations Because of the Unresolved Budget Situation

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formulas but maintain discretion in how funds are allocated 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 June 30, 2009, Pennsylvania had not yet received the initial allocation of \$1.3 billion of its total \$1.9 billion allocation of SFSF funds. The Governor submitted a preliminary application to Education for initial funding under the SFSF on April 24, 2009, and submitted a final application on June 26, 2009. Pennsylvania will file an amended application thereafter, if necessary, based on the education provisions of the final fiscal year 2009-10 budget. For state fiscal year 2009-10, the Governor plans to allocate \$953 million, including \$418 million for state basic education funding; \$285 million in onetime grants for elementary and secondary schools; \$77 million to restore funding for higher education; and \$173 million for Department of Corrections operations.

To expedite the approval of state basic education funding for 2009-10, the Pennsylvania Department of Education directed school districts to submit their applications based on two possible budgets. Under the first scenario (the Governor's budget proposal), the state's basic education funding increases by \$418 million from the fiscal year 2008-09 level with the addition of SFSF money. Under the second scenario (Senate Bill 850), state basic education would not increase above the 2008-09 level even with the addition of SFSF money. Based on the Governor's June 2009 proposal, the Pennsylvania Department of Education will allocate an additional \$285

million in onetime SFSF grants through the ESEA Title I, Part A formula to school districts.<sup>22</sup>

Given the budget uncertainty, Pennsylvania Department of Education officials are uncertain of the funding levels for SFSF Recovery Act funds, but they have plans to monitor the funds once they become available. State officials are encouraging school districts to use SFSF Recovery Act money for onetime expenses like teacher retention bonuses or to encourage teachers to take positions in rural or hard-to-fill school districts. The state plans to monitor use of the SFSF Recovery Act funds by visiting school districts and examining quarterly and annual reports. The state will also monitor the use of SFSF Recovery Act funds through the Pennsylvania Accountability to Commonwealth Taxpayers (PA-Pact) applications and through a data collection and review process.<sup>23</sup> The Pennsylvania Department of Education is working with the Pennsylvania Department of General Services to issue a request for proposal for such services.

As of May 2009, the School District of Philadelphia plans to use the SFSF Recovery Act funds to meet the state basic education requirement as well as to fund part of Imagine 2014—the city’s 5-year education strategic plan. Based on the Governor’s budget proposal, SFSF funds would be used for a gifted students program, a peer mediation program, and reducing class size, among other things. A summer school program supported by SFSF funding is planned to start on July 1, 2009, but school district officials are concerned that any delay in the budget process could force it to push back its start date. The school district is moving forward without funding for the summer school program because it has to buy supplies, but officials said this puts them at risk because they are temporarily borrowing money to make these purchases.

With regard to tracking these funds, the School District of Philadelphia is planning to either upgrade its current tracking system or create a new one. To assess impact, some SFSF funding will be used to increase the number

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<sup>22</sup>In cases where states allocate education SFSF funds above restoration amounts, the Recovery Act requires these funds to be distributed to local education agencies according to the federal ESEA Title I, Part A, formulas. Recovery Act, div. A, title XIV, § 14002(a)(3).

<sup>23</sup>The PA-Pact is a consolidated application for three Pennsylvania education funding streams: Accountability Block Grant, Increase to State Basic Education Funding, and the Educational Assistance Program.

of program monitoring staff. School district officials stated that they need final guidance from the U.S. Department of Education on performance measures and oversight before they can finalize their tracking and impact monitoring plan.

The Harrisburg School District has plans to use and track SFSF Recovery Act funds and measure the results of the spending. As of May 2009, the school district plans to use SFSF Recovery Act funds to replace funding lost from other sources, such as federal and state funding. Under the Governor's budget proposal, the school district officials stated that they plan to use SFSF funds to preserve jobs and the alternative education program—a program for 500 students in grades 4-12 who have difficulty learning in a traditional classroom setting. To track the SFSF Recovery Act funds, school district officials plan to use separate accounting codes. With regard to assessing impact, school district officials stated that they have not received guidance on the required reporting. The school district does have some measures available, however, such as graduation rates, test scores, reading assessments, suspension rates, and expulsion rates. In addition, school district officials collect data on the number of children who leave the alternative school and their success going back to a traditional school setting.

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### School Districts Cannot Spend ESEA, Title I, Part A Funds Until the State Budget Passes

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 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 their fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010. Education is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' ESEA Title I, Part A, funding available on April 1, 2009, with Pennsylvania receiving \$200 million of its approximately \$400 million allocation.

School districts were to apply for the funds through the Federal Programs eGrant system, and applications were due on May 15, 2009. Once their applications are received in an approvable form, school districts may

begin obligating funds, but they cannot spend the funds until the General Assembly appropriates the federal funds.

According to the Pennsylvania Department of Education, none of the school districts will receive funds until the fiscal year 2009-10 budget passes. If new programs are created using Recovery Act dollars, state officials said that school districts will have to plan for sustainability as the ESEA Title I, Part A funding is for only 1 year. Local school district officials stated that the Recovery Act funds are going to be used to prevent them from having to cut educational programs or lay off teachers.

The School District of Philadelphia has plans to use and track ESEA Title I, Part A funds. The school district has been allocated \$162.4 million in ESEA Title I, Part A funds, of which \$81.2 million has been obligated according to officials we interviewed, but no funds can be spent until the General Assembly appropriates the federal funds. School district officials in Philadelphia plan to use the ESEA Title I, Part A Recovery Act money to, among other things, hire counselors to reduce student-to-counselor ratios, run a 4-week summer school program, and help fund an early childhood regional center. This early childhood regional center will offer initiatives such as screenings to check for developmental delays and parent education classes. In terms of tracking and reporting on the use of these funds, the School District of Philadelphia is still waiting for guidance on compliance, waivers, and performance measures. To ensure adequate controls over the additional ESEA Title I, Part A funds, the school district plans to hire additional grants management and accounting staff.

The Harrisburg School District has plans to track its ESEA Title I, Part A funds. The school district has been allocated \$3.7 million in ESEA Title I, Part A Recovery Act funds and has obligated all of that money, according to officials we interviewed. The Harrisburg School District plans to spend all its ESEA Title I, Part A funds in the first year (2009-10) to pay teacher salaries and prevent layoffs. School district officials were not sure of the exact requirements for tracking and monitoring these funds, but they do not anticipate problems meeting them. While the Harrisburg School District received a stimulus guide from the Pennsylvania Department of Education, school district officials stated that this document lacked specific details and they would like more information on the reporting structure and timeline.

The 2007 Single Audit reports—the most recent available—for the two school districts we visited revealed control weaknesses over ESEA Title I funds. In both school districts, auditors found failure to properly remit the

interest earned from ESEA Title I cash advances. In Philadelphia, other findings included failure to document comparability of services among schools, as required under the ESEA Title I program, and concerns with internal controls over payroll processes at 20 percent of the schools in the district. In Harrisburg, auditors found that the district lacked procedures to identify when new accounts were opened and found that the Finance Department did not have a culture that prompts staff to question past practices. In addition, proper documentation to verify the total number of students and low-income students served could not be found, which could result in inaccurate allocations under ESEA Title I.

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### Recovery Act IDEA, Part B & C, Funding Cannot Be Spent Until the State Budget Passes

The Recovery Act provided supplemental funding for programs authorized by Part B & C of IDEA, the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure that preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA, Part B & C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

Education allocated the first half of states' IDEA allocations on April 1, 2009, with Pennsylvania receiving \$228 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was

- \$7 million for Part B preschool grants,
- \$214 million for Part B grants to states for school-aged children and youth, and
- \$7 million for Part C grants for infants and families for early intervention services.

Pennsylvania Department of Education officials provided their views on IDEA spending, tracking funds, and challenges. The officials stated that

they will track and monitor progress of the school districts and look at such measures as test scores, attendance data, behavior data, and other relevant data in order to assess progress meeting program goals. With regard to challenges tracking the Recovery Act IDEA money, state officials expressed concern with the administrative burden. For example, the state officials said they are asked to adhere to additional accounting requirements and meet with federal agencies and auditors to discuss the use of Recovery Act funds.

The School District of Philadelphia has plans to use and track the IDEA Part B Recovery Act funds it receives. Philadelphia will receive an initial allocation of \$24 million and plans to use the IDEA Part B Recovery Act money for Imagine 2014 programs, such as professional development for teachers, purchasing assistive technology, and hiring coaches to help special education teachers. The school district officials stated that Imagine 2014 is aligned with the goals of IDEA with regard to building capacity and placing students in the least restrictive environments. To measure and report on the impact of Recovery Act IDEA funds, the school district plans to keep logs of the number of people working, equipment purchased, and professional development completed. The newly created jobs will be filled by a mix of rehired retired professionals and contractors, according to school district officials. School district officials stated that if they are able to fully implement the Imagine 2014 programs successfully, they should be able to sustain the new jobs through the money saved in future educational services. The school district plans to track the money through separate account codes.

For the Harrisburg School District, which will receive an initial allocation of \$1 million, officials stated that most of the IDEA Part B Recovery Act money will be spent in the 2009-10 school year to prevent teacher layoffs. They are not sure how they are going to spend some of the money, however, as it will depend on the needs of their population. The school district officials said that they are encouraged by the state not to use the Recovery Act funds for unsustainable commitments and plan to use the money to replace lost federal and state funds. Still, they plan to use the funds to prevent layoffs in the upcoming school year without a clear plan of sustainability for funding these jobs beyond the 2009-10 school year.

For IDEA Part C, Pennsylvania has plans to use and track Recovery Act funds for the infant and toddler early intervention program and for the preschool early intervention program. Pennsylvania will receive \$14.2 million in total Recovery Act funds for the infant and toddler early intervention program. The state officials said they plan to use a total of

\$13.2 million for direct service delivery and \$1 million on their early childhood integrated data system. For the preschool early intervention program, Pennsylvania will receive a total of \$43.5 million in Recovery Act funds. The state plans to use \$7 million for direct services in fiscal year 2008-09, \$14.8 million in fiscal year 2009-10, and \$8.8 million in fiscal year 2010-11. Almost \$9 million will be spent on assistive technology and \$4 million on the early childhood integrated data system over the next 2 years. To account for the IDEA Part C Recovery Act money, state officials said they plan to use separate accounting codes to track the Recovery Act funding along with their established monitoring procedures. Overall, state officials said that the school districts are generally prepared for the additional compliance requirements.

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## Pennsylvania Has Developed a Plan for Its Recovery Act Weatherization Assistance Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and the District of Columbia.<sup>24</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring

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<sup>24</sup>DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Indian tribe, and the Northern Arapahoe Indian tribe.

performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

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**Pennsylvania Will Receive a Large Increase in Weatherization Funding and Has Developed Plans and Established Goals for the Program**

DOE allocated to Pennsylvania \$252.8 million for the Recovery Act Weatherization Assistance Program for a 3-year period. This amount is more than seven times larger than Pennsylvania's weatherization program for fiscal year 2008-09. Pennsylvania's Department of Community and Economic Development (DCED), which is responsible for administering the program, will disburse the funds through 42 implementing entities, such as private firms and nonprofit organizations, that implement its current weatherization activities. On March 12, DCED received a Funding Opportunity Announcement from DOE identifying and explaining the initial application process, and DCED submitted its application for funding on March 23. DCED subsequently received additional guidance via phone, e-mail, and regional conference calls for the development of its Weatherization Program Plan, which it then developed and submitted to DOE on May 12. DCED expects DOE to verify that the state's plan meets requirements provided in its guidance, and that DOE will approve the plan within 60 days of the May 12 submission date. DCED officials also noted that clear guidance is needed on the application of the Davis-Bacon Act.<sup>25</sup> The officials added that agencies could have difficulty tracking the number of hours worked by employees who perform tasks at both prevailing wage and non-prevailing wage rates.

On March 27, 2009, DOE provided the initial 10 percent allocation (approximately \$25.3 million) to Pennsylvania. As of June 30, 2009, the Pennsylvania General Assembly had not enacted a budget providing appropriation authority, so DCED had not obligated or spent any of its Recovery Act funds. DCED plans to use its initial allocation for "ramping up" for the Recovery Act program, including planning for training and hiring additional staff, because DOE guidance received on April 10, 2009, prohibited using any of the initial 10 percent for actual weatherization

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<sup>25</sup>The 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, the U.S. Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

production activities. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans. DCED expects to receive an additional 40 percent of the funding shortly after the plan is approved and Pennsylvania's General Assembly approves the state's annual budget for the fiscal year starting July 1, 2009.

As stated in the Recovery Act weatherization plan submitted to DOE for review and approval, DCED's goals for the Recovery Act funds include reducing energy usage by the equivalent of powering about 7,000 homes per year, weatherizing at least 29,700 houses, and employing an estimated 940 people. Of the total \$252.8 million the state will receive, the planned allocation is \$224.5 million for weatherization production, \$20 million for training and technical assistance, and \$8.3 million for DCED to cover its costs for program management, oversight, reporting, and administration.

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## Pennsylvania Is Using WIA Youth Recovery Act Funds to Create Summer Jobs

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low-income in-school and out-of-school youth ages 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the U.S. Department of Labor, and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act,<sup>26</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth.

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<sup>26</sup>H.R. Rep. No. 111-16, at 448 (2009).

Summer employment may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>27</sup>

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. 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 local areas. In 2008, 7 of Pennsylvania's 23 local workforce areas—Allegheny, Central Counties, Northwest Counties, Philadelphia, Pittsburgh, Pocono Counties, and Westmoreland/Fayette<sup>28</sup>—had extensive stand-alone summer youth programs, and 2,205 youth were served statewide.

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**Pennsylvania Has Developed Plans for Summer Youth Employment Activities, Allocated Funds to Local Area Agencies, and Enrolled Youth in the Programs**

Pennsylvania was allotted \$40.6 million in WIA Youth funds under the Recovery Act and has enrolled youth in summer programs. L&I allocated \$34.6 million (85 percent) to the 23 local areas for the WIA Youth program, but only 40 percent of the allocations were available for the local boards to spend before July 1, 2009. Pennsylvania officials expect the balance to be available on or after July 1 when they expect Pennsylvania to enact its state budget. L&I retained \$6 million (15 percent) at the state level for possible statewide activities, such as incentive grants to encourage best practices. As of June 30, 2009, L&I had expended \$1.3 million for all WIA

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<sup>27</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, employers must comply with both, which means paying wages at the higher rate.

<sup>28</sup>The Central regional board includes Centre, Clinton, Colombia, Lycoming, Mifflin, Montour, Northumberland, Snyder, and Union counties. The Northwest regional board includes Clarion, Crawford, Erie, Forest, Venango, and Warren counties. The Pocono regional board includes Carbon, Monroe, Pike, and Wayne counties. The city of Philadelphia is a countywide city. The city of Pittsburgh and the remainder of Allegheny County are two separate local workforce areas served by one workforce investment board.

Youth program activities. Local boards' funds will be available to spend on or after July 1, 2009, when the Pennsylvania General Assembly and Governor are expected to pass the fiscal year 2009-10 budget.

Pennsylvania did not set an overall target number of youths to be served in summer youth employment activities, and L&I instead issued guidance in April 2009 directing local areas that they were expected to spend more than 50 percent of the Recovery Act WIA Youth funds by the end of September 2009. In May 2009, L&I requested that each local board submit its Recovery Act implementation strategy plan by June 5, 2009. Based on the local boards' plans, the 23 local areas plan to spend 70 to 90 percent of their allocations and serve approximately 8,700 youth. As of June 19, 2009, the local boards reported to L&I that 4,678 youth—including 293 youth ages 22 to 24—were enrolled in summer programs. L&I officials said that they expected enrollment to rise dramatically later in June once the school year ends.

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### Pennsylvania Has Developed Plans for Overseeing the Summer Youth Program, but Faces Potential Challenges in Program Management and Youth Recruitment

At the state-level, L&I has existing systems for tracking and reporting financial and program activities for WIA funds and established additional mechanisms for monitoring the summer youth employment activities. L&I increased its program oversight staffing by adding a director and three staff persons who will monitor financial and program performance of providers that implement the program. The monitoring will also entail frequent visits to providers' facilities and project sites. As of June 2009, L&I officials were confident that the reporting processes that they are putting in place will be more than adequate to track the funding as required by the U.S. Department of Labor. L&I officials anticipate that the Recovery Act reporting requirements will be incorporated into their existing Commonwealth Workforce Development system for the August 2009 and subsequent reports. Because the U.S. Department of Labor guidance was received late in May 2009, however, L&I officials said that local areas will need to report summer youth employment data manually via a spreadsheet to meet the first reporting deadline of July 15, 2009.

Several challenges may affect the successful implementation of summer youth employment activities. L&I officials stated that initial planning for the increased Recovery Act program activities had been difficult because of the state government's overall hiring freeze in Pennsylvania. However, L&I was able to obtain a waiver to hire term employees to help with

monitoring and site visits.<sup>29</sup> L&I officials had been concerned that weak economic conditions in Pennsylvania might make it difficult to find eligible work sites at which to place youth participants and were pleased with the approximately 8,700 placements planned by the local boards. L&I officials said that serving youth ages 18 to 24 who are out of school and disconnected from employment remains a concern statewide. The population of out-of-school youth represents 32 percent of enrollments as of June 19, 2009. L&I officials said that they plan to use a portion of Recovery Act WIA Youth funds retained by the state for incentive grants to encourage best practices in serving this age group.

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**Philadelphia and South Central Pennsylvania Have Developed Plans for the Summer Youth Program, but Financial Management and Other Issues May Present Challenges**

We visited two local area agencies—the Philadelphia Workforce Investment Board and the South Central Workforce Investment Board—to determine their plans for and status in implementing the summer youth programs using Recovery Act WIA Youth funds. We selected the Philadelphia local board because it received the largest Recovery Act WIA Youth allocation in Pennsylvania and it had a summer youth program in 2008. The Philadelphia local board is authorized to spend nearly \$3 million of its \$7.4 million allocation (representing more than 20 percent of the state allotment). We selected the South Central local board—located in Harrisburg and serving eight neighboring counties in the region—because it did not have an extensive stand-alone summer youth program in 2008.<sup>30</sup> The South Central regional board is authorized to spend nearly \$625,000 of its \$1.6 million allocation. State officials expected the Philadelphia and South Central boards to receive the remaining 60 percent of their allocations on or about July 1, 2009, when they expected Pennsylvania to enact its state budget.

Using Recovery Act WIA Youth funds, the Philadelphia local board plans to serve 2,533 youth participants—1,200 more than it served in 2008 with WIA funds—and the South Central board plans to serve 500 youth. Officials we interviewed at both these local area agencies were confident of meeting their targets. Both local areas we visited had developed program plans and were in the process of recruiting and enrolling youth. According to data reported to L&I as of June 19, 2009, South Central had enrolled 255 youth, including 40 youth ages 22 to 24, and Philadelphia had

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<sup>29</sup>Two persons have already been hired and are currently on board.

<sup>30</sup>The South Central regional board serves Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, and York counties.

enrolled 1,732 youth, including 27 youth ages 22 to 24. Both local areas we visited stated that they would monitor the program closely using their existing oversight systems and personnel. Neither local area we visited needed to request a waiver from the U.S. Department of Labor of existing requirements for procuring youth services. Neither plans to extend the program to older youth beyond September but, rather, will attempt to integrate older youth into their year-round programs.

The Philadelphia local area program will be administered by the Philadelphia Youth Network (PYN), a local nonprofit organization that has been involved in summer youth employment activities since the 1990s. For its 2008 summer youth program, PYN spent approximately \$10 million serving 7,960 youth using WIA and a variety of other funds. The Philadelphia local area program includes a variety of activities, such as academic immersion, corporate internships, and work experiences, all of which are tailored to various age groups. To attract youth aged 21 to 24 in the Philadelphia local area, PYN has a process to build opportunities that combine education, job placement, and occupational skills specifically focused on this age group. Philadelphia plans to deliver programs at 259 work sites using 38 providers. Planned work sites included those with green jobs, such as an urban agricultural project where crops will be grown and sold locally, and a training program focused on the importance of recycling. As it has done in prior years' programs, the Philadelphia local area plans to measure skill gains in seven work readiness areas, such as verbal communication, hygiene, and timeliness. PYN is responsible for payroll and recruitment of youth and sites, and will pay youth with automatic deposits from providers using a debit card system.

The South Central local area faces some potential challenges. It did not have a separate summer youth program and served 31 youth in 2008, but will directly administer its program through four providers at seven work sites in the eight-county region. As of May 2009, South Central officials were uncertain of some program activities, but said that they are planning to include green jobs in the program. South Central will measure the success of the program by tracking the number of youth who complete the program and their job readiness credentials. Officials in the South Central area stated that identifying youth in the 21- to 24-year-old category is difficult and that their preference would be to have a comprehensive year-round program to address the challenges of assisting older youth. Providers in the South Central local area will be responsible for paying youth participants and will do so with either stipends or checks for wages earned. South Central local area officials noted several concerns:

- They were hindered by the short time frame they had to plan and train for the program, especially since they had not had the experience of carrying out a summer youth program in 2008.
- Some youth in rural areas face difficulty participating because of the lack of public transportation.
- “Green jobs” is not clearly defined. For example, they were not certain whether a youth working in a plastics factory that makes parts for a windmill is performing a green job.

Officials in both local areas noted that they had experienced difficulties obtaining and verifying applicants’ eligibility requirements, such as family income level and proper identification. Both local areas cited the eligibility process as a major barrier to the success of the program. Specifically, officials in the Philadelphia local area agency noted three challenges:

- Earnings by a youth in the summer program—in addition to other earnings during the year—could increase the family’s income to an amount that could make the family ineligible for food stamps and or welfare.
- Some parents are reluctant to allow the youth to take Social Security cards and payroll records to an enrollment location, fearing loss or theft.
- Some youth applicants whose parents had recently lost their jobs were not eligible for the program because eligibility is based on income earned during the period prior to dislocation.

Officials in both local areas we visited anticipated other challenges, such as the following:

- Some providers, particularly small not-for-profit organizations, may have difficulty obtaining sufficient cash to meet payrolls on time. However, both local areas were working with local financial and other institutions in an effort to avoid this situation.
- At the time of our visits in May 2009, officials in both areas said that they were unsure of the reporting requirements for Recovery Act funds and were waiting for additional guidance from the U.S. Department of Labor.

- It is still unclear whether they will be able to find placements for youth in some types of employment because other workers in the area are currently laid off.

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## Pennsylvania Completed Planning and Is Soliciting Local Projects to Use State Justice Assistance Grant Funds

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>31</sup> The total JAG allocation for Pennsylvania state and local governments under the Recovery Act is about \$72.4 million, a significant increase from the fiscal year 2008 allocation of about \$5.5 million.

Pennsylvania was awarded \$45.5 million and had not obligated or expended any of the JAG funds as of June 30, 2009.<sup>32</sup> According to the application the Pennsylvania Commission on Crime and Delinquency<sup>33</sup> submitted for its state award, some of the criminal justice initiatives the commission plans to fund include criminal records improvement, data management projects focusing on technology, law enforcement, public awareness of victim compensation and services, assistance with local

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<sup>31</sup>We did not review those funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>32</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

<sup>33</sup>The Pennsylvania Commission on Crime and Delinquency is the state administering agency for JAG in Pennsylvania. The Commission consists of representatives from all aspects of criminal justice, including Pennsylvania's Attorney General, State Police Commissioner, Welfare Department Secretary, Department of Corrections Secretary, members of the General Assembly, Governor's Victim Advocate, law enforcement representatives, victims' services practitioners, a judge, a prosecutor, a prison warden, a county government official, other local criminal justice policy makers and knowledgeable private citizens.

criminal justice strategic planning, improvements in data collection and program evaluation, gun violence reduction, mental health initiatives, and training. The initiatives are in areas where Pennsylvania would like to make significant improvements, according to the application. For example, the application identifies alternatives to detention for nonviolent adult offenders to address issues related to prison or detention overutilization. The initiatives expand existing efforts as well as include some new projects. The commission chose to focus more on initiatives already in place rather than experiment with many new initiatives, according to a commission official. The Governor's office approved the plan for Pennsylvania's allocation, which was followed by the commission's approval on June 9, 2009. Pennsylvania plans to issue several requests for JAG proposals, each with a different focus, at different times throughout the 2-year funding period. The first request soliciting proposals was released on June 18, 2009, with an application deadline of July 24, 2009. The request, in an effort to increase the efficiency and functioning of the juvenile justice system, seeks to fund assistant public defenders and assistant district attorneys to process juvenile cases.

Pennsylvania officials administering the program have concerns about subrecipients meeting reporting requirements under tight time frames, and stated that many may likely lack experience administering JAG funding. Furthermore, these officials said that existing subrecipients will have to quickly adjust to new requirements. To help introduce the reporting requirements, Pennsylvania plans to hold training sessions for subrecipients, and will ask those subrecipients to self-certify their capability to meet these reporting requirements. To aid in monitoring, the Commission on Crime and Delinquency receives quarterly fiscal and program reports on JAG subrecipients. Commission staff review the reports and use phone outreach to each subrecipient at least quarterly. The commission plans to hire term employees to help existing staff, but officials were unsure of upcoming workloads and whether they would be doing on-site visits for new subrecipients.

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## Local Housing Authorities Receive 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; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>34</sup> 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 they are made available to public housing agencies, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already under way or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>35</sup>

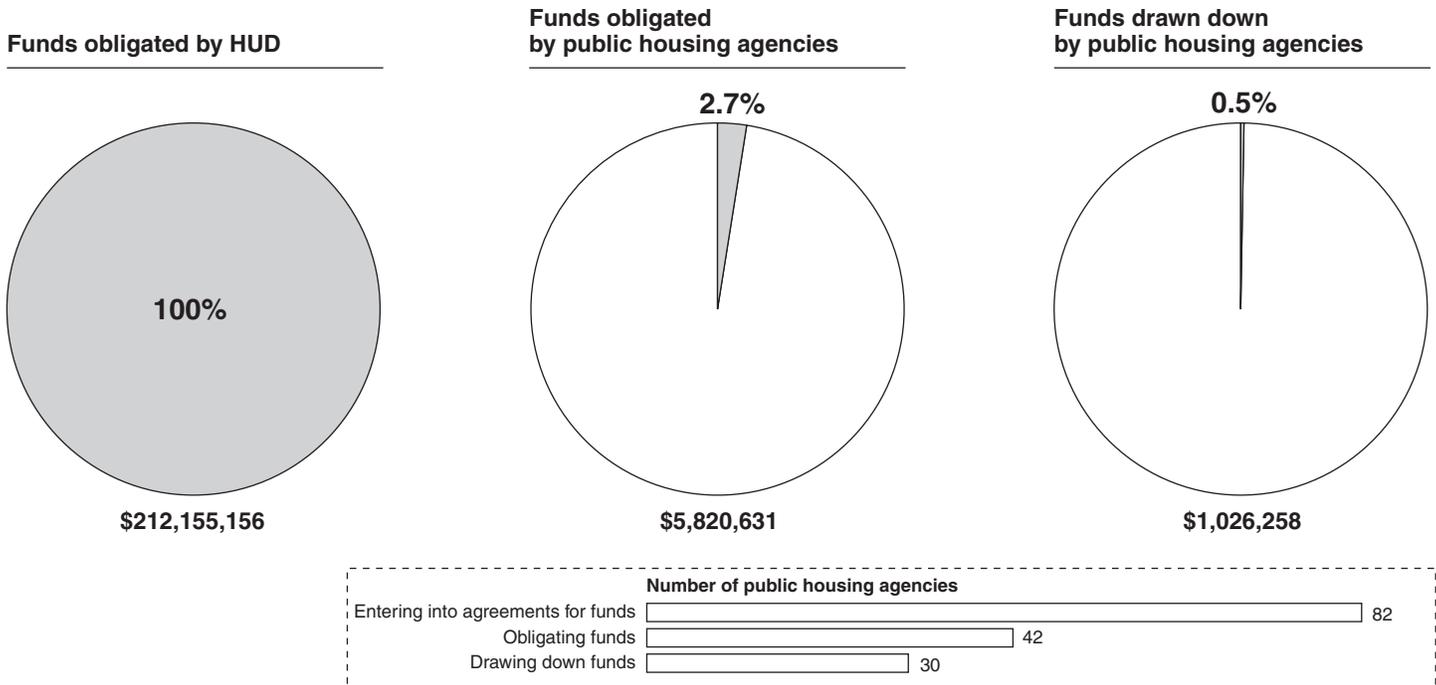
Pennsylvania has 82 public housing agencies that have received in total \$212.2 million in Public Housing Capital Fund formula grant awards. As shown in figure 3, 42 public housing agencies in Pennsylvania have obligated \$5.8 million and 30 public housing agencies have drawn down \$1 million, as of June 20, 2009. In Pennsylvania, we visited two public housing agencies—Harrisburg Housing Authority and Philadelphia Housing Authority. We selected these two because Philadelphia received the largest Public Housing Capital Fund formula grant allocation (\$90.6 million) in Pennsylvania and Harrisburg received the fifth largest (\$4.4 million); their awards amount to nearly 45 percent of Pennsylvania's Recovery Act Public Housing Capital Fund formula grants.

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<sup>34</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>35</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application and to funding limits.

**Figure 3: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Pennsylvania**



Source: GAO analysis of HUD data.

The Harrisburg Housing Authority had obligated \$662,779, or 15 percent of its \$4.4 million, and had drawn down \$48,097 as of June 20, 2009. To date, the authority has awarded contracts for architectural and engineering services and expects to award additional contracts over the summer. Harrisburg Housing Authority officials did not expect to have any problems meeting the time frames for obligating and expending Recovery Act funds.

The Harrisburg Housing Authority plans to use \$2.4 million (54 percent) to rebuild the interiors and add porch facades to two 1940s-era buildings containing 28 mostly vacant units (see fig. 4). After reconfiguration, the buildings will have 17 units, some of which will be accessible for persons with disabilities. At a 120-unit high-rise property for seniors, the Harrisburg Housing Authority plans to use \$1.2 million (27 percent) to upgrade the kitchens with new cabinets, countertops, and energy star appliances; upgrade electrical service; and recarpet and paint the authority's offices. Harrisburg officials estimated that these two projects would start in the summer of 2009 and be completed in 12 to 18 months.

The balance of the funds will be used to replace old boilers with energy-efficient equipment at four properties and repaving.

**Figure 4: A 1940s-Era Building in Harrisburg, Pennsylvania, to Be Renovated**



Source: GAO.

The Philadelphia Housing Authority received HUD approval of its Recovery Act plan on June 4, 2009, and had not obligated or drawn down any of its \$90.6 million award as of June 20, 2009. Philadelphia Housing Authority officials did not expect to have any problems meeting the time frames for obligating and expending Recovery Act funds.

The Philadelphia Housing Authority plans to use nearly 70 percent of its funds to rehabilitate existing units or build new units. First, the authority will use \$29.3 million to rehabilitate 300 vacant units at scattered sites (see fig. 5). This work—which will start in June 2009 at some sites—will include new kitchens and bathrooms; electrical upgrades, as needed; and new roofs, windows, doors, and energy-efficient heating equipment. Second, \$12.5 million will be used to construct 25 new two-story four-unit complexes accessible for persons with disabilities on vacant land owned by the authority. Third, the Philadelphia Housing Authority plans to use

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\$14.6 million to rebuild 53 units and install new elevators and mechanical systems in a midrise senior building that is currently vacant because of severe fire damage sustained in 2004. This building will include a “green” roof to manage water runoff, energy star appliances, and energy-efficient water heaters. Fourth, the Philadelphia Housing Authority plans to use about \$6 million to rehabilitate or build 23 houses to complete the remaining blighted block on Markoe Street (see fig. 6).<sup>36</sup> The balance of the funds (31 percent) will be used to upgrade or replace energy and mechanical systems at approximately 31 buildings to reduce energy consumption and upgrade sprinkler standpipes in 18 high-rise buildings to meet fire safety codes. Most projects are estimated to start in the fall of 2009 and be complete by March 2012.

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<sup>36</sup>Markoe Street is part of the Mill Creek Revitalization Project, which was spread out over a 20-block radius and involved tearing down old high-rise buildings and developing new housing units at a lower rate of concentration.

Figure 5: Two of the Vacant Units at Scattered Sites in Philadelphia, Pennsylvania, to Be Rehabilitated



Source: Philadelphia Housing Authority.

**Figure 6: Part of Markoe Street to Be Developed in the Mill Creek Revitalization Project in Philadelphia, Pennsylvania**



Source: Philadelphia Housing Authority.

According to officials we interviewed, both public housing agencies gave priority to projects that rehabilitate vacant units. According to Philadelphia Housing Authority officials, improvements to vacant units scattered through the city not only create affordable housing but can also reduce blight and improve property values of entire blocks. Harrisburg Housing Authority officials said that they also considered whether projects would create jobs in the short term. For example, Harrisburg chose not to rebuild additional buildings at the 1940-era complex because staging logistics (i.e., how many dumpsters and construction trailers fit on-site) meant that only a limited number of buildings can be under renovation at one time. Instead, Harrisburg officials selected a mix of Recovery Act projects, including paving, plumbing, and kitchen cabinet replacement, that could start sooner and create more jobs in the short term.

The officials we interviewed also stated that they have given priority to projects already included in their 5-year plans and that they could award contracts based on bids within 120 days of the date that funds were made available. Harrisburg officials said that all of their projects were included

in their 5-year plan, and Philadelphia Housing Authority officials said that they selected projects from their 5-year plan or received authority from their board to select projects outside of the current plan. The Philadelphia Housing Authority said that it also gave priority to projects that involve energy conservation retrofits. As of June 4, 2009, the Philadelphia Housing Authority was waiting for HUD approval of its development plans for the scattered sites and for any environmental reviews.

According to officials we interviewed, the two local housing agencies we visited will use HUD's Electronic Line of Credit Control System to separately code and track Recovery Act funds. Harrisburg Housing Authority officials said that they initially had problems using this system because of difficulties in accessing the Central Contractor Registration (CCR) Web site to obtain a Data Universal Numbering System (DUNS) number and that it took several weeks to obtain a response from CCR with their DUNS number needed to access the HUD system. Harrisburg Housing Authority officials anticipated some challenges in separately tracking Recovery Act funds. At one complex where renovations were already under way with HUD funding, officials said that they chose to renovate separate buildings to minimize tracking problems. Also, Harrisburg officials said that staff will keep time sheets to track administrative costs for Recovery Act activity. Philadelphia Housing Authority officials said that Recovery Act funds would be tracked in a separate fund and that expenditures would be tracked by the specific project and site where funds were spent.

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## Pennsylvania Has Taken Steps to Track Recovery Act Funds and Assess Risks, and Oversight Plans Continue to Evolve

Pennsylvania has an enterprise resource planning (ERP) system that is used by all state agencies to account for federal and state funding, and this integrated accounting system will be used to track Recovery Act funds.<sup>37</sup> To accommodate the Recovery Act, on March 10, 2009, Pennsylvania's Budget Office issued an administrative circular to all agencies under the Governor's jurisdiction describing the specific accounting codes they must use to separately identify the expenditure of Recovery Act funds. As of June 9, 2009, the Office of Comptroller Operations has established 102 unique accounting codes to be used for tracking Recovery Act receipts, obligations, expenditures, and available balances by appropriation or

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<sup>37</sup> 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.

grant. State officials reported that the state would not track or report Recovery Act funds that go straight from the federal government to localities and other entities, such as public housing authorities.

According to the Secretary of the Budget and her staff, in addition to tracking funds by appropriation and by grant or project, Pennsylvania's ERP system allows for electronic work flows to document transaction review and approval. For example, Pennsylvania issues bids electronically and suppliers submit quotations through an online portal. The ERP system contains controls to check that proper approvals are obtained prior to posting bid and award documents. The ERP system controls are intended to provide segregation of duties to reduce the risk of fraud and ensure that Pennsylvania pays no more than what was appropriated and agreed by contract or grant agreement. As we reported in April, auditors found weaknesses in segregating duties among staff and monitoring user activities to reduce the risk of inappropriate changes to accounting data or misappropriation of assets. Pennsylvania's Secretary of the Budget told us that to mitigate this risk, internal auditors now are to work closely with the Office of Administration and the Office of Information Technology on all new system changes to ensure that internal controls are built into the application. Pre-audit controls include (1) the Office of Comptroller Operations reviews supporting documentation, including fully executed contracts and grant agreements before initiating transactions for payment, and (2) Pennsylvania's Treasurer's Office reviews the supporting documentation before payments are processed.

Beyond the ERP system and the pre-audits, officials in Pennsylvania's Office of the Budget said they do not have a single commonwealth-wide program of internal controls. Instead, the Office of Administration issues overarching guidance—the state procurement manual, administrative circulars such as the one on Recovery Act fund tracking, and management directives—and program agencies are responsible for the specific system controls. Those controls are subject to audit by the newly created Bureau of Audits within the Office of the Budget.

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## Pennsylvania Is Taking Steps to Assess Risks and Focus Attention on Resolving Single Audit Report Findings

In June 2009, the Bureau of Audits completed its risk assessment of about 90 programs receiving Recovery Act funds and designated each program as high, medium, or low risk. Bureau of Audits officials said that they assessed the risk levels using the 5 accountability standards, the 11 risk factors outlined in the Office of Management and Budget's (OMB) implementing guidance for the Recovery Act, and 2 additional risk factors added by the Bureau of Audits that they believed to be necessary to

adequately assess risk in the Pennsylvania programs. In addition, bureau staff reviewed previous audit findings and met with agency officials to discuss their risk factors. According to Bureau of Audits officials, the common Single Audit report findings in Pennsylvania for Recovery Act programs are inadequate subrecipient reporting, inadequate supporting documentation for expenditures, and inadequate support for required federal reports.

The bureau plans to evaluate the programs, including the 15 programs designated as high risk, to determine priorities for its fiscal year 2009-10 audit plan. Throughout fiscal year 2009-10, Bureau staff plan to meet with the agencies about risk self-assessments so that each agency can identify its specific risks and outline a plan to manage and mitigate those risks. At this time, the Bureau of Audits has not assessed subrecipient risks. For those Recovery Act programs on its audit plan, the Bureau of Audits can draw on its Single Audit review unit—a repository of Single Audit reports for Pennsylvania school districts and municipalities—to identify high-risk subrecipients.

The Bureau of Audits plans to focus on resolving single audit findings and reducing the number of repeat findings. As part of its risk assessments, bureau staff created a matrix to highlight repeat findings in Pennsylvania's fiscal year 2007 Single Audit report and identify areas where corrective actions have been taken. Some repeat findings were referred to the Bureau of Quality Assurance, which will follow up with affected agencies on their corrective actions. According to the Bureau of Audits, agencies should have already implemented corrective action plans and be working with federal agencies to resolve any audit findings from 2006 or earlier. To ensure that senior managers are aware of audit findings and set the tone at the top on the need for corrective actions, the Bureau of Audits briefed deputy administrative secretaries across the agencies on the basics of the Single Audit process and corrective action plan requirements. Further, the Secretary of the Budget plans to revise existing guidance to require quarterly reports, beginning in October 2009, on the progress on corrective actions rather than relying on annual updates.<sup>38</sup>

Bureau officials said agencies must do the following to resolve findings that may affect multiple programs: make management decisions

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<sup>38</sup>Quarterly updates will be required as of March 31, June 30, September 30, and December 31 and will be due 30 days after the quarter ends.

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addressing the findings within 6 months, make necessary adjustments relative to cost settlements or disallowances, monitor subrecipient implementation of corrective actions, and impose or coordinate remedial actions.

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## Oversight Plans Continue to Evolve

The Pennsylvania Stimulus Oversight Commission, chaired by the Chief Accountability Officer, met four times since its creation in March 2009.<sup>39</sup> At its public meetings, the commission is briefed by the Chief Implementation Officer and other state officials on the progress in implementing Recovery Act programs. The Chief Accountability Officer told us that the state's approach will maximize and coordinate existing oversight resources in Pennsylvania. Specifically, he is currently trying to demarcate roles and define an accountability approach distinct from auditing and compliance.

As we reported in April, Pennsylvania's Auditor General anticipates work auditing and investigating Recovery Act funds received by state and local agencies. For example, the Auditor General will audit Recovery Act funds during the annual Single Audit review and will initiate additional compliance audits for Recovery Act programs. As of June 2009, Auditor General staff told us that they may review the Recovery Act funds for FMAP, unemployment compensation, weatherization, and transportation. The Auditor General observed that the Recovery Act did not provide funding specifically for his office to undertake work related to the act, and the office did not expect to receive additional funding in light of Pennsylvania's budget outlook.

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## Pennsylvania Is Considering How to Assess the Effects of Recovery Act Funds

Under the Recovery Act, state and local recipients are expected to report on a number of performance measures, including the use of funds, the amount expended or obligated, and the estimated number of jobs created and retained. In addition to reporting on jobs created and retained, OMB guidance directs federal agencies to collect performance information from entities that receive funding "to the extent possible." The guidance also requires agencies to instruct recipients to collect and report performance

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<sup>39</sup>In addition to the Chief Accountability Officer, the commission is composed of the Governor, the Recovery Act Chief Implementation Officer, four representatives selected by Pennsylvania's congressional delegation, members of each of the four caucuses in Pennsylvania's General Assembly, and representatives from the Pennsylvania Chamber of Business and Industry, United Way of Pennsylvania, and Pennsylvania AFL-CIO.

information as part of their quarterly submissions that is consistent with the agencies' program performance measures.<sup>40</sup> This will allow an assessment of what OMB describes as the marginal performance impact of Recovery Act requirements.

Pennsylvania's Chief Accountability Officer is responsible for developing and using performance measures to demonstrate outcomes associated with Recovery Act spending and projects. He told us that he is in the process of meeting with agencies to identify existing performance measures—in addition to job creation and retention measures—to report on the outcomes from Recovery Act funding and determine what data will be available for the measures. He said his team is outlining the performance measures that they have identified in federal Recovery Act guidance and considering what additional measures state agencies determine are important to report for their programs. By the end of July 2009, he plans to compile a list of performance measures and identify how to record and track the data; ultimately, the performance reporting will be available on Pennsylvania's Recovery Act Web site, [www.recovery.pa.gov](http://www.recovery.pa.gov). Based on his preliminary work on this process, the Chief Accountability Officer said that it is challenging to identify measures representing meaningful outcomes that the public can identify with and that data can support. For example, transportation measures would include the number of bridges restored and the amount of road miles resurfaced, but measures more related to productivity, such as the number of cars and travel speed, would be more relevant to citizens.

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, work hours, and the amount of payroll; reports are to include all subcontractors and subconsultants. This is consistent with FHWA guidance that requires collection of this type of information. According to PennDOT officials, project inspectors in the district offices with day-to-day contact with contractors on the projects review the reports for reasonableness. PennDOT uses the contractor monthly reports to prepare and submit summary information to FHWA. However, the information collected could

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<sup>40</sup>OMB Memorandum, M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009* (Apr. 3, 2009). This guidance supplements, amends, and clarifies the initial guidance issued by OMB on February 18, 2009.

overstate the number of jobs. For example, the contractor reports submitted may not prevent multiple counting of individuals who may work on several Recovery Act projects at the same time. Since the contractors submit separate reports for each project, it is possible that the same person could be included in the total for each project funded by the Recovery Act that the contractor or consultant may have. A PennDOT official told us the department recognizes the potential for multiple counting of individuals and believes that it is collecting data in compliance with both FHWA and Recovery Act reporting requirements.

Officials in other programs we met with expressed concerns about assessing jobs created and retained. Officials from the Pennsylvania Department of Education stated that they are telling districts to not use Recovery Act funds to create new positions that will need to be sustained beyond the 2-year period that Recovery Act money will be received. Instead, the department is encouraging school districts to use Recovery Act money for onetime costs, such as retention bonuses to help move teachers into rural school districts, and collect data on such alternative measures instead.

Some programs receiving Recovery Act funds plan to continue using their existing performance outcomes, and other programs are waiting for federal guidance before putting plans in place.<sup>41</sup> For WIA summer youth activities, Pennsylvania's L&I has plans to review participation and retention rates, work readiness outcomes, expenditure rates, characteristics of participants, analysis and listing of work site types, and best practices and innovative approaches to recruitment, retention, and work readiness. L&I officials told us that the guidance received from the U.S. Department of Labor on May 21, 2009, clarifies the increased reporting requirements for Recovery Act WIA Youth funds. Because the guidance was received late in May 2009, however, L&I officials said that local areas will need to report summer youth employment data manually via a spreadsheet to meet the first reporting deadline of July 15, 2009. L&I officials anticipate that the Recovery Act requirements will be incorporated into Pennsylvania's existing reporting mechanisms for the August 2009 and subsequent reports.

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<sup>41</sup>After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

Officials from the Pennsylvania Department of Education stated that they will continue to track measures for existing programs, such as ESEA Title I, but are still waiting for guidance from the U.S. Department of Education on the exact measures they will need to track specific for the Recovery Act funding. Officials from both the Harrisburg School District and the School District of Philadelphia confirmed that they still need federal guidance on the measures they will need to track for the Recovery Act money received. However, officials from the School District of Philadelphia stated that they need guidance soon, as the large size of their district requires them to augment their data collection systems now in preparation for the upcoming school year.

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## State Comments on This Summary

We provided the Governor of Pennsylvania with a draft of this appendix on June 19, 2009, and the Chief Implementation Officer, Chief Accountability Officer, and the Secretary of the Budget responded for the Governor on June 23, 2009. These officials agreed with our draft and provided clarifying and technical comments that we incorporated where appropriate.

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## Staff Acknowledgments

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# Appendix XVI: Texas

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## Overview

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

**Use of Funds:** GAO's work focused on Recovery Act spending in Texas for nine federal programs, selected primarily because they have begun disbursing funds to states; they are existing programs receiving significant amounts of Recovery Act funds; or are new programs. As of June 30, 2009, Texas has committed (obligated) a significant portion of its allocated funds to specific projects and uses.

Funds from the Recovery Act will likely provide significant funding for key Texas programs, including the following:

- **Funds Made Available as a Result of the Increased Medicaid Federal Medical Assistance Percentage (FMAP) funds.** As of June 29, 2009, Texas had drawn down over \$1.3 billion in increased FMAP grant awards, which is about 94 percent of its awards to date.<sup>2</sup> While Texas's overall state budget does not have a deficit, funds made available as a result of the increased FMAP funds have helped maintain current populations and benefits in the face of Medicaid budget shortfalls.<sup>3</sup>
- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education allocated to Texas about \$3.9 billion from the initial release of SFSF funds. On July 1, 2009, the Governor plans to submit an application for the state's initial SFSF allocation of \$2.7 billion. In anticipation of receiving the funds, the state of Texas has been encouraging local education agencies to plan to use the funds for activities such as modernizing school facilities.

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

<sup>2</sup>Texas received increased FMAP grant awards of over \$1.4 billion for the first three quarters of federal fiscal year 2009.

<sup>3</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

- **Highway Infrastructure Investment funds.** In March 2009, \$2.25 billion was apportioned for highway infrastructure and other eligible projects, and as of June 25, 2009, over \$1.16 billion had been obligated. Texas is beginning to undertake Recovery Act funded projects. As of June 25, 2009, funding apportioned by the Federal Highway Administration was obligated for 205 Texas projects. For example, one project, in Uvalde County (64 miles west of San Antonio), will involve an 11.4-mile section of road, located in an economically distressed area. State officials told us this project would not have been selected for 4 to 10 years without Recovery Act funds.
- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** The Department of Education allocated the first half of Texas's ESEA, Title I, Part A allocation on April 1, 2009, totaling about \$474 million. As of June 23, 2009, the Texas Education Agency (TEA) had awarded \$56 million to local education agencies. These funds must be used for activities allowed under the regular ESEA Title I Part A funds. For example, Houston school district officials said they planned to use these funds to improve educational programs pertaining to early childhood development and to promote achievement for students between the ages of 3 and 5.
- **Individuals with Disabilities Education Act, Part B.** The total Texas allocation amount for Individuals with Disabilities Education Act, Part B will total about \$485 million. As of June 30, 2009, TEA had received 187 applications and issued 42 grant awards totaling about \$52.4 million. Houston school district officials told us they plan to use these funds primarily to purchase educational technologies, which will allow for a more inclusive learning environment for students with disabilities.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$327 million in Recovery Act weatherization funds to Texas for a 3-year period. Based on information available on June 30, 2009, DOE has provided \$32.7 million to Texas; however, these funds are not yet obligated. Texas plans to obligate these funds in August 2009 for weatherizing low-income families' homes and state and federal public housing and for developing an energy-related training center.
- **Workforce Investment Act Youth Program.** Recovery Act funds allotted for the youth program in Texas totaled about \$82 million. After receiving Recovery Act funds and reserving 15 percent for statewide and administrative activities, Texas allocated the remaining funds to

local entities. State workforce officials told us that 60 percent of the allocated funds will be spent on summer employment activities for more than 14,000 youth. As of June 19, 2009, the two local Workforce Development Boards we visited targeted 5,652 youths and found employment for 970 youths.

- **Edward Byrne Memorial Justice Assistance grants (JAG).** The Department of Justice's Bureau of Justice Assistance has awarded about \$90.3 million directly to Texas in Recovery Act funds.<sup>4</sup> Based on information available as of June 25, 2009, Texas had obligated about \$4.6 million of these funds for administrative purposes. Officials with the Texas Governor's Criminal Justice Division told us they would not make any awards until July 1, 2009, because they are reviewing more than 340 applications from potential grant subrecipients. The Criminal Justice Division plans to use grant funds to reduce violent crime and its effect on communities. They also plan to supplement current public safety programs and retain jobs. Officials of the Governor's office added that the Bureau of Justice Assistance is expected to provide approximately \$57.2 million directly to Texas localities.
- **Public Housing Capital Fund.** Public housing authorities in Texas have been allocated \$119.7 million in Recovery Act funds by the U.S. Department of Housing and Urban Development. This money, which flows directly to public housing authorities, is being used for various capital improvements, including modifying bathrooms, replacing windows, and adding sewage drains. For example, the San Antonio Housing Authority has a public housing development built in the early 1970s to house the elderly and disabled. Officials stated they plan to completely rehabilitate the development at an estimated cost of \$6.6 million using Recovery Act funds due to the deteriorating condition and to address health and safety concerns. Officials told us they plan to replace the facility's cabinets, flooring, windows, and heating and air-conditioning system. San Antonio Housing Authority officials stated that two contracts for architectural services have been awarded and that they expect to award construction contracts for this project by December 2009.

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<sup>4</sup>We did not review Edward Byrne Memorial Justice Assistance grants awarded directly to local governments in this report because the Bureau of Justice Assistance's (BJA) solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

**Safeguarding and transparency:** Texas has taken several steps to help ensure the accountability and transparency of Recovery Act funds. As we mentioned in our April report, the Office of the Governor has established a steering committee, made up of all the state agencies receiving Recovery Act funds as well as the State Comptroller, that meets twice a week. Additionally, the State Comptroller's Office has initiated mandatory weekly reporting for the use of Recovery Act funds. The State Auditor's Office told us that they are anticipating an increase in audit effort in accordance with Single Audit guidelines due to expenditures of Recovery Act funds. The office is adding staff to handle this increase in audit effort. To expand its ability to monitor grant compliance, the Office of the Governor commented that it's Criminal Justice Division was in the process of hiring two auditors to expand its ability to monitor compliance for Byrne Grant Recovery Act funds. In addition, the four state agencies we visited stated that they had enhanced their oversight efforts to monitor the flow and use of Recovery Act funds. For example, the Texas Department of Education noted it had improved its monitoring process to include a refined risk assessment methodology to help allocate limited staff resources to specific areas of risk. Further, training has been developed by a subcommittee of the State Agency Internal Audit Forum, to provide state agencies with additional guidance about accounting and transparency for Recovery Act funds.

**Assessing the effects of spending:** State and local officials told us they were developing methods for collecting data and reporting on jobs created and plan to assess the impact that Recovery Act funds will have on the state and their agencies. For example, officials at each of the three Texas Department of Transportation district offices we visited told us they would use Federal Highway Administration guidance and forms for reporting jobs created or retained. The San Antonio Housing Authority is coordinating with HUD to create performance measures to monitor and report on job creation and retention. Additionally, officials with the Governor's office told us that clear and consistent guidance was needed on how to document and report on jobs created.

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## Uncertain Impact of Recovery Act Funding on Texas Budget

The impact of the Recovery Act funding on the Texas budget remains uncertain. State officials considered budget reductions in January 2009, but it now appears likely that smaller budget reductions than those considered in January will be made for the remainder of the 2009 fiscal year.<sup>5</sup> Officials from the Governor's office and representatives of key legislative offices had different perspectives about the impact the Recovery Act funding may have had on key decisions. The Texas Legislature has passed appropriations legislation for the next 2-year budget cycle that makes use of Recovery Act funding. The Legislative Budget Board estimates that Texas will be able to appropriate approximately \$12 billion of Recovery Act funds for the 2-year budget cycle 2010-2011. Officials from the Governor's office and legislative offices also indicated that the state has started planning for the end of Recovery Act funding. On June 19, 2009, the Governor signed into law Texas's General Appropriation Act for the 2010-2011 Biennium.<sup>6</sup>

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## Recovery Act May Have Reduced Budget Reductions Considered Earlier in 2009

As we reported in April 2009, anticipating that Texas likely faced a budget shortfall, the co-chairs of the state's Legislative Budget Board in January 2009 requested that state agencies look for ways to reduce fiscal year 2009 expenditures by 2.5 percent.<sup>7</sup> The co-chairs of the Legislative Budget Board noted at the time of their request that Texas was not facing a deficit but that it was necessary to be mindful of the uncertain economic conditions. In response, state agencies identified approximately \$396 million in potential budget reductions based on hiring freezes, reduced services, delayed capital purchases, and other cost-cutting efforts. At the time of their request, the co-chairs noted that the Recovery Act—which was being debated in Washington, D.C.—could not be responsibly factored into the state's budget process because many details were not known.

Texas officials had different perspectives about the impact of the Recovery Act on key decisions made for the 2009 fiscal year. Officials in the Governor's office said it would be difficult to assess the actions Texas would have taken had the Recovery Act not been enacted. The Governor's

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<sup>5</sup>The Texas 2009 fiscal year runs from September 1, 2008, to August 31, 2009.

<sup>6</sup>S.B. 1, 81st Leg. Sess. (Tex.2009). The Governor used his line-item veto authority to delete specific provisions of the act. However, the Governor did not use this authority to delete items from the section of the legislation appropriating Recovery Act funds.

<sup>7</sup>The co-chairs of the Legislative Budget Board are the Speaker of the House of Representatives and the Lieutenant Governor.

staff reported no layoffs of state employees or major contract cancellations due to economic reasons. Moreover, officials with the Governor's office indicated there would have been alternative approaches for addressing a revenue shortfall. As we reported in April, they noted that the state successfully addressed a \$10 billion budget shortfall in 2003. Moreover, officials from the Governor's office believed that the state's response to the budget challenges in 2003 had helped encourage economic development and job creation in Texas.

Staff with several key legislative offices generally believed that the Recovery Act had helped the state avoid major cutbacks in programs in 2009. For example, a senior representative of the Lieutenant Governor's office said he thought the Recovery Act funding had helped the state avoid implementing the large-scale budget reductions considered in January 2009. The representative noted that the reductions considered in January 2009 would have adversely impacted state programs, particularly because agencies would have been required to make sharp reductions in spending almost halfway through the fiscal year.

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### Texas Will Likely Make Use of Recovery Funds in 2010-2011

On June 19, 2009, the Texas Governor signed the General Appropriations Act, the appropriations bill for the next 2-year budget cycle, 2010-2011,<sup>8</sup> that makes use of Recovery Act funds. The Legislative Budget Board (LBB) estimates the Recovery Act will make available approximately \$12 billion for state appropriation for the 2010-2011 budget. The Legislature decided to use a dedicated section of the appropriations act, Article XII, to appropriate Recovery Act funds. As described in table 1, the LBB assessment indicates that increased federal funds are anticipated for several key state programs.

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<sup>8</sup>Texas budgets on a biennial basis. The 2010-2011 biennium will run from September 1, 2009, to August 31, 2011. On June 19, 2009, a Senior Advisor to the Governor told us that the Governor plans to apply for the State Stabilization Fund on July 1, 2009.

**Table 1: Texas Legislative Budget Board’s Estimated Appropriations Due to, and Major Uses of, Recovery Act Funding in the 2010-2011 Biennial Budget**

Program	LBB estimate of increased federal funds for key state programs due to the Recovery Act	LBB assessment of major uses of Recovery Act funds
Medicaid	\$2.513 billion	Texas is planning to use funds made available as a result of the increased FMAP to cover the increased Medicaid caseload and maintain current Medicaid populations and benefits.
Federal program expansion	No estimate provided.	The Recovery Act will significantly increase funding for several programs already receiving federal funding, including transportation: \$1.587 billion for highway and bridge construction and \$50 million for urban transit, and housing and community affairs: Includes \$327 million for weatherization assistance program and more than \$200 million for other housing programs.
State Fiscal Stabilization Fund		
Education stabilization funds	\$3.25 billion	Education stabilization funds will provide stable funding for public schools, as well as other appropriated funds.
Government services funds	\$700 million	\$361.6 million to the Texas Education Agency for textbooks. Funding is also provided for higher education.

Source: GAO analysis of Texas Legislative Budget Board data.

Notes: States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services funds). The LBB analysis refers to government services funds as general government stabilization funds.

Texas is using Recovery Act funds in some areas and forgoing the funds for one program. According to the conference committee report for General Appropriations Bill, the bill includes a total of \$12.1 billion in Recovery Act funds and reduces the general revenues appropriated elsewhere in the bill by \$6.4 billion. For example, the appropriations legislation reduces general revenue appropriations for the Texas Education Agency and the Texas Higher Education Coordinating Board. The conference committee report for the General Appropriations Bill suggests that federal Recovery Act funding will make up for this reduced state support. Moreover, Texas appears unlikely to request Unemployment Insurance Modernization funds made available by the Recovery Act. The Texas Governor accepted some Recovery Act funds for unemployment insurance, but he did not request Unemployment Insurance Modernization Funds. A senior official with the LBB indicated that the state legislature did not pass legislation making the state eligible to receive these funds.

Staff from the LBB told us that the Recovery Act funding helped provide support for key state programs:

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- LBB staff anticipate that funds from the State Fiscal Stabilization Fund will support education funding. The state usually uses proceeds from the Permanent School Fund to support education. This fund earns proceeds from the sale of state lands and mineral-related revenue from these lands. As an endowment, the fund then invests these proceeds in global markets. The LBB staff pointed to recent assessments by their office, as well as the Comptroller's office, indicating that financial market turmoil had contributed to a sharp decline in the value of the Permanent School Fund.<sup>9</sup> LBB staff told us the state may not be able to transfer returns from this fund to support education in the 2010-2011 biennium.
  - The government services fund, part of the State Fiscal Stabilization Fund, is anticipated to be used to support a number of state programs, including education, higher education and economic development. LBB staff noted that this funding will be primarily used for one-time expenses. For example, some of the funding will be used to purchase new textbooks to transition to a new language arts curriculum.

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### Texas Officials Have Started Planning for the End of Recovery Act Funding

Officials from the Governor's office and key legislative offices noted the importance of developing a long-term strategy for exiting from the Recovery Act funding:

- Representatives of the Governor's office told us their office has advised state agencies that much of the Recovery Act funding is temporary. Consequently, the Governor's office would prefer that Recovery Act funds be used for nonrecurring expenditures—for example, one-time costs. Moreover, the representatives noted that the Governor's office uses twice-weekly meetings with state agencies to reinforce this guidance. Furthermore, 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."<sup>10</sup>

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<sup>9</sup>We were told by LBB staff that there is the constitutional requirement that fund returns over a 10-year period must exceed payouts over that same period in order for there to be a distribution.

<sup>10</sup>Proclamation by the Governor of the State of Texas Concerning the General Appropriations Act.

- The state legislative bodies provided similar guidance to state agencies when appropriating the Recovery Act funds. Specifically, the conference committee report for the appropriations bill directs state agencies to “give priority to expenditures that do not recur beyond the 2010-2011 biennium.”<sup>11</sup> Furthermore, the conference committee report notes that a state employee position funded by the Recovery Act should be eliminated once the agency exhausts the Recovery Act funds for the position.<sup>12</sup>

Several of the state legislative officials with whom we spoke said Texas may face difficult decisions when the legislature works on the next 2-year budget, for the 2012-2013 biennium. The officials noted that the state of the economy will have important implications. Staff with the Legislative Budget Board cautioned that even an improving economy may not fully address the state’s challenges. However, in discussions with the Office of the Governor, an official commented that the Texas economy remains in good economic shape.

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<sup>11</sup>Conference Committee Report for S.B. No. 1 General Appropriations Bill, 81th Leg. Sess., at XII-9, § 7.

<sup>12</sup>Conference Committee Report for S.B. No. 1 General Appropriations Bill, 81th Leg. Sess., at XII-9, § 8.

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**While Texas's Overall State Budget Does Not Have a Deficit, Increased FMAP Funds Have Helped Maintain Current Populations and Benefits in the Face of Medicaid Budget Shortfalls**

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>13</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>14</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

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**While Texas's Overall State Budget Does Not Have A Deficit, Increased FMAP Funds Have Helped Maintain Current Populations And Benefits In Face Of Medicaid Budget Shortfalls**

From October 2007 to May 2009, the state's Medicaid enrollment grew from 2,772,193 to 2,914,484, an increase of 5.1 percent.<sup>15</sup> Enrollment generally varied over this period, and there were several months when enrollment declined (see fig. 1).<sup>16</sup> Most of the increase in enrollment was attributable to the population groups of children and families and disabled individuals.

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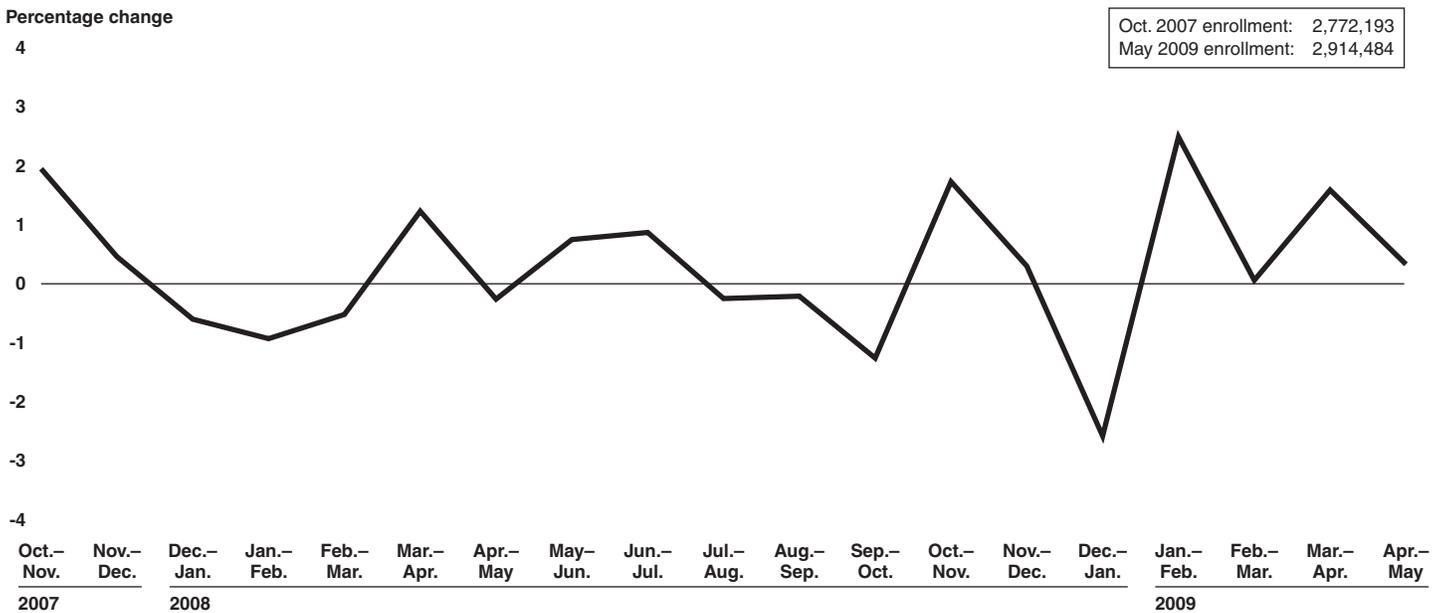
<sup>13</sup>See Recovery Act, div. B, title V, §5001.

<sup>14</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

<sup>15</sup>The state provided projected Medicaid enrollment for May 2009.

<sup>16</sup>The monthly percentage change in Medicaid enrollment for Texas from October 2007 through May 2009 depicts the month-over-month change in Medicaid enrollment, which ranges from approximately plus 2 percent to minus 3 percent over this period.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for Texas, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, Texas had drawn down more than \$1.3 billion in increased FMAP grant awards, which is about 94 percent of its awards to date.<sup>17</sup> Officials from the Texas Health and Human Services Commission reported the state is using funds made available as a result of the increased FMAP to cover the increased Medicaid caseload and maintain current populations and benefits.

Medicaid officials from the Texas Health and Human Services Commission reported that while the overall state budget does not currently have a deficit, the state Medicaid budget for fiscal year 2009 is short an estimated \$1.1 billion in state funds due to cost increases and caseloads in excess of the amounts included in the state’s 2-year budget adopted in 2007. However, the Medicaid program has not been directed to reduce rates, eligibility or benefits. Prior to the passage of the Recovery Act, however, there were discussions about potential reductions to the program due to

<sup>17</sup>Texas received increased FMAP grant awards of over \$1.4 billion for the first three quarters of federal fiscal year 2009.

the forecasted Medicaid shortfall. Medicaid officials from the Texas Health and Human Services Commission added that the increased FMAP funds will help fund the Medicaid program and that the Legislature would appropriate these funds to maintain services and eligibility for the remainder of state fiscal year 2009. In addition, Medicaid officials from the Texas Health and Human Services Commission indicated that the Medicaid program had incurred no additional costs related to administrative and reporting requirements associated with use of these funds.

However, Medicaid officials from the Texas Health and Human Services Commission indicated that they were hesitant to implement certain programmatic changes out of concern that doing so would jeopardize the state's ability to maintain eligibility for increased FMAP. For example, state officials from the Texas Health and Human Services Commission believe that programmatic changes to the processes for pregnancy verification, prior authorizations, and ongoing rate changes are not changes in Medicaid eligibility criteria. To ensure the state is not in jeopardy of losing its eligibility for increased FMAP funds, officials from the Texas Health and Human Services Commission asked CMS to validate that it agreed that the state had not made any changes to its Medicaid eligibility criteria. State officials are concerned that CMS has not yet responded to this request for clarification because should CMS assert that any of these actions were changes in eligibility criteria, the state would have only until July 1, 2009, to remove those changes to eligibility or risk losing increased FMAP funds.<sup>18</sup> Similarly, the officials said that prior to the enactment of the Recovery Act, CMS directed the state to make certain programmatic changes; however, if these changes were implemented, the state is concerned that it could lose eligibility for the increased FMAP. Although Medicaid officials from the Texas Health and Human Services Commission noted that these proposed changes are relatively minor, they will not make them until they receive assurance from CMS that such changes would not affect the state's eligibility for increased FMAP.

Regarding the tracking of increased FMAP, officials from the Texas Health and Human Services Commission said the state uses an accounting system that tracks revenues and expenditures related to increased FMAP, and

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<sup>18</sup>In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

these funds are maintained separately from regular FMAP. In addition, Texas officials from the Texas Health and Human Services Commission indicated that they use a number of procedures and controls to ensure that FMAP dollars are correctly tracked and reported. For example, the Governor's office leads a statewide group that includes the State Comptroller, which meets twice weekly to monitor these funds. The officials added that external to the state Medicaid agency, the Health and Human Services Commission's Office of Inspector General also looks at the Medicaid program for instances of fraud, waste, and abuse.

Finally, the 2007 Single Audit for Texas identified one material weakness for the state's Medicaid program, which encompassed inadequate information system controls for several systems, including the Texas Integrated Eligibility Reporting System.<sup>19</sup> The audit report indicated that state officials agreed with the finding and that they were developing a corrective action plan.

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## Texas Plans to Apply for State Fiscal Stabilization Funds

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services

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<sup>19</sup>The 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 Office of Management and Budget (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.

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 both school districts and public institutions of higher education (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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.

Texas has been allocated just more than \$3.9 billion in SFSF. The Governor plans to apply for the initial SFSF allocation—\$2.7 billion on July 1, 2009. Texas Education Agency officials have begun issuing guidance on how to use the funds when they become available and said that the funds for school districts could be used to support efforts related to teacher incentives and teacher assessments. Also, according to the Texas Higher Education Coordinating Board, which provides leadership and coordination for the Texas higher education system, public institutions of higher education in Texas recommended expending the funds for three purposes—mitigating tuition and fee increases; supporting modernization, repair, and renovation of facilities; and providing incentive funding based on degrees awarded. The 2010-2011 state budget designated \$147 million in Recovery Act funds for higher education, to be distributed through the formula funding process. An additional \$80 million was designated for distribution through the board for incentive funding, based on degrees awarded.

Education officials from the two school districts we selected to visit—the Houston Independent School District (Houston ISD) and the Fort Worth Independent School District (Forth Worth ISD)—told us they were unsure of the exact amount of SFSF funding they would receive. Officials from Houston ISD, which is the largest public school system in Texas and the seventh largest in the United States with an enrollment of approximately 200,225 students, said they anticipate they will receive SFSF funds in lieu of the state dollars they were expecting for fiscal year 2010. Officials from the Fort Worth ISD, with an enrollment of nearly 80,000, estimated the district would receive \$15.5 million when the SFSF funds are available. Both school districts intend to apply for the funds as soon as the state begins the application process.

Fort Worth ISD officials stated that decisions about how the money can be expended would directly impact their existing budget concerns. For example, the Governor has signed legislation that would direct local

education agencies to increase teachers' salaries.<sup>20</sup> Fort Worth ISD officials stated that they believe the state Legislature intended \$8 million of the \$15 million they expect to receive in SFSF funds to go toward these teacher raises; however, given the current budget shortfalls at Fort Worth ISD, officials told us it would make more of an impact to use those funds to support areas that are currently undergoing budget cuts. Texas education officials told us they are assessing whether this legislation conforms to Recovery Act requirements regarding expenditure of these funds.<sup>21</sup> The legislation states that the salary increases shall only go into effect if the state commissioner of education determines that the payment of such salary increases is an allowable use of Recovery Act funds.

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## Texas Beginning to Undertake Recovery Act-Funded Highway 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 act requires that 30 percent of these funds be suballocated for projects primarily based on population. 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 generally 80 percent.

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## Texas Selected Quick-Start Projects and Received Bids Below Estimates

Texas was apportioned \$2.25 billion in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, over \$1.16 billion 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 signs a project agreement. As of June 25, 2009, \$2,521 had been reimbursed by the U.S. Department of Transportation Federal Highway Administration

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<sup>20</sup>House Bill 3646 was passed in the 81st Regular Session of the Texas Legislature and signed by the Governor on June 19, 2009.

<sup>21</sup>Education's guidance stipulates that neither a governor nor a state education agency may limit how LEAs use SFSF funds because, in part, the Recovery Act grants considerable flexibility in how these funds can be used.

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

Texas Department of Transportation officials told us that Recovery Act funds for highways have been obligated predominately on preservation projects because they can be started and completed quickly. As shown in table 2, these projects include pavement improvement and widening, and bridge construction and replacement.

**Table 2: Highway Obligations for Texas by Project Type as of June 25**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$72	\$513	\$421	\$81	\$10	\$12	\$55	\$1,163
Percent of total obligations <sup>b</sup>	6.2	44.1	36.2	7.0	0.9	1.0	4.7	100.0

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

<sup>b</sup>Total may not add to 100 due to rounding.

On June 25, 2009, FHWA reported that total obligations of over \$1.16 billion in Recovery Act highway funds for 205 projects in Texas had been obligated. In its response to our questions, the Texas Department of Transportation reported that its April and May project lettings for highway construction projects came in at approximately 28 percent and 18 percent below its cost estimates respectively. Officials told us that the bids were less than its estimates because material and product prices were lower, and contractors wanted to keep their crews employed. According to the Texas Department of Transportation, funds for those projects that are below cost estimates will be redirected within a 90-day time-frame, and the savings committed to new Recovery Act highway projects.

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Construction about to  
Start at Three Sites We  
Visited

We visited three Texas Department of Transportation district offices during our review—San Antonio, Fort Worth, and Dallas.<sup>22</sup> We selected a Recovery Act-funded highway project at each district office and performed a site inspection in May or June 2009. At the time of our inspection, construction work had not started at the three project sites.<sup>23</sup>

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<sup>22</sup>The Recovery Act-funded highway projects selected for our review were based on five criteria: (1) most advanced project—because construction on Texas projects had not started, we selected from those with Recovery Act fund obligations, (2) project located in an Economically Distressed Area (EDA)—one of the three project sites we visited was in an EDA, (3) state versus locally administered—for the three district offices we visited, all Recovery Act highway projects were administered by Texas, (4) urban versus rural location—one of the three project sites was located in a rural area, and (5) projects with varied project costs—the three projects we selected ranged from an estimated \$1.9 million to \$5.7 million.

<sup>23</sup>Texas Department of Transportation officials told us there is a 45-day period during which the department allows contractors to hire and assemble their subcontractors.

**Figure 2: San Antonio District Road-Widening Project**



Source: GAO.

The San Antonio district project site, in Uvalde County (64 miles west of San Antonio), will involve an 11.4-mile section of Ranch-to-Market Road 187 south of U.S. 90 in Sabinal (see fig. 2). The district office stated that the project was selected for safety and operational considerations and was located in an economically distressed area. Officials told us this project would not have been selected for 4 to 10 years without Recovery Act funds.

**Figure 3: Fort Worth District Roadway Resurfacing**



Source: GAO.

The Fort Worth district project site (see fig. 3), in Tarrant County, will involve a 5-mile section of Interstate 820, west of Interstate 35W near Saginaw (7 miles north of Fort Worth). The district office stated that this project was selected for safety and preservation of the highway investment

and would not have been selected for 3 or more years without Recovery Act funds.

**Figure 4: Dallas District Intersection Improvement**



Source: GAO.

The Dallas district project site, in Dallas County, will involve an intersection improvement for Farm-to-Market Road 1382, northwest of U.S. 67 in Cedar Hill (see fig. 4). The district office stated that this project had been pulled from letting 3 times due to lack of funds.

## Texas Reported No Problems in Meeting Highway Infrastructure Requirements

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. Texas is required to adhere to the following:

- Ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year. 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames. In its June 2009 report to the Governor, the Texas Department of Transportation expected that \$1.07 billion would be

obligated for Recovery Act highway projects before the June 30, 2009, deadline, exceeding the requirement to obligate approximately \$787.5 million within 120 days of being apportioned. As of June 25, 2009, 61 percent of the \$1.575 billion that is subject to the 50 percent rule for the 120-day redistribution had been obligated.

- Give priority to projects that can be completed within 3 years and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended. The Texas Department of Transportation reported that completion within 3 years is anticipated of all but a small number of the 300 projects selected for funding through the act. The Texas Department of Transportation reported it selected highway preservation projects by first allocating specific funding amounts to each of the state's 25 districts, then gave priority for Recovery Act funding to projects that were in EDAs. Officials added that priority was given to preservation projects in EDAs over projects not in EDAs, and all available enhancement projects in EDAs were selected before any other enhancement projects were considered.
- 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 planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>24</sup> On March 17, 2009, Texas submitted an explanatory certification, meaning it included language stating that the list of planned obligations are estimates based on the best information available at the time. The certified planned level of effort also was based on obligations, rather than expenditures. On April 20, the Secretary of the U.S. Department of Transportation informed Texas that conditional and explanatory certifications were not permitted, provided additional guidance, and gave Texas the option of amending its certification by May 22, 2009. On May 27, 2009, the State submitted an amended certification based on expenditures, rather than

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<sup>24</sup> States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of the each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

obligations. However, the amended Texas certification still included qualifying language explaining that the list of planned expenditures are estimates based on the best information available at the time. The amended certification letter also contained qualifying language explaining that, based on the state Constitution, the Governor cannot certify any expenditure of funds until the legislature passes the appropriation act. The amended certification went on to explain that the proposed appropriation act contains authority that, when effective, will meet the Recovery Act maintenance of effort requirement. On June 19, 2009, the Governor signed the 2010-2011 appropriations act. According to DOT officials, as of June 25, 2009, the status of Texas's revised certification remains unresolved. On June 30, 2009, a representative of the Governor's office told us that since the budget has been signed, the state plans to submit a revised certification letter, removing the qualifying language.

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## ESEA Title I, Part A Planning for Funds' Use Is Under Way

The Recovery Act provides new funds to help local school districts 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 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, local education agencies are required to comply with current statutory and regulatory requirements and must obligate 85 percent of these funds by September 30, 2010.<sup>25</sup> The U.S. Department of Education is urging local districts to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The Department of Education made the first half of states' Title I, Part A funding available on April 1, 2009, with Texas receiving \$474.4 million of its approximately \$948.7 million total allocation. According to Texas Education Agency officials, the Recovery Act funds for ESEA Title I, Part A will be expended under the same stipulations as funds received normally for these programs. Although the state has received its allocation of Recovery Act funds for ESEA Title I, Part A, education agencies must apply to the state to receive their share of the funds through a grant application system. As

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<sup>25</sup>LEAs must obligate at least 85 percent of their Recovery Act Title I, Part A funds by September 30, 2010, unless granted a waiver and all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

of June 23, 2009, the Texas Education Agency has awarded about \$56 million to local education agencies.

Though neither of the school districts we visited had applied, officials we interviewed and documentation we obtained outlined allocation amounts and planned usage of those allocations. As of June 11, 2009, Houston ISD's officials and state documentation show the district ESEA Title I, Part A allocation will be approximately \$85.5 million. Houston ISD officials stated that ESEA Title I, Part A funds will be used on various educational programs geared toward early childhood development to promote student achievement for ages 3 through 5 and secondary schools in certain areas, including social and emotional support and college admission test (SAT/ACT) preparation for secondary students. Fort Worth ISD has been allocated almost \$24.5 million in ESEA Title I, Part A Recovery Act funds. Fort Worth ISD officials told us the district has plans to use the funds to enhance several ESEA Title I, Part A areas, such as parental involvement, elementary math coaches, and prekindergarten. The officials also stated that although they welcome the Recovery Act funds, those funds will not solve the Fort Worth ISD budget deficit this year or in future years.

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## Local Education Agencies Have Begun Planning to Use IDEA, Part B Recovery Act Funds

The Recovery Act provided supplemental funding for programs authorized by the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for children and youth with disabilities. IDEA programs receiving this funding include those that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education (Part B). States were not required to submit an application to the U.S. Department of Education in order to receive the initial Recovery Act funding for IDEA, Part B (50 percent of the total IDEA, Part B funding provided in the Recovery Act). All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements. The Department of Education allocated the first half of states' IDEA, Part B allocations on April 1, 2009, with Texas receiving \$485 million.

According to Texas Education Agency officials, the Recovery Act IDEA, Part B funds will be expended under the same stipulations as the regular IDEA, Part B funds. Although the state has received its allocation of Recovery Act funds IDEA, Part B funds, local education agencies must apply to the state to receive their share of the funds through a grant application system. According to Texas Education Agency officials, the Recovery Act IDEA, Part B funds will be expended under the same stipulations as the regular IDEA, Part B funds. As of June 23, 2009 TEA

had received 187 applications and issued 42 grant awards totaling about \$52.4 million.

Houston ISD officials told us they anticipate receiving \$43.5 million in IDEA, Part B Recovery Act funding. The officials told us that Recovery Act IDEA, Part B funds will be expended primarily on new technology, such as various Web-based instructional materials and assistive technologies for students with disabilities. These materials will include features such as the ability to monitor and record individual student progress in core content areas such as English and mathematics. Houston ISD officials stated that without the Recovery Act funding, it would have taken the district additional years of regular program funding to be able to procure these technologies.

Fort Worth ISD reported being eligible for almost \$16.9 million in IDEA, Part B Recovery Act Funds. Fort Worth ISD will use IDEA, Part B funds in a variety of ways including collaborating with the district's internal technology department to support districtwide initiatives, installing lifts in middle schools to facilitate mobility of students with severe physical needs, buying four buses equipped for students with special needs, and purchasing special education testing materials—for example, cognitive assessments and academic achievement assessments. However, Fort Worth ISD officials stated that the stipulations made by the state on how to expend the funds limit its ability to utilize the funds in the best interest of the district. Specifically, the performance indicators that allow districts to qualify for the ability to use their funds as they see fit are set too high by the state, according to these officials. They also said that the goals are not easily reached by all districts. In response, state officials explained that the high performance indicators are set by the U.S. Department of Education's Office of Special Education Programs, not by the state. The state officials further explained that when a district does not meet a performance indicator, the district can still determine how Recovery Act funds may be used. Not meeting a goal does not take away the ability of a school district to determine how to expend their Recovery Act funds, according to state officials.

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## Department of Energy Recovery Act Weatherization Assistance Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the Department of Energy (DOE) through each of the states and the District of Columbia.<sup>26</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating and air-conditioning equipment. During the past 32 years, the weatherization program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the weatherization program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District of Columbia, using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state program plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

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## Texas Officials Managed the Application Process and Have Plans for Using Its Major Increase in Weatherization Funding

DOE allocated to Texas \$327 million in Recovery Act funding for the Weatherization Assistance Program for a 3-year period. The Texas Department of Housing and Community Affairs (TDHCA) is responsible for administering the program. TDHCA received a funding opportunity announcement on March 12, 2009, and subsequently received additional guidance and technical assistance from a DOE official on using the initial 10 percent allocation and developing the state weatherization program plan. TDHCA submitted its initial application for funding on March 19 and

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<sup>26</sup>DOE also allocates funds to Indian tribes and U.S. territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

its weatherization program plan on May 6. TDHCA officials expected DOE to verify that the state's plan meets requirements provided in its guidance and that DOE would approve the plan within 30 days of the May 6 submission date. As of June 26, 2009, Texas's application had not been approved. TDHCA documentation stated that DOE had clearly communicated expectations for the plan review process deadlines and turnaround times, and TDHCA did not specify any questions or concerns.

TDHCA has received the initial allocation, and it has plans for disbursing and tracking the remaining funds after they become available. DOE provided the initial 10 percent allocation (approximately \$32.7 million) on April 10, 2009, to be used for "Recovery Act planning purposes" after TDHCA submitted its application for funding. TDHCA officials told us the state expects to receive an additional 40 percent (\$130.8 million) of the funding after its plan is approved by DOE. These funds will be disbursed through TDHCA and contracts will then be awarded to subrecipient agencies. Officials with TDCHA said the agency will establish codes to separate and track Recovery Act weatherization funding and expenditures.

TDHCA has documented plans for its increased weatherization assistance. According to TDHCA documentation, the \$327 million in Recovery Act funds represents a significant increase in weatherization funding. Prior to the Recovery Act, Texas's annual weatherization appropriation had been about \$13 million per year.

TDHCA officials told us that they plan to use the Recovery Act funding in several ways, including weatherization home improvements such as adding insulation and energy efficient heating and cooling systems, audit preparation and compliance, and state and subrecipient administration. According to TDHCA's Weatherization Program Plan, it will directly award \$180 million in Recovery Act funding to 34 existing subrecipients, such as non-profit entities and community action agencies. An additional \$100 million will be directed to 32 cities with a population of over 75,000. Of these 32 cities, 12 have the option to give up to \$1 million to existing subrecipients. Officials stated that because of this option available to the cities, the actual funding amounts may change from those stated in the Weatherization Program Plan.

According to TDHCA officials and the state weatherization plan, \$7.5 million will be competitively awarded to 15 subrecipients. TDCHA plans to allocate the remaining Recovery Funds for training, technical assistance, and administration. TDHCA plans to hire additional weatherization staff to manage the increased workload from Recovery Act funded projects

including 4 trainers, 7 monitors, 2 contract specialists, and 1 administrative assistant.

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## Workforce Investment Act (WIA) Youth Program Expands

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low-income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act,<sup>27</sup> the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may 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. 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.<sup>28</sup>

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<sup>27</sup> H.R. Rep. No. 111-16, at 448 (2009).

<sup>28</sup> Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state laws have different minimum wage rates, the higher standard applies.

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### Texas Workforce Commission Oversees the WIA Youth Program

The Texas Workforce Commission is the state agency charged with overseeing and providing workforce development services to employers and job seekers of Texas, including the WIA Youth Program. For employers, the commission offers recruiting, retention, training and retraining, and outplacement services, as well as valuable information on labor law and labor market statistics. For job seekers, the commission offers career development information, job search resources, training programs, and, as appropriate, unemployment benefits. The commission is part of a local-state network consisting of the statewide efforts of the commission coupled with planning and service provision on a regional level by 28 local workforce boards and their service contractors. Local access to workforce assistance is provided through more than 240 Texas Workforce Centers and satellite offices and six unemployment insurance call-in centers. The 28 boards oversee activities in 28 local workforce development areas. The areas vary widely from a single, densely populated county such as Dallas County to rural areas that include multiple counties. The varying circumstances present different challenges for the areas in implementing summer youth employment activities. Board officials of the North Central Local Workforce Development Area, a 14-county area, which is predominantly rural, cited their difficulty recruiting qualified youth because of sparsely populated rural communities—a situation not likely faced in populous Dallas County.

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### Most of Texas Recovery Act WIA Funds Have Been Obligated and Spending Has Begun

Texas received \$82 million in Recovery Act funds for the WIA Youth Program and, after reserving 15 percent for statewide and administrative activities, allocated the remaining funds to local area boards. The Texas Workforce Commission set a target to spend \$41.8 million on summer youth employment activities, which amounts to 60 percent of the allocation the local boards received (\$69.7 million). The commission also required boards to expend at least 70 percent of their allocation by September 30, 2009. Further, the local boards must expend a minimum of 30 percent of their allocation on services for out-of-school youth, as required under WIA. As of June 25, 2009, 10 percent of the allocated funds had been spent on local summer youth employment activities and 75 percent had been obligated for contracts to provide local summer youth employment activities. According to Texas Workforce Commission officials, Texas currently has the ability to track and report on Recovery Act fund expenditures for summer youth activities separate from expenditures for such activities using other funds.

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## Texas Has Established a Goal for Serving Youth and Will Use Recovery Act Funds to Expand Summer Youth Activities

Texas has a goal to serve at least 14,420 youth in its summer program using Recovery Act funds—nearly 15 times the 918 youth that were provided summer employment opportunities in the 2008 WIA youth program. The Texas Workforce Commission worked with local area boards to establish area targets that reflect local conditions. For example, we visited the Gulf Coast and North Central Local Workforce Development Areas to discuss their summer youth program plans.<sup>29</sup> The Gulf Coast area, which includes 13 counties and the city of Houston, received a Recovery Act fund allocation of \$14.8 million. As of June 19, 2009, the Gulf Coast has targeted 4,652 youths and has found employment for 901 youths. The North Central area, which consists of 14 predominately rural counties, received an allocation of \$4.5 million in Recovery Act funds. As of June 19, 2009, they have targeted 1,000 youths and found employment for 69 youths. With the addition of Recovery Act funds, both areas are expanding their programs. According to Gulf Coast area officials, they are contracting with community-based private and public organizations to recruit young people from low-income families for subsidized summer jobs; develop, operate, or oversee work sites or activities; prepare participants for work and match them to work sites; and provide counseling. Similarly, North Central area officials stated they are seeking organizations to provide youth summer employment opportunities by establishing and operating work sites and helping youth prepare for and adapt to work.

Officials of both local workforce development areas we visited stated that their plans for the 2009 youth summer employment program are complete. According to Gulf Coast area officials, all of the service providers, projects, and individual work sites for the program are in place, and youth are being enrolled; however, as of May 28, 2009, employment activities were not yet underway. North Central area officials stated they are still establishing work sites and, as of June 4, 2009, had established 654 of the 1,000 planned work sites. Officials of both areas stated they plan employment activities to begin during June 2009, after the school year has ended. Although the Texas Workforce Commission has a benchmark for local area boards to expend 100 percent of their program funds by June 30, 2010, officials in the two areas we visited expressed confidence in their

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<sup>29</sup>We selected the Gulf Coast Local Workforce Development Area because the area received the most Recovery Act funds for the Summer Youth Program and represented an urban area. The North Central area was selected to include a rural area among the top recipients of summer youth Recovery Act funds.

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area's ability to meet both the expenditure and enrollment goals for their programs.

The Gulf Coast and North Central areas are focusing their youth summer employment programs on providing work experiences. Experiences being offered in the Gulf Coast area include a variety of general summer jobs (e.g., parks and recreation, maintenance, clerical and office work, customer service) with cities, counties, school districts and nonprofit organizations. Internships are being offered in local government offices, at area hospitals, and at a local company. The North Central area is also offering employment experiences in a variety of areas, including city and county government clerical, information technology, maintenance, animal shelter assistant and librarian aide positions, as well as health care-related positions such as radiology tech assistants. Green job work experiences will be provided in both areas. Gulf Coast area green jobs will include replacing incandescent bulbs in homes with fluorescent, energy efficient bulbs. North Central area green jobs will include recycling, landscaping, assisting in organizing a green education fundraiser, and helping an electric company install energy saving devices. Gulf Coast and North Central area officials said that they will rely on contractors for payroll services, recruiting participants, and providing work sites.

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### State and Local Boards Face Challenges Implementing Summer Youth Programs

Texas Workforce Commission officials cited several challenges for implementing the summer youth programs. For example, they cited "the extremely short time frame" to create a statewide program for summer youth employment activities. Officials also mentioned time constraints as a challenge at both workforce development areas we visited. The officials cited the need to rapidly recruit youth and ramp-up work sites. North Central area officials stated they have a challenge in recruiting youth for the program because of declining population in some rural areas. North Central officials also mentioned the challenge of having to adjust strategies as they receive guidance from federal and state officials. Gulf Coast area officials cited challenges in dealing with "very restrictive" WIA Youth program eligibility criteria and income limits that are "too low." They stated that the criteria and income limits have historically been such that some youth could not qualify for the WIA Youth program.

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## Texas Has Received Byrne Grant Funds and Has Plans to Distribute Funds to Localities

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>30</sup> The total JAG allocation for Texas state and local governments under the Recovery Act is about \$147.5 million, a significant increase from the previous fiscal year 2008 allocation of about \$11 million. The Office of the Governor, Criminal Justice Division (CJD), administers JAG funds for the state.

Texas was allocated nearly \$147.5 million in total JAG Recovery Act funds, which included the state award of about \$90.3 million and direct grants to Texas localities of about \$57.2 million.<sup>31</sup> As of June 30, 2009, Texas had received its full state award of about \$90.3 million.<sup>32</sup> Figure 5 shows Texas's planned distribution and use of the state award funds, according to CJD officials. As shown, of the \$90.3 million award, the state plans to provide \$54.6 million directly to local entities in accordance with JAG variable pass-through provisions.<sup>33</sup> The state plans also to use an additional \$31 million in discretionary grant awards for a variety of

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<sup>30</sup>We did not review these funds awarded directly to local governments because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

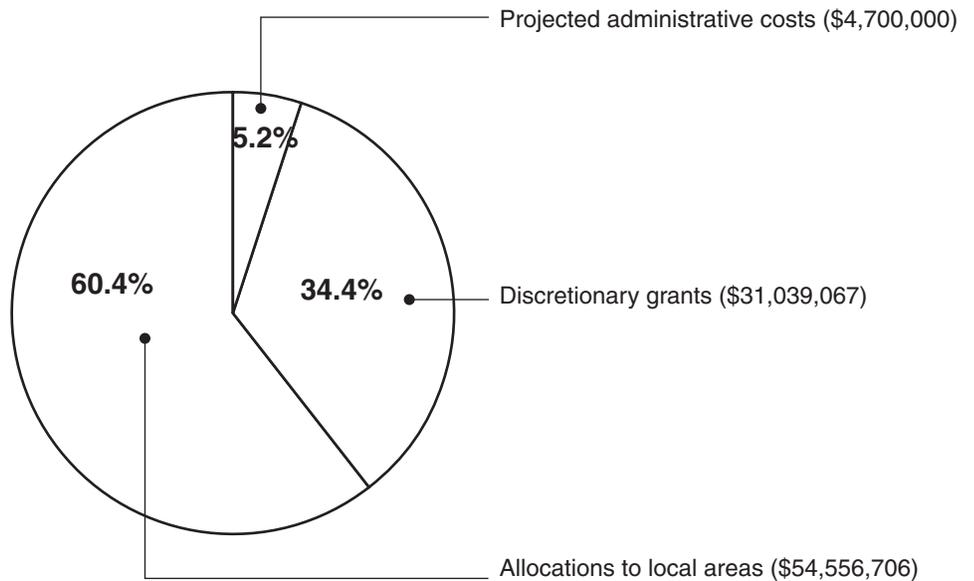
<sup>31</sup>The scope of work for this report included Byrne grant state award funds but not direct grant funds to localities.

<sup>32</sup>Due to rounding, this number may not exactly equal 60 percent of the total JAG award.

<sup>33</sup>BJA requires that states pass through a predetermined percentage (variable pass-through) of its JAG funds to units of local government, such as a city, county, township, town, or tribe. The percentage is established by assessing the total criminal justice expenditures by the state, as well as crime statistics for those units of local government. In total, Texas localities will receive \$54.6 million in state pass-through funds in addition to \$57.2 million in direct JAG awards from BJA.

recipients, including local government, state agencies, nonprofit organizations, and school districts. Projected administrative costs to manage the grant process are about \$4.7 million.

**Figure 5: Distribution of Texas Allocation—\$90.3 million in JAG Recovery Act Funds**



Source: GAO analysis of data provided by the Texas Governor's Office..

CJD plans to use Recovery Act JAG funds to reduce violent crime and its effect on communities and has also developed plans to distribute funding through the state. In terms of reducing violent crime and its effects, CJD plans to increase programs that (1) divert juveniles away from criminal activities and toward productive lifestyles, (2) reduce crime and enhance resources for prosecution of offenders, and (3) support solutions for restoring victims of crime, reintegrating offenders into the community, and reducing the potential for recidivism. On May 1, 2009, CJD issued a request for applications, making up to \$40 million in variable pass-through funds available to local entities. According to state officials, applications from more than 340 potential grant subrecipients had been received as of May 15, 2009, 2 weeks before the June 1, 2009, application deadline, but no awards are to be made before July 2009. Based on information available as of June 25, 2009, Texas had obligated about \$4.6 million of these funds for administrative purposes. CJD plans to establish agreements with the state's Regional Councils of Governments to assist in reviewing and

prioritizing awards of the \$40 million in variable pass-through funds to local governments.<sup>34</sup> In determining amounts of funding to pass through to local governments, CJD is using the following formula to give priority to rural regions and areas with crime rates above the overall state average:

- Regions with a population density less than 52 individuals per square mile will receive a base amount of \$500,000.
- Regions with an overall crime rate exceeding the state average index rate of 4,623 crimes per 100,000 residents will receive a base amount of \$250,000.<sup>35</sup>
- Remaining available funds will be allocated based on a formula considering percentage of total crime and total population.

According to state officials, after the \$40 million is awarded out of a total of \$54.6 million available for pass-through to local entities, applications for the remainder of the funds (\$14.6 million) will not be reviewed and prioritized by the Regional Councils of Governments. Instead, CJD plans to review, prioritize, and directly award the funds to local entities based on the inherent value of the applicant's program, including whether it addresses one of the Governor's criminal justice strategies. CJD also plans to award the \$4.7 million for administrative costs without input from the Regional Councils of Governments.

Texas officials expect to incur about \$4.7 million in administrative costs to manage the JAG funds, including costs for

- agreements with the state's 24 Regional Councils of Governments to assist in the review, prioritization, and monitoring of variable pass-through funds to local units of government;
- an addendum to the state's interagency agreement with the Texas A&M University Public Policy Research Institute to modify the online performance-based reporting system to accommodate newly required JAG performance measures and standard Recovery Act measures; and

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<sup>34</sup>Regional Councils of Governments are political subdivisions of the state that deal with the problems and planning needs that cross boundaries of individual local governments or that require regional attention.

<sup>35</sup>Index crimes include murder, rape, robbery, assault, burglary, larceny, and auto theft.

- additional grants monitoring staff to conduct compliance reviews of JAG Recovery Act award subrecipients.

By July 1, 2009, CJD officials expect to obligate \$2.9 million in administrative funds through subcontracts, with the 24 Regional Councils of Governments to assist in reviewing subrecipient grant applications, prioritizing grant applications, and providing technical assistance to JAG Recovery Act grant recipients. Administrative funds to be obligated to the Regional Councils of Governments range from approximately \$37,000 to more than \$348,000.

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## San Antonio and Ferris Housing Authorities Have Received Capital Formula Grants and Are Drawing Down Funds

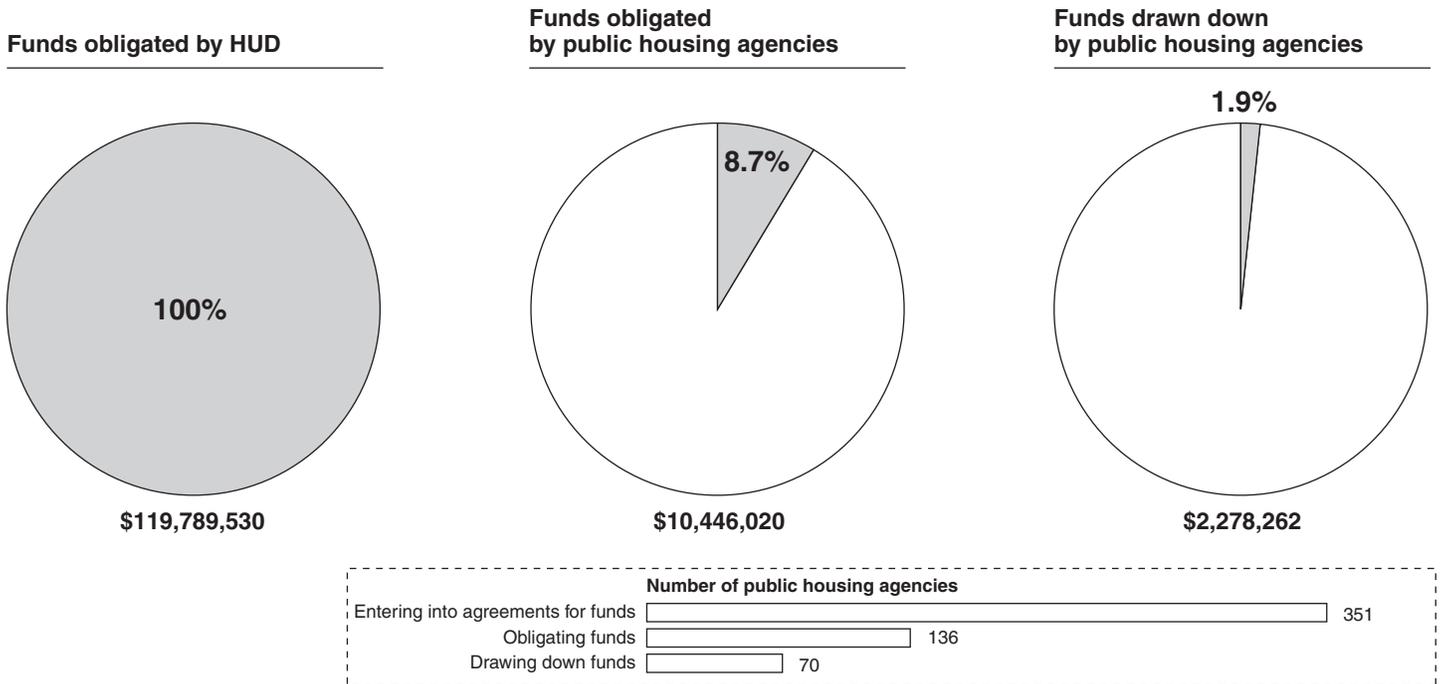
The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>36</sup> The Recovery Act requires the 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 they are made available to the agencies for obligation, expend at least 60 percent of the funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already under way or included in the required 5-year Capital Fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued a notice of funding availability that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>37</sup>

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<sup>36</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

<sup>37</sup>HUD released a revised notice of funding availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for applications, as well as to funding limits.

**Figure 6: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Texas**



Source: GAO analysis of HUD data.

In Texas, there are 351 Public Housing Agencies that have received a total of \$119.7 million from the Recovery Act Public Housing Capital Fund formula grant awards. As of June 20, 2009, the agencies have obligated \$10.4 million and expended \$2.3 million. GAO visited two Public Housing Agencies in Texas—the San Antonio Housing Authority and the Ferris Housing Authority—to discuss their use of the funds.<sup>38</sup>

The San Antonio Housing Authority was allocated \$14.6 million in Recovery Act funds and had expended approximately \$450 for administrative expenses as of June 20, 2009. According to documentation

<sup>38</sup>We visited the San Antonio Housing Authority and the Ferris Housing Authority in Texas to discuss their use of Capital Fund formula grants totaling about \$14.6 million. We selected the San Antonio Housing Authority because it represents one of the largest public housing authorities in an urban area in Texas, and it received the largest Recovery Act Capital Fund grant in the state. We selected the Ferris Housing Authority because it represents a rural public housing authority in Texas that received Recovery Act Capital Fund formula grants and because it had expended 100 percent of its Recovery Act allocation as of June 6, 2009.

obtained from this authority, 95 percent of Recovery Act funds will be used for projects previously identified in the agency's Capital Fund Program Five-Year Plan, including (1) comprehensive modernization of one development with 119 units; (2) elevator/fire/security upgrades of 22 developments for housing the elderly; (3) playground upgrades of 12 multifamily developments; and (4) replacing and repairing ventilation systems, doors, fences, roofs, and cabinets for more than 20 developments. The remaining 5 percent is currently planned to be used for contract administration. According to San Antonio Housing Authority officials, maintenance needs assessments of the agency's public housing developments conducted in 2005 determined that a total of \$300 million in repairs were needed (deferred maintenance). San Antonio Housing Authority officials informed us that they planned to obligate approximately \$534,000 in late June 2009 and expect to have at least 70 percent of Recovery Act funds obligated by December 2009.

Included in the San Antonio Housing Authority's list of projects receiving Recovery Act funds is a development built in the early 1970s to house the elderly. It will be completely rehabilitated at an estimated cost of \$6.6 million. We visited this development and officials told us they plan to replace the development's cabinets, flooring, windows, and heating and air-conditioning system that, as shown in figure 7, had corroded pipes and, according to officials, often leaked and did not provide adequate heating and cooling. San Antonio Housing Authority officials stated that they expect to award contracts for this project in December 2009.

**Figure 7: San Antonio Housing Authority—Corroded Heating and Air-Conditioning Pipes**



Source: GAO.

We also visited a development that will receive a new roof and playground upgrades at an estimated cost of \$250,000 for 34 buildings. San Antonio Housing Authority officials told us they expected the playground upgrades and site repairs to begin by September 2009.

San Antonio Housing Authority officials told us they are using existing processes to track Recovery Act funds. Officials stated that its accounting system is capable of tracking each grant and funding source separately, and they provided a spreadsheet that will be used to track daily activities. These officials further told us they had not faced any delays in drawing down funds out of HUD's Electronic Line of Credit and Control System (ELOCCS). Additionally, officials stated they did not foresee any issues in

meeting the accelerated requirements to obligate and expend funds under the Recovery Act and had already begun work to obligate 100 percent of Recovery Act funds by March 2010, including receiving approval from its board for architectural and engineering firms to prepare construction documents for two major projects. Officials also told us they were accustomed to working with Davis-Bacon requirements.<sup>39</sup>

Subsequent to our visit on June 18, 2009 indictments were unsealed in the U.S. District Court in San Antonio that charge five San Antonio Housing Authority employees — two maintenance supervisors, a senior maintenance technician and two project managers — with federal bribery-related offenses. The indictments charge that each of the employees corruptly accepted money, ranging from \$1,800 to \$6,500, in exchange for influencing or securing repair contracts on various properties of the San Antonio Housing Authority. The cases against the five employees are now pending before the court. San Antonio Housing Authority officials stated that these employees have been terminated and steps have been taken to strengthen its procurement process. Additionally, officials told us that tighter accountability measures and internal controls are being implemented to prevent this type of activity from recurring.

The Ferris Housing Authority was allocated \$57,868 in Recovery Act funds, and as of June 20, 2009, had expended the entire amount. The funds were spent on needs that had previously been identified by the agency, including 105 window replacements, 10 bathroom renovations, and sewage line upgrades. Figure 8 shows one of the renovated bathrooms. Documentation obtained from the Ferris Housing Authority detailed that the agency accounted for its Recovery Act expenditures by documenting payments made and contractor receipts.

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<sup>39</sup>The 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, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.

**Figure 8: Ferris Housing Authority—Renovated Bathroom with Updated Tile, Bathtub, Toilet, and Sink**



Source: GAO.

A Ferris Housing Authority official informed us that the authority did not have major problems accessing funds and that its Recovery Act allocation and expenditures did not require changes or enhancements to its internal controls. Documentation obtained from the agency detailed that Recovery Act expenditures were tracked and accounted for separately from other federal funds.

According to an official from the Ferris Housing Authority, the sewer line replacement will likely save the agency money over the long-term by preventing previously required monthly maintenance. The housing authority did not plan to measure additional impacts of its Recovery Act spending until it receives additional instructions from the federal government stipulating such a requirement.

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## Texas Continues Its Efforts to Provide Accountability and Transparency of Recovery Act Funds

The state process for accounting and overseeing Recovery Act funds remains unchanged since our April 2009 report. As we reported, Texas officials noted that Recovery Act funding will flow generally through existing federal-state agency partnerships or programs. Thus, state officials told us they plan to use, to the extent possible, existing systems, processes, or mechanisms to provide accountability and transparency for Recovery Act funding. As we noted in our April 2009 report, the Office of the Governor has established a steering committee—made up of all the state agencies receiving Recovery Act funds, as well as the State Comptroller—that meets twice a week. State officials informed us that oversight of federal Recovery Act funds in Texas involves various stakeholders, including the Office of the Governor, the State Auditor’s Office, and the Office of the Comptroller of Public Accounts. Officials also told us that the biennial general appropriations bill contained a provision that is designed to specifically facilitate the tracking of Recovery Act funds distributed to Texas—that is, the bill had a separate section (Article XII) that identifies, by applicable state agency, Recovery Act funds allocated to Texas.<sup>40</sup> In addition, at the direction of the Governor, two training presentations have been developed by a subcommittee of the Texas State Internal Audit Forum to provide additional guidance related to the accounting and transparency of Recovery Act funds. The training includes an overview of the audit process for the executive level and a more detailed presentation on “Internal Control Requirements for the American Recovery and Reinvestment Act” for program managers. On June 18, 2009, the Governor signed an executive order providing state agencies with additional guidance on the expenditure and reporting of Recovery Act funds.

As we reported in April 2009, the Office of the Comptroller of Public Accounts has established a centralized budget account for Recovery Act funds with a unique funding code. According to officials at state agencies we visited, this change to enable the tracking of Recovery Act funds was procedural and did not necessitate significant modification to agency financial systems. For example, both the Texas Workforce Commission and Texas Education Agency officials indicated that tracking Recovery Act funds would not require changes to their financial systems.

State agencies are also adding staff to expand the ability to oversee Recovery Act funds. The Comptroller’s office is hiring 13 additional staff to

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<sup>40</sup>S.B. 1, 81th Leg. Sess. (Tex. 2009). The Governor signed the bill on June 19, 2009.

help manage Texas Recovery Act funds. Texas Education Agency officials stated they were also adding staff to oversee the use of Recovery Act funds by adding two specialist positions to review and approve Recovery Act ESEA Title I, Part A applications and compliance reports.

In May 2009, officials told us that the State Comptroller's Office, in conjunction with the Office of the Governor, began requiring weekly reports from state agencies on their requests and allocations of Recovery Act funds. We were told that this financial information is subsequently posted on the Comptroller's Web site.<sup>41</sup> In June 2009, the Comptroller's office also started using its Web site to reinforce this reporting requirement and further promote transparency over the state's use of Recovery Act funds.

Anticipating that Recovery Act funding would increase its scope of responsibilities, the State Auditor's office plans to hire 10 additional staff (9 auditors and 1 investigator). According to the office, by June 1, 2009, the 9 auditors had begun work, and they continue to work toward hiring an investigator. The State Auditor told us the additional staff would enable his office to increase its audit efforts.

The State Auditor commented that the office plans to look closely at the financial statements of Texas agencies, as well as agency internal audits. The State Auditor explained that the office intends to audit Recovery Act funds through the Single Audit of the state of Texas's expenditures of federal awards.<sup>42</sup> Some programs with new federal account codes, for Recovery Act funds such as ESEA Title I, Part A and IDEA, Part B will be added to the Single Audit review for the Texas fiscal year ending August 31, 2009.<sup>43</sup> The State Auditor's office has the authority to conduct discretionary audits based, for example, on (1) discussions with internal auditors at state agencies or (2) risk assessments that consider previously reported material weaknesses in program compliance and internal

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<sup>41</sup>See <http://www.window.state.tx.us/recovery/>.

<sup>42</sup>The 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 Office of Management and Budget (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.

<sup>43</sup>The fiscal year in Texas runs from September 1 to August 31.

controls, as well as risk assessments of programs that have not been tested before. The 2010-2011 appropriations act contains a provision for reporting Recovery Act-related fraud, which will require that state agencies' Web sites provide information on how to report suspected fraud, waste, and abuse directly to the State Auditor's office.<sup>44</sup> In addition, in May 2009, the office placed a link on its Web site to inform the public on how to report fraud, waste, and abuse of Recovery Act funds.<sup>45</sup>

The Governor's office has also taken steps to monitor Recovery Act funds. For example, the Criminal Justice Division of the Governor's office is in the process of hiring two additional auditors to monitor grant compliance of the \$90.3 million in Recovery Act funding. Also, the Office of the Governor continues to host scheduled meetings (twice weekly) of a steering committee made up of representatives of all state agencies receiving Recovery Act funds and the Comptroller's office, for the purpose of ensuring statewide communication of the need for accountability and transparency. Further, officials from the Governor's office informed us that it has contracted with a consulting firm to track Recovery Act deadlines for federal applications, determine reporting requirements, and share this information with state agencies to assist Texas in completing federal applications and meeting Recovery Act reporting requirements.

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### Statewide Monitoring and Oversight Activities Supplemented with Agency Efforts

In addition to statewide oversight activities, the state agencies we contacted plan to conduct their own oversight of their respective Recovery Act funds.

- The Texas Department of Transportation stated that its project management includes daily oversight of both contractors and subcontractors by an on-site inspector. In addition, resident engineers for each work site keep a daily log of the quantity of materials delivered and installed (e.g., loads of asphalt).
- The Texas Department of Education has improved its monitoring process to include a refined risk assessment methodology to help allocate limited staff resources to specific areas of risk. Improvements also include a streamlined compliance review of subrecipients.

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<sup>44</sup> Conference Committee Report for S.B. No. 1 General Appropriations Bill, 81<sup>st</sup> Leg. Sess., at IX-69, § 17.05.

<sup>45</sup> See <http://www.sao.state.tx.us/>.

Officials believe these changes will result in timelier monitoring of subrecipient compliance with federal requirements and review of subrecipients corrective actions to address material compliance issues identified in Single Audits.

- Texas Department of Housing and Community Affairs (TDHCA) officials have identified several risks associated with the significant increase in weatherization funds and new subrecipients as a result of the Recovery Act. TDHCA officials believe these risks could impact its ability to meet the goals and objectives of the Recovery Act to maintain accountability, effective internal controls, compliance, and reliable financial reporting. The risks associated with the large increase in weatherization funds to subrecipients include
  - the ability to plan for an increase of funds,
  - staffing considerations,
  - program tracking,
  - quality control,
  - monitoring of program rules and regulations, and
  - identification and eligibility of beneficiaries.

To address these risks, TDHCA plans to increase communications with all subrecipient organizations, enhance training and technical assistance, and increase monitoring.

The risks associated with new subrecipients include

- lack of required construction expertise, and
- lack of program regulations knowledge.

To address these issues, TDHCA plans to provide intensive monitoring, technical assistance, and training on weatherization program regulations.

- Texas Workforce Commission officials stated that, in addition to its normal monitoring practices, it plans to conduct specific reviews pertaining to subrecipient expenditures of Recovery Act funds. The commission's Subrecipient Monitoring Department will conduct reviews at workforce boards receiving the largest youth allocation of Recovery Act funds—Dallas, Gulf Coast, and Lower Rio Grande. The commission will increase subrecipient monitoring to ensure Recovery Act fiscal and program requirements are met and will increase subrecipient monitoring visits this summer. From September to December, commission officials told us they plan to review controls over Recovery Act funds at approximately eight workforce boards.

- The Criminal Justice Division within the Office of the Governor is in the process of hiring two auditors to expand its ability to monitor compliance for \$90.3 million in Byrne grant funds provided by the Recovery Act.

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### Potential Areas of Vulnerability of Recovery Act Funds in Texas

In May 2009, officials from the State Comptroller's office repeated its concern that the federal government was not identifying Recovery Act funds separately from other federal funds disbursed to the state. Absent this identification, the Comptroller relies on state agencies to distinguish between the two types of federal funds. Texas officials cited federal fund transfers to the Texas Workforce Commission and the Texas Health and Human Services Commission as examples of this identification problem. Absent separate coding from the U.S. Department of the Treasury, the Texas officials said the state relies on the state agencies to inform the State Comptroller's office on what portion of federal funds are Recovery Act funds. The Texas officials commented that it would be helpful if the federal government put in place the coding structure to identify Recovery Act funds separately from other federal funds—as they believe the Recovery Act requires—before Recovery Act funds are disbursed to Texas. Officials told us that doing so would offer the Comptroller's office another opportunity to substantiate the amounts being reported by the state agencies on a weekly basis. Officials added that the Comptroller's office would take all necessary steps to ensure that Recovery Act funds flowing through the state treasury are properly tracked and accounted for. The state has sent two inquires to the Office of Management and Budget expressing its concerns and is awaiting a reply. State agency officials told us they do not share the Comptroller's concern because they are able to distinguish between their normal federal funds and Recovery Act funds when initiating fund transfers.

Another potential area of risk involves Recovery Act education and housing fund subrecipients. Officials at the Texas Education Agency and Texas Department of Housing and Community Affairs told us that monitoring of subrecipients receiving Recovery Act funds will take on greater importance because of the Recovery Act's additional tracking and reporting requirements. The Texas Department of Housing and Community Affairs officials are responsible for monitoring the weatherization program's subrecipients. Agency officials said their monitoring staff will be challenged by working with new subrecipients, such as city governments that may not have existing weatherization

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programs. State officials added that this challenge is complicated by the large increase in weatherization funding available under the Recovery Act.

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## Assessing the Effects of Recovery Act Spending

State and local officials commented that agencies were developing measures for assessing the performance of programs that receive Recovery Act funds. These officials recognized, however, that some adjustments to performance measures may be needed for assessing the impact of Recovery Act funds. State and local officials we spoke with confirmed they were developing methods for collecting and reporting on jobs created and additional impacts that Recovery Act funds will have on the state and their agencies. On June 22, 2009, the Office of Management and Budget issued guidance on assessing the impact of Recovery Act Funds.<sup>46</sup> Because the guidance was recently issued, we did not have the opportunity to discuss with state officials if the guidance resolved their concerns.

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## State Agencies and Localities Are Developing Methods to Measure and Report on Jobs Created

- Officials at each of the three Texas Department of Transportation district offices we visited told us they would use Federal Highway Administration forms for reporting jobs created or retained. Guidance was provided by the Federal Highway Administration and the Texas Department of Transportation and made part of all Recovery Act-funded contracts. Forms will be collected monthly from contractors and locally managed entities, as well as remitted to Texas Department of Transportation headquarters in Austin.
- Texas Education Agency officials told us they plan to measure the number of jobs created and saved by Recovery Act funds for both ESEA Title I, Part A and IDEA, Part B programs. This information will be collected from local education agencies at two points: in the application for funds at the beginning of the grant period and in a compliance report at the end of the grant period. For example, the Fort Worth Independent School District officials stated they plan to track the number of positions created as a result of Recovery Act funds allocated by utilizing an existing human resource management system.

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<sup>46</sup> After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on June 22, 2009. See, OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

- Texas Department of Housing and Community Affairs officials have identified two tiers of job creation and retention they plan to track for the Weatherization Assistance Program: the direct employment of staff or contractors that administer the program, as well as subrecipient and subcontractor staff supported with Recovery Act funds.
- San Antonio Housing Authority officials are coordinating with HUD to create performance measures to monitor and report on job creation and retention.

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### State and Local Agencies Plan to Track Effects

- The Texas Department of Housing and Community Affairs officials reported plans to calculate projected savings from the installation of materials designed to reduce home energy consumption for the weatherization program. Additionally, department officials said they plan to track the (1) number of units weatherized, (2) average cost per home served, (3) total number of low-income households eligible for energy assistance, and (4) the percentage of very low-income households eligible for assistance that actually receive assistance.
- Texas Workforce Commission officials said they currently plan to utilize pre-existing systems to track Recovery Act funds and have established the “number of participants served” as a performance measure, among others, for its summer youth program. The agency is in the process of considering additional performance measures.
- Local school district officials told us they also plan to measure the impact of Recovery Act funding. For example, Houston Independent School District officials plan to compare student performance data collected prior to and during the Recovery Act funding years and compare their performance to local, state, and national data. Also, Fort Worth school district officials stated they plan to track the impact of the funds using their existing system.
- Officials from the San Antonio Housing Authority’s Finance Division plan to track cost and maintenance savings as a result of energy conservation materials that will be installed in its developments. Additionally, officials cited plans to coordinate with city of San Antonio staff to measure the Recovery Act’s impact on the city’s economy.
- Texas Office of the Governor, Criminal Justice Division (CJD) officials report that they plan to monitor performance and financial aspects of awarded Byrne Grant funds to ensure that funds are used for

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authorized purposes. Also, the CJD, in coordination with the Office of the Governor, Financial Services Division, plans to be able to account for, track, and report on federal funds resulting from the Recovery Act separately from other fund sources. According to the CJD officials, this will allow each award to be directly tied to accounting codes to give the Governor's Office the ability to account for, track, and report separately on these funds. Texas also contracts with the Public Policy Research Institute at Texas A&M University to maintain a web-based data collection system that can retrieve and analyze program performance data.

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## Texas's Comments on This Summary

We provided the Governor of Texas with a draft of this appendix on June 17, 2009. A Senior Advisor, designated as the state's point of contact for the Recovery Act, responded for the Governor on June 19, 2009. In general, the Senior Advisor agreed with the information in this appendix but wanted us to provide more context 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. We added contextual perspectives to address this concern, as well as the Senior Advisor's belief that Texas continues to be well-equipped to meet its responsibilities under the Recovery Act. The Senior Advisor also provided technical suggestions that we incorporated, where appropriate.

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## Staff Acknowledgments

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# Appendix XVII: District of Columbia

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## Overview

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

**Use of funds:** GAO's work focused on nine federal programs, including existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, and new programs that were selected primarily because they have begun disbursing funds to states and the District. The District is using or plans to use these funds to help stabilize its budget and support Medicaid, public and charter schools, invest in improving highway infrastructure, and fund existing programs, as follows:

- **Funds Made Available As a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP):** As of June 29, 2009, the District had received over \$98 million in increased FMAP grant awards of which it had drawn down over \$89 million or almost 91 percent of its awards. The District is using funds to cover the increased Medicaid caseload, and maintain current Medicaid populations and benefits, as well as a locally funded health coverage program for certain District residents.<sup>2</sup>
- **Highway Infrastructure Investment Funds:** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$124 million in Recovery Act funds to the District in March 2009. As of June 25, 2009, \$100 million of these funds had been obligated. The District Department of Transportation (DDOT) is using its apportioned funds for 9 of 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. The first project to be completed was the repaving of Interstate 395 in the District.
- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF):** On June 16, 2009, the U.S. Department of Education

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

<sup>2</sup>The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

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approved the District's application for SFSF funds, and awarded the District \$60 million, or about 67 percent of its total SFSF allocation of \$89.3 million. The District plans to use these funds to restore state-level support for the District's 60 local educational agencies (LEA) and the University of the District of Columbia, allowing them to, among other things, maintain teaching positions, as well as to support the Home Purchase Assistance Program and priority government services.

- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA):** The U.S. Department of Education allocated the first half of states' ESEA Title I, Part A allocations of about \$18.8 million to the District on April 1, 2009. The District expects to receive a total of about \$37.6 million in Recovery Act funds for its ESEA Title I program. The District plans to issue guidance on the appropriate use and reporting of these funds prior to releasing these funds to LEAs in early July 2009. The District is also taking steps to strengthen its ability to monitor the use of these funds.
- **Individuals with Disabilities Education Act (IDEA), Part B and C:** The U.S. Department of Education allocated the first half of the IDEA allocations on April 1, 2009, with the District receiving about \$9.4 million of its expected \$18.8 million Recovery Act IDEA Parts B and C allocation. The District plans to release its Recovery Act IDEA funds and issue guidance to the LEAs by early July 2009.
- **Workforce Investment Act (WIA) Youth Program:** As of April 3, 2009, the District had been allotted almost \$4 million in Recovery Act funds for the WIA Youth Program. District officials told us they plan to spend the Recovery Act funds on the District's year-round WIA Youth Program that provides low-income in-school youth and out-of-school youth, with a variety of services including educational assistance, work experience, and occupational skill training. According to District officials, they had already allocated \$45 million for its locally funded 2009 summer youth employment program—the second largest summer youth employment program in the nation serving about 23,000 youth—before receiving the Recovery Act funds.
- **Edward Byrne Memorial Justice Assistance Grants:** The Department of Justice's Bureau of Justice Assistance (BJA) has awarded about \$11.7 million in Recovery Act funds to the District. The District plans to use these funds for a variety of programs focused on prisoners, criminal and juvenile justice research, and court diversion services for at-risk youth. On June 11, 2009, the Department of Justice approved the corrective actions the District had taken to address

several outstanding audit issues, thereby enabling the District to begin obligating these funds. The District expects to be able to release funds by October 2009.

- **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). As of June 20, 2009, DCHA had obligated about \$2.2 million or about 8 percent of the \$27 million it received in capital grant funds, and drawn down about \$169,000 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 June 6, 2009, four of the projects were underway.
- **Weatherization Assistance Program:** The U.S. Department of Energy (DOE) allocated about \$8 million in Recovery Act Weatherization funds to the District for a 3-year period. On March 30, 2009, DOE provided the initial 10 percent allocation or \$808,902 of Recovery Act funds to the District to be used for program management. On June 18, 2009, DOE approved the District's plans for using Recovery Act weatherization funds and awarded the District an additional 40 percent of its Recovery Act funds for a total of about \$4 million. The District's Department of the Environment (DDOE), which is responsible for administering the program, will disburse the funds beginning in July 2009 through seven community-based organizations, to weatherize and improve the energy efficiency of low-income families' homes and rental units.

**Safeguarding and transparency:** The District has modified its accounting and grants management systems to more clearly track Recovery Act funds. The District has also distributed guidance to District agencies that describes how to separately track and identify or tag Recovery Act funds, and informs the agencies that they will be held accountable for ensuring full compliance with all Recovery Act requirements. In addition, the District has established a bank account exclusively for depositing Recovery Act funds, as well as a system for notifying agencies when Recovery Act funds are received in the bank account. Further, agencies are provided weekly reports of grant funding notifications that must be reconciled. While the District government and agencies have internal controls, the controls are not integrated or included in a citywide internal control program, and past District Office of the Inspector General (OIG) reports have identified numerous weaknesses in

the District's internal controls. The OIG has identified six high-risk areas that possess known material weaknesses and problems, including some programs receiving Recovery Act funds. The OIG plans to maintain its audit efforts in these six areas, and also examine the use of Recovery Act funds as resources permit.

**Assessing the effects of spending:** The District plans to assess the impact of Recovery Act funds by continuing to use two established processes—the 13 work groups established to oversee the use of Recovery Act funds in each program area, and the weekly accountability sessions with key District agency officials. The District also plans to use the information in reports required by federal agencies under the Recovery Act, including information on the economic impact of the funds, such as on job creation. In addition, the City Administrator sent a memo to all District agency financial officers reminding agencies spending Recovery Act funds that they are required by the law to regularly report several pieces of data not typically required by government contracting, such as the number of jobs created by the work in the contract. To implement that reporting, the memo states that it is imperative that agencies include specific requirements in any contract using Recovery Act funds to complete this reporting in a reliable and timely manner. Officials in some District agencies told us that there are still questions regarding OMB's guidance on calculating the number of jobs created and jobs sustained through Recovery Act funds that need to be clarified to ensure that the required data are collected and reported correctly.

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## District of Columbia Uses of Recovery Act Funds

As of late June 2009, the District has been allocated about \$418 million in Recovery Act funds and has drawn down or obligated about \$191 million in funds for the nine programs we selected, as described in the following sections.

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## Recovery Act Funds Help Close Projected District of Columbia Budget Gap

The allocation of Recovery Act funds has helped the District close a gap between projected costs and revenues for the fiscal year 2010 budget.<sup>3</sup> According to the District's Chief of Budget Execution within the Office of the City Administrator, decreases in the District's revenue estimates from September 2008 through February 2009, resulted in a budget shortfall of \$777 million, which was about 13 percent of the District's overall budget.

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<sup>3</sup>The District of Columbia's fiscal year begins on October 1 and ends on September 30.

With the enactment of the Recovery Act in February 2009, the District was able build some assumptions about Recovery Act funding into the Mayor's proposed fiscal year 2010 budget proposal. The Mayor proposed the following actions to address the revenue gap:

- use of Recovery Act funds (about \$186 million)—local resources will be offset by the District's planned use of the Recovery Act funds;
- onetime uses of fund balance (about \$146 million)—nonrecurring funding that supports the proposed budget (includes \$50 million from the fiscal year 2008 general fund surplus);
- additional revenue from proposed policy changes (about \$73 million)—includes an increase of the earned income tax credit and incorporates the effect of Recovery Act tax changes;
- transfer pay-as-you-go projects to general obligation borrowing (about \$112 million)—the District will maintain the planned funding levels for school modernization, which was previously funded with annual sales tax revenues, but finance it with general obligation borrowing; and
- spending reductions (about \$260 million)—the proposed budget eliminates 1,631 of about 34,000 FTE positions, including 776 filled positions and 855 vacant positions.

District officials told us that because they knew that Recovery Act funds were coming while they were developing the fiscal year 2010 budget, they did not have to create a budget scenario in which additional actions, such as furloughs or reduced hours for District employees, were necessary to make up the revenue gap. The District has also developed a strategy to prepare for when Recovery Act funds are phased out. According to District officials, because they are required to prepare a 5-year balanced budget, the fiscal year 2010 budget included budgets through 2015 that showed reduced revenues as the Recovery Act funds are phased out.

On June 22, 2009, the District's Chief Financial Officer notified the Mayor and Chairman of the City Council that deteriorating economic conditions and lower than expected revenue collections had reduced the fiscal year 2009 revenue estimate by \$190 million and the fiscal year 2010 estimate by \$150 million. According to the District's Chief of Budget Execution, because the District is three-quarters of the way through its fiscal year which ends on September 30, the District does not have a lot of options for making up the revenue shortfall except tapping into its rainy day fund.

Specifically, he told us that the District would likely use its Contingency Reserve Fund, which currently has a balance of about \$227 million, to make up for the revenue shortfall in fiscal year 2009. Whatever funds are drawn from the Contingency Reserve Fund would have to be paid back, with 50 percent of the funds repaid in the next fiscal year and the remaining 50 percent repaid in the following year. For fiscal year 2010, the Director of Budget Execution told us that the District would likely have to reopen the budget discussion to consider spending cuts to make up the projected revenue shortfall of \$150 million, which will be about 3 percent of the total budget.

According to District officials, they have sufficient staff to comply with the provisions of the Recovery Act. Many District employees have been assigned Recovery Act duties in addition to their current responsibilities. The District officials were not aware of any cases where District employees were currently dedicated solely to Recovery Act responsibilities.

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## Increased Federal Medical Assistance Percentage Funds Have Allowed the District to Maintain Health Care Reform Initiatives

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.<sup>4</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.<sup>5</sup> Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2

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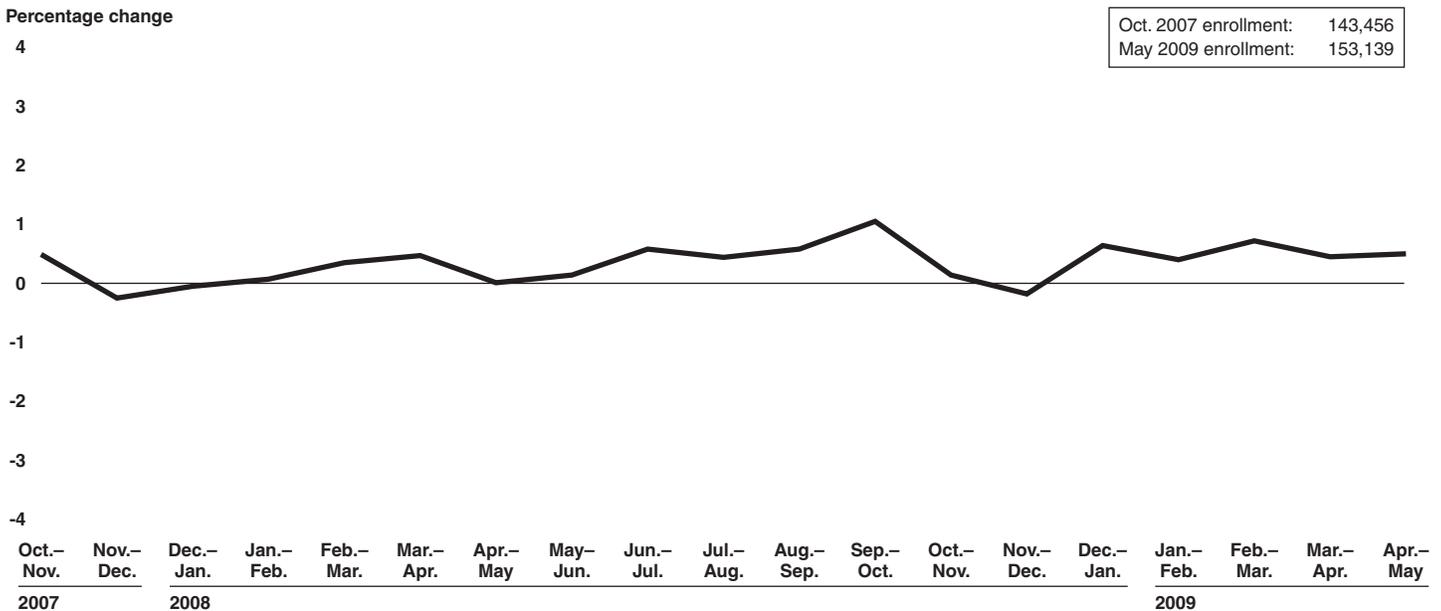
<sup>4</sup>See Recovery Act, div. B, title V, §5001.

<sup>5</sup>Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From October 2007 to May 2009, the District's Medicaid enrollment grew from 143,456 to 153,139, an increase of 6.8 percent.<sup>6</sup> The increase in enrollment was generally gradual over this period (fig. 2) and was mostly attributable to the children and families and disabled individuals' population groups.

**Figure 1: Monthly Percentage Change in Medicaid Enrollment for the District, October 2007 to May 2009**



Source: GAO analysis of state reported data.

Note: The District provided projected Medicaid enrollment data for May 2009.

As of June 29, 2009, the District had drawn down over \$89 million in increased FMAP grant awards, which is almost 91 percent of its awards to

<sup>6</sup>The District projected enrollment for May 2009.

date.<sup>7</sup> District Medicaid officials reported that they are using funds made available as a result of the increased FMAP to cover the increased Medicaid caseload, maintain current Medicaid populations and benefits as well as maintain a locally funded program for certain District residents. According to District Medicaid officials, these funds have allowed them to maintain programs such as the D.C. Healthcare Alliance program, which would have been particularly vulnerable to cuts as it is funded solely with District funds. The D.C. Healthcare Alliance program covers any District resident—including undocumented individuals—below 200 percent of the Federal Poverty Level (FPL).<sup>8</sup> District Medicaid officials noted that without the funds made available as a result of the increased FMAP, the District would have had to reduce enrollment in this program. As such, officials concluded that the D.C. Healthcare Alliance program—and other locally funded programs—have survived because of the Recovery Act funds. Finally, District Medicaid officials indicated that the Medicaid program had incurred no additional costs related to the administrative and reporting requirements associated with use of these funds.

District Medicaid officials indicated that they have concerns regarding maintaining eligibility for the increased FMAP funds. Specifically, the District's Medicaid program is implementing a new claims-processing system, which officials anticipate will be fully operational in October 2009. District officials are aware of possible implementation issues that could affect the District's compliance under the Recovery Act, particularly related to compliance with the Act's prompt payment provisions.<sup>9</sup> As such, District officials indicated that they will submit a request to CMS for a waiver of the prompt payment and reporting requirements under the Recovery Act.<sup>10</sup> According to District officials, the implementation of the

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<sup>7</sup>The District received increased FMAP grant awards of over \$98 million for the first three quarters of federal fiscal year 2009.

<sup>8</sup>District officials added that the D.C. Healthcare Alliance program had 50,000 enrollees as of May 2009, but they are projecting an increase to 60,000 due to the economy.

<sup>9</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, § 5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

<sup>10</sup>The Secretary of Health and Human Services may waive the application of the prompt payment requirement and the associated reporting requirement if exigent circumstances prevent the timely processing of claims or submission of reports. See Recovery Act, div. B, title V, §5001(f)(2)(A)(iii).

new claims processing system should be considered an “exigent circumstance” that could affect the timely processing of claims or submission of reports.

Regarding tracking the increased FMAP, the officials indicated that the District has created a special fund that is separate from the regular Medicaid fund. Although District Medicaid officials expect to use an automated system in the future to track the increased FMAP using a special grant number, they need to wait until the District’s fiscal year 2010 budget is finalized. In addition, the District plans to rely on existing mechanisms to review the receipt and expenditure of increased FMAP.

The 2007 Single Audit for the District identified a number of material weaknesses related to the Medicaid program, including insufficient controls related to its claims-processing system, cash-management issues, and missing documentation for eligibility determinations.<sup>11</sup> With regard to the claims-processing system, the audit noted that the absence of several controls could jeopardize the accuracy and completeness of provider claims processed, which could affect the District’s financial results. Similarly, the audit reported that some of the eligibility files lacked sufficient documentation, such as having no evidence of income verification. According to officials, the District undertook a number of corrective actions to correct weaknesses that were identified. For example, to address the finding related to missing documentation for eligibility determinations, the Medicaid program has implemented a corrective action plan, which included retraining of staff.

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<sup>11</sup>The 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 Office of Management and Budget (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.

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**The District Is Still in the Early Stages of Using Highway Infrastructure Funds, but Has Met the Key Recovery Act Obligation Deadline**

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. 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 generally 80 percent.

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**The District Has Not Begun Construction on Most Recovery Act Highway Projects**

As we previously reported, \$124 million was apportioned to the District of Columbia in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$100 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 signs a project agreement. States request reimbursement from FHWA as they make payments to contractors working on approved projects. The District Department of Transportation (DDOT) has identified 15 “shovel ready” projects for these funds and as of June 25, 2009, DDOT had \$100 million of its Recovery Act funds obligated by the Federal Highway Administration (FHWA). As of June 25, 2009, \$8,256 had been reimbursed by FHWA. DDOT plans to use Recovery Act funds on projects to improve bridges, improve and replace sidewalks and roadways, and expand the city’s bike-share program, among other things. See table 1 for project improvement types that have funds obligated as of June 25, 2009.

**Table 1: Highway Obligations for the District of Columbia by Project Type as of June 25, 2009**

Dollars in millions

	Pavement projects			Bridge projects			Other <sup>a</sup>	Total
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$0.0	\$31	\$4	\$0.0	\$0.0	\$36	\$29	<b>\$100</b>
Percent of total obligations	0.0	31.0	4.5	0.0	0.0	35.9	28.6	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

The District’s largest Recovery Act highway project is the extensive rehabilitation of the New York Avenue Bridge, which is considered fracture-critical.<sup>12</sup> As of June 25, 2009, DDOT had not awarded any contracts for new Recovery Act projects. However, DDOT had issued task orders off three existing contracts to undertake new work using Recovery Act funds. For example, DDOT used an existing citywide repaving contract to complete a \$1.7 million repaving project that included using \$1 million in Recovery Act funds (see figs. 2 and 3).<sup>13</sup>

<sup>12</sup>Fracture critical bridges are bridges that contain elements whose failure would be expected to result in collapse of the bridge. The District has multiple fracture-critical bridges, and of these bridges, the New York Avenue Bridge was a top priority for Recovery Act funding because it was shovel-ready and could be completed within 3 years exclusively with Recovery Act funds.

<sup>13</sup>The highway resurfacing project was undertaken using an existing contract that did not require new bids. The FHWA division office reviewed and approved DDOT’s decision not to rebid this project.

**Figure 2: Portion of Interstate 395 in Southwest Washington before Repaving, January 15, 2009**



Source: District Department of Transportation.

**Figure 3: Portion of Interstate 395 in Southwest Washington After Repaving, June 2009**



Source: District Department of Transportation.

## District Officials Are Confident of Compliance with Key FHWA Requirements

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states and the District are required to

- ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.<sup>14</sup> 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. The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated within these time frames;

<sup>14</sup>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.

- give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended; and
- certify that it 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 or the mayor of the District of Columbia is required to identify the amount of funds the state planned to expend from state sources as of February 17, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>15</sup>

DDOT officials do not anticipate problems meeting key FHWA requirements for highway projects. As of June 25, 2009, 95.5 percent of the \$86 million that FHWA has determined is subject to the 50 percent rule for the 120-day redistribution has been obligated, thus exceeding its requirement to obligate 50 percent of these funds before June 30, 2009. DDOT also took steps to comply with the intent of the Recovery Act when selecting projects. DDOT officials told us that key priorities in their project-selection process were whether projects were shovel-ready and whether they could be completed within 3 years. DDOT and FHWA division office officials both expect that all Recovery Act highway funds will be expended within 3 years.<sup>16</sup> Although all of the District of Columbia is considered an economically distressed area, DDOT officials told us that they also took the relative economic distress of different areas within the city into consideration when selecting projects. While no formula was used to determine how funds would be distributed among areas of the city, DDOT officials report that approximately 70 percent of the District's \$124 million apportionment will go towards projects in areas with higher unemployment rates and lower average income levels than others. In particular, two major bridge-rehabilitation projects are located in such

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<sup>15</sup>States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have their apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing the authority of some states to obligate funds and increasing the authority of other states.

<sup>16</sup>While one major project with mixed funding may take longer than 3 years to complete, DDOT officials report that Recovery Act funding for this project will be expended first.

areas, including the District's largest Recovery Act-funded project, the \$40 million New York Avenue bridge rehabilitation.

The Recovery Act also requires states and the District to certify that they will maintain their planned level of spending for the types of transportation projects funded by the Recovery Act. On March 19, 2009, the District submitted its maintenance-of-effort certification to DOT. In our April 2009 report, we noted that DOT was reviewing conditional and explanatory certifications, such as the one submitted by the District, to determine if they were consistent with the law. On April 20, 2009, the Secretary of Transportation informed the District that conditional and explanatory certifications were not permitted, and gave the District the option of amending its certification by May 22, 2009, which it did. This second certification still contained explanatory language, which DOT asked to be removed. DDOT resubmitted its certification on May 27, 2009. According to DOT officials, the department is reviewing the District's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. DOT is currently evaluating whether the District's method of calculating the amounts it planned to expend for the covered programs is in compliance with DOT guidance.

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## The District Plans to Use U.S. Department of Education State Fiscal Stabilization Funds for Public Education, Housing Assistance, and Essential Government Services

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include 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. Further, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (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 (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated 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, the U.S. Department of Education approved the District's application for SFSF funds, and awarded the District \$60 million, or about 67 percent of its total SFSF allocation of \$89.3 million. The District plans to use these funds over the next 3 years to support public education, housing assistance, and other essential government services. Specifically, District of Columbia Public Schools (DCPS), District public charter schools, and the University of the District of Columbia will receive a total of \$76.3 million, the Home Purchase Assistance Program will receive \$6.5 million, and the remainder will support priority government services in 2011.

According to the District's approved SFSF application, the District plans to use \$17.9 million to restore the level of District support for elementary and secondary education to the fiscal year 2008 level. Similarly, the District plans to use about \$700,000 in fiscal year 2009, and again in fiscal year 2010 to restore the level of District support for the University of the District of Columbia, the District's only public institution of higher education. Because the District is receiving more education stabilization funds than will be needed to restore education spending, the Office of the State Superintendent of Education (OSSE) will distribute the remaining funds to LEAs using the District's ESEA Title I funding formula, as required.<sup>17</sup> OSSE officials told us that they are developing guidance to help the LEAs understand the appropriate uses for the funds and how to report on these uses. Officials said they will require the LEAs to include narrative statements on their applications that describe the direct impact of the funds, the way fund usage may influence the broader community, and how Recovery Act funds will help the LEA to leverage additional dollars. OSSE officials also told us that they would like more guidance on how to define and measure jobs created and preserved. Officials from one of the LEAs we visited told us that State Fiscal Stabilization Funds would be used to pay teachers at the 2008-2009 school year pay level. Officials from another

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<sup>17</sup>While some education stabilization funds will be allocated using the District's Title I funding formula, these funds are to be treated as education stabilization funds, not Title I funds.

LEA we visited told us that they were unsure at this point how the funds would be used. They explained that while they anticipated receiving more funds for general education use, they also anticipated a per-pupil decrease in their capital funds. As a result, they were unsure about the net effect on their budget for the 2009-2010 school year. Officials from both LEAs told us that they were unclear at this point about how they would report on the use of the funds, but they would follow any guidance given to them. With regard to the government services fund of the SFSF, District officials plan to use 20 percent of these funds to avoid budget cuts for the LEAs and about 40 percent of the funds to continue the District's Home Purchase Assistance Program, which helps low- and moderate-income residents who are first-time home buyers in the District with down payments and closing costs. The District has not yet determined how it will use the remaining 40 percent of these funds.

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## The District Plans to Allocate ESEA Title I (Part A) Education Funds to LEAs in June or July 2009

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, as amended by the No Child Left Behind Act. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulae, 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.<sup>18</sup> The U.S. Department of Education (Education) is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education made the first half of states' ESEA Title I, Part A, funding available on April 1, 2009, with the District receiving \$18.8 million of its approximately \$37.6 million total allocation.

The District's state education agency—the Office of the State Superintendent of Education or OSSE—plans to allocate Recovery Act ESEA Title I funds to LEAs and issue guidance by early July 2009 and has taken steps that could strengthen its ability to monitor the use of these

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<sup>18</sup>LEAs must obligate at least 85 percent of their ESEA Title I, Part A, funds by September 30, 2010 unless granted a waiver and all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

federal funds. OSSE officials told us they will allocate the first phase of Recovery Act funds under ESEA Title I, along with ESEA regular Title I funds, in late June or early July 2009, because LEAs are still spending their fiscal year 2007 and 2008 ESEA Title I funds. OSSE officials told us that they were developing guidance for the LEAs regarding the appropriate use and reporting of ESEA Title I Recovery Act funds that would be released prior to making these Recovery Act funds available. Specifically, they told us that such guidance would focus on appropriate uses of the funds and provide examples of how ESEA Title I Recovery Act funds could be used to meet the goals of the Recovery Act and avoid a funding cliff—the situation in which completion of the activity would require funds from another source when Recovery Act funds are no longer available. Officials from the two LEAs we visited told us they had preliminary plans for how they would use these additional ESEA Title I dollars, but were awaiting state guidance before finalizing such plans. For example, officials from both LEAs told us they were aware of the need to avoid a funding cliff, and planned to do so by using some of the ESEA Title I funds to improve academic achievement by supporting out-of-school activities, such as tutoring or summer school. LEA officials told us they were also awaiting guidance from OSSE on reporting uses of the Recovery Act and assessing the impact of the funds.

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## The District Plans to Allocate Its U.S. Department of Education Individuals with Disabilities Education Act Funding in June or July 2009

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 special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education, and Part C programs provide early intervention and related services for infants and toddlers with disabilities, or at risk of developing a disability, and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

Education allocated the first half of states' IDEA allocations on April 1, 2009, with the District receiving \$9.4 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The District's initial allocation was

- \$130,243 for Part B preschool grants,
- \$8,220,962 for Part B grants for school-aged children and youth, and
- \$1,069,922 for Part C grants.

OSSE plans to allocate the District's Recovery Act IDEA Part B funds and issue guidance to the LEAs by early July. Officials from OSSE told us that they have not yet allocated these funds to the LEAs, but expect to do so in late June or early July 2009. Officials told us that they requested that the LEAs spend any fiscal year 2007 and fiscal year 2008 IDEA funds before receiving their Recovery Act allocations. OSSE officials told us that the time frame for LEA assurances and allocations for Recovery Act funding for IDEA Part B would coincide with time frames for annual allocations of regular IDEA Part B funds. In addition, they told us that they were developing guidance for the LEAs regarding the appropriate use and reporting of Recovery Act funding for IDEA Part B that would be released prior to making these funds available. Specifically, such guidance would focus on appropriate uses of the funds and provide examples of how Recovery Act funding for IDEA Part B could be used to meet the goals of the Recovery Act and avoid a funding cliff. DCPS officials told us they hoped to use the Recovery Act IDEA Part B funding to improve the education of students with disabilities in a sustainable manner. Specifically, the District currently has about 2,200 children with disabilities who are served in nonpublic schools across several states, in part because the District was not able to provide timely services to these students. DCPS officials told us that they plan to use the Recovery Act funds to improve the services DCPS provides in order to serve more students with disabilities in its public schools. Finally, OSSE officials told us they are working on their plans for using the Recovery Act funding for IDEA Part C.

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## The District Plans to Use Workforce Investment Act Youth Funding for Year-Round Programs

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low-income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work-readiness measure is required to assess the effectiveness of summer-only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for measuring work readiness gains. The program is administered by the Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill that became the Recovery Act, the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth.<sup>19</sup> Summer employment opportunities may 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. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines and federal/state wage laws.<sup>20</sup>

In the District of Columbia, the Department of Employment Services (DOES) plans and administers employment-related services to all segments of the population, including the WIA Youth Program. Unlike states, the District does not have local areas to which they are required to distribute funds; therefore they use the entire allocation for District-wide activities. The Mayor and City Council are actively involved in decisions regarding the size, scope, and budget for the District's summer youth program.

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<sup>19</sup>H.R. Conf. Rep. No. 111-16 (2009), 448.

<sup>20</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour.

As of April 3, 2009, the District had been allotted almost \$4 million in Recovery Act funds for the WIA Youth program. As of June 29, 2009, the District had not yet expended any of these funds. DOES officials said they plan to spend the Recovery Act funds on the District's year-round WIA Youth Program, rather than on summer-only employment activities. The District's year-round program provides in-school youth, ages 14 to 18, academic enrichment activities, work-readiness skills, project-based learning, life skills and leadership development. It also provides out-of-school youth, ages 16 to 24, skills workshops, career awareness and work readiness modules, basic education, GED preparation, and basic computer training.<sup>21</sup> In addition, the program provides vocational skills training in the following areas: construction trades, emergency medical technology, hospitality, education, and information technology. The Director of DOES stated that the District plans to serve approximately 920 participants this summer through the year-round WIA Youth program.

According to the DOES Director, the District plans to use local funds, and not the Recovery Act funds, for the summer youth employment program as it has done in the past. According to the Director, the District currently runs the second largest summer youth employment program in the nation, serving approximately 23,000 youth. The District had already allocated \$45 million for its locally funded 2009 summer youth employment program before receiving the Recovery Act funds. However, they have identified two possible unique additions to the summer youth employment program, which, if implemented, would be funded with Recovery Act funds—a youth cadet program and a program that would offer employment experiences in the federal government.

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<sup>21</sup>In general, WIA Youth funds may be used to fund services for youth up to age 21. Services funded by the Recovery Act WIA Youth funds may be provided for youth up to age 24.

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## The District Has Identified Areas for the Edward Byrne Memorial Justice Assistance Grant Program Funding

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information-sharing initiatives, and victims' services. Under the Recovery Act, an additional \$2 billion in grants are available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula-based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state. The total JAG allocation for the District under the Recovery Act is about \$11.7 million, a significant increase from the previous fiscal year 2008 allocation of about \$870,000. For the District, all JAG funds are awarded directly to the District.

As of June 29, 2009, the District received its entire JAG award of about \$11.7 million. While BJA initially imposed a special condition that prevented the District from obligating, expending, or drawing down funds under the award until outstanding audit issues had been satisfactorily addressed, on June 11, 2009, BJA issued a grant adjustment notice releasing the hold on its Recovery Act funds. The District plans to use funds on six key areas—prisoner reentry programs; detention and incarceration diversion initiatives; criminal and juvenile justice research; court diversion services for at-risk youth; services for adjudicated youth; and evaluation, data, and technology capacity building. JGA is in the process of evaluating grant applications from community-based organizations and government agencies. Grant funds are expected to be released in October 2009. JGA has also hired two new employees to assist with the administration of Recovery Act grant funds and to assist with developing and implementing policies and procedures, and may hire another grant manager, contingent on the number of grants awarded.

JGA plans to use several mechanisms to ensure grantees' compliance with program guidelines, including requiring grantees to submit monthly requests for reimbursement and quarterly financial and program reports, and performing annual site visits and evaluations of each grantee's use of funds. According to JGA, if weaknesses are identified as part of the administrative evaluation, the grantees must take corrective actions within specified time frames. Penalties for failure to meet deadlines will be in the

form of graduated sanctions to allow the grantee an opportunity to implement corrective actions. A continued lack of progress or failure to comply will result in funds being revoked by JGA.

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## The District Has Started Using Public Housing Capital Grants on Several Projects

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; for the development, financing, and modernization of public housing developments; and for management improvements.<sup>22</sup> The Recovery Act requires the 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 they are made available to public housing agencies for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as projects that rehabilitate vacant units, or those already underway or included in the required 5-year capital fund plans. HUD is also required to award \$1 billion to housing agencies based on competition for priority investments, including investments that leverage private-sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability that describes the competitive process, criteria for applications, and time frames for submitting applications.<sup>23</sup>

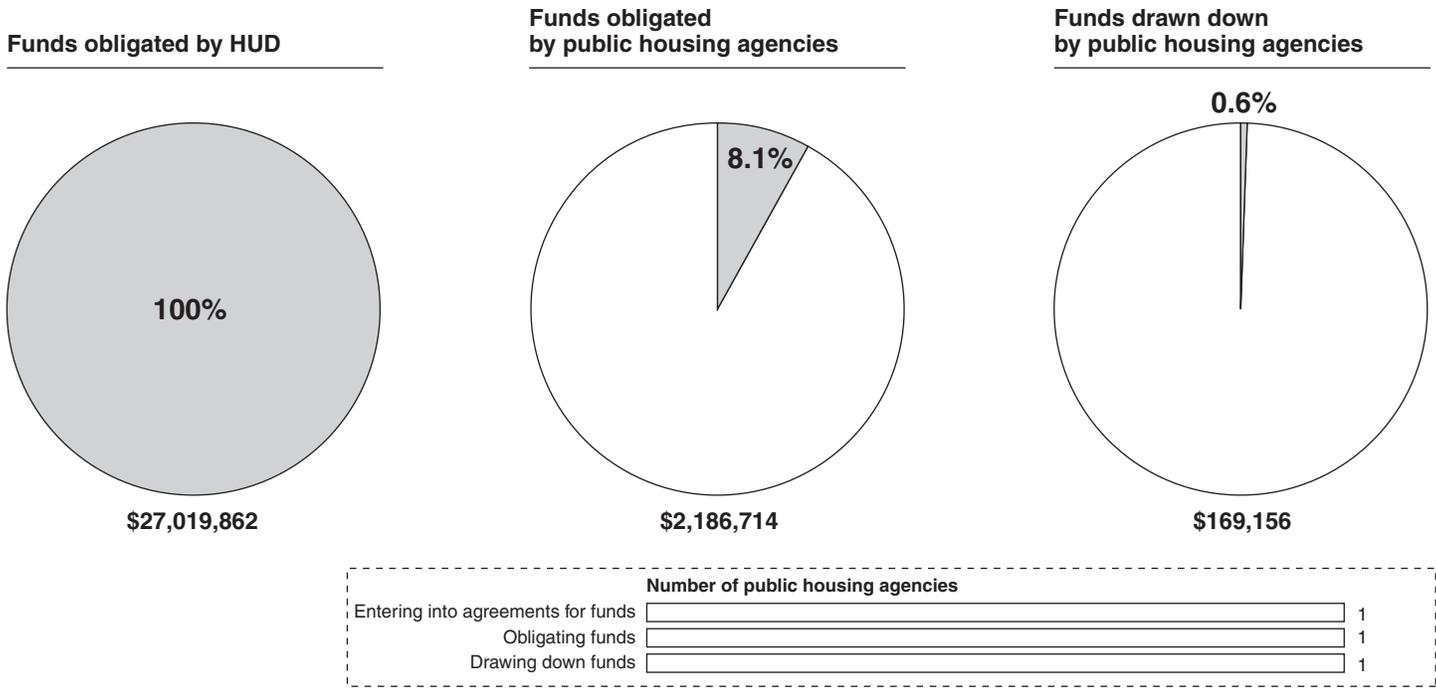
The District has one public housing agency, the District of Columbia Housing Authority (DCHA), which has received Recovery Act formula grant awards totaling \$27 million. As of June 20, 2009, DCHA had obligated about \$2.2 million or about 8 percent of the \$27 million it received in capital grant funds, and drawn down about \$169,000 from DCHA's electronic line-of-credit control system account with HUD.

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<sup>22</sup>Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state or District budget.

<sup>23</sup>HUD released a revised Notice of Funding Availability for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and time frames for application, and to funding limits.

**Figure 4: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in the District of Columbia**



Source: GAO analysis of HUD data.

According to the HUD guidance implementing the Recovery Act, public housing agencies can use the grants to address deferred maintenance needs, including but not limited to: (1) replacement of obsolete systems and equipment with energy-efficient systems and equipment that reduce power consumption; (2) work items related to code compliance, including abatement of lead-based paint and implementation of accessibility standards; (3) correction of environmental issues; and (4) rehabilitation and modernization activities that have been delayed or not undertaken because of insufficient funds. According to DCHA officials, they will use their capital grant funds for new energy-efficient and environmentally friendly projects at existing public housing developments that they have been unable to begin because of a lack of funds. Specifically, DCHA has identified 18 projects that include activities, such as roof and boiler-room improvements, window replacement, balcony repair, and kitchen upgrades. According to DCHA officials, they would not have been able to begin these projects at this time without Recovery Act funds. Altogether, these 18 projects will include the rehabilitation of 1,971 inhabited housing units and 25 vacant units. Officials noted that the low number of

rehabilitated vacant units is because the authority does not historically have a large number of vacant units and normally maintains high occupancy rates.

As of June 6, 2009, work had begun at four DCHA projects, three of which we visited. At one project we visited, DCHA was using Recovery Act funds to upgrade the security systems and common-area interiors of the housing complex. At the time of our visit, contractors were painting and installing security cameras and improved, more energy-efficient lighting throughout the building. This work began in April 2009 and is expected to be completed by August 2009. At another project we visited, DCHA had already used Recovery Act funds to install solar panels and a rainwater collection system on top of one of the residential buildings in the complex as part of its effort to “green retrofit” all the housing units in the complex (see fig. 5). This work began in March 2009 and is expected to be completed in December 2010 after the replacement of all the windows in the complex with more energy-efficient ones is finished. At the last project we visited, DCHA had begun to use Recovery Act funds to rehabilitate unit balconies as part of its effort to modernize both the exterior and interior of all the housing units in the complex. This work began in March 2009 and is expected to be completed in December 2010 after the interiors of all the units are upgraded with more energy efficient fixtures and environmentally friendly finishes. (See fig. 6). By the end of calendar year 2009, DCHA plans to have begun work on all 18 projects with 8 beginning in the summer and the remaining 6 beginning in the fall and winter. Most of this work will be similar to the work already started in that it will include the installation of more environmentally friendly windows, kitchens, bathrooms, and interior lighting but will also include exterior site work such as improved building entrances.

**Figure 5: Installed Solar Panels on Top of a District of Columbia Housing Authority Residential Building**



Source: GAO.

**Figure 6: Balcony Rehabilitation Work at a District of Columbia Housing Authority Housing Complex**



Source: GAO.

DCHA officials told us they used their 5-year plan to identify projects for funding. In determining which projects in the 5-year plan to fund, officials told us they consulted with the District Housing Board and public housing residents and selected those projects that met one or more of the following considerations:

- Projects that could be begun and completed quickly, that is, projects where contracts could be awarded within 120 days of when the funds were made available to the agency.
- Projects that promoted energy efficiency.
- Projects that had the fewest environmental concerns or worked to address existing environmental concerns.
- Projects with facilities that were in most need of repair.
- Projects where modernization was begun but was unfinished.

Although, as of June 6, 2009, DCHA had only drawn down about \$169,000, DCHA officials told us they did not anticipate a problem meeting the accelerated obligation and expenditure time frames required by the Recovery Act. DCHA officials said they have fast-tracked the award and obligation of DCHA's Recovery Act projects through their normal job-order contracting procedures. According to DCHA officials, 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. Because of the efficiencies associated with job-order contracting procedures, officials said they would have no difficulty in meeting the obligation and expenditure deadlines set by HUD.

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## The District Has Developed Plans for Using Weatherization Assistance Program Funding

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, administered by the Department of Energy (DOE) through each of the states and the District.<sup>24</sup> This funding is a significant addition to the annual appropriations for the weatherization program that have been about \$225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating and air conditioning equipment. During the past 32 years, the weatherization program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the weatherization program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and the District using a formula based on low-income households, climate conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of the Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved the relevant State Plan, which outlines, among other things, the state's plans for using the weatherization funds, and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state

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<sup>24</sup>DOE also allocates funds to Indian tribes and U.S. territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE allocated about \$8 million in Recovery Act funds to the District for the Weatherization Assistance Program for a 3-year period. The District's Department of the Environment (DDOE), which is responsible for administering the program, will disburse the funds through seven community based organizations. On March 12, 2009, DDOE received a Funding Opportunity Announcement from DOE identifying and explaining the initial application process, and DDOE submitted its application for funding on March 23, 2009. DDOE subsequently received additional guidance by phone, e-mail, and regional conference calls for the development of its Weatherization Program Plan, which it submitted to DOE on May 12, 2009. DDOE expects DOE to verify that the state's plan meets requirements provided in its guidance, and that DOE will approve the plan within 60 days of the May 12 submission date.

On March 30, 2009, DOE provided the initial 10 percent allocation or \$808,902 of Recovery Act funds to the District to be used for program management. DDOE planned to use the initial allocation for "ramping up" for the Recovery Act program, including providing training and hiring additional staff, because DOE guidance prohibits using any of the initial 10 percent for actual weatherization activities. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states and the District to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans. As of June 1, 2009, DDOE's officials are working on allocating the weatherization funds. On June 18, 2009, DOE approved the District's plans for using Recovery Act weatherization funds and awarded the District an additional 40 percent of its Recovery Act funds for a total of about \$4 million. DDOE plans to begin providing weatherization assistance with Recovery Act funds in July 2009.

As stated in the Recovery Act weatherization plan submitted to DOE for review and approval, DDOE's goals for the Recovery Act funds include making energy improvements to approximately 785 homes over the next 3 years. The highest priority will be given to the weatherization of single-family homes. This will be followed by multifamily dwelling units occupied by eligible homeowners or renters and other energy consuming residences. At a minimum, approved applicants will receive a weatherization starter kit that includes materials such as a carbon-monoxide detector, caulking, energy-efficient light bulbs, and a brush to

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clean their refrigerator and air conditioner. Improvements can also include the installation of energy-efficient appliances, weatherstripping, insulation, doors, and, in some instances, the replacement of heating or air conditioning systems, or both.

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## The District Has Plans for Ensuring Adequate Safeguards Are in Place, but Needs to Address Internal Control Weaknesses for Oversight of Recovery Act Funds

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### The District of Columbia Has Implemented Separate Tracking and Tagging Methods

The District of Columbia's Office of the City Administrator (OCA) and Office of the Chief Financial Officer (OCFO), have distributed guidance to District agencies on how to separately track and identify or tag Recovery Act funds. The guidance states that agencies will be held accountable for ensuring full compliance with all Recovery Act requirements. The Office of Budget and Planning (OBP) under the OCFO has modified the District's accounting system—System of Accounting and Reporting (SOAR), as well as the District's Grants Management System (GRAMS) to comply with Recovery Act fund-tracking requirements. The District is treating Recovery Act funds in the same manner as grants. A new grant type, RA, has been created in GRAMS for Recovery Act funds. Agencies must classify Recovery Act funds using this grant type when creating a record of the grant in GRAMS. In addition, OBP strongly recommends that new grant names be assigned to all Recovery Act grants, and the letters ST or RA be added to each assigned grant name.

The District's guidance calls for the assignment of a unique four-digit code in SOAR for Recovery Act funds, known as the fund detail,<sup>25</sup> which will be

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<sup>25</sup>The fund details are used to record all accounting activity, including budget, expense, and revenue activities.

used to facilitate separate tracking. Individual fund details have been created to label Recovery Act funds from specific sources and to prevent all of the Recovery Act funds from accumulating under one fund detail. The new fund detail assignments are for

- Medicaid Recovery Act Grant—Local match,
- Federal Recovery Act Funding—Capital projects,
- Unemployment benefits—Federal additional compensation,
- Federal Grants—Recovery Act,
- Medicaid Recovery Act Grants, and
- State Fiscal Stabilization Funds (SFSF).

Additionally, the Office of Finance and Treasury (OFT) has established a bank account exclusively for depositing Recovery Act funds. Agencies are notified by OFT when Recovery Act funds are received in the bank account. All Recovery Act revenue received will be tracked by OFT in a separate database. When Recovery Act funds are ready to be distributed from federal agencies to District agencies, Recovery Act grant funding notifications are sent directly to the District agencies. When an agency receives a grant funding notification, it is the agency's responsibility to report the receipt to OBP. OBP provides weekly reports of grant funding notifications that are reconciled by the agencies.

Officials from each agency we spoke with stated that they are capable of tracking Recovery Act funds separately. In addition to citywide tracking activities, some agencies will track Recovery Act funds with their own in-house systems.

- Officials from the District of Columbia Housing Authority (DCHA) stated that they use PeopleSoft Accounting, apart from SOAR, to track and report on Recovery Act funds. Recovery Act funds related projects are identified by project number and task order.
- Officials from District Department of Transportation (DDOT) are assigning 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 integrated with FHWA's financial management system.

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## The District Does Not Have an Overall Internal Control Program

According GAO's Standards for Internal Control in the Federal Government,<sup>26</sup> internal control is a major part of managing an organization. Effective internal control helps in managing change and evolving demands and priorities. As programs change, management must continually assess and evaluate its internal control to assure that the control activities being used are effective and updated when necessary. GAO's *Internal Control Management and Evaluation Tool*,<sup>27</sup> based upon the *Standards for Internal Control in the Federal Government*, provides that agencies should document their internal control structure in writing, and that the internal controls should include identification of the agency's activity-level functions and related objectives and control activities. The documentation should appear in management directives, administrative policies, accounting manuals, and other such manuals.

Although the District government and agencies have various internal controls, the controls are not integrated or included in a citywide internal control program, and past reports have identified numerous weaknesses in the District's internal controls. The District's Office of Inspector General (OIG) has issued reports that identified weaknesses in the District's internal controls and made several recommendations to improve internal controls. One report recommends that the CFO, in conjunction with the City Administrator, issue citywide guidance requiring managers to establish, assess, correct, and report on internal controls and that these requirements should be reflected in personnel performance plans.<sup>28</sup> The report adds that the guidance could be patterned after the Federal Managers' Financial Integrity Act of 1982 (FMFIA)<sup>29</sup> and OMB Circular No. A-123, *Management's Responsibility for Internal Control*.<sup>30</sup> In addition, the fiscal year 2007 Single Audit report for the District of Columbia identified 89 material weaknesses in internal controls over both financial reporting and compliance with requirements applicable to major federal

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<sup>26</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

<sup>27</sup>GAO, *Internal Control Management and Evaluation Tool*, [GAO-01-1008G](#) (Washington, D.C.: August 2001).

<sup>28</sup>District of Columbia, *Audit of the Department of Parks and Recreation's Oversight of Capital Projects*, OIG No. 06-1-08HA (May 2008).

<sup>29</sup>31 U.S.C. § 3512 (c), (d).

<sup>30</sup>OMB Circular No. A-123, *Management's Responsibility for Internal Control* (rev. Dec. 21, 2004).

programs. There were three financial reporting material weaknesses related to (1) fraudulent activities involving the Office of Tax and Revenue, (2) management of the Medicaid program, and (3) systemic weaknesses in DCPS. The Single Audit report identified material weaknesses in compliance with requirements applicable to major federal programs including Medicaid's 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 of the report.

In September, 2008, OCFO contracted with an independent accounting firm to identify areas with internal control problems and deficiencies in the office. The review may help direct OCFO in developing an internal control program. The assessments will not be available until the end of 2009. When the firm has completed its OCFO assessment, it will expand its review to District agencies.

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## The District Is in the Beginning Phase of Risk Assessment

GAO's *Standards for Internal Control in the Federal Government* states that management needs to comprehensively identify risks and should provide for an assessment of the risks the agency faces from both external and internal sources. Once risks have been identified, they should be analyzed for their possible effect. Adequate mechanisms should exist to identify risks to the agency. Management then has to formulate an approach for risk management and decide upon the internal control activities required to mitigate those risks.

Currently, the District's approach to identifying both internal and external risks is using findings reported by the Comprehensive Annual Financial Report (CAFR) and the annual Single Audit report. In addition, the District also depends on the OIG's audits to identify both external and internal risks. The District does not have any additional formal risk-assessment procedures. The lack of a formal risk assessment and reliance on audits prevents the District from comprehensively identifying risks that could impede the efficient and effective achievement of management objectives. Without the identification, management cannot put the mechanisms in place to anticipate, identify, and react to those risks in a systematic, orderly, and proactive fashion. The District has not evaluated risks that can affect the Recovery Act funds and therefore will be challenged to mitigate problems if they arise.

The CFO is in the process of hiring a Chief Risk Officer to lead the District's risk management effort. District officials also stated that

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contracting the independent audit firm is the main approach and largest dedicated resource that the District uses to identify internal risks.

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## District-wide Monitoring and Oversight Activities

District agency subrecipients will be receiving Recovery Act funds. District officials stated that they are concerned with losing visibility of Recovery Act funds once it is distributed to subrecipients. However, the District already has subrecipient monitoring procedures in place. In 2004, the Office of Integrity and Oversight (OIO) developed a subrecipient monitoring manual in response to recurring weaknesses found in subrecipient monitoring reported in the Single Audit. The manual, distributed to all agencies, is a guide for monitoring District- and federal-funded programs administered by subrecipients. It includes internal control checklists and direction from OMB Circulars A-133,<sup>31</sup> A-110,<sup>32</sup> A-122,<sup>33</sup> and A-87.<sup>34</sup> Agencies are instructed to monitor and provide reasonable assurance that subrecipients are in compliance with all applicable requirements. District agencies are required to develop a plan that addresses monitoring needs. Agencies use a risk-based approach to determine which subrecipients to monitor and the level of monitoring subrecipients should receive. Agencies communicate their findings and concerns to subrecipients in a report. The manual requires subrecipients to submit a corrective action plan that addresses monitoring findings. Currently, OIO is responsible for reviewing subrecipient corrective action plans and ensuring that agencies take action.

Two efforts to monitor the use of Recovery Act funds have been initiated in the District. First, the CAFR Oversight Committee expanded its original role to facilitate coordination efforts with regard to the Recovery Act among the Executive Office of the Mayor (EOM), the District Council, the OCFO, other District management officials, independent auditors, and the OIG. In addition, OBP has created a Budget and Planning Stimulus Funding Committee consisting of officials and personnel from OBP,

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<sup>31</sup>OMB Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations* (rev. June 27, 2003).

<sup>32</sup>OMB Circular No. A-110, *Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* (Sept. 30, 1999).

<sup>33</sup>Circular No. A-122, *Cost Principles for Non-Profit Organizations* (rev. May 10, 2004).

<sup>34</sup>OMB Circular No. A-87, *Cost Principles for State, Local and Indian Tribal Governments* (rev. May 10, 2004).

OCFO, OFT, and Office of Financial Operations and Systems to monitor the Recovery Act funds.

The OIG identified six high-risk areas that possess material weaknesses and problems. The six areas are in Medicaid, procurement, community safety issues, vulnerable populations, the payment process, and education. Recovery Act funds have been allocated to Medicaid's FMAP and Education's Title I, IDEA, and SFSF programs. In addition, Recovery Act funds will flow through the other four high-risk areas. Acknowledging that these areas are subjects of concern, the OIG will maintain its audit efforts in these six areas until problems are mitigated. The OIG also stated that the flow of Recovery Act funds have highlighted new risk areas that the office will monitor as resources permit. Recovery Act funds increase the number of contracts created and dependency on contractors. The OIG is concerned that the area of credentialing and conducting background checks for contracting officers is a new area of high risk.

In addition to District-wide oversight activities, some agencies will engage in additional oversight on their respective Recovery Act funds.

- Officials from DDOT stated that their electronic automated billing system is reviewed about three times a year by FHWA's Financial Integrity Review and Evaluation, in addition to the Single Audit. The billing system requires multiple approvals as a means of ensuring funds are expended.
- Officials from the Office of the State Superintendent of Education (OSSE) stated there will be an increase in on-site visits and project inspections to provide additional monitoring of Recovery Act funds. Specifically, ESEA Title I staff has doubled to about 11 or 12 staff, and plans to monitor about half to two-thirds of the District's local education authorities (LEA) every year.
- Officials from the Justice Grants Administration (JGA) stated that they will require grantees to provide quarterly program reports and may require monthly reports. Additionally, they will perform annual site visits to each grantee to monitor Recovery Act funds. As a new monitoring tool, officials are planning to provide an end-of-year administrative evaluation of each grant recipient. If weaknesses are found, the grantee must correct the findings, otherwise funds will be taken away by JGA.

- Officials from DCHA stated they conducted a review of their internal controls over procedures to account for Recovery Act funds. Officials deemed the internal controls in place are sufficient.
- Officials from the District's Department of the Environment (DDOE) stated that contractors will be inspected by both community-based organizations and DDOE energy auditors.

The District Auditor told us that there are no plans to undertake any new engagements related to the Recovery Act, because the audit staff is initiating new audits in other areas. Once the new audits are in progress, the District Auditor may begin to research ways to aid in the tracking of Recovery Act funds. The District Auditor may be able to help with tracking when there are actual expenditures from Recovery Act funds. Currently, the District Auditor will only audit Recovery Act funds if programs that are already being audited or planned to be audited receive Recovery Act funds. The District Council has not requested the District Auditor to plan additional work related to the Recovery Act.

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### Single Audit Results Used by Various District Officials for Oversight Activities

The District uses Single Audit results as its principle source of oversight of its agencies. The District monitors agencies for resolution of all findings that are reported in the Single Audit report. OIO distributes management alerts to all agencies, informing agencies to correct deficiencies identified by the Single Audit, so findings do not reappear in subsequent audits and for adequate financial and programmatic management. Agencies must create corrective action plans for all corresponding material weakness and significant deficiency findings. Once the corrective action plan is submitted, the OIO tests each corrective action for effectiveness and makes recommendations if necessary.

The fiscal year 2007 Single Audit identified that the District's Medicaid FMAP, ESEA Title I Education grants, and Workforce Investment Act programs all had material weaknesses with internal control over compliance. These three programs are receiving Recovery Act funds and are responsible for 15 of the 89 material weaknesses identified. The District is currently in the process of resolving the findings but could not provide details. The resolutions will be reported in the fiscal year 2008 Single Audit report.

DDOT does not use the Single Audit as part of risk assessment or to monitor subrecipients because it does not have subrecipients. DDOT has

not had a Single Audit report finding since 2005. The department is, for Single Audit purposes, a low-risk agency and is only subjected to the compliance audit procedures under OMB Circular A-133 once every 3 years on a rotational basis.

The District's Office of the State Superintendent of Education (OSSE) uses the Single Audit findings as part of its risk assessment and monitoring of subrecipients. OSSE integrates the findings into local education authority (LEA) risk and financial analysis. Each program manager is responsible for understanding the implications of material weaknesses in subrecipients. Findings are used to design monitoring programs and determine risk levels for each LEA. The risk levels are used to develop monitoring strategies and work plans. Using the findings from the Single Audit report, OSSE develops a corrective action plan, which it reports to the U.S. Department of Education (Education), addressing the material weaknesses reported. The corrective action plan is also submitted to OIO for review. The plan includes efforts to eliminate material weaknesses. OSSE intends to use the corrective action plan to strengthen the monitoring of the LEAs.

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## Plans to Assess Impact of Recovery Act Funds Have Been Developed

The District plans to assess the impact of Recovery Act funds by using the information in reports required by federal agencies under the Recovery Act, including information on the economic impact of the funds, such as on job creation. Specifically, the City Administrator sent a memo to all District agency financial officers reminding agencies spending Recovery Act funds that they are required by the law to regularly report several pieces of data not typically required by government contracting, such as the number of jobs created by the work in the contract. To implement that reporting, the memo states that it is imperative that agencies include specific requirements in any contract using Recovery Act funds to complete this reporting in a reliable and timely manner. The simplest way to support this requirement is to make it part of the specification or statement of work, and therefore incumbent upon the awarded vendor to substantiate and verify these information and reporting requirements.

District officials told us that there are still questions regarding OMB's guidance on calculating the number of jobs created and jobs sustained through Recovery Act funds. While the direct impact of Recovery Act funds may be measurable, District officials said it remains unclear what methods should be used to track the indirect impact and how to separate the impact of Recovery Act funds and the impact from other federal funds in programs that receive both sources and utilize both sources in their

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program implementation. In addition, District officials would like to have a standardized reporting template with addendums for each federal agency. This would clarify confusion for the District and other states since a reporting template would reduce reporting burden, especially since the amount of funding per issue area varies from state to state. Officials request that OMB provide a template for the format and required information for the Recovery Act transparency Web sites as well.<sup>35</sup> On District officials are also using the CapStat performance-based accountability program to examine the impact of the use of Recovery Act funds on District agencies and programs.

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## District of Columbia's Comments on This Summary

We provided the Office of the Mayor of the District with a draft of this appendix on June 18, 2009. On June 22, 2009, the City Administrator's office informed us that neither they nor the District agencies whose programs are discussed in this appendix had any substantive comments on the appendix.

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<sup>35</sup> After soliciting responses from a broad array of stakeholders, OMB issued additional implementing guidance for recipient reporting on Jun 22, 2009. See, OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*.

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