

December 2009

# RECOVERY ACT

## Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability (Colorado)



GAO

Accountability \* Integrity \* Reliability

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# Appendix III: Colorado

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## Overview

This appendix summarizes GAO's work on the fourth of its bimonthly reviews of Colorado's spending under the American Recovery and Reinvestment Act (Recovery Act) of 2009. The full report covering all of GAO's work in 16 states and the District of Columbia may be found at <http://www.gao.gov/recovery>.

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## What We Did

Our work in Colorado included reviewing the state's use of Recovery Act funds and its experience reporting Recovery Act expenditures and results to federal agencies under Office of Management and Budget (OMB) guidance. We continued our review of several programs that we have been reviewing on an ongoing basis, in part because of the large amount of funds designated for these programs. These programs include the State Fiscal Stabilization Fund (SFSF); Individuals with Disabilities Education Act (IDEA), Part B; Elementary and Secondary Education Act (ESEA) of 1965, as amended, Title I, Part A; Highway Infrastructure Investment; Transit Capital Assistance; and the Public Housing Capital Fund. For descriptions and requirements of the programs we covered, see appendix XVIII of [GAO-10-232SP](#).

To understand the state's experience reporting Recovery Act expenditures and results for the first quarterly report issued by the federal government on October 30, 2009, we examined documents prepared by state officials responsible for centrally gathering and reporting to federal agencies. We discussed these documents, and the experience of reporting, with several state and local agencies, including Colorado's Departments of Education and Transportation, two transit agencies, and three housing agencies. In particular, we focused on understanding the agencies' methods for identifying and verifying expenditures and counting jobs created and retained.

Finally, for the first time, we visited local governments to better understand their use of Recovery Act funds. All regions of Colorado are experiencing economic stress. We chose to visit three local governments based on, in part, these localities' size, location, Recovery Act funding, and unemployment rates. Specifically, we selected the City and County of Denver because it is the state's largest city and has an unemployment rate above the state's average, which is now 6.7 percent. We also selected two county governments: Adams County because its unemployment rate is higher than the state's average and Garfield County because its rate is lower than the state's average.

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## What We Found

- **State Fiscal Stabilization Fund.** Since we reported in September 2009, the state has changed its plans for the more than \$620 million of education stabilization funds allocated to the state.<sup>1</sup> The state now plans to spend all its SFSF education stabilization funds on higher education and none on K-12 programs. The state plans to submit a revised application to the U.S. Department of Education to waive state spending requirements, called maintenance of effort, for education in fiscal year 2010.
- **Education programs.** The pace of Colorado's spending for the IDEA, Part B program and the ESEA Title I, Part A program has slowed since we reported in September 2009. State education officials said that their review of the ESEA Title I, Part A applications and IDEA, Part B applications has taken time and that spending depends on local educational agencies (LEA). The state has reviewed all applications and LEAs have begun seeking reimbursements for expenditures made in fiscal year 2010.
- **Highway Infrastructure Investment.** As of October 31, 2009, the U.S. Department of Transportation (DOT) Federal Highway Administration (FHWA) has obligated \$335 million of the \$404 million of Recovery Act funds apportioned to Colorado for highway projects.<sup>2</sup> Of the \$335 million obligated, FHWA has reimbursed Colorado \$61 million. At the same time, FHWA issued guidance requiring Colorado, as well as other states, to recalculate the amount of state funds used to certify that it would maintain state spending at a certain level in accordance with Recovery Act requirements. Colorado has devised a method to recalculate this maintenance-of-effort amount but has not yet made it final.
- **Transit Capital Assistance.** As of November 1, 2009, DOT's Federal Transit Administration (FTA) apportioned \$103 million in Transit Capital Assistance funds to Colorado and urbanized areas located in the state and has obligated nearly all of these funds. Denver's Regional Transportation District, Fort Collins's Transfort, and the Colorado

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<sup>1</sup>GAO, *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed (Colorado)*, [GAO-09-1017SP](#) (Washington, D.C.: September 23, 2009).

<sup>2</sup>The apportioned funds include \$18.6 million that was transferred from FHWA to the Federal Transit Administration (FTA) for transit projects in accordance with 23 U.S.C. § 104(k)(1). This leaves \$385 million for highway projects in the state. FTA reported that the \$18.6 million has been obligated.

Department of Transportation's (CDOT) rural transit program plan to use their share of transit funds to contract for numerous projects, including purchasing buses.

- **Public Housing Capital Fund.** Colorado has 43 public housing agencies that have been allocated about \$17.6 million from the Public Housing Capital Fund. The U.S. Department of Housing and Urban Development (HUD) awarded \$7.9 million to the three housing agencies we reviewed and the housing agencies had obligated approximately \$1.7 million as of November 14, 2009. Of the three housing agencies we reviewed, one has completed all projects using Recovery Act funds, one has projects underway, and one has yet to carry out any projects.
- **State and local use of Recovery Act funds.** In addition to paying for specific programs such as transportation and education, Recovery Act funds are helping the state stabilize its fiscal year 2010 budget as it deals with declining revenues and two rounds of budget cuts.<sup>3</sup> Local governments are using Recovery Act funds to bolster programs that provide needed services but not to stabilize their budgets, as funds available to local entities cannot be used to pay for local entities' general operating expenses. Denver reported they received awards totaling \$55 million in Recovery Act funds, half of which were competitive grants and the other half of which were formula grants.<sup>4</sup> Adams County reported awards of \$9 million and Garfield County reported awards of \$347,000.
- **Recipient reporting.** Colorado officials, for the most part, viewed their experience with the first quarterly Recovery Act recipient report as successful but difficult. The state's reporting efforts are a good first step. However, officials reported a number of technical problems uploading data to the official federal Web site and federal guidance changes that complicated their reporting experience. Our review of a small selection of reported items found some errors in calculating jobs associated with Recovery Act expenditures, suggesting that further review of the reporting results is needed.

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<sup>3</sup>The state's fiscal year runs from July to June and localities' fiscal years run from January to December.

<sup>4</sup>Two methods of distributing federal grant funds are by formula and through competition. Congress can direct that funds be apportioned among eligible recipients on the basis of a statutorily defined formula or it can authorize federal agencies to award funding competitively.

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## Colorado Will Use All SFSF Education Stabilization Funds for Higher Education and Will Submit a Revised Waiver for Maintenance-of-Effort Requirements in Fiscal Year 2010

Since we reported in September 2009, Colorado officials have decided to disburse all of the SFSF education stabilization funds allocated to the state to institutions of higher education (IHE). The Recovery Act created SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services. The state has been allocated a total of \$760 million in SFSF funds, \$622 million of which will be for education stabilization and \$138 million of which will fund government services. In taking action to cut its fiscal year 2010 budget, the state cut almost \$377 million from its contribution to higher education, which it has restored with SFSF education stabilization funds. As of November 10, 2009, Colorado planned to disburse all its SFSF funds to IHEs: \$150 million in fiscal year 2009, \$377 million in fiscal year 2010, and the remainder in fiscal year 2011. Although the state's original plan for SFSF education stabilization funds allocated almost \$170 million to K-12 programs for fiscal years 2010 and 2011, these changes result in no SFSF funds being spent on K-12 education.<sup>5</sup>

The state plans to submit a revised SFSF application to the U.S. Department of Education requesting a waiver from maintenance-of-effort requirements for fiscal year 2010. The Recovery Act requires that states assure that they will maintain state education spending at least at the level of fiscal year 2006 spending, or receive a waiver from this requirement. To receive a waiver from this maintenance-of-effort requirement, a state has to show that its share of education spending as a percentage of total state revenues is equal to or greater than that of the previous year. As we reported in September 2009, the state requested a waiver of this maintenance-of-effort requirement for SFSF funds in fiscal year 2010 after an initial round of cuts to the higher education budget in August caused the state's higher education spending to drop below fiscal year 2006 spending.

According to Education officials, Colorado's waiver request was not yet approved as of November 19, 2009, because the state's spending and revenue figures for fiscal year 2010 were not yet final. According to state

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<sup>5</sup>According to state budget documents, the state's fiscal year 2010 budget increases K-12 funding 5 percent from fiscal year 2009 spending. According to a Colorado state legislative study, in 2000, Colorado voters approved a measure to increase education spending in the state; this amendment directed a portion of state tax revenues to the State Education Fund through fiscal year 2011. The amendment requires an annual increase in per-pupil funding and requires the state general fund appropriation for state aid to schools to increase by 5 percent per year, unless state personal income increased by less than 4.5 percent during the previous year.

officials, Education officials said that if the numbers do not change, the waiver would be approved. State officials also said, however, that spending and revenue figures would not be considered final until August 2010, after the fiscal year ends on June 30. Further, state officials said the numbers required by the waiver are projected estimates that will likely change. In the meantime, the state has made additional cuts to its higher education budget and plans to submit a revised SFSP waiver request reflecting the latest spending levels. As of November 19, 2009, the state had not heard anything more from Education regarding the first waiver or submitted a revised waiver.

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**Colorado LEAs Are Spending Recovery Act Funds Allocated for Education Programs Slowly, but Some Plan to Use Funds to Retain Staff**

Colorado's LEAs continue to spend Recovery Act education funds, although the pace of spending has slowed since we last reported. The Recovery Act provided supplemental funding for education programs authorized under IDEA, Part B, a major federal program that supports early intervention and special education for children and youth with disabilities, and under ESEA Title I, Part A, which provides funding to help educate disadvantaged youth. The state's Department of Education has finished its reviews of LEAs' applications for both programs but the process took additional time. In addition, the department has been meeting with LEAs to discuss specific IDEA, Part B authorities and reviewing ESEA Title I, Part A waiver applications. When they expend the funds, about 14 percent of Colorado's LEAs plan to use more than 50 percent of education funds to retain jobs.

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**Colorado LEAs Are Spending Education Funds Slowly as State Reviews Applications and Establishes Guidance**

Spending on education programs has slowed since we reported in September 2009. According to department officials, as of November 13, 2009, Colorado LEAs had been reimbursed about \$4.1 million or 3 percent of the state's \$154 million IDEA, Part B allocation and about \$280,000 or 0.25 percent of the state's \$111 million allocation for ESEA Title I, Part A. While these amounts have not changed since we last reported in September 2009, as of November 23, 2009, the state has obligated an additional \$2.1 million for the IDEA, Part B program and \$977,000 for the ESEA Title I, Part A program. Under ESEA Title I, LEAs must obligate at least 85 percent of ESEA Title I, Part A funds by September 30, 2010, unless they receive a waiver, and must obligate all of their funds by

September 30, 2011.<sup>6</sup> States and LEAs must obligate all IDEA, Part B Recovery Act funds by September 30, 2011.

Expenditures have not increased since we last reported because the Colorado Department of Education has been reviewing applications for the programs, and in addition, department officials said that expenditures depend on LEAs. Department officials said that the review of LEA applications for ESEA Title I, Part A and IDEA, Part B doubled their workload, but that the review is complete, although LEAs are permitted to revise the narrative and budget portions of the IDEA, Part B applications, requiring further review throughout the course of the year.<sup>7</sup> Department officials said the reimbursement of Recovery Act funds depends on requests from LEAs and historically, LEAs often wait several months to accumulate expenses prior to requesting reimbursement. Officials said this delay may slow down the recording and reporting of expenditures. Colorado LEAs have begun requesting reimbursement for expenditures made in the state's current fiscal year under both programs.

Department officials said that, in addition to reviewing and approving IDEA, Part B and ESEA Title I, Part A applications, they have been establishing additional guidance for certain provisions of IDEA and reviewing and approving waiver applications related to ESEA Title I, Part A. In particular, state officials have been meeting with local officials to discuss how to manage the increase in IDEA funds under the Recovery Act, given existing authority under IDEA to decrease local expenditures. Specifically, under IDEA, Part B, eligible LEAs may decrease their local expenditures by up to half of the amount of the increase in their IDEA allocation, freeing up these funds for non-special education expenditures.<sup>8</sup> For example, by using the authority granted under IDEA, LEAs can direct Recovery Act funds to salaries and redirect local funds from salaries to

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<sup>6</sup>Colorado has received a statewide waiver for all LEAs to carry over for obligation more than 15 percent of their total ESEA Title I, Part A funds, including their ESEA Title I, Part A Recovery Act funds, until September 30, 2011.

<sup>7</sup>In Colorado, special education programs are organized into 61 administrative units, which, according to Colorado officials, are considered LEAs for the purposes of IDEA. Colorado also has five state-operated programs that are considered LEAs under IDEA, including two mental health institutes, two correction facilities, and one school for the deaf and blind.

<sup>8</sup>To be eligible for the funding flexibility, an LEA must receive a determination of "Meets Requirements" by the state, which is established by meeting the measurable targets established in Colorado's 2005-2010 State Performance Plan. LEAs must spend the "freed-up" state and local funds on activities that are authorized under ESEA.

other purposes, such as acquiring curriculum materials that are not specifically related to special education. Almost half of the state's LEAs will be allowed to spend local funds more flexibly, according to state officials. Although the decision is made at the local level, and state officials did not know exactly how many will utilize the flexibility, state education officials said that all of the eligible LEAs in Colorado plan to use this authority.

Department officials also said that they have been working with LEAs to apply for waivers of certain requirements under ESEA Title I, Part A that will provide the LEAs with flexibility in using those funds. The state received approval for the use of four waivers in August 2009, but now LEAs have to apply to the state to use these waivers. As of November 17, 2009, a number of LEAs have been granted waivers by the Colorado Department of Education as follows:

- Thirty-three were granted approval for waivers of the requirement for LEAs to spend an amount equal to 20 percent of their fiscal year 2009 ESEA Title I, Part A, Subpart 2 funds for public school choice-related transportation and supplemental educational services.<sup>9</sup>
- Twenty-six were granted approval for waivers of the requirement for LEAs identified for improvement to spend 10 percent of their fiscal year 2009 ESEA Title I, Part A, Subpart 2 funds on professional development.
- Twenty-three were granted approval for waivers of professional development spending requirements for schools that are identified for improvement.<sup>10</sup> (Like LEAs, schools in improvement are also required to spend 10 percent of their fiscal year 2009 ESEA Title I, Part A funds on professional development.)
- Twenty-four were granted approval for waivers of the requirement that LEAs include some or all of the ESEA Title I, Part A Recovery Act

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<sup>9</sup>Schools that have missed academic achievement targets for 3 consecutive years must offer students public school choice or supplemental education services, which are additional academic services, such as tutoring or remediation, designed to increase the academic achievement of students.

<sup>10</sup>An LEA is identified for improvement if it has missed academic achievement targets for 2 consecutive years.

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funds in calculating the per-pupil amount for supplemental educational services.

Colorado Department of Education officials said that LEAs that are granted waivers have more flexibility in ensuring the funds are used to support increased student achievement in the short term, as opposed to being set aside for specific uses and possibly left unused for an unspecified amount of time. Department officials said that they use a three-step process to review and approve LEA waiver requests, which includes (1) determining if all assurances and supporting evidence are provided; (2) reviewing data used by LEAs to identify needs for other uses of the funds, which includes looking for multiple data sources, such as assessments and evaluations; and (3) working with LEAs to improve the requests or sending approval letters.

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### Colorado LEAs Plan to Use Education Funds to Retain Jobs

We surveyed a representative sample of LEAs—generally school districts—nationally and in Colorado about their planned uses of Recovery Act funds. Table 1 shows Colorado and national GAO survey results on the estimated percentages of LEAs that (1) plan to use more than 50 percent of their Recovery Act funds from three Education programs to retain staff, (2) anticipate job losses even with SFSF funds, and (3) reported a total funding decrease of 5 percent or more since last school year.<sup>11</sup>

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<sup>11</sup>GAO's survey asked LEAs about their use of SFSF funds. However, because Colorado plans to use its full allocation of SFSF education stabilization funds for higher education, the responses from LEAs regarding SFSF are not applicable.

**Table 1: Selected Results from GAO Survey of LEAs**

Responses from GAO survey		Estimated percentages of LEAs	
		Colorado	Nation
Plan to use more than 50 percent of Recovery Act funds to retain staff	IDEA funds	14	19
	Title I funds	15	25
	SFSF funds	NA <sup>a</sup>	63
Anticipate job losses, even with SFSF funds		NA <sup>a</sup>	32
Reported total funding decrease of 5 percent or more since school year 2008-2009		13	17

Source: GAO survey of LEAs.

Note: Percentage estimates for Colorado have margins of error, at the 95 percent confidence level, ranging from plus or minus 11 to 23 percentage points. The nationwide percentage estimates have a margin of error of plus or minus 5 percentage points.

<sup>a</sup>Colorado plans to use its full allocation of SFSF education stabilization funds for higher education, making the responses from LEAs regarding SFSF not applicable.

## Colorado’s Highway Infrastructure Work Continues, Although the State Also Plans to Revise the Amount of State Spending Needed to Meet Recovery Act Requirements

Colorado’s highway work using Highway Infrastructure Investment funds continues. Of the \$404 million apportioned to Colorado in March 2009, \$18.6 million was transferred to FTA for transit projects, leaving \$385 million for highway projects in the state. As of October 31, 2009, FHWA had obligated almost \$335 million of this amount and had reimbursed \$61 million to the state.<sup>12</sup> As of the same date, CDOT planned 100 projects, and FHWA had approved or committed funding for 79 of these projects. The number of planned projects has increased by eight since we reported in September 2009. Table 2 shows the status of the 100 projects that CDOT has planned as of October 31, 2009.

<sup>12</sup>Obligations refer to the federal government’s commitment to pay for the federal share of a project. An obligation occurs when the federal government signs a project agreement. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

**Table 2: Status of CDOT’s Use of Recovery Act Funds for Highway Infrastructure Projects**

Planned	Projects approved <sup>a</sup>	Obligations (millions)	Awarded contracts	Construction underway <sup>b</sup>	Completed	Savings (millions)
100	79	\$335	68	55	8	\$32.6

Source: GAO analysis of CDOT data.

<sup>a</sup>CDOT also received \$250,000 for a project FHWA approved to provide on-the-job training in highway construction to individuals from traditionally underutilized communities throughout northern Colorado.

<sup>b</sup>For five of the awarded contracts, construction has not yet begun.

CDOT plans to complete the additional eight projects in areas across the state, including six projects in economically distressed areas of the state. In our last report, we noted that CDOT planned 36 projects in economically distressed areas, which are those areas experiencing relatively low income levels or relatively high unemployment rates, or experiencing a “special need” arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions.<sup>13</sup> The additional projects in distressed areas include pavement improvement projects and construction of a pedestrian bridge.

Five of the additional planned projects will be funded from savings accumulated by CDOT. Savings, in this case, represent the difference between the amount of Recovery Act funds CDOT allocated to spend on highway projects and the amount FHWA has obligated for these same projects, which takes into account funds that have been deobligated. As of October 31, 2009, Colorado had awarded 68 contracts, a number of which were awarded for less than the amount the state had allocated for these projects, representing savings totaling \$32.6 million. CDOT officials told us that the difference is due, among other reasons, to larger numbers of contractors bidding on work in fiscal year 2009 than in fiscal year 2008, bringing down the average bid amount. CDOT has asked FHWA to deobligate funds on an ongoing basis.

While CDOT continues to award contracts and carry out projects, it is also revising its calculation of state highway infrastructure funding needed to meet Recovery Act requirements. The Recovery Act requires states to certify that they will maintain state spending at a certain level, called maintenance of effort, to qualify for a planned redistribution of highway

<sup>13</sup>42.U.S.C. § 3161(a).

infrastructure funds that will occur after August 1, 2010, for fiscal year 2011. States that do not maintain spending will be prohibited from participating in the August redistribution of federal-aid highway and highway safety construction program obligational authority for fiscal year 2011. Colorado provided its certification to DOT on March 19, 2009.

In response to new guidance from FHWA on maintenance-of-effort certifications, CDOT plans to revise its calculation to include revenues collected by the state but allocated directly to local entities. On September 24, 2009, FHWA issued guidance to states, including Colorado, to report state transportation funding allocated to local governments. In Colorado, these revenues are the local share—40 percent—of funds received from a state gas tax that are to be used to improve public roads and highways in the state. CDOT originally calculated its maintenance of effort using the amount of state funds planned, as of February 17, 2009, to be expended through September 30, 2010. According to CDOT officials, they did not include locally planned expenditures in this calculation because the agency has no direct knowledge of or control over how localities spend the portion allocated to them by the state. CDOT officials said that to revise the calculation, the agency plans to work with the State Treasury to identify the amount of tax funds transferred to local entities. CDOT has not yet resubmitted its certification with this new maintenance-of-effort amount to DOT because it is waiting for DOT to give states final guidance.

Although some state officials expressed concern that gas tax revenues could fall significantly, thus lowering the state's planned spending, CDOT officials said they expect to meet the maintenance-of-effort amount. They said that CDOT has a long history of qualifying for and receiving redistribution funds through the annual process and that the state passed a new vehicle registration fee within the last year that is helping to make up for lower gas tax revenues in the state. According to CDOT officials, the agency could potentially receive \$10 million to \$20 million of the redistributed funds.

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## State Transit Agencies Continue to Use Recovery Act Funds for High-Priority Projects, Including Bus Purchases

State transit agencies continue to use Recovery Act funds for a variety of high-priority Transit Capital Assistance projects. As of November 1, 2009, nearly all of the \$103 million apportioned to the state and urbanized areas for such projects had been obligated. We reviewed and discussed with officials projects at three of Colorado's transit agencies, including Denver's Regional Transportation District (RTD); Fort Collins's transit agency, Transfort, which serves the city of Fort Collins in northeastern Colorado; and CDOT's rural transit program. RTD officials said that they plan to use the agency's \$72 million in Recovery Act funds for projects such as expanding light rail service and buying buses. Transfort officials said that they plan to use \$3.4 million in Recovery Act funds for, among other projects, purchasing buses and improving bus corridors.<sup>14</sup> And, as we reported in September 2009, CDOT is using its transit funds to build a bus maintenance facility and purchase buses in nonurbanized areas of the state.

Colorado's transit agencies are using a portion of their Recovery Act funds to purchase buses primarily to replace an aging fleet. We reviewed and discussed with officials plans for bus purchases at two Colorado transit agencies, RTD and Transfort. According to agency officials, both agencies are purchasing replacement buses under the terms of existing contracts: RTD plans to use \$3 million to purchase six 45-foot intercity buses and Transfort is using \$2.4 million to purchase six 40-foot city buses. Transfort also provided \$700,000 in Recovery Act funds to Loveland to buy two buses, including one to replace an older bus and another to provide new bus service between the cities of Longmont and Loveland.

As we reported in September 2009, RTD and CDOT plan to use their existing internal controls and processes to manage and expend Recovery Act funds. Officials at Transfort also stated that they are using their existing internal controls and processes to manage and expend Recovery Act funds. However, FTA reviewed Transfort's compliance with statutory and administrative requirements in 2009 and identified deficiencies in eight areas, including oversight of subrecipients. In particular, the review found that Transfort does not monitor its subrecipients to ensure that they comply with FTA requirements. Transfort is taking action to address this deficiency by having subrecipients sign supplemental agreements that

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<sup>14</sup>FTA apportioned Transit Capital Assistance funds to Fort Collins (the urbanized area). The funds were then made available for obligation by transit agencies in the urbanized area, which includes the cities of Fort Collins and Loveland.

make them responsible for seeking reimbursement directly from FTA and reporting directly to FTA on expenditures.

In addition to their planned bus purchases, RTD and Fort Collins officials said they have awarded contracts for other projects. Specifically, RTD officials told us that they have awarded contracts to undertake safety improvements along a bus corridor, replace a roof on a maintenance facility, upgrade a computer system, enhance light rail service in several locations, and extend train platforms. Transfort officials told us that they plan to upgrade the agency's fare collection system and have provided funds for other transit projects in the cities of Loveland and Berthoud. Finally, CDOT officials told us that they have awarded a contract to a rural transit agency in Summit County to seek a contractor to build the bus maintenance facility. Summit County in turn contracted with a private firm to build the facility (see fig. 1 for a picture of the facility under construction).

**Figure 1: Summit County Bus Maintenance Facility under Construction**



Source: GAO.

We reviewed and discussed with agency officials the contract for Transport bus purchases and the Summit County contract to build the bus maintenance facility. Contracting officials with the city of Fort Collins and Summit County provided us the following information about the contracts:

- On April 27, 2009, the city of Fort Collins modified an existing contract with North American Bus Industries to supply six 40-foot city buses by March 31, 2010. The new buses, fueled by compressed natural gas, will reduce carbon emissions as they are replacing diesel buses. The estimated cost of the modification is \$2.4 million, to be paid after inspection, on delivery. The original contract was awarded competitively in 2007 and is a fixed-price contract in that the price of each bus is \$406,000.
- On August 13, 2009, Summit County entered into an \$8.4 million contract with AP Mountain States, LLC, to construct a new multiuse fleet maintenance facility by July 28, 2010, with a possible extension if needed due to variable weather conditions. This fixed-price contract was awarded competitively.

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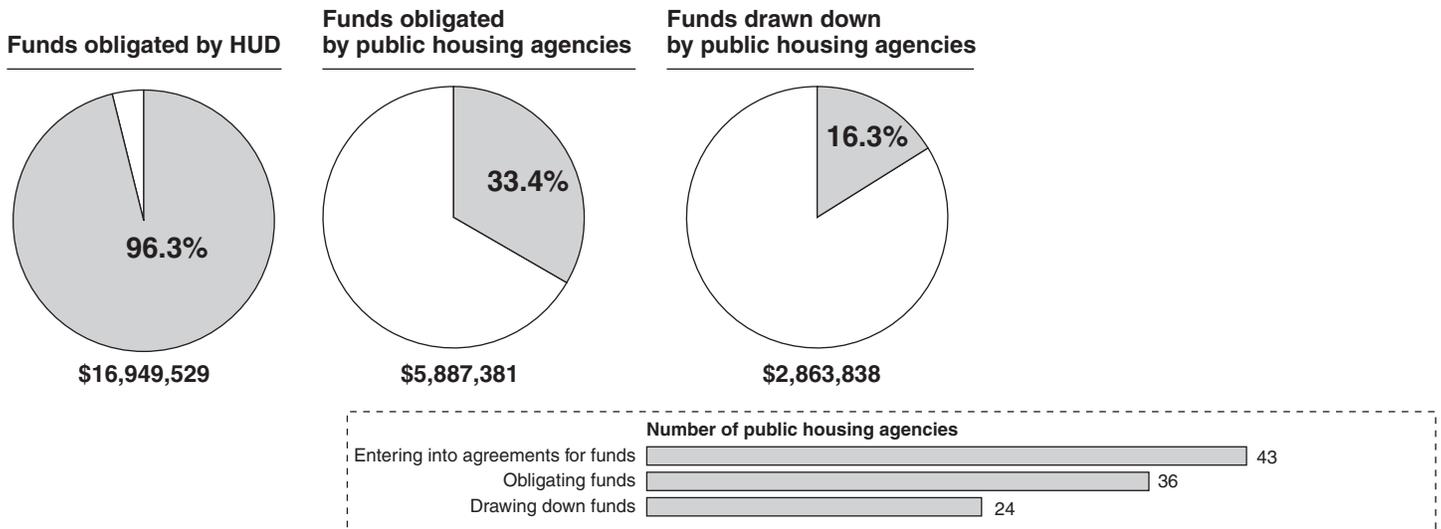
## Colorado Housing Agencies Continue to Make Progress on Recovery Act Projects

Colorado has 43 public housing agencies that have received Recovery Act formula grants. In total, these public housing agencies received almost \$17.6 million in Public Housing Capital Fund formula grants. As of November 14, 2009, these public housing agencies had obligated almost \$5.9 million and had drawn down approximately \$2.8 million (see fig. 2). On average, housing agencies in Colorado are obligating formula funds more slowly than housing agencies nationally. In addition to the Capital Fund formula grants, HUD awarded nine competitive grants to housing agencies in Colorado, including five to the Housing Authority of the City and County of Denver. We reviewed the following three housing agencies for this report: the Housing Authority of the City and County of Denver, Holyoke Housing Authority, and the Housing Authority of the Town of Kersey. We reviewed these three housing agencies because we visited them for our July 2009 report.<sup>15</sup>

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<sup>15</sup>For the July report, 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 first visit while the other two had not.

**Figure 2: Percentage of Public Housing Capital Funds Allocated by HUD that Have Been Obligated and Drawn Down in Colorado, as of November 14, 2009**



Source: GAO analysis of HUD data.

The three public housing agencies we visited in Colorado received Capital Fund formula grants totaling almost \$7.9 million. HUD allocated approximately \$7.8 million in formula capital funds to the Denver Housing Authority, \$59,934 to the Holyoke Housing Authority, and \$29,193 to the Kersey Housing Authority. As of November 14, 2009, the Denver Housing Authority had obligated about \$1.7 million and drawn down about \$795,000 in Recovery Act funds, the Holyoke Housing Authority had both obligated and drawn down its full allocation, and the Kersey Housing Authority had not obligated or drawn down any Recovery Act funds. Only one of the housing agencies we visited—Denver—was awarded competitive grants; it received all five of the grants—totaling \$27 million—for which it applied.

The Denver Housing Authority originally planned to complete five to eight projects with formula funds, but reprioritized this workload to include more projects when it found out that it had won the five competitive grants for which it applied. Three of the five projects funded with competitive grants had been scheduled as priorities to be completed with formula funds; the receipt of the competitive funds freed up formula funds to be used for other projects. Because of the competitive grant application process, Denver Housing Authority was flexible about which projects would be funded with formula grants until the agency found out which competitive awards it would receive. Officials said they plan to use the

competitive grant funds to pay for activities such as renovation of public housing units, new construction of senior/disabled public housing units, and community center enhancements and site work. They plan to use formula grants to undertake rehabilitation and replacement of public housing units' water heaters, as well as deferred maintenance work on four housing projects.

Because the Denver Housing Authority decided to use competitive funds for projects that had been scheduled for formula funds, the time frames for these newly converted competitive projects were revised while the time frames for new formula funded projects were accelerated. Despite the changes to time frames, housing officials do not anticipate any problems in meeting the March 17, 2010, deadline for obligating 100 percent of formula funds. Officials said that they had begun planning work on selected projects in anticipation of receiving competitive funds.

During our review of the three public housing agencies, we updated the status of projects we reported on in July 2009. At that time, the Denver Housing Authority planned to use \$250,000 of formula funds to pay for replacing water heaters in 200 units with energy-efficient water heaters, and to complete exterior painting. The project was scheduled to begin in June 2009, and to be completed by December 2009. In the interim, Denver officials decided not to advertise and competitively award the contract for this project until September 2009 because they were waiting for Buy American guidance which was issued on August 21, 2009. Consequently, the officials revised the project's schedule for completion to February 2010. To date, the water heaters have been ordered and the exterior painting, which was part of the initial scope of work, was dropped.

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, we reported in July 2009 that the Holyoke Housing Authority planned 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 was completed on July 14, 2009. Holyoke Housing Authority officials told us that they have spent 100 percent of the agency's allocation, and as such, do not have an issue in meeting the March deadline. As we reported in July 2009, the Kersey Housing Authority planned to use some of its Recovery Act funds to replace older windows in 18 units with energy-efficient windows. The agency has not yet spent any Recovery Act funds because its directorship recently changed, delaying the start of projects.

We reviewed three housing contracts, two managed by the Denver Housing Authority and one managed by the Holyoke Housing Authority. Housing agency officials provided the following information about the contracts:

- On March 30, 2009, the Denver Housing Authority awarded a \$295,926 contract to PS Arch Incorporated to provide architectural and engineering design services for its Westwood Homes Project by December 5, 2009. This contract was awarded competitively as an indefinite-delivery, indefinite-quantity contract, and officials said it contained a fixed hourly labor rate.
- On September 9, 2009, the Denver Housing Authority awarded a \$24,800 contract to Wholesale Specialties Incorporated to supply 64 40-gallon hot water heaters for its Columbine Homes Project by December 31, 2009. This fixed-price contract was awarded competitively.
- On September 14, 2009, the Holyoke Housing Authority awarded a \$27,409 contract to Whittaker Construction to replace hinged patio doors at its Sunset View Apartment Project. This fixed-price contract was awarded competitively.

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## Recovery Act Funds Help Colorado Make Up for Additional Budget Cuts, While Local Governments Use Recovery Act Funds in Other Ways

As Colorado's revenues continue to decline, Recovery Act funds have helped stabilize the state's budget by making up for reductions in the state's general fund. As we reported in September 2009, Colorado had already planned to use more than \$600 million in Recovery Act funds in fiscal year 2010.<sup>16</sup> It now plans to use an additional \$190 million in SFSF funds to offset proposed cuts in budgets for higher education and corrections. We reported in September that Colorado's Governor had begun making \$318 million in budget cuts and adjustments, including eliminating 300 full-time equivalent jobs, to the state's fiscal year 2010 general fund budget of \$7.48 billion. After a new economic forecast released in September showed further declines expected in state revenues, the Governor announced a second set of actions, totaling \$286 million, to balance the state's general fund budget. Colorado officials expect the state's budget to continue to be challenging in fiscal year 2011, as the flow

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<sup>16</sup>These funds include SFSF and the increased Federal Medical Assistance Percentage (FMAP) for Medicaid, which Colorado used to pay expenses related to its increased Medicaid caseload. According to state officials, the most direct sources of Recovery Act funds in alleviating the state's budget crisis are SFSF and the increased FMAP.

of Recovery Act funds that have helped stabilize the budget stops and the financial requirements of Medicaid and other caseloads continue to increase.

The three local governments we visited—Denver, Adams County, and Garfield County—each used Recovery Act funds to support local programs, although they differed significantly in terms of their economic situations and budgets as shown in table 3.<sup>17</sup> As a result of these different conditions, local officials expressed different levels of interest in applying for Recovery Act funds. For example, officials with Denver’s Recovery Act management team said that although Recovery Act funds cannot be used to backfill cuts in their general operating budget, they are actively seeking grants for social services and other programs that provide critical services during a recession. On the other hand, officials with Garfield County said that the county’s reserve funds are healthy and while they have received funds from formula grants, they are not actively applying for competitive grants. Adams County officials indicated that they knew of opportunities for grants, but said they did not have people in positions to apply for or manage those grants. For example, the officials mentioned that they do not have someone in a position to research or apply for grants to expand broadband Internet coverage. This potential lack of capacity at the local level may signal an opportunity for state officials to offer assistance and leverage Recovery Act funds across several smaller entities. State officials said that they have had many outreach sessions and that they will continue to do so.

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<sup>17</sup>We did not look at Recovery Act funds that went to separate jurisdictions within the counties, such as school districts and transit or housing agencies.

**Table 3: Information on Three Local Governments Visited by GAO**

Locality	Population	Unemployment rate <sup>a</sup>	Budget (millions)	Recovery Act funds reported (millions) <sup>b</sup>
City and County of Denver	598,707	7.7	\$2,100	\$55.3
Adams County	430,836	8.1	426.2	9
Garfield County	55,426	5.8	135.7	.35

Source: U.S. Census Bureau, U.S. Department of Labor, and local governments.

Note: Population data are from July 1, 2008. Unemployment rates are preliminary estimates for September 2009, and have not been seasonally adjusted. Rates shown are a percentage of the labor force. Estimates are subject to subsequent revision.

<sup>a</sup>The state's average unemployment rate is 6.7 percent.

<sup>b</sup>We did not look at Recovery Act funds that went to separate jurisdictions within the counties, such as school districts and transit or housing agencies.

*Denver:* Denver officials said the city faces a difficult economic and budget situation and is actively applying for Recovery Act funds. The city had to close a \$120 million funding gap in its fiscal year 2010 budget created by declining revenues and increasing costs associated with law enforcement, fuel, and health insurance. As a result, the city is taking such actions as eliminating over 600 positions, of which 176 are layoffs, and implementing program efficiencies. Although Denver reported \$55.3 million in Recovery Act awards, according to city officials, these funds are having a limited effect on the city's general fund budget because the funds cannot be used for general operating expenses. City departments are actively applying for Recovery Act funds, however. According to officials, the funds support needed services, such as law enforcement and emergency food and shelter. As a result, Denver has dedicated resources to grant screening and applications and, according to officials, half of the city's Recovery Act funds have been competitively awarded based on proposals submitted by the city and half are formula grants. Table 4 shows the benefits beyond job creation that officials said have resulted from Recovery Act spending.

**Table 4: Examples of Recovery Act Programs and Benefits in Denver, Colorado**

<b>Program</b>	<b>Funding</b>	<b>Description</b>	<b>Full-time equivalent jobs created or retained</b>	<b>Benefits beyond jobs created or retained</b>
Child Care Assistance	\$5 million	Provided child care subsidies for 874 children	0	Allowed parents to seek or retain jobs
Airport Improvement Program (three projects)	\$11.5 million	Denver International Airport runway repair and widening	128 private jobs	Will enable larger planes to use runway
Workforce Investment Act—Youth program	\$1.9 million	Support summer youth employment and training	280, of which 279 were in the private or nonprofit sector	716 youth enrolled and employed

Source: GAO analysis of Denver's Recovery Act management team data.

*Adams County:* Adams County, facing high unemployment and decreased tax revenues, plans to use \$9 million in Recovery Act funds to provide social and other services during the current economic downturn. As of October 31, 2009, Adams County spent the majority of its Recovery Act funds (approximately 88 percent of \$3.8 million) for workforce investment (including job training) and social services (including child care and food assistance). While declining revenues may cause county officials to reduce the county's general fund budget in fiscal year 2010 in an attempt to avoid layoffs, the county maintains a substantial general fund balance to help it through major economic downturns, according to officials. However, the county has made limited efforts to apply for competitive Recovery Act funds (almost 9 percent, or approximately \$791,000, of Adams County's total awarded Recovery Act funds are competitive grants), applying for grants that individual departments identify and select if the grants fit within the department's existing strategic plan. County officials have not applied for more Recovery Act grants because, according to officials, the county does not have staff dedicated to identifying and applying for such grants. For example, officials said they would not compete for broadband funding because they do not have an existing county department that would determine eligibility, develop the application, and implement the program.

*Garfield County:* Garfield County officials plan to use the Recovery Act funds they have been awarded for different programs, but county officials said that they are not actively applying for competitive Recovery Act funds. The county's economy and revenues, which depend on oil and gas production, have allowed it to maintain a large fund balance to deal with economic downturns. According to county officials, Garfield County tries to maintain at least 50 percent of the following year's expected expenditures in reserve. Although county officials expect these revenues

to decline in fiscal years 2011 and 2012, they believe the fund balance will cover the loss in revenues. Through October 31, 2009, the county reported receiving \$347,000 in Recovery Act funds, including a \$227,500 Energy Efficiency and Conservation Block Grant.<sup>18</sup> This block grant is intended to assist U.S. cities, counties, states, territories, and Indian tribes to develop, promote, implement, and manage energy efficiency and conservation projects and programs. The Garfield New Energy Communities Initiative, a regional collaborative group composed of representatives from state and local agencies, nonprofits, and clean energy businesses, will use this grant to build a residential and commercial energy efficiency program started under a state initiative. According to county officials, the remaining Recovery Act funds are for job training and law enforcement equipment.

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## Officials in Colorado Deemed Their Initial Reporting Successful, Although They Expressed Concerns About Jobs Data and Guidance

State officials said they experienced difficulties in the overall process of reporting their use of Recovery Act funds but were able to successfully upload the state's data for the first quarterly Recovery Act report. OMB guidance describes how recipients and subrecipients of Recovery Act funds are to report on their use of those funds. Generally, prime recipients—nonfederal entities that receive Recovery Act funds from federal agencies—are to submit information to [www.federalreporting.gov](http://www.federalreporting.gov), an online portal managed by the Recovery Accountability and Transparency Board that collects Recovery Act information. Subrecipients—any nonfederal entity that is responsible for program requirements and spends federal funds awarded by a prime recipient—may be delegated reporting responsibility by a prime recipient. Colorado used its centralized reporting process, which we described in our September 2009 report, to gather data from state agency recipients and subrecipients and provide it to [www.federalreporting.gov](http://www.federalreporting.gov).<sup>19</sup> This data was then made public on [www.recovery.gov](http://www.recovery.gov) on October 30, 2009.

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<sup>18</sup>Garfield County is not centrally tracking or reporting Recovery Act funds, but compiled this data upon our request.

<sup>19</sup>State guidance instructed recipients not to delegate reporting responsibilities to subrecipients.

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## State and Local Officials Declared Their Recipient Reporting Successful Despite Difficulties

Although they described the overall process of reporting to the federal Web site as frustrating, time-consuming, and burdensome, Colorado officials expressed satisfaction with the results of their centralized reporting process. As we previously reported, state officials believed a centralized process afforded the best opportunity to ensure that complete, reliable, and non-duplicative information was submitted for state agencies. Colorado's Office of Information Technology (OIT) was the central point for collecting information from state agencies and uploading it to the federal Web site. To control data submissions and corrections, the state used OIT as the central point (with one Dun and Bradstreet (DUNS) number) to gather and submit data. OIT uploaded the information for over 400 grants on October 9 and 10, 2009, the original deadline for state submissions. The data consisted of 340 zipped files from state agencies and IHEs, and another 75 separate files from CDOT. Subsequently, Colorado submitted an additional 22 files raising the total to 437.

Officials responsible for Colorado's centralized reporting experienced difficulties before, during, and after reporting, as described below. In certain cases, Colorado officials offered suggestions to remedy the difficulties.

- The process for registering as an authorized user on [www.federalreporting.gov](http://www.federalreporting.gov) was difficult, with no way of gaining assurance the steps in the process were completed. According to state officials, obtaining DUNS numbers was time-consuming and delayed the DUNS numbers being available for registration in the Central Contractor Registration system, an interim step necessary to use the federal Web site.
- The federal Web site rejected numerous files that OIT uploaded but did not always identify the problem that caused the rejection. As a result, OIT had to review the files, look for issues that appeared problematic, make changes or corrections, and resubmit the data. Some problems that caused rejections were technical, pertaining to batch processing, and others were simple, such as words not being capitalized. Officials stated that more explicit feedback from the Web site would have been helpful to diagnose the problems more quickly.
- OIT received late information on 23 grants because the grants were awarded in late September and the grant recipients had to collect and report information for them in October. State officials said they would like the federal government to establish a mid-month cut off date for awarding grants at the end of the quarterly reporting period to allow adequate processing time.

- The Controller's office had to relinquish an internal control designed for state reporting because of federal policy changes that occurred. State officials originally planned to have state agencies view their data on [www.recovery.gov](http://www.recovery.gov) on October 11, but the plan had to be changed when the Recovery Accountability and Transparency Board announced on September 14, 2009, that Web site data would not be available until October 30, 2009, the day following the end of the review period. State officials then planned to have agencies review their data on [www.federalreporting.gov](http://www.federalreporting.gov) using the DUNS numbers associated with their awards. However, because this function was not available, the data was viewable by the state agencies only if the Controller's office provided them with OIT's DUNS number. In making the OIT DUNS number available to state agencies, the Controller relinquished one of his planned internal controls over reporting—limited access to the state's data. The Controller provided the OIT DUNS number to all agencies and also downloaded the information from the [www.federalreporting.gov](http://www.federalreporting.gov) Web site and provided it to all state agencies for their review.
- During the federal review period (October 22 to 29), the state received numerous comments that were difficult to manage. The majority of federal comments received by the state related to reported full-time equivalent (FTE)<sup>20</sup> numbers. Certain federal agencies questioned the reported FTEs using parameters they had developed for the review process to determine whether the numbers were in acceptable ranges. However, according to the Controller, it was unclear from the review comments what the parameters were based on, which made it difficult for his office to assist agency personnel in making any necessary changes. The state also received comments from federal agencies (1) demanding changes in expenditure amounts that the state could not support with its records; (2) presenting conflicting comments on the same grant; and (3) providing comments by phone and email rather than in the [www.federalreporting.gov](http://www.federalreporting.gov) system.
- According to the State Controller and other officials, the Departments of Education and Justice issued guidance on reporting that conflicts with the state's Recovery Act reporting guidance. If implemented, the directives would have degraded or eliminated certain of the state's internal controls over Recovery Act data. One of the core control

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<sup>20</sup>FTEs are calculated by dividing total hours worked in a period by the number of total hours in a full-time schedule. This is done to avoid overstating the number of less than full-time positions.

elements of the Controller's centralized reporting process is the use of separate accounting codes and indicators to identify and track Recovery Act receipts, expenditures, and other data for reporting to federal agencies and for reporting on the state's financial statements.<sup>21</sup> The federal agencies' directives, if followed, would have required the state to change the indicator used for state IHEs and justice agencies. This would have caused Recovery Act funds to be reported as expenditures rather than as transfers to other agencies, which would be incorrect for the purpose of the state's financial statements. As a result, the Controller's Office would have had to perform considerable manual reviews and reconciliations of the data to prevent gaps or duplications in the state's reporting records. According to the State Controller, this issue did not affect the October reporting cycle because the state asked to hold off on applying the directives in the first reporting cycle. As the directives are still in effect, however, the state would like to resolve the matter before the next reporting cycle.

Officials with local entities also deemed the reporting process a success despite difficulties they faced in reporting. Local agencies are not included in the state's centralized reporting process, but we inquired about recipient reporting as part of our visits to two transit agencies and one county. Examples of their experiences included:

- A transit official encountered problems when trying to upload subrecipient financial information to [www.federalreporting.gov](http://www.federalreporting.gov). He was instructed by help desk personnel to enter the total amount of the grant under one recipient, not for the subrecipients.
- A county official said that she had problems with her password logging on to the system and did not receive a call back for several days from the help desk. She finally called the Colorado Governor's Office contact who connected her to the state's OMB liaison.

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<sup>21</sup>Colorado's centralized reporting process uses indicators to distinguish between reportable and non-reportable Recovery Act transactions. To record Recovery Act transactions, state agencies use an indicator to identify internal transfers of funds, which are not reported under the act, and external transfers of funds, which are reported under the act. Internal transfers generally occur among state agencies, including IHEs, and external transfers refer to funds provided to subrecipients, vendors, or state expenditures.

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Some State and Local Officials Expressed Concerns about Jobs Data and Guidance and Our Review Found Some Data Errors

Some state and local officials had the following concerns about jobs data and guidance provided on jobs reporting:

- CDOT officials expressed concerns that the public would compare the FTE figures reported on [www.recovery.gov](http://www.recovery.gov) and the number of jobs CDOT is reporting monthly to the House Committee on Transportation and Infrastructure and would not understand the wide discrepancies between the figures, which are calculated differently.<sup>22</sup> They said that this will create a public relations challenge for their agency that could be minimized with further explanations of FTEs and jobs created or retained on the [www.recovery.gov](http://www.recovery.gov) Web site.
- Local transit officials expressed concern about conflicting FTA guidance on how to count jobs associated with the manufacturing of buses being purchased with Recovery Act funds. Specifically, FTA's guidance for the OMB Recovery Act report stated that jobs associated with manufacturing buses should be counted as direct jobs resulting from Recovery Act expenditures. On the other hand, FTA guidance for another report required of transportation agencies—called the 1201(c) report for the section in the Recovery Act that requires it—directs agencies not to count jobs associated with manufacturing buses. Local officials believe the guidance should be clarified to remove the conflict.
- Colorado Department of Education officials stated that jobs-related guidance they received in September from the U.S. Department of Education was late and contradicted OMB guidance provided in June, particularly as it pertained to how LEAs should count jobs with contractors. Officials said that OMB's June reporting guidance indicated not to report these jobs, but guidance issued by Education in August and September directed that these jobs be counted. While the Colorado Department of Education issued reporting guidance on September 16, 2009, directing that the jobs be counted, state education officials were concerned that LEAs did not have time to incorporate the new guidance into their reporting. Specifically, because the state reported centrally, LEA data were due to the Colorado Department of Education by September 25, 2009, to report to the Controller's Office by September 29, 2009.

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<sup>22</sup>Jobs reported to the House Committee on Transportation and Infrastructure consist of worker counts and hours worked.

While we did not conduct a full review of data reported by Colorado state agencies in October 2009, we reviewed jobs data for a selection of projects and found discrepancies. We reviewed jobs data for three highway construction projects with expenditures that represented over 50 percent of Colorado's highway project expenditures of \$17.5 million as of September 4, 2009. We found several discrepancies in the reported data. For two of the projects we examined, CDOT officials reviewed their file information and found that almost 1,400 work hours had been overlooked in the calculation of FTEs and would have to be corrected during the next reporting cycle. For the third project, CDOT officials stated that additional review was necessary because they could not explain hourly and payroll discrepancies between CDOT and FHWA data. They said any necessary corrections will be made as part of the next quarter's data submission. We also reviewed jobs information reported by RTD and Transfort for two transit projects and found that the jobs numbers were incorrect. RTD officials said that FTA instructed them to prorate the jobs based on the Recovery Act funds in the project. As a result, they revised the jobs number from 670 to 296 and resubmitted the data to [www.federalreporting.gov](http://www.federalreporting.gov). FTA also instructed Transfort to revise its jobs data so that the expenditures and the jobs numbers would match. According to a Transfort official, he misinterpreted FTA guidance when responding to the FTA instructions and reported 1.4 jobs when he should have reported no jobs. The jobs reported were estimated for the purchase of passenger vans from a dealer's inventory which is not in compliance with FTA guidance.

Given the limited time frames to gather and report such a large amount of state and local data using a newly developed, centralized process, the state's efforts are a good first step. State officials described having to deal with last-minute changes in guidance that they believed could cause confusion and errors. We did not conduct a full review of the data to determine reliability and therefore cannot confirm the sources of the errors. However, the circumstances and the errors we encountered indicate the need for further review of the data.

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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 for comment. State officials agreed with this summary of Colorado's recovery efforts to date. The officials provided technical comments, which were incorporated into the appendix as appropriate.

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