

September 2009

# RECOVERY ACT

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



GAO

Accountability \* Integrity \* Reliability

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# Appendix II: California

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## Overview

The following summarizes GAO's work on the third 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/>.

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

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## State Budget Stabilization

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

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

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

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### State Reporting under Section 1512

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

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### Highway Infrastructure Investment

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

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### Transit Capital Assistance Program

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

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### Selected Education Programs

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

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education learning plan areas<sup>2</sup> (SELPA), and institutes of higher education through three education programs. This includes SFSF education stabilization funds (\$2.5 billion to K-12 and about \$268 million to each of the state's university systems), ESEA Title I funds (\$450 million), and IDEA Part B funds (\$269 million).

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

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### Weatherization Assistance Program

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

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### Workforce Investment Act Youth Program

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

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

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

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

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

Dollars in millions

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

Source: California Department of Finance.

While the \$16.1 billion in budget cuts enacted by the Legislature in July were widespread, some cuts are dependent upon future federal actions. For example, \$1 billion of the cuts to Medi-Cal (the state’s Medicaid program), shown in table 2, are based on the assumption that the state can obtain reimbursements of certain payments from federal programs<sup>4</sup> and

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

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

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

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

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

Source: California Department of Finance.

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

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

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

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

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

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

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

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

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

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

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## Oversight Activities Continue Despite State Officials’ Concerns over Cost Reimbursements

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

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

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

State officials expressed frustration in their attempt to obtain reimbursement for their costs of oversight over Recovery Act funds, made more critical by the state's difficult budget environment. Under OMB's Recovery Act guidance, states are allowed to recover central administration costs, such as those discussed above, subject to a limit of 0.5 percent of the Recovery Act funds received by the state. OMB guidance<sup>9</sup> issued on May 11 detailed a process which involves modifying the Statewide Cost Allocation Plans (SWCAP) approved by the Department of Health and Human Services' (HHS) Division of Cost Allocation (DCA), to recoup Recovery Act related administrative costs, including expediting SWCAP's typical reimbursement procedures. However, Task Force officials told us that the new SWCAP process will not allow them to claim many of their oversight costs or obtain funding in advance. Specifically, based on the Task Force's interpretation of OMB guidance, they raised the following concerns about using a modified SWCAP process for Recovery Act reimbursement:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As we reported in April 2009, \$2.570 billion was apportioned to California in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, \$1.978 billion had been obligated<sup>14</sup> and \$22 million had been reimbursed by Federal Highway Administration (FHWA).<sup>15</sup>

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## Funds Obligated for Highway Projects in California Continue to Grow

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

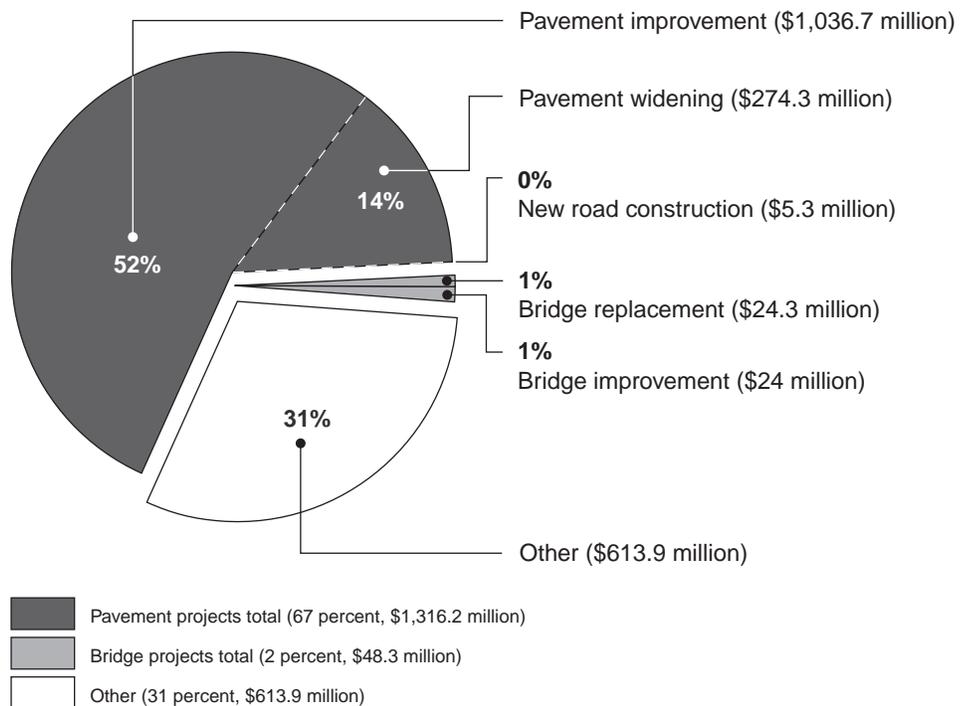
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<sup>14</sup>For the Highway Infrastructure Investment Program, the U.S. Department of Transportation has interpreted the term obligation of funds to mean the federal government's contractual commitment to pay for the federal share of the project.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

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

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

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



Source: GAO analysis of FHWA data.

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

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

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

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

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

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

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

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

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

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

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

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

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

Source: GAO analysis.

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

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

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

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

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

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

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

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

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

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

<sup>22</sup>The federal share under the existing formula grant program is generally 80 percent.

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

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

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

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

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

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**FTA Found That Recovery Act Obligation Deadline Was Met**

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

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

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

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

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

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

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

Source: Los Angeles County Metropolitan Transportation Authority.

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

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

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

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

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



Maintenance and repair of bus fleet

Application of joint sealant at a bus base

Source: Orange County Transportation Authority.

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

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

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

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

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

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

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

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

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

While control policies were similar across transit agencies we visited and at Caltrans, the level of internal assessment of the management of Recovery Act funds varied. (See table 5.) While all four transit agencies we visited and Caltrans were subject to various external audits—such as Single Audits, financial statement audits, and FTA’s triennial review<sup>29</sup>—the two largest transit agencies we visited, Metro and OCTA, and Caltrans had internal audit departments and conducted risk assessments on an annual or biennial basis to develop their annual audit plans. Transit agency officials at the two agencies told us that the management of Recovery Act funds has been classified as “high risk” or “moderate to high risk” in their fiscal year 2009 risk assessments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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>32</sup> The U.S. Department of Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The U.S. Department of Education made the first half of states' Recovery Act ESEA Title I, Part A funding available on April 1, 2009 and announced on September 4, 2009 that it had made the second half available.

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

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

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<sup>32</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 must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

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

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

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

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

Dollars in millions

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

Source: GAO analysis of CDE and Education data.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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<sup>42</sup>H.R. Rep. No. 111-16, at 448 (2009).

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

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

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

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

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

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

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

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

**Table 7: Description of WIA Youth Programs Reviewed by GAO**

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

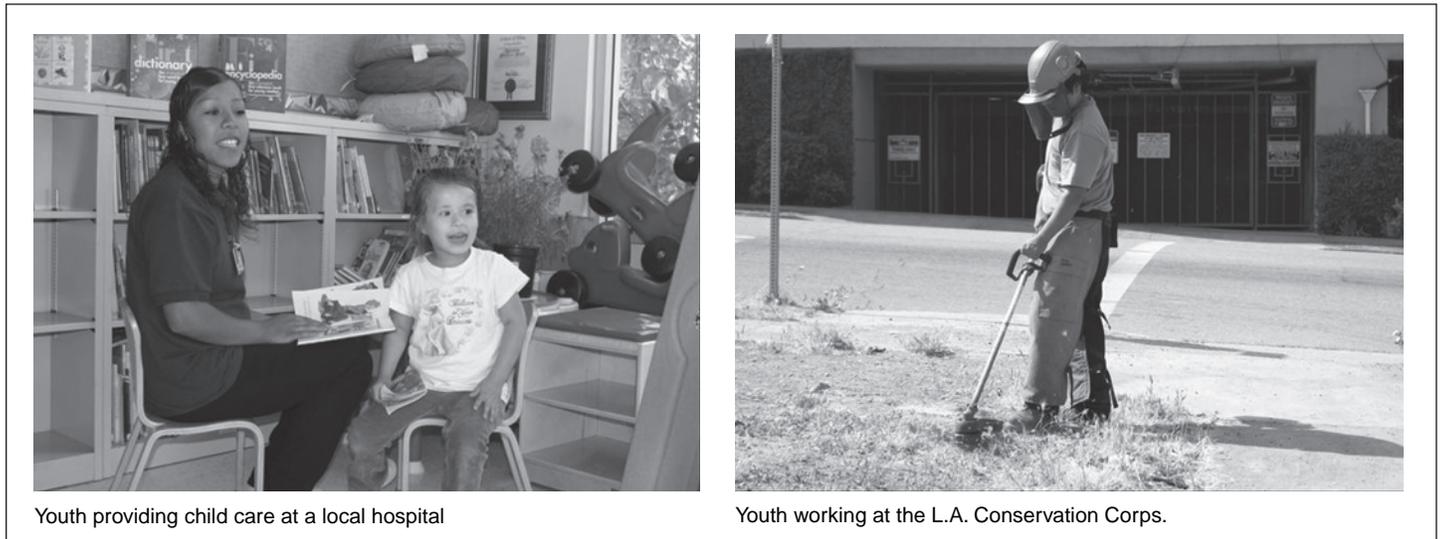
Source: GAO analysis based on information provided by the California Employment Development Department, Los Angeles Community Development Department, and San Francisco Office of Economic and Workforce Development.

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

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

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

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



Youth providing child care at a local hospital

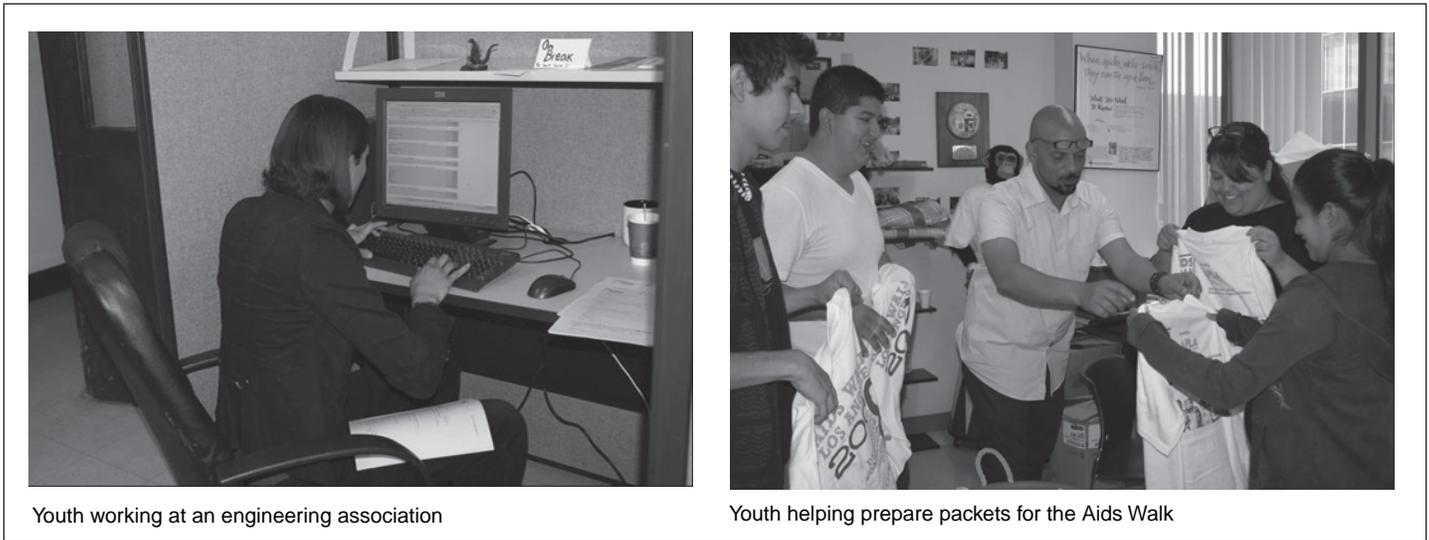
Youth working at the L.A. Conservation Corps.

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

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

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

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



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

### Mixed Results in Developing Green Jobs

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

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

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

#### Challenges in Meeting Enrollment

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

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

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

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

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

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

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

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

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

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the 392 youth (about 17 percent) were between the ages of 22 and 24.<sup>48</sup> According to a San Francisco official, younger participants are directed to the Mayor's youth employment program, which serves high school youth. One of the service providers we interviewed, Larkin Street Youth Services, focused on the homeless youth population of San Francisco. Larkin Street Youth Services officials said that their population is largely an out-of-school youth population. Only 4 of the 50 youth participating with this service provider were under the age of 18.

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

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

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

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

<sup>49</sup>The 30 percent goal was included in the service provider contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

San Francisco will assess all of its participants using its Work Readiness Assessment, which includes participant self-identified goals, self evaluation, a basic math and reading skills assessment, and a pre- and post- Secretary's Commission on Achieving Necessary Skills<sup>52</sup> (SCANS) evaluation. A participant's final assessment will be completed by the work

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

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

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

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

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

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## State Comments on This Summary

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

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

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

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