

September 2009

RECOVERY ACT

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



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Appendix IV: District of Columbia

Overview

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

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

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

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

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

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

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

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

Recovery Act Funds Have Helped the District Close Its Budget Gap

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OSSE Made Preliminary Allocations of IDEA Recovery Act Funds to LEAs

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

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

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

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

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

OSSE Plans to Safeguard Recovery Act Funds Are in Early Phases

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

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

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

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

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

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

OSSE Is Preparing to Meet Recovery Act Recipient Reporting Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

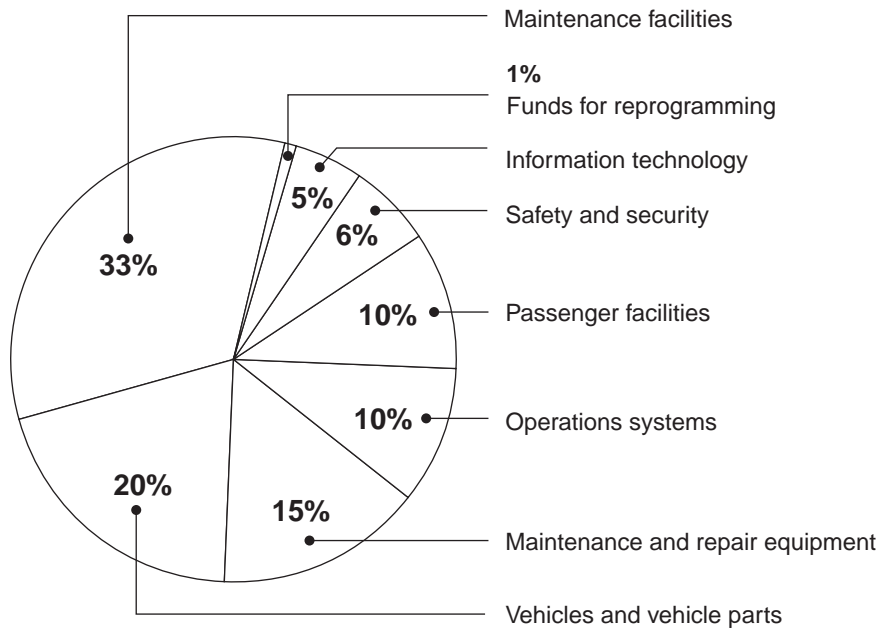
WMATA Has Started Awarding Contracts for Recovery Act Transit Projects

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

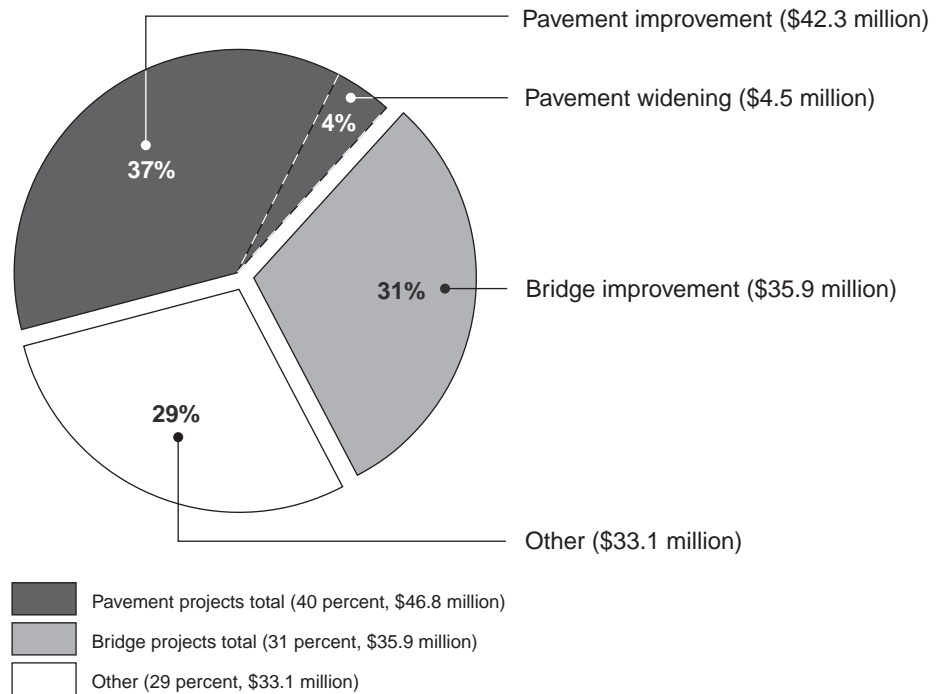
us they were considering developing performance measures that could be used to assess the impact of the Recovery Act funds.

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

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

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

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



Source: GAO analysis of FHWA data.

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

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

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

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

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

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

Table 1: Key Information for Two District Highway Projects Reviewed

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

Source: DDOT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Source: DCHA.

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

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

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

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

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

The District Has Made Preparations for Meeting Recovery Act Reporting Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

District Comments on This Summary

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

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