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RECOVERY ACT

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



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Appendix XI: Mississippi

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 Mississippi. The full report on all of our work, which covers 16 states and the District of Columbia, is available at <http://www.gao.gov/recovery/>.

Our work in Mississippi focused on specific programs funded under the Recovery Act and included reviewing three Recovery Act programs in detail, collecting summary data on two education programs, and updating the state's fiscal condition since our July report. The programs we reviewed in detail were the state's highway program, the Weatherization Assistance Program, and Recovery Act funds being provided under Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. We selected the highway program because the state's full allocation of Recovery Act funds was available for use and the state had work underway, the weatherization program because the Recovery Act significantly increased the program's funding, and the ESEA Title I program because the state was expected to make the first release of Recovery Act funds to schools during the time frame of our review. In addition to these programs, we also updated funding information on the U.S. Department of Education's (Education) State Fiscal Stabilization Fund (SFSF) and the Individuals with Disabilities Education Act (IDEA). Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Mississippi and local governments stabilize their budgets and expand existing programs—thereby providing needed services. We 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. The funds include the following:

Highway Infrastructure Investment

- The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$355 million in Recovery Act funds to Mississippi.

¹Pub. L. No. 111-5, 123 Stat. 115.287 (Feb. 17, 2009).

- As of September 1, 2009, the federal government has obligated \$289 million to Mississippi and \$21 million has been reimbursed by the federal government.²
- Almost 76 percent of Recovery Act highway obligations for Mississippi have been for pavement projects, including roadway repaving, widening, and new construction projects. Specifically, \$154 million of the \$289 million obligated for Mississippi's use as of September 1, 2009, is being used for roadway repaving projects, including \$4 million for approximately 18 miles of repaving at a site we visited in the south central region of the state.

Weatherization Assistance Program

- The Department of Energy (DOE) allocated \$49.4 million in Recovery Act funding to Mississippi for the Weatherization Assistance Program. As of September 1, 2009, DOE had provided the Mississippi Department of Human Services (MDHS), the prime recipient of the funds, with \$24.7 million.
- MDHS is contracting with Mississippi's 10 community action agencies to perform weatherization work. These agencies are responsible for purchasing materials and awarding labor contracts to make homes more energy efficient. As of July 31, 2009, three community action agencies that we visited had completed the weatherization of 134 homes.
- As of September 1, MDHS had disbursed \$3.37 million to community action agencies for home weatherization. MDHS plans to provide community action agencies with a total of about \$35.5 million from the state's allocation of \$49.4 million. With this the agencies are expected to weatherize a total of at least 5,468 homes.
- MDHS expects to use the remaining \$13.9 million, or 28 percent, for administrative costs, technical and training assistance, and audit fees for community action agencies' year-end audits by private accounting firms.

²For 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. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

ESEA Title I, Part A Funds

- Education has awarded Mississippi \$132.9 million in Recovery Act funds under ESEA Title I, Part A.
- As of September 8, Mississippi had released no Recovery Act ESEA Title I, Part A funds to local education agencies (LEA). Each agency is required to submit an application to the state, outlining its planned uses of these funds. According to MDE, it will review applications through the end of September.
- Once funds are released, the agencies plan to use them for technology upgrades and supplemental reading and math programs.

Updated Funding Information on Other Education Programs

- As of September 4, 2009, the Governor of Mississippi had not released any of the \$262.7 million that Education allocated under the SFSF for education stabilization. The Governor plans to release the education stabilization funds after the state has resubmitted its application for the funds to Education and after reviewing applications submitted by LEAs that detail each agency's planned use of the funds.
- Education has also awarded Mississippi about \$127 million in Recovery Act funds under IDEA, Parts B and C, as of September 4, 2009. None of these funds have been released to LEAs.

Mississippi Continues to Face Fiscal Challenges

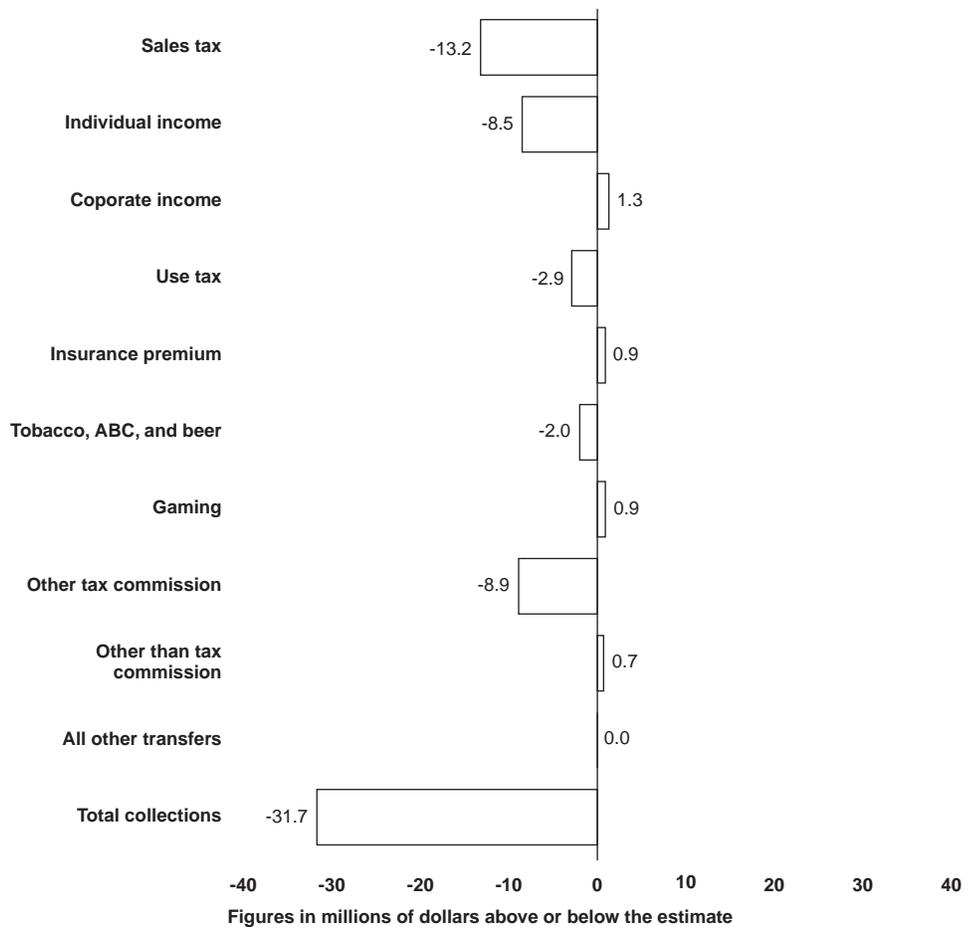
In the face of declining tax revenues, Mississippi continues to experience significant fiscal challenges. Revenue collections for July and August 2009, the first 2 months of fiscal year 2010, were \$26.2 million and \$5.5 million below expectations, respectively. As shown in figure 1, total tax collections through fiscal year 2010 are down \$31.7 million, which is nearly 6 percent below projections. The State Fiscal Officer estimates that the budget shortfall for the fiscal year could be more than \$800 million, but is more likely to range from \$175 million to \$350 million. The major causes for decreasing tax revenue are declines in sales taxes, individual income taxes, and other tax commissions.

On September 3, the Governor ordered reductions in state agencies' budgets totaling \$171.9 million. The Governor took this action after reviewing August tax revenues and determining that tax revenue collections did not meet estimates for the first 2 months of fiscal year 2010. The budget cuts reduce nearly all agencies' budgets to at least 5 percent below fiscal year 2009 appropriation levels. According to the Governor, he is statutorily prohibited from cutting an agency by more than 5 percent until he has cut spending for all agencies by 5 percent. The

Governor exempted only a few agencies and programs, such as the Department of Corrections and Medicaid, from the budget reductions.

The budget cuts reduce fiscal year 2010 funding for education agencies by approximately \$158.3 million while reducing funding for noneducation agencies by about \$13.7 million. According to the Governor, because education spending makes up more than 60 percent of the state budget, Mississippi cannot control spending without addressing the largest line item in the state budget.

Figure 1: Mississippi July/August 2009 Tax Revenue



Source: Mississippi Legislative Budget Office.

The Legislature Took Various Actions to Stabilize the Fiscal Year 2010 Budget

The use of Recovery Act funds must comply with specific program requirements but also, in some cases, enables states to free-up state funds to address their projected budget shortfalls. Mississippi was able to use Recovery Act funds in this manner. On June 30, 2009, the legislature approved the fiscal year 2010 Mississippi state budget using more than \$519 million of Recovery Act funds to bring it into balance. The legislature appropriated \$111.5 million and \$19.6 million of education stabilization funds to K-12 education and institutions of higher education (IHE), respectively. This amount, plus \$74.6 million of Recovery Act funds appropriated in fiscal year 2009 that will carry forward into fiscal year 2010, freed up \$205.7 million in General Funds that had been planned for K-12 education, IHEs, and community colleges. In addition, a provision of the Recovery Act that increased the Federal Medical Assistance Percentage³ requirement made another \$313 million available by lowering the portion of Medicaid costs that Mississippi must pay, thereby freeing up a like amount of state funds. According to a state budget official, these state funds were redirected to other programs.

To further balance the budget, the legislature transferred \$65.2 million of “Rainy Day Funds”⁴ to the Budget Contingency Fund⁵ to help cover projected shortfalls that appear likely to occur in the General Fund. Officials explained that the legislature also authorized an assessment on hospitals, amounting to \$60 million, to offset the costs of Medicaid. In addition, the legislature increased General Fund revenues by raising the tax on each pack of cigarettes, which is expected to raise \$106.1 million in additional tax revenue.

³Recovery Act funds used to stabilize the state’s operating budget includes, SFSF moneys, Temporary Assistance for Needy Families contingency funds, and funds made available as a result of the increased Federal Medical Assistance Percentage funds (see [GAO-09-1016](#)).

⁴The Mississippi Rainy Day Fund, formally called the Working Cash-Stabilization Reserve Fund, is intended, among other uses, to be used to cover any projected deficits that may occur in the General Fund at the end of a fiscal year as a result of revenue shortfalls. Miss. Code § 27-103-203.

⁵The Budget Contingency Fund was created in 2001 by the legislature to identify nonrecurring funding that the legislature could use in the budget process. The sources of funds deposited in the Budget Contingency Fund can differ from Special Fund transfers to the General Fund that are identified as nonrecurring.

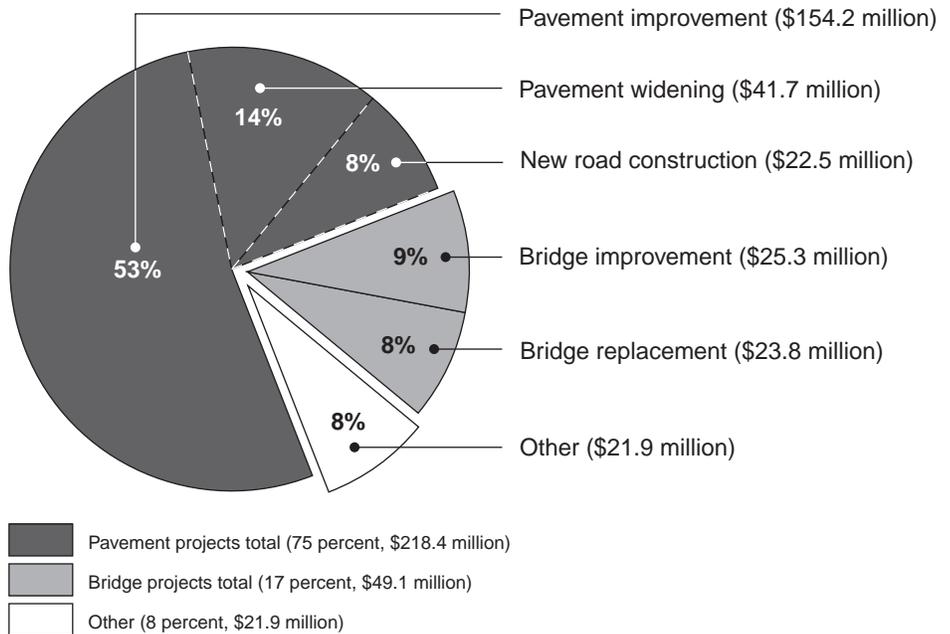
Mississippi Continues to Develop Recovery Act Highway Projects, but Is Challenged by Evolving Reporting Requirements and Tight Time Frames

The Recovery Act provides funding to 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 the 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, paying a prevailing wage in accordance with federal Davis-Bacon 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.

As we previously reported, \$355 million was apportioned to Mississippi in March 2009 for highway infrastructure and other eligible projects. As of September 1, 2009, FHWA had obligated \$289 million for Mississippi highway projects and had reimbursed the state \$21 million.

A little more than 75 percent of all Recovery Act highway obligations for Mississippi have been for pavement projects, including roadway repaving, widening, and new construction projects. Specifically, \$154 million of the \$289 million obligated for Mississippi's use as of September 1, 2009, is being used for roadway repaving projects, including \$4 million for approximately 18 miles of repaving at a site we visited in the south central region of the state. Figure 2 shows the types of road and bridge improvements for which funds have been obligated.

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



Source: GAO analysis of FHWA data.

Note: "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.

Two Agencies Administer Mississippi Transportation Projects

As we reported in July, Mississippi has two agencies administering Recovery Act funding for transportation projects. These two agencies are MDOT and the Office of State Aid Road Construction (OSARC). MDOT is responsible for operating and maintaining 14,300 miles of roadway statewide, including interstate highways, U.S. highways, and state routes. Furthermore, MDOT oversees all road construction projects that fall under the jurisdiction of any of the state's four metropolitan planning organizations (MPO), which select and approve transportation projects for cities and counties known as local public agencies (LPA).⁶ MDOT also

⁶MPOs 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.

oversees projects carried out by LPAs that are not part of MPOs. OSARC assists Mississippi's 82 counties in the construction and maintenance of 19,019 miles of secondary, nonstate roads, and bridges. The Governor appoints the State Aid Engineer; in contrast, an elected commission, independent of the Governor, controls MDOT. Since FHWA only recognizes one transportation agency in each state, all federal funding must flow from FHWA through MDOT. Although OSARC determines how Recovery Act funds will be allocated to Mississippi counties for the improvement of eligible county roads and then administers the funding, the agency must seek MDOT's approval for each of the projects. After awarding contracts for federal projects, OSARC pays all contractor bills and then submits a request for reimbursement to MDOT.

The Majority of MDOT and OSARC Recovery Act Projects Are Under Way

Of the approximately \$355 million in Recovery Act funds that FHWA allocated to Mississippi, MDOT is responsible for administering \$343 million and OSARC has responsibility for \$11.7 million. As of September 1, FHWA had obligated approximately \$279 million of MDOT's \$343 million, and MDOT had awarded contracts for 45 projects.⁷ By that same date, FHWA had obligated approximately \$10.1 million of OSARC's \$11.7 million and OSARC had awarded contracts for 10 projects.

Both MDOT and OSARC have awarded contracts for less than estimated. MDOT awarded Recovery Act contracts for nearly 12 percent less than the state's estimate. Officials mentioned one project in Jackson County where increased competition resulted in the winning bid coming in 25 percent under the state estimate, something the officials had not witnessed in years. Of the 45 projects, for which MDOT has awarded contracts, contractors have begun construction on 39 and have completed 6. Similarly, OSARC awarded projects for nearly 15 percent less than originally estimated. Of the 10 projects for which OSARC has awarded contracts, 9 are under construction and 1 has been completed.

We examined three Recovery Act contracts awarded prior to September 1.⁸ We reviewed the contracts and discussed them with MDOT

⁷As we reported in July, MDOT met the requirement that 50 percent of these funds be obligated by June 30 of this year. The 30 percent of funds required to be suballocated, primarily based on population, for metropolitan, regional, and local use were not subject to this requirement.

⁸Our sample included two MDOT contracts and one OSARC contract.

and OSARC officials, who told us that the contracts were awarded to the lowest responsive bidder.⁹ Furthermore, according to MDOT and OSARC officials, each MDOT and OSARC Recovery Act request for proposal and contract includes the act's reporting requirements as well as the U.S. Department of Labor's (Labor) Davis-Bacon requirements.

MDOT Implements an Internal Obligation Deadline to Prevent the State from Losing Funds

Included in the \$343 million of Recovery Act funds that MDOT administers is \$94.7 million that is set aside for LPA projects. Although the Recovery Act requires that these funds be obligated within 1 year of apportionment, MDOT chose to implement an internal deadline of September 3, 2009. MDOT established this deadline to encourage the LPAs to take action in advance of the final deadline, which reduces the risk that the state will lose any of its Recovery Act funding.

As of September 1, FHWA had obligated \$1.6 million of the \$94.7 million set aside for LPA projects. In late August, the MDOT engineer responsible for LPAs told us that MDOT intended to ask LPAs to develop alternate projects if, by the September 3 deadline, funds for their projects were not close to being obligated or if the projects were facing substantial challenges, such as acquiring right-of-way. However, despite the fact that only 1 LPA project had funds obligated as of September 9, 6 days after the deadline, the engineer said that MDOT had reviewed the status of the LPA Recovery Act projects and determined that the projects were progressing well.

LPAs Experience Challenges in Developing Projects

In response to a 2006 national FHWA review that examined state oversight of locally administered projects, FHWA-Mississippi Division directed MDOT to enhance its oversight of LPA projects and update its *Project Development Manual for LPAs* to document the new oversight procedures. The updates include additional steps that LPAs must follow to activate a project. For example, MDOT previously allowed LPAs to certify that a project followed MDOT's project activation protocol. LPAs now submit a written request to MDOT for project activation, along with documentation detailing the purpose and need of the proposed improvements, and LPA board meeting minutes. MDOT made the changes

⁹According to state officials, a responsive bidder is one that is not on the federal suspension and debarment list and that has submitted a balanced bid. A balanced bid is free from mathematical or material deficiencies.

in the project activation process because the department is ultimately responsible for ensuring that the state's LPAs are in compliance with applicable state and federal requirements. However, as a result of these changes, LPAs undergo a much longer and more demanding protocol to activate their projects. This caused some MPO officials, who select and approve projects for the LPAs under their jurisdiction, to question whether the September 3, 2009, obligation deadline was achievable.

Furthermore, officials at one MPO explained that MDOT's new project activation process and the September 3 obligation deadline have affected the types of projects that are being approved in Mississippi. Officials from the Central Mississippi Planning and Development District (CMPDD) stated that most of its LPAs would have preferred to develop other projects with Recovery Act funds, such as new construction projects. But the officials told us that CMPDD ended up selecting more modest repaving and signal projects because of tight deadlines. According to those officials, over 90 percent of the Recovery Act projects that their MPO approved were repaving projects.

In contrast, officials from the Gulf Regional Planning Commission (GRPC) told us that they chose to focus on safety improvement projects such as pedestrian walkways, intersection improvements, and bridge replacements rather than street-repaving projects because they felt these projects better reflected the goals of the Recovery Act. But, according to the officials, because projects were planned quickly to meet tight time frames, some projects have run into unanticipated issues that in some cases have caused costs to exceed the LPA engineers' estimates. For instance, one locality had to deal with unanticipated drainage problems before it could begin constructing a planned sidewalk. According to GRPC officials, some LPAs had to come back to GRPC to ask for additional funding. GRPC officials initially told LPAs that if their engineers' estimates were low, the LPA would have to pay the excess costs. However, GRPC officials stated that because some localities did not have funds to cover the additional costs, GRPC officials amended the transportation improvement program¹⁰ and added funds from other sources to fully fund the projects.

Finally, MDOT and MPO officials informed us that some LPAs' limited project administration experience might affect their ability to handle

¹⁰The Transportation Improvement Program is the four year project list for federally funded transportation projects located within the jurisdiction of a MPO.

Recovery Act projects. According to CMPDD officials, two member LPAs that were behind in the planning process have never managed a transportation project. Furthermore, MDOT's State LPA Engineer also stated that some LPAs were dealing with mayoral changes, and that some new mayors simply did not know how to move projects forward. Officials from the GRPC also told us that one of its member localities did not receive funding because the town was in the midst of a mayoral change and did not have any staff to develop a suitable project.

Reporting Requirements Present Challenges for FHWA, MDOT, and OSARC

Officials from FHWA-Mississippi Division said that their counterparts at FHWA headquarters proactively developed a two-part system to collect and analyze Recovery Act project data on a monthly basis. This two-part system was made-up of prime recipient and subrecipient hard copy reporting forms as well as a computerized data base system, known as the Recovery Act Data System (RADS). Officials from FHWA-Mississippi Division told us that MDOT is experiencing challenges in meeting the reporting requirements set out in Section 1512 of the Recovery Act¹¹ because FHWA developed RADS and the associated hard copy reporting forms before June 22, 2009, when the Office of Management and Budget (OMB) released Section 1512 reporting guidance. For example, FHWA-Mississippi Division officials cited one challenge as being that the original versions of RADS and prime recipient and subrecipient reporting forms were not formatted to collect all of the Section 1512 reporting elements. Therefore, FHWA-Mississippi Division officials explained that their counterparts at headquarters have been reworking RADS and the hard copy reporting forms so that each is formatted to collect all required information. FHWA wanted to complete the task by August 31, 2009, so that it could conduct a test run during the September monthly reporting cycle. The test run would help ensure that RADS is ready before the states must submit their reporting information for OMB's first quarterly report, which is set for release in October. However, as of September 9, an FHWA-Mississippi Division official told us that FHWA had not completed its work.

¹¹Section 1512 of the Recovery Act requires that each recipient who receives funds from a federal agency submit a report to that agency that includes the amount of funds received, the projects and activities for which the funds were expended or obligated, the completion status of each project or activity and estimates of the number of jobs created and the number of jobs retained by the project or activity. *See*, Pub. L. No. 111-5, § 1512, 123 Stat. 115, 287 (Feb. 17, 2009).

Officials from FHWA-Mississippi Division also explained that the changes being made to RADS and the hard copy reporting forms may result in prime recipients and subrecipients having to collect additional information. The officials told us that prime recipients and subrecipients may not have collected all information needed to comply with Section 1512 reporting requirements because the original reporting forms did not require the information. According to the officials, both groups may find that they must retroactively collect data elements that were not collected prior to the changes in FHWA's data collection system.

For MDOT and OSARC officials tasked with compiling prime recipient and subrecipient Section 1512 reporting elements, the implementation of an evolving FHWA reporting system has constrained limited resources while causing confusion. MDOT and OSARC officials are most concerned about an ever-increasing workload as they are now required to carry out their normal work duties as well as complete the monthly FHWA reporting requirements. For example, MDOT officials explained that the MDOT Contract Administration Department employs about 13 to 14 staff members who typically oversee construction contracts with a total value of \$300 to \$400 million annually. MDOT officials stated that with the enactment of the Recovery Act, the department now has an additional \$355 million worth of construction contracts to monitor, and the added reporting requirements that come with the state's acceptance of this money. In addition, MDOT cited another challenge in that it only has 10 calendar days, from the 11th through the 20th of each month, to verify the accuracy of the reporting elements provided to it from its own subrecipients as well as the data provided by OSARC. MDOT officials responsible for verifying these data said that 10 calendar days often only gives them enough time to identify very noticeable irregularities in the data, such as data fields that have been left completely blank or reported numbers that do not make sense for the element being reported.

Our Spot Checks of Three Construction Sites Found That Internal Controls Were Being Implemented

Given that Recovery Act funds are to be distributed quickly, effective internal controls over the use of funds are critical to help ensure effective and efficient use of resources, compliance with laws and regulations, and accountability over Recovery Act programs. Internal controls include management and program policies, procedures, and guidance that help ensure effective and efficient use of resources; compliance with laws and regulations; prevention and detection of fraud, waste, and abuse; and the

reliability of financial reporting. During visits to three projects being funded under the Recovery Act, we examined some of the internal controls that MDOT and OSARC have adopted.¹²

On Tuesday, August 11 and Wednesday, August 12, 2009, we conducted three site visits at one MDOT and two OSARC Recovery Act construction projects. Each of these site visits was conducted in association with the FHWA-Mississippi Division; MDOT and OSARC management were not aware that we planned to visit.¹³ The two OSARC site visits were bridge reconstruction projects located in the northwest region of the state, whereas the MDOT site visit was a repaving project located in the south central region of the state.¹⁴ In table 1, the findings of these site visits are summarized.

Table 1: Site Visit Findings with Regard to Certain MDOT and OSARC Internal Controls

Site visited	Was work being conducted which involved a pay item?	Was a technician on-site?	Was the daily diary/ inspection report completed?	Were the Davis-Bacon questionnaires completed?
OSARC #1	Yes	Yes	Yes	Yes
OSARC #2	No	Yes	Yes	Yes
MDOT	Yes	Yes	Yes	Yes

Source: GAO analysis.

During each of the three site visits we conducted, MDOT and OSARC officials were following procedures at the required level or above. According to MDOT and OSARC officials, both MDOT and OSARC require

¹²Additional information on internal controls may be found in the Mississippi appendix of GAO's second bimonthly review, which may be accessed at <http://www.gao.gov/recovery/bimonthly/ms/ms-july-09.php>.

¹³However, only the first of the two OSARC site visits can be classified as unannounced because the OSARC official at the second site told us that he had been informed of the possible visit. Furthermore, we cannot say that the conditions at the MDOT site, during the time of the visit, would have been exactly the same as those that may have existed because on the day of our visit to the site, FHWA had planned its own inspection of the site and had informed MDOT officials of these plans.

¹⁴The site visit locations were selected on the day of the visit as the accessibility of projects under construction changes on a day-to-day basis based on weather and contractor workload.

that a technician be on-site whenever work is being conducted that involves a contract pay item.¹⁵ Furthermore, MDOT and OSARC officials stated that they require that the technician be certified in the line of work involving that particular pay item. The contractor at the first OSARC site explained to us that he was scheduled to pour concrete, and the technician at that site was a certified concrete technician. At the MDOT site, the division assistant construction engineer told us he was there to fill the technician requirement by checking the density of the asphalt being poured. However, at the second OSARC site, a technician was on-site even though he specifically told us that no pay item work was being completed.

Further, we verified that the MDOT and OSARC on-site technicians were either in the process of completing or had completed the daily diary, which is an MDOT and OSARC internal control requirement. The daily diary includes information such as type(s) of work performed, location of work, daily quantities of pay items, major pieces of equipment located on-site, contractor's labor force, specific instructions given to the contractor's foreman, and visitors to the project site. Each technician at the two OSARC projects was able to verify that they were required to complete a daily diary and each technician submitted a completed daily diary to us for the day that the site visit was conducted. At the MDOT site, we spoke with an engineer, who also confirmed the required completion of a daily diary, and we reviewed the form for the day that we visited.

We also asked the on-site technicians or, in the case of the MDOT project, an engineer, for documentation showing that required Davis-Bacon Labor questionnaires were being completed. These questionnaires ask contractor employees to provide such information as their job classification, their hourly pay rate, whether they received overtime pay for time worked in excess of 40 hours during a work week, as well as other information pertaining to whether they had filed a complaint for being underpaid. MDOT officials stated that they require their inspectors to complete at least one questionnaire every 2 weeks until all contractor and subcontractor employees have been interviewed or construction at the site is finished, while OSARC requires that its inspectors complete at least one questionnaire every month until all contractor and subcontractor employees have been interviewed or construction at the site is finished. Both OSARC technicians and the MDOT engineer were able to provide us

¹⁵A pay item is a specifically described unit of work for which a price is provided in the contract.

with copies of questionnaires they had recently completed. From the provided questionnaires, we were able to verify that MDOT officials conducted interviews, at the site we visited, every two weeks during June, as required. Also, for the OSARC sites we visited, documentation showed that during the months of July and August, officials conducted the interviews once per month as required.

Weatherization Assistance Program Providing Assistance to Low-Income Families

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 all but two of the weatherization plans 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.¹⁶ Because the Davis-Bacon Act had not previously applied to weatherization, 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 they pay construction workers at least Labor's wage rates for residential construction, or an appropriate

¹⁶The Weatherization Assistance Program funded through annual appropriations is not subject to the Davis-Bacon Act.

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.¹⁷ The department completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

Mississippi Receives Large Increase in Weatherization Funding

DOE allocated \$49.4 million in Recovery Act funding to Mississippi for the Weatherization Assistance Program. This represents a large increase over prior years when DOE’s allocation to Mississippi typically ranged from \$1.5 million to \$2 million. MDHS, the state agency responsible for administering the Weatherization Assistance Program, contracts with 10 community action agencies across the state to provide weatherization services to households at or below 200 percent of the poverty level.¹⁸ MDHS is giving priority to income-eligible households with elderly members, disabled individuals, or young children by allocating 90 percent of its Recovery Act weatherization funds to these groups. The department intends to use the remaining 10 percent of the Recovery Act weatherization funds for income-eligible customers with high levels of energy usage.

To receive weatherization funds from the Recovery Act, DOE required each state to submit a preliminary plan laying out how weatherization funds would be spent. MDHS submitted this plan on March 18, 2009, and on April 3, 2009, DOE released a 10 percent allocation (\$4.9 million) to cover administrative costs, such as hiring and training new staff. On May 11, 2009, MDHS submitted a comprehensive plan and certification to DOE. This was followed by DOE’s release of an additional 40 percent of allocated funds, or \$19.7 million. With this release, MDHS has received 50 percent of its total allocation, or \$24.7 million. DOE expects to make the remaining 50 percent of the Recovery Act weatherization funds available when the current award has been successfully expended. As of September 1, 2009, MDHS had disbursed \$3.37 million to the community action agencies.

¹⁷ The five types of “interested parties” are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

¹⁸ The Recovery Act raised the income eligibility for the program from 150 percent of poverty to 200 percent of the poverty level. Pub. L. No. 111-5 § 407, 123 Stat. 115, 145 (Feb. 17, 2009).

Of the total \$49.4 million in Recovery Act weatherization funds that MDHS is to receive, \$35.5 million will be allocated to community action agencies that purchase materials and contract for weatherization services. MDHS expects to use the remaining \$13.9 million, or 28 percent, for administrative costs, technical and training assistance, and audit fees for community action agencies' year-end audits by private accounting firms. According to information provided by MDHS, of the \$13.9 million, the department will expend approximately \$8.6 million for training and technical assistance; \$4.9 million, shared equally by MDHS and the community action agencies, for administrative costs; and \$255,000 for the audits performed by the accounting firms.

The Recovery Act has allowed states to increase the amount of funds that may be used to weatherize a home. Formerly, DOE allowed \$2,500 to weatherize a home, but the Recovery Act increased this to a maximum of \$6,500. MDHS has directed community action agencies to spend no more than \$4,500 of that amount to purchase labor and materials for each home. The remaining \$2,000 per home may be spent on overhead costs, such as program staff salaries, travel, supplies, rent, and utilities.¹⁹

MDHS determined that it can weatherize a total of 5,468 homes with Recovery Act funds (\$35.5 million allocated to community action agencies divided by \$6,500). An agency official stated that the 5,468 homes are a minimum goal and are based on projected costs per home. Should weatherization cost per home be less than \$6,500, the agency official told us that additional homes will be weatherized.

MDHS employed two formulas to determine the amount of funds that should be allocated to each agency and the number of homes each community action agency could need to weatherize. First, to determine how much funding should be allocated to each community action agency, MDHS multiplied the total programmatic funds (\$35.5 million) by the percentage of the state's impoverished population living within the area. MDHS then determined the number of homes within each community action agency's coverage area that could be weatherized by dividing each agency's allocation of funds by the Recovery Act allowance per home (\$6,500). Table 2 shows the allocation of weatherization funds by community action agency.

¹⁹The overhead costs charged to each home are in addition to administrative costs that DOE allows the community action agencies to recover.

Table 2: Allocation of Weatherization Funds and Estimated Number of Homes to Be Weatherized, by Community Action Agency

Community action agency	Allocation ^a	Estimated number of homes to be weatherized
Bolivar County	\$1,524,867	235
Central Mississippi, Inc.	2,417,038	372
Lift, Inc.	2,601,871	401
Multi-County	3,255,893	501
Northeast	1,613,729	248
Pearl River Valley Opportunity	7,663,433	1,179
Prairie Opportunity	2,996,417	462
South Central	4,837,631	744
Southwest Mississippi	3,298,546	507
Warren Washington Issaquena Sharkey	5,324,593	819
Total	\$35,534,018	5,468

Source: Mississippi Department of Human Services/Division of Community Services.

Note: These figures are through March 12, 2012.

^aThis column refers to the programmatic allocation for each community action agency, as opposed to the total allocation, which includes funds for equipment, audit, and technical and training assistance.

According to MDHS, a community action agency may weatherize a home if it is occupied by a family unit that is qualified to participate in the Weatherization Assistance Program.²⁰ The local community action agency must ensure eligibility of the family unit by verifying, among other things, household income level, Social Security information, and household energy expenses. Community action agency personnel then perform a pre-weatherization audit to determine the amount of weatherization that the home should receive. MDHS has directed that improvements be made in the following order, with the first three typically installed as a package. The remaining improvements are then made (also in order) if needed and if funding is available.

- Air sealing
- Attic insulation
- Dense-pack sidewalls

²⁰A renter or a homeowner may apply for the Weatherization Assistance Program. If MDHS approves a renter's application, the owner of the property must agree that the home may be weatherized and to certain conditions laid out in a written agreement.

- Floor insulation
- Sealing and insulation of ducts
- Smart thermostat
- Compact fluorescent lamps
- Replacing of refrigerator

In addition, the following low-cost improvements may be made where applicable:

- Weather stripping, caulking, glass patching
- Water heater tank wrap
- Pipe insulation
- Installation of faucet aerators
- Installation of low-flow showerheads
- Installation of furnace filter
- Reglazing of windows (as needed)
- Installation of carbon monoxide detectors, smoke alarms, and fire extinguishers

GAO Visited Three Community Action Agencies

We visited three community action agencies in August 2009 to collect information on weatherization contracts, including data on contractor certifications, the costs incurred to weatherize a home, and how community action agencies plan to measure program performance. We also gathered information from the three agencies regarding compliance with the Davis-Bacon Act, job creation, reporting requirements, and oversight procedures.

We chose to visit the Multi-County Community Service Agency (Multi-County), the South Central Community Action Agency (South Central), and the Warren Washington Issaquena Sharkey Community Action Agency (WWISCAA). We visited Multi-County because it had extensive experience weatherizing homes, South Central because it had no previous experience weatherizing homes, and WWISCAA because it received the second largest allocation of funding, \$5.78 million.

Agencies Have Awarded Contracts and Homes Have Been Weatherized

An official at one of the community action agencies told us that weatherization work on homes began in June 2009. Further, the official explained that the agency had to hire and train staff and purchase equipment before the work could begin. As of July 31, 2009, Multi-County had completed 31 homes; South Central had completed 47; and WWISCAA had completed 56 using Recovery Act funds.

To identify contractors to perform weatherization work, all of the community action agencies we visited told us that they advertised opportunities to bid for contracts through local media sources, the Mississippi Department of Employment Security, and Mississippi job centers. According to agency officials at the sites we visited, the agencies selected contractors through a competitive bid process and awarded contracts for labor only. The community action agencies purchase materials that meet DOE standards for weatherization and provide them to the contractors as needed.²¹ Agency officials also told us that they procure materials competitively by obtaining prices on a list of materials from vendors and then selecting the lowest-cost materials.

DOE and the State of Mississippi both impose requirements on contractors selected to weatherize homes. DOE requires the contractors to purchase liability insurance and it strongly recommends that the contractors also obtain special pollution insurance. (All three community action agencies told us that they require both general liability and the special pollution insurance.) In addition, MDHS requires that contractors carry workers' compensation insurance and obtain adequate bonding. The state also requires that all contractors and laborers complete a minimum of 80 hours of annual training. Training includes but is not limited to classes in gas leak detection, DOE lead safe work practices, DOE energy-related mold and moisture practices, and whole-house weatherization practices for both site-built homes and mobile homes.

The average cost to weatherize a home using Recovery Act funds varied among the three agencies, with costs ranging from \$3,000 to \$4,500 per home.²² The differences in weatherization costs result from differences in calculating contractor labor costs, the amount of weatherization work performed, and, thus, the amount of materials used. One agency estimates labor using a fixed labor cost of \$2,100 per house, a figure it arrived at when the labor rate for all bidders was at or near \$87.50 per hour and the agency estimated that each home would require 24 hours of weatherization work.²³ After establishing the labor rate competitively, this community action agency awards contracts to qualified contractors based

²¹MDHS does not develop an approved list of suppliers; instead, agencies develop their own respective lists.

²²Total cost per home consists of labor and materials.

²³The figure of \$87.50 per hour is a cumulative hourly labor rate for all workers on a particular job.

on their availability. The other two agencies base labor rates on material costs, with one agency pricing labor at 125 percent of materials and another agency pricing labor at 100 or 110 percent of materials, depending on the distance the contractor has to travel to the work site. Officials at each of the latter two agencies told us that the contractor for each house is selected competitively based on the number of hours bid to complete the work, but that the labor rates are a set percentage of material costs.

The effect of weatherization on individual homes, and therefore regions and the state as a whole, will take time to realize. MDHS requires the community action agencies to measure program outcomes by collecting residents' utility bills for the 12 months before a home is weatherized and for 12 months afterwards. By comparing pre- and postweatherization utility bills, the agencies will determine the savings resulting from weatherization. MDHS has a goal of reducing energy usage by 17,000 MBtu²⁴ across the 5,468 homes it plans to weatherize.

Davis-Bacon Not a Concern for Community Action Agencies

The Davis-Bacon Act requires that contractors and subcontractors pay prevailing wage rates to laborers who are employed on construction projects that receive federal assistance. The Weatherization Assistance Program has not been previously subject to Davis Bacon wage requirements. However, the Recovery Act requires all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government with Recovery Act funds be paid wages at rates that are not less than those paid on local projects of a similar character as determined by the Secretary of Labor.²⁵ To that end, Labor recently conducted a nationwide survey to determine wages for weatherization contractors and laborers. MDHS required all agencies receiving the survey to complete and return the survey to MDHS by July 31, 2009. MDHS submitted the surveys to Labor before August 14, 2009 and Labor posted prevailing wage rates for Mississippi on August 24, 2009.

²⁴The British thermal unit (Btu) is a precise measure of the heat content of fuels. It is the quantity of heat required to raise the temperature of 1 pound of water by 1 degree Fahrenheit at the temperature that water has its greatest density (approximately 39 degrees Fahrenheit). An MBtu is equal to 1,000 Btu.

²⁵Pub. L. No. 111-5, §1606, 123 Stat. 115, 303 (Feb. 17, 2009).

When we visited the three community action agencies in August, none were concerned with the outcome of the survey. Each of the three agencies stated that the labor rates being paid by the agencies and their contractors were at or above similar prevailing labor rates for their respective areas. MDHS officials told us that they did not expect Labor to release prevailing wage data that indicated a higher prevailing wage rate than the agencies were paying weatherization contractors and laborers. However, should this occur, a community action agency official told us that contractors would receive back pay from the community action agency, using Recovery Act funds.

**Community Action
Agencies Hired Additional
Staff to Support
Weatherization Program**

The three community action agencies have each hired new staff as a result of the increase in weatherization work because of Recovery Act funding. Officials at each of the agencies visited could clearly identify the number of internal jobs created as a result of the funding. According to respective agency officials, Multi-County hired seven weatherization coordinators and two administrative staff; South Central hired four weatherization coordinators and two case managers; and WWISCAA hired a bookkeeper, three weatherization coordinators, and three case managers. In addition, officials at two of the three agencies wanted to hire additional staff with Recovery Act funding and would like to retain the new staff even after Recovery Act funds are no longer available.

**MDHS Working to Mitigate
Potential Reporting
Problems on the Use of
Funds**

The Recovery Act imposes upon states an extended level of accountability and transparency in the use of federal funds. All prime recipients of Recovery Act funding must submit their first report to www.FederalReporting.gov by October 10, 2009.

MDHS officials told us that to prepare for Section 1512 reporting requirements, MDHS plans to conduct two “trial runs” of data gathering and report preparation before the October 10, 2009 reporting deadline. In addition, MDHS requires the community action agencies to provide monthly submissions of all data required under Section 1512, including job creation/sustainment data. According to the officials, this will help them understand what information is needed to comply with the reporting requirements and give MDHS an opportunity to verify the accuracy of data the agencies report. One of the community action agencies we visited had limited data regarding jobs created by contractors and had no data regarding jobs created by vendors. MDHS officials stated that the community action agencies will collect both sets of data and report the information to MDHS by the deadline. An MDHS official stated that the

department has registered as required in preparation for Section 1512 reporting.

Oversight Is Carried Out at Multiple Levels

State and local agencies are monitoring the Recovery Act Weatherization Assistance Program in Mississippi. At the state level, MDHS provides three levels of oversight. The first level is conducted by an independent division of MDHS, the Division of Program Integrity, who told us that they monitor 10 percent of the total number of homes weatherized. The division monitors fiscal and programmatic records to determine, for example, whether community action agencies are meeting Davis-Bacon requirements and whether activities performed by contractors relate to the appropriate funding source. The second level of review is conducted by MDHS regional weatherization coordinators, and includes monitoring an additional 20 percent of the total number of homes. The Division of Community Services weatherization staff is responsible for the third level review, which includes monitoring 10 percent of the homes that were monitored by the regional coordinators, as well as an additional 10 percent of homes not reviewed by the regional coordinators. The second and third level reviews will include examining subgrantee files and monitoring contractor performance.

At the local level, MDHS requires all community action agencies to conduct both pre- and postwork energy audits on homes. According to a community action agency official, the purpose of a pre-audit is to determine the most cost-effective measures for reducing energy costs associated with inefficiencies in the home, whereas the purpose of a postaudit is to determine whether appropriate improvements have been made and whether further work is needed. The official also stated that work on a particular home is not considered complete, nor is the contractor paid for the job, until the postweatherization audit is performed and the house passes the necessary criteria set out in the preweatherization audit.

Mississippi Has Not Yet Distributed Recovery Act Education Funds to LEAs

The Recovery Act provides education funds to the State of Mississippi through ESEA Title I, Part A; SFSF; and IDEA. Recovery Act funds provided through ESEA Title I, Part A help local school districts educate disadvantaged youth and are in addition to those funds regularly allocated through the ESEA Title I program. The SFSF provides funds to states to help avoid reductions in education and other essential public services. Finally, the Recovery Act provides supplemental funding for programs authorized by IDEA, the major federal statute that supports special

education and related services for infants, toddlers, children, and youth with disabilities. We conducted a detailed review of the Title I program and collected summary data for the SFSF and IDEA, Part B programs.

MDE Providing Guidance and Reviewing LEAs' Applications for ESEA Title I, Part A Recovery Act Allocations

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through ESEA Title I, Part A. The Recovery Act requires these additional funds 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 these funds by September 30, 2010.²⁶ 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, Mississippi has received \$132.9 million in ESEA Title I, Part A Recovery Act funds. The state had released none of these funds to LEAs as of September 8. MDE officials told us that each LEA is required to submit an application to the state, outlining its planned uses of these funds. These applications were due to the MDE at the end of July. As of September 8, 2009, several LEAs had not yet submitted their applications. According to MDE, it will review applications through the end of September.

Along with ESEA Title I Recovery Act application packets, MDE released a guidance package to LEAs outlining the application process and suggesting uses of ESEA Title I Recovery Act funds. In addition to considering the guiding principles of the Recovery Act, MDE encouraged the LEAs to use the funds in ways that would allow for increased capacity, extended school days, professional development, instructional supplies and materials, transparency and accountability, school reform, and parental involvement. Included in the ESEA Title I, Part A Recovery Act

²⁶LEAs 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.

application package is an additional requirement that MDE normally does not place on ESEA Title I, Part A funds. MDE is requiring that each LEA address at least two of five ESEA performance goals and indicators. One goal is to help all students attain high standards in reading/language arts and mathematics, as indicated by the percentage of students who perform at an acceptable level on state assessments. Another goal is to enable all students with limited English skills to achieve high academic standards, as indicated by state assessments. Goals also include having “highly qualified” teachers teach all students in safe, drug free environments that are conducive to learning. Finally, ESEA performance goals include all students graduating from high school. In the application, an LEA must provide narrative on how they will achieve these goals, as well as a budget narrative detailing how the ESEA Title I, Part A Recovery Act funds will be used.

MDE Could Pursue ESEA Title I Waivers

MDE officials told us that they are concerned about the LEAs’ ability to obligate Recovery Act ESEA Title I funds in addition to regular ESEA Title I, Part A funds within the ESEA spending timeframes. That is, MDE is concerned that the LEAs cannot obligate 85 percent of the funds by September 30, 2010, and the full amount by September 30, 2011. MDE is considering applying to Education for a waiver that would allow MDE to waive the carryover limitation for individual LEAs. If granted, a LEA could carry over more than 15 percent of its Recovery Act allocation into the next fiscal year. Under ESEA, state education agencies currently have authority to waive carryover limitations only once every three years if the requests are reasonable and necessary. The waiver MDE wishes to apply for would allow it to grant waivers to LEAs more frequently if the LEAs needed additional time to expend their Recovery Act allocations. MDE officials said that they are currently assessing the guidance from Education on this issue, as well as surveying the LEAs in the state to determine if there is concern and interest among the LEAs in applying for such a waiver. In addition, MDE officials told us that they are interested in applying for permission to use the SFSF funds to satisfy maintenance-of-effort requirements for ESEA Title I.²⁷ According to MDE officials, they

²⁷A state meets the maintenance-of-effort requirement if either the combined fiscal effort for per student or the aggregate expenditures within the state with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year (20 U.S.C. § 6337(e)(1)).

have asked for, but not yet received, clarification on this issue from Education.

Visited LEAs Intend to Use ESEA Title I, Part A Recovery Act Funds for Upgraded Technology in Classrooms and Supplemental Reading and Math Programs

We visited three LEAs in Mississippi to discuss their planned uses of ESEA Title I, Part A Recovery Act funds: Jackson Public School District, Rankin County School District, and Greenville Public Schools. We chose to visit Jackson Public School District because it has a number of schools that are categorized under ESEA Title I as needing improvement, is an urban school district, and is receiving the largest ESEA Title I Recovery Act allocation in the state. Jackson Public School District is the largest LEA in the state in terms of student enrollment. We visited Greenville Public Schools because it is located in a rural town and is receiving the second largest ESEA Title I Recovery Act allocation in the state. Greenville Public Schools is the 12th largest school district in student enrollment. Finally, we visited Rankin County School District at the recommendation of Mississippi's Office of State Auditor (OSA) and Office of the Governor, which cited this LEA as one of several in the state that follows "best practices" related to internal controls, compliance, and management. Rankin County School District is the third largest district in the state in terms of student population and is receiving the 15th largest ESEA Title I, Part A allocation in the state.

Jackson Public School District is expected to receive a total allocation of \$15,683,083. In determining how to apply the district's ESEA Title I, Part A Recovery Act funds, Jackson Public School District officials solicited recommendations from district and school administrators, private school administrators, and parents. In addition, the district's test scores indicated a critical need to address language arts and mathematics. In its application to the state, Jackson Public School District indicated that it wishes to use the additional ESEA Title I, Part A funds for supplemental instruction, particularly in those subjects with low student test scores. For example, officials told us that they plan to purchase math software programs, as well as the associated technologies that will be needed to use the software, such as computers and graphing calculators. Jackson Public School District will also use some of the funds for professional development for teachers.

Rankin County School District is expected to receive an ESEA Title I, Part A Recovery Act allocation of \$1,680,397. Rankin County School District officials told us that they plan to use these funds for technology upgrades in the classroom in order to create "21st century learning centers" for students and teachers. District officials plan to bring new technologies

into classrooms, such as laptop computers, interactive whiteboards, projectors, document cameras, digital video cameras, and printers. The district made the decision to use the ESEA Title I, Part A Recovery Act allocation in this way following a comprehensive needs assessment and conversations and focus groups with principals and teachers. District officials told us that efforts to modernize and upgrade classroom technology were already under way, but the additional Recovery Act funds will help the school district achieve these goals. Additionally, the district wants to use the funds for professional development of teachers, including instructing them on the use of the new equipment purchased, as well as improving the teachers' instructional practices.

Greenville Public Schools expect to receive an ESEA Title I, Part A Recovery Act allocation of \$4,329,295. School officials told us that they plan to use the additional funds to purchase technology upgrades for the classroom in order to create "model classrooms" at each grade level. According to district officials, a model classroom is built around a set of best practice methodologies for instruction and motivation. Creating such a classroom involves purchasing upgraded technologies, such as modern computers that are compatible with current software, and providing corresponding instruction for teachers. With upgraded technologies, Greenville Public Schools can invest in supplemental instructional software in mathematics and language arts. Based on statewide testing programs, the school district identified these subjects as in need of intensive support and effective interventions. Additionally, Greenville Public School officials want to hire 15 additional teachers to offset teacher reductions caused by previous budget cuts. This will change student-to-teacher ratio from 27: 1 to 22: 1. In determining how the additional allocation will be used, Greenville Public Schools officials told us that they took into account the opinions of stakeholders, such as parents, local businesses, advocacy groups, teachers and administrators. Greenville Public Schools held a public community meeting and then a central office meeting to determine the best uses of the additional Recovery Act funding before submitting its application to MDE for approval.

ESEA requires each LEA to use ESEA Title I, Part A funds for the participation of children in private schools, as well as for homeless and neglected children. The act also allows ESEA Title I, Part A funds to be used for children living in local institutions for delinquent children, as appropriate. For example, Jackson Public School District officials told us that there are 11 private schools and 3 institutions for delinquent children in their district that will receive Recovery Act ESEA Title I, Part A Recovery Act funds.

In addition to the set-asides required for ESEA Title I, a 1996 policy passed by the Mississippi State Board of Education permits LEAs in Mississippi to reserve up to 20 percent of their regular Title I, Part A allocation for administrative purposes.²⁸ MDE has instructed LEAs that the same policy applies to the Title I, Part A Recovery Act allocation. MDE did not require LEAs to discuss in detail their plans for the administrative set-asides. However, according to state school board policy, such costs can include salaries, benefits, travel, and office costs of ESEA Title I bookkeepers; cost of audits; and indirect costs. As part of its review process, MDE will ensure that set-asides do not exceed 20 percent of the total allocation. Rankin County School District and Jackson Public School District officials stated that they would consider using administrative funds to hire additional bookkeeping staff to handle the additional workload of tracking and monitoring the funds.

MDE Developing Internal Control Plans

Mississippi's Department of Finance and Administration (DFA) has required each state agency to develop and submit a written internal control plan that covers safeguarding of agency assets, segregation of duties by function, and execution of transactions in accordance with laws of the State of Mississippi. The internal control plan will apply to all state and federal funding received by the agencies. The plan for MDE was still in draft as of September 4, 2009.

To monitor the LEAs' use of Recovery Act funds, MDE officials said that they have an Educational Accountability Office with an Internal Accountability division. MDE officials told us that this office is responsible for reviewing each LEA's financial audit, following up on findings with the LEAs, and assisting them in taking corrective action. The audits are conducted annually by a private firm in conjunction with OSA. The Internal Accountability Office has three staff to cover 152 LEAs.

MDE's Office of Federal Financial Management also monitors LEAs' use of federal funds for proper use and compliance with appropriate laws. MDE officials stated that LEAs are monitored on a 3-year cycle. At this time, there are no definite plans for additional monitoring of Recovery Act funds.

²⁸Mississippi State Board of Education Policy 7802, "Expenditures of Funds on Instruction," 1996.

LEAs Plan to Use Existing Policies and Procedures to Control Recovery Act Funds

The three LEAs we visited said that they are not planning to make significant changes to their current policies and procedures for tracking federal funds in order to track the Recovery Act funds. The LEAs will use their current systems but will use unique identifying codes for the Recovery Act funds, as required by DFA. The LEAs we visited have not completed written internal control plans or risk assessments of internal control weaknesses.

Officials with Jackson Public School District told us that they will set up a budget for each of the district's schools that is based on the information the school provided to the district regarding how it plans to use its Recovery Act funds. These budgets are subject to school board approval to ensure that the uses fit within the district's goals for improving instruction and comply with state guidelines. Requisitions for Recovery Act funds first must be approved by each school's principal. Requests for expenditures will then be checked against these written budgets by Jackson Public School District's federal programs and purchasing offices. At monthly grant review meetings, the Executive Director of Finance and others will review Recovery Act expenditures that were initiated centrally or at the school level. Jackson Public School District officials stated that they intend to be transparent with their uses of the Recovery Act funds. They will update parents and the community via newsletters and public access television programming.

Officials with Rankin County School District told us that each employee is trained on accounting and purchasing rules. They plan to follow the same set of procedures for tracking Recovery Act funds as they do for all federal funds. An official in Rankin County Public Schools' Federal Programs Department will be primarily responsible for tracking Recovery Act funds. This person will develop a budget, enter and track purchase orders, file invoices, and compile monthly reports to ensure that funds are being properly utilized. Requisitions for Recovery Act funding will be subject to approval by the Assistant Superintendent before being turned into purchase orders. A purchase order will be subject to approval by the accounting department at Rankin County School District, and may be additionally reviewed by the Business Manager or Purchasing Director. The accounting department will not approve a payment until services or materials are received, an invoice is filed, and the school board has approved the expenditure. School board meetings are open to the public, and uses of Recovery Act funds will also be made public via parent newsletters and email communications.

Greenville Public Schools officials said that they would not make any significant changes to their plans for tracking federal funds, other than that the Recovery Act funding would be coded and tracked separately in the system. The Business Manager said that all staff are trained in accounting, and he would update their training to deal with the Recovery Act funds. Regarding the flow of funds to the individual schools, the business manager said that a requisition will be approved by the principal before being submitted to the district. The Greenville Public Schools Federal Programs Director will review the requisition to ensure that it addressed the district's instructional goals, and the Business Office will ensure that the requisition complies with applicable purchasing laws and that there is an adequate budget for it. All funds will also be checked against the school's monthly budget. The requisition will then become a purchase order. Purchase orders over a \$5,000 threshold will require additional approval from the Superintendent. Also, computer purchases will require approval from the Information Technology Department. Once a purchase is made and items are delivered, the items are to be matched with the invoice and the purchase order and tagged for delivery. Physical inventories are conducted twice annually. The business manager said that the office is probably adequately staffed to handle the additional workload, but once the funds begin flowing, he will reevaluate the staffing needs.

MDE Concerned about Timing of Reporting Requirements, and LEAs Request More Guidance

MDE told us that it plans to use a centralized reporting approach, collecting information for the required quarterly reports from the LEAs and posting the data collectively rather than having each LEA do this individually. However, MDE is concerned that the 10-day data quality review period will not be sufficient to thoroughly review and validate 152 LEA submissions and correct any deficiencies before the reports are released to federal agencies on www.FederalReporting.gov. MDE is also unsure about how the information is to be presented. Officials noted that they are working to develop a template that will detail the information required so that it can share this with the LEAs. MDE officials said that they requested additional guidance on this issue from Education and were told that it would be available in mid-September. Once additional guidance is received, the Governor's office will advise state agencies on how to fulfill the reporting requirements. Without the guidance they have requested, MDE is concerned about meeting the reporting deadline of October 10. The three LEAs we visited stated that they are unsure of the specifics of reporting requirements and the format in which they will be required to report the data. School officials said that they would like for MDE to provide some clarity on this issue.

Mississippi Has Not Yet Released SFSF or IDEA Funds

In addition to collecting detailed information on the ESEA Title I, Part A program, we collected summary funding information on SFSF and IDEA funds provided to Mississippi through the Recovery Act. We found that none of these funds have been released.

The Recovery Act created SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, 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 IHEs. 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 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). 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.

As of September 4, LEAs in Mississippi had drawn down none of the \$262.7 million of education stabilization funds allocated to the state by Education. According to MDE officials, the Governor is requiring all LEAs to submit applications for these funds. The SFSF application is in draft and currently being reviewed by the Governor's office, but it has not yet been sent to LEAs for completion. Additionally, the Governor is in the process of resubmitting his application to Education. When the initial application was submitted, Mississippi had not yet passed its fiscal year 2010 budget. According to state officials, the state funding information upon which the Governor based the original application varied from the fiscal year 2010

budget that was later passed by the legislature. The resubmitted application will include the enacted budget information. No SFSP funds will be released to LEAs until both the Governor's application and the individual LEA applications are approved. However, according to MDE officials, LEAs have been informed of their allocation amounts, so that they can begin to make definite plans regarding the use of the funds.

The Recovery Act also 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). 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.

Education awarded Mississippi about \$127 million in Recovery Act funds under IDEA, Parts B and C, but as of September 9, 2009, none of these funds have been released to LEAs. MDE is requiring each LEA to submit an application to the state for their allocation of IDEA, Part B funds and the department is currently reviewing the completed applications.

State Officials Continue to Express Concern over Reporting Requirements and Administrative Costs

Mississippi state officials continue to express concern regarding Recovery Act reporting requirements and costs associated with the act. These include the following:

Clarifying recipient reporting responsibilities: The Recovery Act imposes upon states an extended level of accountability and transparency in the use of Recovery Act funds. While the Governor of Mississippi has determined that he is primarily accountable for the use of Recovery Act funds, this responsibility is shared by each executive officer of any entity that is a prime recipient or subrecipient of Recovery Act funds. As required by the Section 1512 recipient report requirement of the Recovery Act,²⁹ all prime recipients within the State of Mississippi are to submit

²⁹Pub. L. No. 111-5, § 1512, 123 Stat. 115,287 (Feb. 17, 2009).

their first report to www.FederalReporting.gov by October 10, 2009. The reports required under Section 1512 of the act will contain, among other requirements, detailed information on the projects and activities funded by the Recovery Act, including (1) the name and description of each project or activity, (2) the total amount of Recovery Act funds expended or obligated to each project or activity, and (3) an evaluation of the completion status of projects or activities and an estimate of the number of jobs created and the number of jobs retained by each project or activity.

DFA officials continue to express concern as to whether the state is responsible for all Recovery Act funds flowing into the state, including those that do not flow through the state treasury or are not reported through the state's central accounting system. DFA officials told us that they do not have direct oversight of entities such as community colleges, local governments, and institutions of higher learning that may be receiving Recovery Act funding directly from federal agencies. According to the officials, a query of USAspending.gov completed in early August identified approximately 400 entities receiving Recovery Act funds directly from federal agencies.

To help ensure that the State of Mississippi is in compliance with Recovery Act reporting requirements, the Governor issued a memo outlining the state's reporting requirement in regard to these funds. The memo explained that unless an entity receiving these funds has been notified in writing by its federal granting/lending agency that the entity is only accountable to the federal granting agency, it must follow the state's reporting guidance.

On August 28, 2009, OMB issued guidance requiring that federal agencies report all Recovery Act grants to the states. The report is intended to inform states of Recovery Act funding obligated to nonfederal entities such as states and state agencies, grantees, tribes, and local governments. A DFA official stated that going forward the OMB guidance should help the state identify all Recovery Act funds that do not flow through the state's treasury or central accounting system. However, the guidance does not help the state identify those funds if they were obligated before August 2009, because the guidance does not require retroactive reporting. According to the DFA Deputy Executive Director, staff have used USAspending.gov to identify those Recovery Act funds that flow into the state without the state's knowledge. However, DFA is finding erroneous data are being posted to the Web site. For example, the officials told us that USAspending.gov is reporting as Recovery Act awards some loan guarantees that have not been identified as such to the recipients.

Recovering oversight and auditing costs: Officials in Mississippi’s OSA told us that there is a need for clarity regarding reimbursement of administrative costs associated with oversight of Recovery Act funding. In commenting on recent OMB guidance, officials observed that even though the Recovery Act provided no funding for state oversight activities, OSA believes there are expectations that states will carry out the act’s transparency and accountability mandate. OSA requested that OMB provide guidance as to what funds will be used to reimburse states for oversight, auditing, and administrative activities and to explain how reimbursement will take place. Although OMB’s recent guidance indicates that states can recoup Recovery Act administrative costs through the State-wide Cost Allocation Plan (SWCAP) in amounts that do not exceed 0.5 percent of their Recovery Act allocations, officials believe that the 0.5 percent limit is inadequate.³⁰

State Comments on This Summary

We provided the Governor of Mississippi with a draft of this appendix on September 4, 2009. The Director of Federal Policy, who serves as the stimulus coordinator, responded for the Governor on September 10, 2009. The official provided technical suggestions that were incorporated, as appropriate.

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³⁰OMB’s memorandum-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities*, May 11, 2009, provides that a state can recoup central administrative costs through SWCAP. The guidance permits a state, after approval by the U.S. Department of Health and Human Services, to bill these costs to Recovery Act programs, but the costs so billed cannot exceed 0.5 percent of total Recovery Act funds received by the state.