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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 (Pennsylvania)

Accountability * Integrity * Reliability

GAO-09-1017SP

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Overview

The following summarizes GAO's work on the third of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)[1] spending in Pennsylvania. 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/.

We reviewed four programs in Pennsylvania funded under the Recovery Act—Highway Infrastructure Investment funds, Transit Capital Assistance Program funds, Weatherization Assistance Program, and the Workforce Investment Act (WIA) Youth Program summer employment activities. We selected these programs for different reasons. Contracts for highway projects using Highway Infrastructure Investment funds have been under way in Pennsylvania for several months, and provided an opportunity to review financial controls, including the oversight of contracts. The Transit Capital Assistance Program funds had a September 1, 2009, deadline for obligating a portion of the funds, and further, provided an opportunity to review nonstate entities that receive Recovery Act funds. The Weatherization Assistance Program received a significant funding increase and is considered a high-risk program by Pennsylvania's Bureau of Audits. We selected the WIA Youth Program in Pennsylvania because many of the local workforce areas were setting up summer youth employment activities for 2009. With these programs, 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. We reviewed contracting procedures and examined two specific contracts under both the Recovery Act Highway Infrastructure Investment funds and the WIA Youth Program. In addition to these four programs, we also updated funding information on three Recovery Act education programs—the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF); Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended; and the Individuals with Disabilities Education Act (IDEA), Parts B and C—which were awaiting spending authority under Pennsylvania's state budget. We also updated the funding information for the Public Housing Capital fund to provide perspective on nonstate entities receiving Recovery Act funds. Consistent with the purposes of the Recovery Act, funds from the programs we reviewed are being directed to help Pennsylvania and local governments stabilize their budgets and to stimulate infrastructure

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

development and expand existing programs—thereby providing needed services and potential jobs. We also reviewed the Pennsylvania Accountability Office's plans for reporting and assessing the effects of spending. The following provides highlights of our review:

Updated Funding Information on Three Education Programs

- For its SFSF, Education directed Pennsylvania to resubmit its application before receiving the first portion of its $1.9 billion allocation. In addition, because the Governor and General Assembly disagree about how to use the SFSF funds, local school districts will remain uncertain about this funding until Pennsylvania adopts a final budget for the fiscal year that began July 1, 2009.

- For Title I, Part A, of ESEA, Education has awarded Pennsylvania about $400.6 million in Recovery Act funds. Based on information available as of September 3, 2009, Pennsylvania has allocated $368 million to local education agencies (LEA), but the stopgap budget—adopted on August 5, 2009—provided authority to spend only $199.4 million. These funds are to be used to help educate disadvantaged youth.

- For IDEA, Parts B and C, Education has awarded Pennsylvania about $456 million in Recovery Act funds. Pennsylvania had allocated $267 million to LEAs; however, the stopgap budget provided only $228.5 million in spending authority. These funds are to be used to support special education and related services for infants, toddlers, children, and youth with disabilities.

Highway Infrastructure Investment Funds

- The U.S. Department of Transportation's (DOT) Federal Highway Administration (FHWA) apportioned $1.026 billion in Recovery Act funds to Pennsylvania, of which 30 percent was required to be suballocated primarily based on population for metropolitan, regional, and local use. As of September 1, 2009, the federal government had obligated $874.9 million, and $50.5 million has been reimbursed by FHWA. As of August 31, 2009, Pennsylvania had awarded contracts for 219 projects, mainly for bridge improvements and roadway resurfacing.

- In July 2009, as a result of favorable bids on its original Recovery Act projects, Pennsylvania used about $134.8 million of Recovery Act funds to add 52 projects for a total of 293 projects. Four existing projects using about $69 million in Recovery Act funds were also modified. According to Pennsylvania, the additional projects and modifications were covered by the original apportionment.

- Two Recovery Act projects we reviewed in depth have started and are making progress. First, the bridge rehabilitation project in Bedford County began in July 2009 and was 40 percent complete by early September. This project is expected to be finished by November 2009. Second, the transportation enhancement project in Chester County to construct and upgrade over 1,000 access ramps for persons with disabilities began in May 2009 and was estimated to have about 29 percent of the design and 21 percent of the construction work complete by early September. This project is expected to be finished in May 2010.

Transit Capital Assistance Program Grants

- DOT's Federal Transit Administration (FTA) apportioned $327.5 million in Recovery Act Transit Capital Assistance formula grant funds to urbanized and nonurbanized areas in Pennsylvania. As of September 1, 2009, $257.5 million had been obligated for urbanized areas, and $30.2 million had been obligated for nonurbanized areas.

- Three transit agencies we visited plan to use their Recovery Act funds for rehabilitating rail lines and stations in Philadelphia, completing a tunnel to extend rail service from downtown Pittsburgh to its North Shore area, and constructing a transit center in Butler, Pennsylvania, that would serve local bus lines. In Pittsburgh and Butler, Recovery Act funds helped sustain projects that otherwise would have been suspended or scaled down significantly. In Philadelphia, favorable bids on its original Recovery Act projects allowed for six additional Recovery Act projects.

- As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Pennsylvania and its urbanized areas.

Weatherization Assistance Program

- The U.S. Department of Energy (DOE) allocated about $253 million in Recovery Act weatherization funding to Pennsylvania for a 3-year period. DOE provided Pennsylvania with its initial 10 percent allocation (about $25 million) on March 27, 2009, and another 40 percent allocation (about $101 million) when DOE approved Pennsylvania's weatherization plan on August 25, 2009.

- As of September 1, 2009, Pennsylvania had not obligated any of its weatherization funds but was working to issue contracts to 43 local weatherization agencies. Pennsylvania expects to begin work in November 2009 to weatherize 29,700 homes and create an estimated 940 jobs.

WIA Youth Program Summer Employment Activities

- The U.S. Department of Labor (Labor) allotted about $40.6 million to Pennsylvania in WIA Youth Program Recovery Act funds. Pennsylvania has allocated $34.6 million to local workforce boards, and as of September 1, 2009, the local workforce boards had expended $11 million.

- Pennsylvania enrolled more than 8,800 youth, exceeding its enrollment goal of 8,700. The two workforce investment boards we visited provided employment activities that combined work readiness activities with academic learning components. For example, one university-affiliated contractor in Philadelphia ran an urban nutrition employment activity at local high school sites with an educational component that required participants to submit at least three applications to institutions of higher education (IHE).

- While Pennsylvania exceeded its enrollment plans, local workforce investment areas encountered challenges implementing the summer youth employment activities. For example, in Philadelphia, the contractor stated that the work start dates of approximately 25 percent of youth participants were delayed because of delays in the enrollment paperwork process.

Updated Funding Information on Public Housing Capital Funding

- The U.S. Department of Housing and Urban Development (HUD) has allocated about $212 million in Recovery Act funding to 82 public housing agencies in Pennsylvania. Based on information available as of September 5, 2009, about $65.0 million (31 percent) had been obligated by 68 of those agencies.

Reporting and Assessing the Effects of Spending

- Pennsylvania's Accountability Office plans to centralize submission of quarterly recipient reporting for Recovery Act funds received by Pennsylvania state agencies. State program agencies receiving Recovery Act funds—the direct recipients—are responsible for collecting and entering any additional data for their subrecipients and vendors into the centralized Recovery Act data warehouse. The Accountability Office is developing internal controls and a quality review process to help ensure that the data are complete and accurate before submission. Pennsylvania's Accountability Office expects to file at least 40 recipient reports for the October 10, 2009, deadline.

- Looking beyond the recipient reporting on jobs and project status, Pennsylvania's Accountability Office is developing a performance measure framework to track results of Pennsylvania's Recovery Act spending and report meaningful outcomes to the public. After the first round of recipient reporting is complete in October, Pennsylvania's Accountability Office will continue work to finalize the performance measures and begin collecting data for publication on Pennsylvania's recovery Web site, www.recovery.pa.gov.

Pennsylvania Budget Impasse Continues to Delay Release of Some Recovery Act Funds

Pennsylvania ended its fiscal year 2008-09 with a projected budget gap of more than $1.9 billion, and lower-than-expected revenue collections complicated efforts to balance the budget. The Pennsylvania Department of Revenue reported that the shortfall in general fund revenue for fiscal year 2008-09 was $3.3 billion, or 11.3 percent less than estimated as of June 30, 2009. As we reported in July, Pennsylvania's Office of the Budget does not expect revenues to grow in fiscal year 2009-10, which may contribute to a budget gap—where anticipated expenditures are greater than anticipated revenues—in fiscal year 2009-10.[2] According to August 2009 revenue collection data reported by the Pennsylvania Department of Revenue, general fund revenues for the first 2 months of fiscal year 2009-10 were $3.3 billion, or 0.7 percent less than estimated.

While Recovery Act funds are expected to help Pennsylvania narrow its budget gap and to minimize reductions in essential services and the need for state tax increases, the General Assembly and the Governor have not agreed on a final budget for fiscal year 2009-10, which began July 1, 2009. In June 2009, the Governor revised his proposed budget for fiscal year 2009-10, including $26.4 billion in general fund spending. As we reported in July, the Governor also proposed temporarily increasing the state's personal income tax rate from 3.07 to 3.57. However, the state Senate passed an appropriations bill—Senate Bill 850[3]—that differed substantially from the Governor's proposed budget. The Governor's proposed budget and the Senate bill differed on issues such as targeted tax increases, the use of Pennsylvania's Rainy Day Fund,[4] and education funding (discussed below). Without a budget in place on July 1, Pennsylvania's state government did not have spending authority. Although state offices

[2]Pennsylvania's state fiscal year begins on July 1 and ends on June 30.

[3]S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

[4]As of February 2009, Pennsylvania's Rainy Day Fund balance was $753 million.

remained open, state employees faced delays in receiving their paychecks during the budget impasse.[5]

On August 5, 2009, the Governor signed Senate Bill 850 to provide a "stopgap" budget measure to pay state employees and fund health and public safety programs. According to the Governor's letter to the state Senate, the Senate bill was not a constitutionally balanced budget and would have led to a $1.7 billion shortfall.[6] The Governor used line item veto authority to veto all but $11 billion in appropriations mainly for state employees' pay, as well as basic health and safety services. The $12.9 billion in appropriations vetoed included state basic and higher education funding, subsidized day care, mental health and other health services, and county court reimbursement.[7] The Governor said that he could not approve the Senate bill in its entirety because he viewed the funding for education and other programs as insufficient. As of September 12, 2009, the General Assembly had not passed and the Governor had not signed a final budget for fiscal year 2009-10, which began on July 1.

Pennsylvania has used some Recovery Act funds to help narrow its budget gap. 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. Pennsylvania plans to use Recovery Act funds to a greater extent in fiscal year 2009-10 than they were used during fiscal year 2008-09. In fiscal year 2008-09, Pennsylvania used $957 million in Recovery Act funds to help stabilize its budget.[8]

[5]In 2008, the Commonwealth Court of Pennsylvania held that the federal Fair Labor Standards Act (FLSA) does not preempt the provision of the state constitution requiring an appropriation by the state legislature before any money can be paid out of the state treasury. *Council v.Com.*, 954 A.2d 706 (Pa. Comm. Ct. 2008). The court found that FLSA "does not authorize an illegal raid on the State's treasury to make payroll" and that the remedy for a violation of FLSA is the remedy created by Congress, liquidated damages. *Id.* at 718. However, Labor's Employment Standards Administration, Wage and Hour Division, initiated an inquiry under the federal FLSA in response to state employee complaints.

[6]According to the Secretary of the Budget, Senate Bill 850 was based on an outdated estimate of the 2008-09 budget shortfall and assumed 1 percent growth in revenues.

[7]The stopgap budget included partial funding for mental health and Medical Assistance to meet requirements for Pennsylvania to be eligible for the increased Federal Medical Assistance Percentage funds under the Recovery Act.

[8]Recovery Act funds used to stabilize the state's budget were the Federal Medical Assistance Percentage funds (discussed in detail in GAO-09-1016). Other funds available for states' budget stabilization include SFSF moneys.

However, the extent to which Recovery Act funds will contribute to Pennsylvania's fiscal stability is difficult to assess at this time because Pennsylvania has not appropriated all federal Recovery Act funds for state use. Under Pennsylvania law, federal funds must, in general, be appropriated by the General Assembly.[9] According to analysis by Pennsylvania's Office of the Budget, the August stopgap budget measure appropriated $3.3 billion in Recovery Act funding. Table 1 shows the amounts appropriated for the Recovery Act programs we reviewed for this report. Highway infrastructure investment funds of $1.026 billion did not require separate appropriation, according to state budget officials, and Pennsylvania has been spending those funds since last spring. Some Recovery Act programs, such as the competitive grants that Pennsylvania has applied for, were not included in the August stopgap budget measure and thus do not have spending authority in place to move forward as Pennsylvania receives the federal funds. Likewise, some Recovery Act programs received only partial appropriations, and as discussed further below, the Governor vetoed the SFSF appropriations.

Table 1: State Appropriations for Selected Recovery Act Programs in Pennsylvania's August Stopgap Budget

Dollars in millions

Recovery Act program	Amount available under the Recovery Act	Amount appropriated in the state stopgap budget
Highway Infrastructure Investment funds	$1,026.4	Not applicable[a]
Transit Capital Assistance grants for nonurbanized areas	30.2	$30.0
Weatherization Assistance Program	252.8	200.5
WIA Youth Program[b]	40.6	37.0
Three education programs[c]	2,756.6	427.9
Total for selected programs	**$4,106.6**	**$695.4**

Source: GAO analysis of Pennsylvania Office of the Budget data.

[a]Federal Highway Infrastructure funding does not require separate appropriation, according to the Pennsylvania Office of the Budget.

[b]Pennsylvania also appropriated $15 million for statewide WIA activities and administration, $16 million for WIA adult employment and training, and $30 million for WIA dislocated worker activities.

[c]Includes SFSF and Recovery Act funds under ESEA Title I, Part A, and IDEA Parts B and C.

[9]72 Pa. Cons. Stat. § 4615.

Even as the Pennsylvania General Assembly and Governor debate how to incorporate Recovery Act funds into the fiscal year 2009-10 budget, budget officials are looking ahead for ways to balance future budgets when this temporary funding ends. As we reported in July, budget officials indicated that they are taking several steps to prepare for when Recovery Act funds are phased out, including using a multiyear budget planning process, emphasizing onetime uses of Recovery Act funds where possible, and requiring agencies to use limited-term positions when hiring using Recovery Act funds.[10] State budget officials acknowledged that Pennsylvania will need to make additional cuts or consider revenue enhancements depending on how quickly the economy improves. According to Pennsylvania's Secretary of the Budget, if $1.7 billion in onetime nonrecurring revenues, such as the Rainy Day Fund, are used to bridge the funding gap in fiscal year 2009-10, there would still be about a $1.7 billion shortfall at the end of the fiscal year. Without the addition of any recurring revenues, the projected shortfall would grow to more than $4 billion at the end of fiscal year 2010-11. As of August 2009, the three nationally recognized bond rating agencies have observed fiscal pressures, such as increased pension contributions beginning in 2013 and the need to replace the temporary Recovery Act funding, that could put downward pressure on Pennsylvania's bond rating. One rating agency said that Pennsylvania's rating outlook is negative if the budget continues to rely on nonrecurring revenue sources, such as the Rainy Day Fund and Recovery Act funding, and does not return to structural budget balance.

Pennsylvania Plans to Use Some Recovery Act Funds for Administrative Costs

Following OMB's guidance on central administrative costs, Pennsylvania plans to bill central oversight costs to each Recovery Act award based on the ratio of that award to total Recovery Act funds received by the state. Central administrative costs will consist of $500,000 for the Accountability Office, $1,750,000 for creating a reporting tool, and $468,000 for Pennsylvania's Comptroller Office to perform risk assessments and audits of high-risk Recovery Act–funded programs. Under the proposed billing methodology, estimated costs will be billed to Recovery Act–funded programs at the beginning of the fiscal year, actual personnel and operating costs will be tracked during the fiscal year, and the estimated and actual costs will be reconciled at the end of the fiscal year. Any

[10] As of August 14, 2009, Pennsylvania had filled 166 positions specifically for Recovery Act programs, including 155 staff for food stamp eligibility and processing. Another 154 positions are approved, mostly to administer the workforce investment, unemployment compensation, and food stamp programs.

difference will be used to offset the costs charged to that award in the subsequent fiscal year.

Pennsylvania may consider exempting certain Recovery Act programs and funding, such as the increased Federal Medical Assistance Percentage, which do not require quarterly recipient reporting under Section 1512 of the Recovery Act, from the allocation base. Also, where a Recovery Act–funded program does not receive federal funding for administrative costs, Pennsylvania may charge that cost share to other available federal funding sources. Pennsylvania submitted its proposed billing methodology to the U.S. Department of Health and Human Service's Division of Cost Allocation for approval on August 28, 2009. According to the Secretary of the Budget, Pennsylvania received preliminary verbal approval for its proposed cost allocation plan on September 4, 2009.

Funding for Education Will Remain Uncertain until Pennsylvania Adopts Its Final Budget

As part of our review of Recovery Act education funding, we looked at three programs administered by Education: SFSF; Title I, Part A, of ESEA; and IDEA, Parts B and C. We obtained updated budget and spending data from Pennsylvania's Office of the Budget.

As we reported in July, Pennsylvania's current budget debate centers on the state basic education funding level, and according to state officials, local school districts are unable to spend Recovery Act funds until they are appropriated in the Pennsylvania budget.[11] For fiscal year 2009-10, the Governor's application for SFSF funds proposed to maintain state funding for elementary and secondary education at the fiscal year 2008-09 level of about $5.2 billion and use $418 million in education stabilization funds for elementary and secondary education. In contrast, Senate Bill 850 proposed to reduce appropriations for state basic education funding for school districts to the fiscal year 2005-06 level of about $4.5 billion and use $729 million of Recovery Act funds for basic education.[12] As we reported in July, school districts would have received the same funding for 2009-10 school year that they had during 2008-09 school year under Senate Bill 850,[13] whereas school districts would have received an increase in funding

[11]According to state education officials, local school districts may obligate ESEA Title I, Part A and IDEA Recovery Act funds as soon as their applications are received in an approvable form.

[12]S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

[13]S. 850, Gen. Assem. of 2009-2010, Reg. Sess. (Pa. 2009).

under the Governor's budget. In the stopgap budget measure signed on August 5, 2009, the Governor vetoed funding for state basic education—the largest state appropriation for local school districts. Without a final budget in place to provide spending authority, the Pennsylvania Department of Education did not make its monthly state basic education payments to school districts in July and August.[14] School district officials we interviewed in the past reported that if the budget impasse continues into the fall, they would need to borrow funds to pay bills or shut down. The budget impasse has also affected funding for higher education. The Pennsylvania Higher Education Assistance Agency does not know the amount that will be available for state grant awards for college students and is unable to finalize and disburse college tuition grants for the 2009-10 academic year.

School Districts Remain Uncertain of State Fiscal Stabilization Funds Because of the State Budget Impasse

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 public 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

[14]School districts receive monthly subsidy payments from the state on the last Thursday of every month.

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 1, 2009, Pennsylvania had not yet received approval for the initial allocation of $1.3 billion of its total $1.9 billion allocation of SFSF funds. Pennsylvania submitted an SFSF application on June 26, 2009. This application excluded four IHEs that per the Governor, are not under state control and, therefore, would not be eligible to receive SFSF money.[15] However, under Pennsylvania's preliminary SFSF application in April 2009, these four institutions would have been awarded $41.9 million. The SFSF guidance requires states to use SFSF money to restore state spending for public IHEs to the greater of fiscal year 2008 or 2009 levels of support. The guidance further notes that a state may not choose to restore support only for elementary and secondary education or only for public IHEs. Education has directed Pennsylvania to resubmit its SFSF application and include these four institutions as IHEs. Pennsylvania will resubmit its application once a final fiscal year 2009-10 budget is in place.

In the stopgap budget measure signed on August 5, 2009, the Governor vetoed the SFSF amounts included in Senate Bill 850, because the General Assembly and the Governor did not agree on how to distribute the funds. As we reported in July, Pennsylvania Department of Education officials were uncertain of the funding levels for SFSF Recovery Act funds given the budget uncertainty.

School Districts Received Partial Spending Authority for ESEA Title I, Part A Funds

The Recovery Act provides $10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of ESEA. 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 these funds by

[15]These four IHEs are Pennsylvania State University, University of Pittsburgh, Temple University, and Lincoln University.

September 30, 2010.[16] 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.

Education has awarded Pennsylvania its total allocation of about $400.6 million in Recovery Act funds. Based on information available as of September 3, 2009, Pennsylvania has allocated $368 million to LEAs. However, the stopgap budget measure signed on August 5, 2009, provided authority to spend only $199.4 million. Pennsylvania received its ESEA Title I, Part A allocation and expended $23 million as of September 3, 2009.

Recovery Act IDEA, Parts B and C, Funding Received Partial Appropriations

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of 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 that 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.

For IDEA Parts B and C, Education has also awarded Pennsylvania its total allocation of $456 million in Recovery Act funds. Pennsylvania had allocated $267 million to LEAs, but the stopgap budget measure provided only $228.5 million in spending authority. Pennsylvania received its IDEA allocation but no funds have been expended as of September 3, 2009.

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

FHWA Has Obligated for Pennsylvania 85 Percent of Recovery Act Funds Primarily for Roadway Resurfacing and Bridges

The Recovery Act provides funding to the states for restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program, and for other eligible surface transportation projects. The act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to the states through existing federal-aid highway program mechanisms, and states must follow the requirements of the existing program, including planning, environmental review, contracting, and other requirements. However, the federal fund share of highway infrastructure investment projects under the Recovery Act is up to 100 percent, while the federal share under the existing Federal-Aid Highway Program is usually 80 percent.

As we previously reported, $1.026 billion was apportioned to Pennsylvania for highway infrastructure and other eligible projects. As of September 1, 2009, $874.9 million (85.2 percent) had been obligated. DOT has interpreted the "obligation of funds" to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. As of September 1, 2009, $50.5 million had been reimbursed by FHWA. States request reimbursement from FHWA as the states make payments to contractors working on approved projects. Pennsylvania initially planned to fund 241 projects from its apportionment.[17]

Pennsylvania has awarded highway and bridge contracts and started work. As of August 31, 2009, Pennsylvania had received bids for 245 projects and awarded contracts for 219 projects representing about $604 million. Of these, 212 projects representing $503 million were under way—that is, a Notice to Proceed had been issued, which authorizes a contractor to begin work. According to a Pennsylvania Department of Transportation (PennDOT) official, the contracts would be "let"—that is, bids opened or received—for the remaining projects by December 17, 2009. As we previously reported, PennDOT officials expect all work to be completed on Recovery Act projects within 3 years of the date the Recovery Act was enacted.

[17]According to a PennDOT official, one additional project was not certified. This project was included in a subsequent certification.

We reported in July 2009 that bids for Recovery Act highway and bridge projects were 14.6 percent less than original project cost estimates. According to data from PennDOT, as of August 31, 2009, the total amount across all bids received was 12 percent (or about $104 million) less than original state estimates of total project costs. As a result of the favorable bidding climate, on July 23, 2009, the Governor of Pennsylvania certified to the U.S. Secretary of Transportation an additional 52 Recovery Act projects and the modification of 4 existing Recovery Act projects.[18] The additional projects totaled $134.8 million in Recovery Act funds and the modified projects about $69.2 million. The certification letter stated that the addition of these projects did not change Pennsylvania's Recovery Act apportionment of $1.026 billion for highway infrastructure and other eligible projects but rather were covered by the apportionment. With the addition of these projects, Pennsylvania now plans to fund 293 projects with its Recovery Act apportionment. PennDOT officials told us that they track bid savings in each area of Pennsylvania represented by a metropolitan or rural planning organization and that additional projects funded by these savings would be selected by these organizations. The additional projects will be located in 35 of Pennsylvania's 67 counties, including 19 economically distressed areas and 16 non–economically distressed areas. Recovery Act funds for the projects range from $32.8 million for a highway reconstruction project in Allegheny County to about $136,000 for a transportation enhancement project in Schuylkill County.[19]

Pennsylvania Has Primarily Used Recovery Act Funds for Pavement Improvements and Bridge Improvements

Pennsylvania selected highway and bridge projects that could be started quickly and focused on roadway pavement needs and bridge deficiencies. FHWA data show that as of September 1, 2009, most Recovery Act funds for Pennsylvania have been obligated for pavement improvements and bridges; lesser amounts have been obligated for other projects, including safety and traffic management and transportation enhancements (see fig. 1). Specifically, $353.8 million of the $874.9 million obligated was for pavement improvement projects and $251.0 million was obligated for

[18]Federal regulations require states to maintain a process for reviewing project cost estimates. In addition, the state shall seek to revise the federal funds obligated for a project within 90 days after it has determined that the estimated federal share of project costs has decreased by $250,000 or more.(23 C.F.R. Part 630.106.) The funds deobligated from this process may be used for other projects, once funds have been obligated by FHWA.

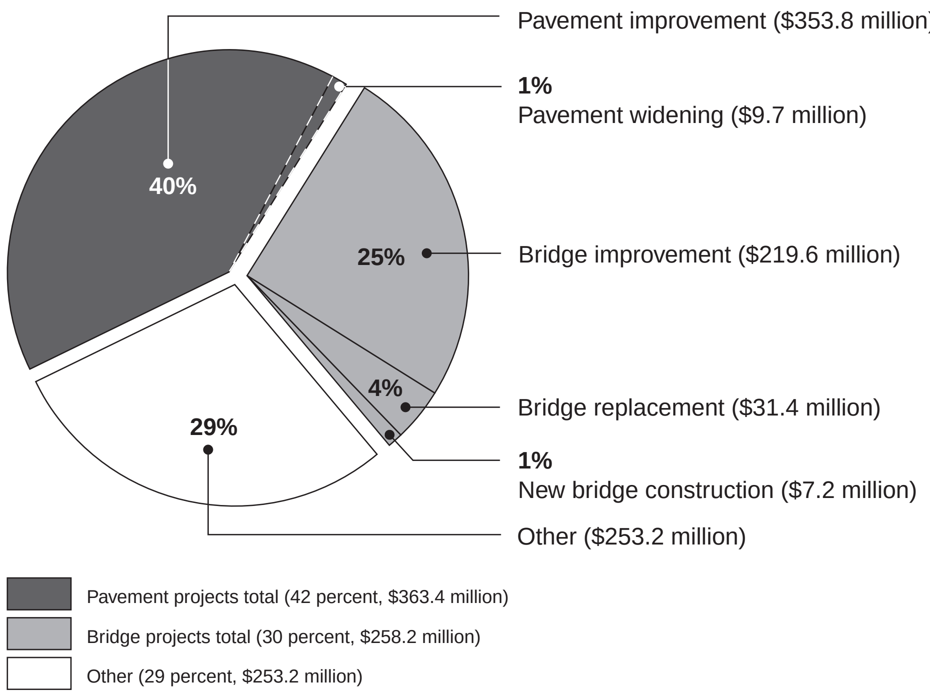
[19]This latter project, which is to construct access ramps for people with disabilities, has a total value of $1.1 million of which about $136,000 in Recovery Act funds will be used.

bridge improvements or replacements. The obligation of Pennsylvania's Recovery Act funds for pavement improvement projects is similar to the share of spending nationwide for this type of project—40 percent for Pennsylvania compared with 48 percent nationwide. One exception was pavement widening, for which FHWA has only obligated 1 percent of Pennsylvania's highway apportionment compared with 16 percent nationwide. In contrast, FHWA has obligated a larger share of Pennsylvania's Recovery Act funds to bridge projects—about 29 percent for Pennsylvania compared with 10 percent nationwide.[20] As we reported in July 2009, a significant percentage of the state's bridges (we reported about 26 percent in 2008) are structurally deficient—a reflection of the state's consistently poor bridge conditions.[21] Pennsylvania's initial Recovery Act program planned to address 400 bridges, about 100 of which are structurally deficient.

[20]Pennsylvania's spending for other types of projects (such as transportation enhancements) was similar to national averages.

[21]See GAO, *Highway Bridge Program: Clearer Program Goals and Performance Measures Needed for a More Focused and Sustainable Program*, GAO-08-1043 (Washington, D.C.: Sept. 10, 2008), for more information.

Figure 1: Highway Obligations for Pennsylvania 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.

Both Recovery Act projects we reviewed in our July 2009 report (a bridge project in Bedford County and a transportation enhancement project in Chester County) have begun. First, the bridge project in Bedford County—an economically distressed area—consists of removing an existing overlay from bridge beams on two structures and replacing it with a concrete deck and paving. This $250,000 project began in May 2009 and is expected to be completed in November 2009. PennDOT officials estimated that as of early September, this project was 40 percent complete. Second, a $4.4 million transportation enhancement project to construct and upgrade over 1,000 access ramps for people with disabilities in Chester County—a non-economically distressed area—began in April 2009 and is expected to be completed in May 2010. PennDOT officials estimated that as of early September, about 29 percent of the design work and 21 percent of the construction work for this project was complete. In its August 2009 report to FHWA (with data as of July 2009), PennDOT showed that 14 jobs had been created or sustained for the Bedford project and 41 jobs were created or sustained for the Chester project.

Pennsylvania Uses Existing Procedures to Solicit Bids for Recovery Act Highway Contracts and Monitor Contractor Work

PennDOT officials said that they are using existing procedures to solicit bids for contracts for Recovery Act highway and bridge projects and that their contracting must comply with federal acquisition requirements. PennDOT officials told us that state law requires that contracts be competitively bid and that the lowest responsible bidder be selected unless there are extenuating circumstances. According to PennDOT officials, all Recovery Act highway contracts have been competitively bid, and bidding contractors were subject to prequalification. This includes determining both financial and nonfinancial responsibility and checking suspension and debarment lists. Officials stated that bidders that do not meet this criterion are not allowed to win bids, even if they are the lowest price bidders.

Of the two highway projects that we reviewed in depth, both the Bedford bridge project and the Chester transportation enhancement project were competitively bid, and PennDOT officials said that the bidders were prequalified. PennDOT officials told us that the contractors were selected based on the lowest responsible bids. These officials also said that most PennDOT contracts awarded—including those for the projects we reviewed—are contracts where a fixed price is assigned to individual items to be supplied by a contractor (unit price). According to PennDOT officials, the unit price is fixed but the quantities to be supplied can be adjusted up or down by 25 percent before negotiations are required. The 25 percent allowance recognizes that field conditions may change after a contract is awarded, but significant changes to a contract may require the use of a change order. PennDOT officials said that in general, federal highway contracts require the use of Davis-Bacon Act wages. The general exception is for rural connectors to federal-aid highways where state prevailing wages are paid; however, PennDOT officials said this exception does not apply to Recovery Act projects. According to PennDOT, both the Bedford and Chester projects used Davis-Bacon Act wages. Contractors were also notified of Recovery Act reporting requirements when bids were solicited for contracts.

PennDOT will also use its existing procedures to monitor Recovery Act contractor work and help ensure that quality goods and services are received. The procedures include the following:

- **Management oversight and controls.** PennDOT's district offices are heavily involved with highway projects, including assigning a PennDOT assistant construction engineer to each project to provide oversight of construction work. PennDOT is organized into 11 engineering districts. Both the Bedford and Chester projects had assistant construction engineers assigned, each with 30 years experience and each with various certifications in concrete and other construction activities from national associations. PennDOT's Bureau of Construction and Materials also plays a role in project management and oversight. PennDOT officials said that this bureau is responsible for the overall management and oversight of highway construction projects and ensures the quality of material used on construction projects through various materials tests and certifications. Finally, PennDOT officials said that the department uses an automated system to handle all aspects of contracting, including advertising and accepting bids and financial and nonfinancial contract management and reporting. A PennDOT official said that this system is a database that can be used to generate a number of reports on projects.

- **Inspectors to monitor contractor performance.** PennDOT assigns an inspector-in-charge to each construction project who provides day-to-day inspection of contractor work; such inspectors were assigned to the two Recovery Act projects we reviewed. PennDOT officials said that inspectors-in-charge maintain daily diaries of such things as work performed, on-site workers, and wages paid. PennDOT officials said that these diaries are used to determine how much contractors get paid and to spot-check various contractor reports, including the reasonableness of Recovery Act reports on jobs, work hours, and payroll. In some instances, PennDOT will also contract for consultants to assist with inspections. PennDOT officials said that the Chester project was using one or two contracted consultant inspectors and that they work for the PennDOT inspector-in-charge.[22]

[22]In December 2007, Pennsylvania's Department of the Auditor General reported on its investigation of PennDOT's procedures for evaluating, selecting, and monitoring contracts with private firms that provide inspection services. Among the findings were that PennDOT had failed to verify individual inspector qualifications and, in some instances, substitutes were used to do inspections rather than inspection staff listed on bid documents. According to the Auditor General's report, PennDOT took actions during 2007 to revise its procedures regarding contract consultant inspectors to address the issues in the report, including instituting procedures to ensure that inspector qualifications are verified by district offices. For more information see Commonwealth of Pennsylvania, Department of the Auditor General, *Special Investigation of the Pennsylvania Department of Transportation, Construction Inspection Consultants*, December 2007.

- **Reports, meetings, and monitoring of project metrics.** PennDOT officials said that there are weekly reports it prepares on project status and progress as well as weekly meetings with FHWA and contractors to discuss completed work and contractor problems. PennDOT district officials also said that there are various metrics being used to monitor the Bedford and Chester projects we reviewed; for example, PennDOT District 9 officials told us that they monitor various cost metrics for the Bedford project as well as compliance with disadvantaged business enterprise (DBE) goals.[23] PennDOT District 6 officials said that they monitor, among other things, the amount of work done compared with the dollars spent on the Chester project.

Recovery Act Highway Reporting Has Begun, and PennDOT Will Submit Section 1512 Recipient Reports through Pennsylvania's Accountability Office

The Recovery Act requires various reports regarding the use of funds provided. Section 1512[24] in particular requires that any entity that receives funds appropriated by the Recovery Act directly from the federal government (whether through grant, loan, or contract) is to provide regular recipient reports. The first Section 1512 report is due October 10, 2009. FHWA has also established reporting requirements, including monthly reports on project status and employment. A PennDOT official told us that Pennsylvania's Accountability Office will submit the recipient reports for PennDOT and all other state agencies by the 10th day after each reporting quarter; this centralized reporting is discussed further below. In addition, PennDOT plans to report directly to FHWA as part of the federal reporting requirement for Recovery Act funding. PennDOT noted that FHWA has built a database to collect Section 1512 information and FHWA will collect this information from states. However, states are still responsible for submitting their own Section 1512 reports.

As we reported in July 2009, PennDOT has begun reporting to FHWA on the number of people working on Recovery Act projects and hours worked. In March 2009, PennDOT established policies and procedures for prime contractors and consultants to report monthly, by project, the number of employees, number of work hours, and the amount of payroll.[25] PennDOT uses a Monthly Employment Report to collect the required data from its contractors and consultants. PennDOT officials told us that

[23] In accordance with federal regulations, PennDOT maintains a DBE program that among other things, ensures that there is no discrimination in contracting opportunities for disadvantaged businesses, for example, firms owned by women and minorities.

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

[25] Reports are to include all subcontractors and subconsultants.

project inspectors in the district offices with daily contact with contractors review the reports for reasonableness, and PennDOT's Bureau of Construction and Materials compiles the reports for submission to FHWA.

Pennsylvania's Transit Capital Assistance Funds Are Being Obligated, and Transit Agencies Are Using Recovery Act Funds to Refurbish or Construct Facilities and Extend Service

The Recovery Act appropriated $8.4 billion to fund public transit throughout the country through three existing FTA grant programs, including the Transit Capital Assistance Program.[26] The majority of the public transit funds—$6.9 billion (82 percent)—was 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.[27] Under the urbanized area formula grant program, Recovery Act funds were apportioned to urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to 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.[28] Under the Recovery Act, the maximum federal fund share for projects under the Transit Capital Assistance Program is 100 percent.[29]

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

[27]Urbanized areas are areas encompassing a population of not less than 50,000 people that have been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce. Nonurbanized areas are areas encompassing a population of fewer than 50,000 people.

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

[29]The federal share under the existing formula grant program is generally 80 percent.

As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations (MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for Recovery Act funding.[30] FTA reviews the project sponsors' grant applications to ensure that projects meet eligibility requirements and then obligates Recovery Act funds by approving the grant applications. Project sponsors must follow the requirements of the existing programs, which include ensuring that the projects funded meet all regulations and guidance pertaining to the Americans with Disabilities Act, pay a prevailing wage in accordance with federal Davis-Bacon Act requirements, and comply with goals to ensure that disadvantaged businesses are not discriminated against in the awarding of contracts.

[30]Designated recipients are entities designated by the chief executive officer of a state, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts that are attributable to transportation management areas. Transportation management areas are areas designated by the Secretary of Transportation as having an urbanized area population of more than 200,000, or upon request from the governor and MPOs 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 and the approved State Transportation Improvement Program.

Transit Agencies in Pennsylvania Plan to Use Funds for New and Ongoing Projects to Refurbish or Construct Facilities and Extend Service

In March 2009, $327.5 million in Transit Capital Assistance Recovery Act funds were apportioned for transit projects to urbanized and nonurbanized areas in Pennsylvania. As of September 1, 2009, $257.5 million had been obligated for urbanized areas, and $30.2 million had been obligated for nonurbanized areas.[31] Of the $237.8 million in Recovery Act funds apportioned to the large urbanized areas of Philadelphia and Pittsburgh,[32] $206.4 million had been obligated as of September 1, 2009. The Southeastern Pennsylvania Transportation Authority (SEPTA) in Philadelphia was apportioned $125.2 million[33] and the Port Authority of Allegheny County (Port Authority) in Pittsburgh was apportioned $44.0 million.[34] As of September 1, 2009, $112.8 million of SEPTA's apportionment and all of Port Authority's apportionment had been obligated by FTA. PennDOT was apportioned $30.2 million for intercity bus projects and transit projects in nonurbanized areas, which was obligated by FTA in July 2009.[35]

We met with PennDOT officials and visited three transit agencies—SEPTA in Philadelphia, Port Authority in Pittsburgh, and Butler Transit Authority in Butler, Pennsylvania. We selected SEPTA and Port Authority because they are in the only two urbanized areas in Pennsylvania with populations

[31]DOT has interpreted the term obligation of funds to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement and a project agreement is executed.

[32]Philadelphia and Pittsburg are Pennsylvania's only urbanized areas with population of 1 million or more. Transit Capital Assistance funds in the Philadelphia urbanized area were split between the Southeastern Pennsylvania Transportation Authority and five other state and regional transit entities in Pennsylvania, New Jersey, Maryland, and Delaware. Funds in the Pittsburgh urbanized area were split between the Port Authority of Allegheny County in Pittsburgh and five other regional transit agencies.

[33]SEPTA's $125.2 million in Transit Capital Assistance funding is from two allocations: $121.4 million from urbanized area formula (§ 5307) funds and $3.8 million in "Growing States" (§ 5340) funds. SEPTA was also awarded $65.7 million in Fixed Guideway Modernization (§ 5309) Recovery Act funding by FTA, which combined with the Transit Capital Assistance funding totals $190.9 million.

[34]Port Authority's $44.0 million in Transit Capital Assistance (§ 5307) funding is from two allocations: $43.5 million in urbanized area formula funds and $0.5 million in "Transportation Enhancement" funds. Port Authority was also awarded $18.5 million in Fixed Guideway Modernization (§ 5309) Recovery Act funding by FTA, which combined with the Transit Capital Assistance funding totals $62.5 million.

[35]PennDOT's $30.2 million grant was awarded by FTA as a Transit Capital Assistance § 5311 nonurbanized formula grant. PennDOT also received $9.4 million in § 5307 Transit Capital Assistance funding and § 5309 Fixed Guideway Modernization funding for intercity rail.

of more than 1 million, and they received the largest Transit Capital Assistance Program apportionments in the state, with about 51.7 percent of Pennsylvania's total transit apportionment. We chose the Butler Transit Authority because its $5.3 million allocation was one of the largest funding allocations among the transit agencies in nonurbanized areas receiving Recovery Act money through PennDOT. We also met with officials from the two MPOs related to the three transit agencies.

Transit agency, MPO, and PennDOT officials we spoke with told us that they selected projects for Recovery Act funding based on key criteria, including readiness for construction and potential for job creation or retention. In addition, SEPTA selected projects to serve a variety of locations and transportation modes, and also projects that would reduce long-term maintenance and operating costs.

SEPTA has a Transit Capital Assistance grant approved by FTA totaling $112.8 million, with which SEPTA plans to fund all or part of 21 projects.[36] For the most part, SEPTA will use its Recovery Act funds for "state of good repair" projects,[37] including right-of-way and track maintenance, communication and signal replacement, and station work.[38] For example, Recovery Act funds are paying for the rehabilitation of the structure of the Tulpehocken Station building. (See fig. 2.) Another project is the rehabilitation of a rail bridge on SEPTA's Lansdale Regional Line. (See fig. 3.) Also included among SEPTA's Recovery Act projects is the purchase of 40 additional hybrid buses.

[36]SEPTA officials reported that they have a total of 32 Recovery Act projects being funded by a combination of Transit Capital Assistance (§ 5307) funds and Fixed Guideway Modernization (§ 5309) funds. FTA has approved $112.8 million of SEPTA's $125.2 million Transit Capital Assistance (§ 5307 and § 5340) allocation; to use the remainder of its allocation, SEPTA plans to amend its grant to add one more project when its environmental assessment is complete.

[37]SEPTA declares an asset or system as in a "state of good repair" when no backlog of needs exists and no component is beyond its useful life. State of good repair projects correct past deferred maintenance or replace capital assets that have exceeded their useful life.

[38]In its rail modernization report to Congress in April 2009, FTA named SEPTA as one of seven transit agencies containing the nation's oldest transit infrastructure, some of which has exceeded its expected useful life.

Figure 2: Holes in the Roof of SEPTA's Tulpehocken Station That Will Be Repaired Using Recovery Act Transit Capital Assistance Funds

Source: Southeastern Pennsylvania Transportation Authority.

Figure 3: Rail Bridge on SEPTA's Lansdale Regional Rail Line That Will Be Rehabilitated Using Transit Capital Assistance Recovery Act Funding

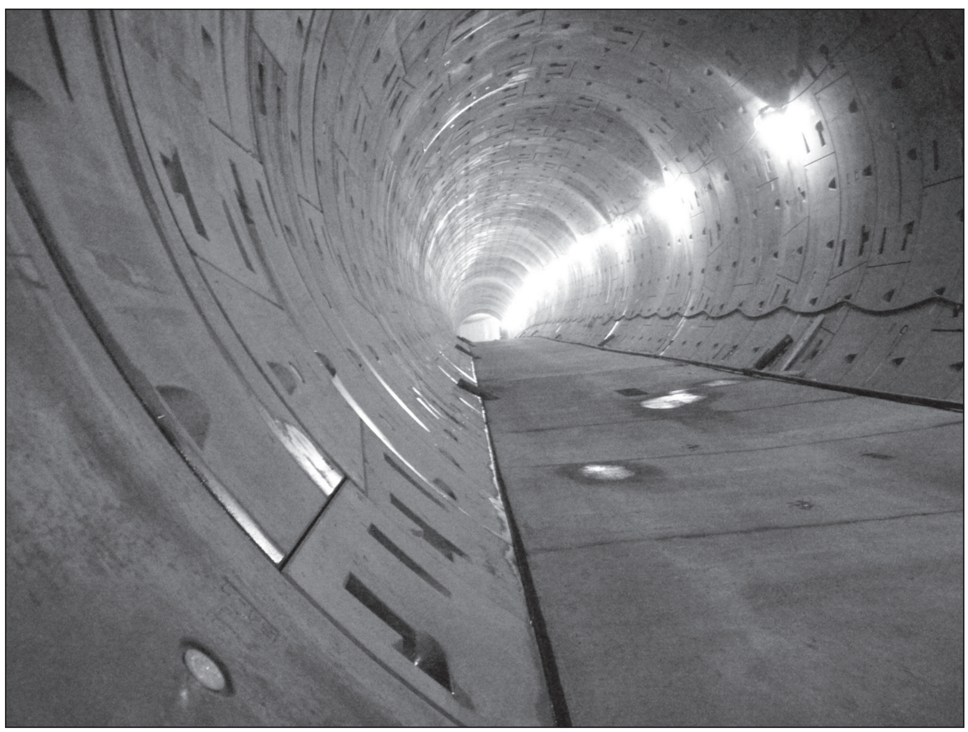
Source: Southeastern Pennsylvania Transportation Authority.

Port Authority will use all of its Transit Capital Assistance (Section 5307) Recovery Act allocation of $44.0 million to continue work on its North Shore Connector.[39] The project will extend an existing light rail line from a downtown Pittsburgh station to two new stations on Pittsburgh's North Shore area through new twin tunnels below the Allegheny River. (See fig. 4.) According to Port Authority officials, Recovery Act money will pay for rail installation, station construction, elevators, and escalators. (See fig. 5.) The North Shore Connector project broke ground in October 2006 and as of August 20, 2009, the project had received $389.7 million of federal, state, and local funding, with a Full Funding Agreement with FTA for $435 million. However, according to Port Authority officials, due primarily

[39]In addition to the $44.0 million Transit Capital Assistance (§ 5307) Recovery Act grant, Port Authority will also use its $18.5 million Fixed Guideway Modernization (§ 5309) Recovery Act grant to fund work on the North Shore Connector project.

to cost growth in construction materials and construction bid prices, the project's total estimated cost was revised to $538.8 million in early 2009, with a budget gap of $103.8 million. Without additional funds, Port Authority faced the decision either to defer construction until future funding could be identified or to cease construction altogether. With the Recovery Act grant money approved, Port Authority was able to continue the North Shore Connector project, and Port Authority officials stated that the Recovery Act funding helped retain approximately 600 direct jobs. As of September 2009, Port Authority officials expected the entire project, including all Recovery Act work, to be completed by March 2012. According to its estimates, Port Authority will need $41.8 million to complete the project, which officials expect to receive through county, state, and federal funding streams in coming years.

Figure 4: Completed Tunnel beneath Allegheny River Awaiting Rail for Port Authority's North Shore Connector Project Which Will Funded by Recovery Act Money



Source: GAO.

Figure 5: Steel Girders for the Port Authority's North Shore Connector Project, Near New Allegheny Avenue Station, Which Will Be Funded by Recovery Act Money

Source: GAO.

For its nonurbanized Transit Capital Assistance grant of $30.2 million, PennDOT selected projects in 15 transit agencies in nonurbanized areas for Recovery Act funding based on such criteria as projects' readiness and potential for creating jobs. One of these projects is the construction of a new intermodal transit center in Butler, Pennsylvania, which will serve city and county bus routes. The Butler Transit Authority received $5.3 million of PennDOT's nonurbanized FTA Section 5311 grant to fund construction of its new center, which will include new administrative and maintenance facilities and was designed for expandability to meet future demand. PennDOT officials told us that without Recovery Act funding, Butler's project would not have been able to proceed without being scaled down significantly. As of September 2009, Butler Transit Authority was soliciting bids for the project, with work expected to start in November or December 2009 and to be completed late 2010.

FTA Concluded That the Recovery Act Requirement That 50 Percent of Funds Be Obligated by September 1, 2009, Has Been Met for Pennsylvania and its Urbanized Areas, and Bid Savings Have Allowed Additional Projects to Be Added to Some Grants

The Recovery Act requires that 50 percent of Recovery Act transit funds apportioned to urbanized areas or states be obligated within 180 days of apportionment (or before September 1, 2009) and the remainder within 1 year.[40] As of September 1, 2009, FTA concluded that the 50 percent obligation requirement had been met for Pennsylvania and its urbanized areas. FTA awarded Recovery Act grants to SEPTA and Port Authority in May 2009, and to PennDOT for nonurbanized areas in July 2009.

Agencies receiving Recovery Act Transit Capital Assistance apportionments submitted applications to FTA for the funding by consolidating multiple projects into one grant application for each type of funding.[41] According to FTA, if the list of projects or the specific amount budgeted for projects within an approved grant changes, a transit agency can submit a no-cost application to amend an approved grant, as long as the total amount remains unchanged. For example, SEPTA officials told us that bids for the original 26 projects in their initially approved grants were awarded at around 15 percent lower than estimates, for a savings of approximately $20.2 million in Transit Capital Assistance funding. As a result, in late August 2009, FTA approved SEPTA's applications to add 6 additional projects to its grants to be funded by the $20.2 million.[42] The additional projects included such things as station building rehabilitation and electrical substation overhaul.

PennDOT, SEPTA, Port Authority, and Butler Transit Authority Will Use a Mix of Existing and Modified Procedures to Track Recovery Act Funds and Manage Projects

PennDOT, SEPTA, Port Authority, and Butler Transit Authority reported that they will track Recovery Act funds and manage Recovery Act projects by building upon existing internal procedures. Officials told us that their accounting systems have unique budget codes for each source of funding, and that these codes are being used to identify and track Recovery Act funds. For its nonurbanized grant from FTA, PennDOT is using its dotGrants system to track funds, and this system is tied into the state's accounting system. The invoicing and payment processes in dotGrants and the state's accounting system are used for PennDOT's non–Recovery Act work as well. According to PennDOT officials, the dotGrants system was

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

[41]These types of funding include Transit Capital Assistance formula grants in urbanized areas (§ 5307) and nonurbanized areas (§ 5311), as well as Fixed Guideway Infrastructure Investment grants (§ 5309).

[42]SEPTA submitted applications to amend two grants: its § 5307 Transit Capital Assistance urbanized formula grant and its § 5309 Fixed Guideway Modernization grant.

established in 2008 and was modified in 2009 to include Recovery Act identifiers.

Whereas the large transit agencies and PennDOT rely on their existing systems, smaller transit agencies may need to modify their control systems to track Recovery Act funds. For example, the Butler Transit Authority, which has a permanent staff of three, created a dedicated bank account to segregate its Recovery Act money, and started using dedicated subaccount numbers to identify the Recovery Act funds in its accounting system. Under its existing controls, the Butler Transit Authority board must approve payment of all invoices. The Butler Transit Authority will continue to rely on its contract accounting firm to advise the staff on best practices and review monthly statements. Butler Transit Authority officials told us that they were confident that these procedures will be sufficient to track funds accurately.

For project management, SEPTA and Port Authority officials told us that they plan to use existing procedures for their projects. SEPTA will use a variety of in-house and contractor personnel to track project progress. Port Authority's general construction management contractor will continue to provide on-site oversight for the North Shore Connector project, including the Recovery Act portions of the project. Additionally, FTA will continue to provide an external project management oversight consultant for the North Shore Connector project.

PennDOT officials said that they hired consultants specifically to assist in Recovery Act project management. One firm was hired to help transit agencies in urbanized and nonurbanized areas achieve environmental compliance for their proposed Recovery Act projects. The other firm was hired to provide more general project and construction management services, including support and advice for agencies in urbanized and nonurbanized areas receiving Recovery Act funds. A Butler Transit Authority official told us that he had been in contact with this PennDOT consultant. The PennDOT Bureau of Public Transportation helped scope the Butler Transit Authority Recovery Act project. In addition, PennDOT has recently added two headquarters personnel to assist with Recovery Act project inspections and oversight, since the Bureau of Public Transportation does not have a field staff structure for these duties. Butler Transit Authority also hired its own engineering firm for construction management of its Recovery Act project.

Reporting for Recovery Act Transit Projects Has Begun, but SEPTA, Port Authority, and PennDOT Are Still Preparing for the Section 1512 October Reporting Deadline

Recipients of Recovery Act funds for transit projects are submitting reports in varying time frames to FTA, the federal government through www.FederalReporting.gov, and the U.S. House of Representatives Committee on Transportation and Infrastructure (House Committee) on funds received, project status, and jobs created or sustained.[43] PennDOT officials told us that they plan to collect reports from all transit agencies statewide, including the transit agencies in nonurbanized areas receiving funds through PennDOT and the transit agencies in urbanized areas receiving Recovery Act funds directly from FTA. SEPTA and Port Authority officials stated that they had reported monthly to the House Committee through August 2009 and met the first required Section 1201(c) deadline to FTA on August 16, 2009.

As of September 2009, SEPTA and Port Authority were planning their strategies for meeting the October 10, 2009, Section 1512 deadline for reporting to the federal government. SEPTA and Port Authority officials told us that they attended FTA conference calls and Webinars. For some of the information related to jobs created, SEPTA and Port Authority officials told us that they will rely on information from their contractors and subcontractors. To manage the workload of reporting on its numerous Recovery Act projects, SEPTA plans to use a consultant to collect data from contractors. As of September 2009, Port Authority officials said that they did not plan to add staff to oversee their Recovery Act contracts. Instead, they will collect the data with the help of their construction management firm.

PennDOT officials told us that they plan to use their engineering consultant to assist with the collection of reporting data from the 15 nonurbanized area transit agency subrecipients receiving funding through PennDOT's FTA nonurbanized Recovery Act grant. PennDOT planned to distribute detailed reporting information and instructions to transit agencies in urbanized and nonurbanized areas in early September 2009. Additionally, PennDOT and its consultant planned to contact nonurbanized area subrecipient agencies, which will report directly to PennDOT for their Recovery Act funds, to assist them with data collection for the Section 1512 report. PennDOT will compile all Section 1512 report data elements for its nonurbanized area subrecipients and provide the

[43] According to guidance from the House Committee on its Recovery Act reporting requests, transit agencies in the 256 large urban areas designated by FTA were the only transit agencies from which the committee has requested monthly reporting.

summary information to Pennsylvania's Accountability Office, which will report on behalf of all state agencies in Pennsylvania receiving Recovery Act funding.

SEPTA officials told us that Recovery Act reporting requirements were a source of confusion. Guidance issued by OMB in June 2009 about Recovery Act Section 1512 reporting prompted questions from SEPTA about who is required to report, through what mechanism, and to whom. In addition, language in the OMB guidance required that certain "subrecipients" submit the names and salaries of the five highest paid executives in their organizations, and it was unclear to SEPTA whether this referred to Recovery Act project subrecipients or subcontractors. As of September 1, 2009, SEPTA officials told us that they had resolved their questions using further guidance from the Recovery Act federal Web site.

Pennsylvania's Recovery Act Weatherization Plan Was Approved, and Work Will Begin after Local Agency Contracts Are in Place

The Recovery Act appropriated $5 billion over a 3-year period for the Weatherization Assistance Program, which 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; or modernizing heating equipment, air circulation fans, or air conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about $225 million per year in recent years.

As of September 14, 2009, DOE had approved the weatherization plans of all but two of the states, the District of Columbia, the territories, and Indian tribes—including all 16 states and the District of Columbia in our review. DOE has provided to the states almost $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.[44] 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 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.[45] Labor completed establishing prevailing wage rates in all of the 50 states and the District of Columbia by September 3, 2009.

The Recovery Act provides $252.8 million for Pennsylvania's Weatherization Assistance Program. This represents a substantial increase above fiscal year 2008-09 funding levels. The Pennsylvania Department of Community and Economic Development (DCED)—the prime recipient of these funds—is responsible for program management, contract oversight, public reporting, and other administrative activities. DCED will disburse most of these funds to 43 subrecipient agencies. These agencies are responsible for employing people to weatherize homes in the commonwealth.

Pennsylvania Expects to Begin Recovery Act Spending on Weatherization in November 2009

As we reported in July, DOE provided the initial 10 percent allocation (about $25.3 million) on March 27, 2009, but DCED was not authorized to obligate or spend these funds until the Pennsylvania General Assembly enacted the fiscal year 2009-10 budget. In the stopgap budget measure signed by the Governor of Pennsylvania on August 5, 2009, DCED received most of its appropriation authority for Recovery Act weatherization funding. On August 25, 2009, DOE approved Pennsylvania's weatherization

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

[45]The five types of "interested parties" are state weatherization agencies, local community action agencies, unions, contractors, and congressional offices.

plan and provided a 40 percent allocation of about $101.1 million.[46] As of September 1, 2009, DCED has not obligated or expended any Recovery Act weatherization funds. That is, Pennsylvania's weatherization activities through August, 2009 (including development of the state weatherization plan and training plan), had been funded through its annual appropriation of Weatherization Assistance Program and Low Income Home Energy Assistance Program funds. The Weatherization Program Manager of DCED's Office of Community Services estimates that weatherization work will begin in November 2009.

Pennsylvania will use Recovery Act weatherization funds to help low-income households decrease energy consumption and costs and also to provide jobs. Pennsylvania plans to weatherize at least 29,700 housing units over the next 2 to 3 years, and create an estimated 940 jobs. The energy savings goal is to reduce energy usage by the equivalent of what it might take to power about 7,000 homes per year. Of the total $252.8 million Pennsylvania will receive, $224.5 million will be allocated to subrecipient agencies to weatherize homes, $20 million will be administered by the Pennsylvania Department of Labor and Industry for training and technical assistance, and $8.3 million will be retained by DCED to cover its costs of program management, oversight, reporting, and administration.

As of September 1, 2009, DCED was reviewing management plans submitted by the 43 weatherization agencies. These plans are to contain agency targets for the number of weatherized homes, energy reduction targets, and information on staffing and production timelines. Once approved by DCED, the plans will form the basis of contracts for the weatherization agencies. Labor established Pennsylvania's weatherization prevailing wage rates on September 3, 2009. DCED has since advised weatherization agencies that the agencies may have to amend their plans if prevailing wages differ from wages in their submitted plans.

[46] DOE did not approve Pennsylvania's state weatherization plan when it was first submitted on May 12, 2009, in part because DCED did not follow the required public notice and a hearing process when adding the Pennsylvania Housing Finance Agency as the state's 43rd subrecipient agency. DCED held a public hearing on August 5 for the Pennsylvania Housing Finance Agency to apply as a subrecipient agency and to discuss other changes to the state plan, DCED submitted Pennsylvania's amended plan to DOE on August 10, and DOE approved the plan on August 25.

Pennsylvania Plans to Increase Controls over the Weatherization Program, Including Monitoring the Use of Funds

Within Pennsylvania, the DCED weatherization program has been considered a high-risk program in need of stronger oversight and monitoring. In 2007, Pennsylvania's Auditor General reported that the weatherization program had, among other things, weak internal controls, weaknesses in contracting, and inconsistent verification and inspection of subcontractor work.[47] In June 2009, the Pennsylvania Bureau of Audits completed a risk assessment of more than 90 programs for which Pennsylvania expects to receive Recovery Act funds and categorized the programs as high, medium, or low risk. Risk levels were determined based on a variety of sources, including prior reports by the Bureau of Audits and Auditor General, interviews with agency staff, expected Recovery Act funding levels, and potential agency strengths or weaknesses in administering this funding. DCED's weatherization program was one of the 15 programs categorized as high risk by the Bureau of Audits. The Executive Director of DCED's Office of Energy Conservation and Weatherization said that he is concerned that the weatherization agencies in Pennsylvania will be challenged by the large amount of weatherization work funded by the Recovery Act, but he is confident that they will get the job done.

DCED has worked to address program deficiencies and is aware that the large investment in weatherization provided by the Recovery Act will require greater capacity at all levels of the program's operation. In program year 2008-09, DCED revised its guidelines and procedures to provide local weatherization agencies with a clearer understanding of the process of on-site monitoring. DCED also requested that each weatherization agency describe in its management plan its capacity to meet enhanced production targets with appropriate quality control and financial safeguards. Agency management plans must contain a 3-year budget and production timeline that demonstrates each agency's capacity to expend at least half of its total Recovery Act funds by September 30, 2010, at least 80 percent of the funds by June 30, 2011, and 100 percent by

[47]Pennsylvania Department of the Auditor General, *A Special Performance Audit of the Department of Community and Economic Development's Weatherization Assistance Program*, August 2007. Pennsylvania's Single Audit report for 2008 also found noncompliance and internal control deficiencies in DCED's program monitoring of Low Income Home Energy Assistance Program weatherization subrecipients. Although Recovery Act funds will be administered under DOE's Weatherization Assistance Program, and not under the U.S. Department of Health and Human Services (HHS), this finding is relevant because it relates directly to DCED's monitoring of weatherization subrecipients. The Chief Operating Officer for DCED said that HHS is reviewing DCED's corrective action plan to address the Single Audit findings.

March 31, 2012. DCED will evaluate whether local agencies' initial performance meets capacity targets by looking at the number of people hired and trained. DCED plans to use the Pennsylvania Housing Finance Agency to increase statewide capacity to weatherize multifamily rental housing units, and has reserved the right to add additional subrecipient agencies, if necessary, to meet the weatherization program's production goals. The Pennsylvania Department of Labor and Industry will establish training and certification standards to provide weatherization workers with an industry-recognized credential, and beginning in fiscal year 2009-10, training will be required for all weatherization auditors and installers.

The Executive Director of the DCED Office of Energy Conservation and Weatherization expressed concern that the Davis-Bacon Act requirement to pay workers on a weekly basis may increase the burden on weatherization agencies, requiring additional recordkeeping and tracking. Agencies must address how they will comply with Davis-Bacon requirements and enhanced internal control requirements for Recovery Act weatherization work in their management plans. For example, each agency will need to appoint a unit or staff member at the agency responsible for contract compliance, agency officers and directors are required to file financial disclosure statements, and agency management staff and purchasing personnel must file conflict of interest statements.

DCED plans to establish a monitoring, compliance, and reporting system and increase its full-time monitoring staff. According to Pennsylvania's weatherization plan, DCED monitors will inspect 10 percent of weatherization units in progress to check compliance with the energy audit and work priority requirements, and 10 percent of completed units to check the installation work. A financial monitoring team will spot-check agencies' financial records and will provide financial management and technical assistance to strengthen internal controls. DCED currently has three full-time monitors for the weatherization program and plans to hire eight more to help with the Recovery Act monitoring workload. Also, each weatherization agency must hire a designated quality control person not involved in the actual installation to inspect all completed units.

DCED plans to increase its financial controls over weatherization funds and is developing a central procurement system for weatherization materials. Agencies will be required to use Hancock Energy System software, which contains an inventory function that will allow agencies to monitor inventory down to the individual house level, and will allow DCED to monitor purchasing within each agency and across agencies. DCED reviews agency invoices for funds and uses an electronic invoice and payment system to monitor the disbursement of funds. Further, weatherization agencies will be required to purchase materials and equipment through the Pennsylvania Department of General Services' (DGS) cooperative purchasing program—COSTARS. According to the state weatherization plan, if exceptional circumstances apply or if materials are not available through the COSTARS program, DCED will require agencies and their subcontractors to obtain at least three independent bids for the materials. The COSTARS purchasing program is intended to reduce the cost of materials so that more homes can be weatherized. In May 2009, DGS opened COSTARS-22 to procure weatherization materials only for work funded by the Recovery Act. As of August 2009, DGS said that it had awarded contracts to four suppliers and received a fifth bid from a prospective supplier; bids from prospective suppliers of weatherization materials will be accepted on a continual basis.

Pennsylvania Plans to Assess Energy Savings but May Have Little to Report in October 2009

DCED officials plan to commission an annual independent evaluation of the weatherization program to measure energy savings attributable to the weatherization work completed by each subcontractor. DCED plans to collect and maintain monthly energy use data directly from utility companies for at least 1 year after weatherization occurs and will report reductions in energy use as a measure of program success. Energy savings achieved by each agency will also be reported in relation to the cost of weatherization improvements per house. DCED also plans to evaluate agencies' performance based on their ability to achieve energy reduction and other targets specified in their management plans, and will base subsequent funding allocations on performance.

As a prime recipient of Recovery Act funds for weatherization, DCED must provide quarterly financial and progress reports to DOE pursuant to Section 1512 of the Recovery Act. The first of these recipient reports is due October 10, 2009. Subrecipient agencies will also be required to report to DCED on any other requirements mandated by federal or state government. DOE requires reporting on performance measures to determine the impact of Recovery Act weatherization funds in the state. For measures of job creation, agencies are required to report to DCED on jobs created and jobs retained at the state and local agency levels. DCED's Weatherization Program Manager was unclear about some of the recipient reporting requirements under Section 1512 of the Recovery Act, and said that agency management plans do not specifically include recipient reporting requirements but may need to be adjusted to include them. Pennsylvania's Accountability Office has since provided training to

DCED's Weatherization Office on 1512 reporting and is working to ensure full compliance with recipient and subrecipient reporting requirements. DOE has also since provided guidance to DCED and other prime recipients of the Recovery Act funds for weatherization to help them meet the Section 1512 reporting requirements.

Pennsylvania Used Recovery Act Funds to Provide Summer Youth Employment Activities and Exceeded Its Enrollment Plans

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

While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,[48] the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. While the WIA Youth Program requires a summer employment component to be included in its year-round program, Labor has issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.[49] Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as they also include a work experience component. A key goal of a summer employment program, according to Labor's guidance, is to provide participants with the opportunity to (1) experience the rigors, demands, rewards, and sanctions associated with holding a job; (2) learn work readiness skills on the job; and (3) acquire measurable communication, interpersonal, decision-making, and learning skills. Labor has also encouraged states and local areas to

[48]H.R. Rep. No. 111-16, at 448 (2009).

[49]Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

develop work experiences that introduce youth to opportunities in "green" educational and career pathways. Work experience may be provided at public sector, private sector, or nonprofit work sites. The work sites must meet safety guidelines, as well as federal and state wage laws.[50] Labor's guidance requires that each state and local area conduct regular oversight and monitoring of the program to determine compliance with programmatic, accountability, and transparency provisions of the Recovery Act and Labor's guidance. Each state's plan must discuss specific provisions for conducting its monitoring and oversight requirements.

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

The Pennsylvania Department of Labor and Industry (L&I) administers Pennsylvania's WIA Youth Program through local areas. Pennsylvania's 67 counties are divided into 23 local workforce investment areas, each led by a workforce investment board whose purpose is to support the labor and job training demands of industries and help students, job seekers, and incumbent workers acquire skills and attain rewarding, family-sustaining jobs. Local workforce investment areas vary widely in the geographic area served, ranging from one that serves only the City of Pittsburgh to a regional area that serves nine counties. Programs and services may also vary within and among workforce investment areas. In 2008, 7 of Pennsylvania's 23 local workforce investment areas—Allegheny, Central Counties, Northwest Counties, Philadelphia, Pittsburgh, Pocono Counties, and Westmoreland/Fayette—had extensive stand-alone summer youth

[50]Current federal wage law specifies a minimum wage of $7.25 per hour. Where federal and state laws have different minimum wage rates, the higher rate applies.

employment programs, and 2,205 youth were served statewide.[51] These stand-alone summer youth employment programs were funded from a variety of public (including workforce, Temporary Assistance for Needy Families (TANF), and community block grants), private, and nonprofit sources.

Pennsylvania Spent 27 Percent of Recovery Act Funds and Exceeded 2009 Enrollment Plans for the Recovery Act–Funded WIA Summer Youth Employment Activities

Pennsylvania was allotted about $40.6 million in Recovery Act funds to support WIA Youth Program activities and services. In turn, $34.6 million (85 percent) was allocated to the 23 local workforce investment areas, and L&I retained $6 million (15 percent) for possible statewide activities, such as incentive grants to encourage best practices. As we reported in July, only 40 percent of the allocations were available for the local boards to spend before July 1, 2009. Since the enactment of Pennsylvania's stopgap budget in August 2009, the local workforce investment areas' full allocations were available for spending. As of September 1, 2009, L&I had expended $11 million, or 27 percent, of Pennsylvania's allotment. Pennsylvania uses a cost reimbursement structure to administer these funds and officials stated that they expect that additional funds will be drawn down over the coming months. Based on the local boards' original Recovery Act plans, the 23 local workforce investment areas planned to spend 70 to 90 percent of their Recovery Act WIA Youth Program allocations by the end of September 2009.

Pennsylvania exceeded the number of youth that the local boards had planned to serve. Pennsylvania did not set an overall target number of youth to be served, but based on the local boards' plans, approximately 8,700 youth were to be served. Data from Labor show that Pennsylvania served 5,102 participants, as of July 31, 2009.

According to data obtained from L&I, as of August 31, 2009 Pennsylvania enrolled 8,817 participants in Recovery Act–funded WIA summer youth employment activities (see table 2). Of those youth, 28 percent were out of school and 6 percent were between the ages of 22 and 24 years. According to L&I, four participants were veterans, as of July 31, 2009.

[51]The Central regional board includes Centre, Clinton, Columbia, Lycoming, Mifflin, Montour, Northumberland, Snyder, and Union counties. The Northwest regional board includes Clarion, Crawford, Erie, Forest, Venango, and Warren counties. The City of Philadelphia is a countywide city.

Table 2: Number of Recovery Act–Funded WIA Summer Youth Employment Activity Participants, by Workforce Investment Board, as of August 31, 2009

Workforce Investment Board	Participants		Actual participants by age group			In-school youth	Out-of-school youth
	Planned	Actual	14 to 18	19 to 21	22 to 24		
Allegheny	600	565	502	56	7	457	108
Berks	335	257	181	62	14	157	100
Bucks	121	123	76	33	14	64	59
Central	700	650	419	169	62	411	239
Chester	100	130	123	5	2	122	8
Delaware	100	44	9	26	9	0	44
Lackawanna	250	192	144	35	13	134	58
Lancaster	300	212	78	103	31	5	207
Lehigh Valley	200	417	302	82	33	304	113
Luzerne/ Schuylkill	300	350	268	58	24	281	69
Montgomery	150	153	127	22	4	89	64
North Central	314	268	174	71	23	146	122
Northern Tier	134	141	94	41	6	90	51
Northwest	350	405	328	70	7	315	90
Philadelphia	2,533	2,578	2,260	285	33	2,394	184
Pittsburgh	313	320	303	17	0	307	13
Pocono	320	340	277	50	13	277	63
South Central	500	487	315	133	39	266	221
Southern Alleghenies	430	428	308	85	35	244	184
Southwest Corner	76	173	75	73	25	105	68
Tri-County	96	139	49	59	31	35	104
West Central	200	127	31	50	46	15	112
Westmoreland/ Fayette	270	318	148	129	41	138	180
Total	**8,692**	**8,817**	**6,591**	**1,714**	**512**	**6,356**	**2,461**

Source: Pennsylvania Department of Labor and Industry, 2009.

Philadelphia and South Central Workforce Investment Boards Overcame Some Challenges, but Other Challenges Remain in Implementing Summer Youth Employment Activities in Pennsylvania

We visited two local workforce investment areas—the Philadelphia Workforce Investment Board and the South Central Workforce Investment Board—to determine the status of their Recovery Act–funded WIA summer employment activities. We also met with some of their service providers and visited some work sites. We selected the Philadelphia local board because it received the largest allocation of Recovery Act WIA Youth Program funding in Pennsylvania and it had a summer youth employment program in 2008. The Philadelphia local workforce board was allocated $7.4 million, more than 20 percent of Pennsylvania's allotment. We selected the South Central board—located in Harrisburg within Dauphin County and serving seven neighboring counties—because it did not have an extensive stand-alone summer youth employment program in 2008.[52] The South Central board was allocated $1.6 million. Using Recovery Act WIA Youth Program funds, the Philadelphia Workforce Investment Board planned to serve 2,533 youth participants and had enrolled 2,578 youth as of August 31, 2009; the South Central Workforce Investment Board planned to serve 500 youth and had enrolled 487 youth. Ten of the 23 workforce boards in Pennsylvania had not yet met their planned enrollment targets as of August 31, 2009. As of August 31, 2009, Philadelphia had enrolled 184 out-of-school youth and 33 youth ages 22 to 24. South Central had enrolled 221 out-of-school youth and 39 youth ages 22 to 24.

As discussed in our July report, local workforce officials explained that recruiting eligible youth to participate in the Recovery Act–funded WIA summer youth employment activities and verifying eligibility documentation was a challenge. For example, some youth did not have access to documentation, such as birth certificates and Social Security cards for each family member. Gathering 6 months of income documentation was also challenging. To help address these challenges, state officials, through a memorandum of understanding, released a list of youth eligible for TANF and food stamps to the local workforce boards. This information helped identify eligible youth for Recovery Act–funded WIA summer youth employment activities. One contractor we met with stated that some families were fearful about revealing income information and access to these lists meant that families did not have to provide such information. In Philadelphia, the contractor stated that the work start

[52]The South Central regional board serves Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, and York counties.

dates of approximately 25 percent of youth participants were delayed because of delays in the enrollment paperwork process.

The employment activity start-up period was also noted as a challenge in our July report. Philadelphia had a summer youth employment program in 2008 but had to expand its program to serve 1,200 additional youth with Recovery Act funds. The South Central Workforce Investment Board did not have a separate stand-alone summer youth employment program in 2008 and had to build one this year. In dealing with the short employment activity start-up periods, the contractors we interviewed used existing relationships with employers to find work sites for the youth. One contractor placed Recovery Act–funded youth with employers who participated in the year-round WIA Youth Program.

Workforce investment boards and the contractors we met with stated that the definition of "green jobs" was not clear.[53] Officials at one workforce board stated that they defined anything that improved the health of the planet as "green," and officials acknowledged that this broad definition could apply to almost every job. According to work site data from the Philadelphia workforce investment area, 19 percent (490 of 2,571) of its participants were placed in a "green" job and in the South Central workforce investment area, 7 percent (42 of 564) of its participants were placed in a "green" job. One South Central official added that the board's count of "green" jobs would not include work sites that provided "green" education or awareness. For example, one construction work site included tours of recycling facilities, discussed how to make homes more energy efficient, and exposed youth to "green" careers, such as electricity consumption auditors, but this would not have been included in the board's count of "green" jobs. Other employment activities had a clearer "green" link. In one Philadelphia employment activity, participants tested the permeability of soil samples from the site of a major oil spill in Alaska.

Other challenges listed in our July report may have persisted and challenged the implementation of Recovery Act–funded WIA summer youth employment activities. For example, weak economic conditions may have made it challenging to find youth placements as participants were not allowed to be placed in an area that had recently experienced

[53]Officials made similar comments earlier, as reported in GAO, *Recovery Act: States' and Localities' Current and Panned Uses of Funds While Facing Fiscal Stresses (Pennsylvania)*, GAO-09-830SP (Washington, D.C.: July 2009).

layoffs, and state officials acknowledged that this restriction had limited the number of placements in some areas. Also, officials reiterated that the lack of public transportation was an implementation challenge. Youth who participated in Recovery Act–funded WIA summer youth employment activities told us that getting to and from work sites was a significant challenge given the lack of public transportation in their region. For example, in the South Central workforce investment area, some job sites in York County were inaccessible by bus, and participants at those sites either had to walk or rely on friends or family for transportation.

Local Workforce Investment Boards Were Given Flexibility to Design and Administer the Recovery Act–Funded Summer Employment Activities

While the federal government provided guidance on a number of issues, local workforce boards had the flexibility to design and administer their Recovery Act–funded WIA summer youth employment activities. As shown in table 3, the two workforce boards we visited varied slightly in the opportunities they provided to participants. For example, Philadelphia offered three types of employment activities to participants:

- service learning (work teams to develop projects that provide active service to communities or individuals),
- internships (career exposure and connections to public and private sector employers), and
- work and learning experiences (mixture of academic skill building, college exposure, career exploration, and work readiness training).

Table 3: Overview of the Recovery Act–Funded WIA Summer Employment Activities for Two Pennsylvania Local Workforce Investment Boards, 2009

	Philadelphia Workforce Investment Board	South Central Workforce Investment Board
Areas served	Philadelphia	Adams, Cumberland, Dauphin, Franklin, Juniata, Lebanon, Perry, and York counties
Employment activity design	Participants worked approximately 20 to 25 hours each week and were paid $7.25 per hour	Participants worked approximately 25 to 30 hours each week and were paid between $7 and $7.25 per hour, depending on the current minimum wage
Length of employment activity	Most were for 6 weeks, but a few were compressed into 5 weeks	6 to 8 weeks
Types of employment activities	Service learning, internships, and work and learning experiences	Employment activities in the private, public, and nonprofit sectors
Examples of the range of employment activities	Administrative assistant, camp counselor, clerical aide, maintenance, teacher aide, sales associate, office assistant, and researcher	Child care, electrical maintenance, computer technology, community service, construction, and manufacturing
Work readiness measure	Measured through a pre- and post-test and employer pre- and post-evaluations	Contractors are required to measure at the beginning and end of an employment activity, but the decision on how to conduct this assessment was left up to the individual contractors; both contractors we interviewed are using a pre- and post-test

Source: GAO analysis of information from local workforce investment boards, 2009.

Both workforce investment boards we visited provided employment activities that combined work readiness activities with academic learning. For example, all participants in the Philadelphia Recovery Act–funded WIA summer youth employment activity were to complete an academic project that was aligned with state education goals. Certified teachers evaluated the projects and youth were eligible for academic credit. One university contractor stated that the employment activities focused not only on work readiness skills but also on promoting higher education. At one of the contractor's work sites we visited, participants cleaned and painted a space to create an art gallery and created a blog detailing their employment activities learning about mixed media artwork. According to the contractor, by learning social media skills like blogging and online collaboration, the participants learned both social and business skills.

Another university-affiliated contractor in Philadelphia ran an urban nutrition employment activity at local high school sites that included cooking, farming, and an educational component. This educational component, the College Access and Career Readiness program, worked with participants to develop résumés and essays and required participants to submit at least three applications to IHEs. One of the South Central workforce board's contractors we visited provided training that included occupational skills, workplace skills, and job readiness skills. The contractor also held a 2-week orientation before placing the youth at work sites. Participants we spoke with emphasized the value of the key lessons they learned from the orientation, such as punctuality and wearing appropriate attire.

Local Workforce Investment Boards Monitor Contractors for the WIA Summer Youth Recovery Act Funds

The Recovery Act–funded WIA summer youth employment activities are administered by the Philadelphia Youth Network (PYN), a local nonprofit organization. While the Philadelphia Workforce Investment Board monitors PYN programmatically, the Philadelphia Workforce Development Corporation holds the contract with PYN and conducts fiscal monitoring.[54] According to Philadelphia workforce board officials, the Recovery Act contract was not awarded competitively. L&I applied and was approved for a waiver from Labor to expand the scope of existing competitively procured contracts. According to Philadelphia Workforce Development Corporation officials, the requirements were added to an existing cost reimbursement agreement. The officials added that they used a cost reimbursement structure, the same structure used for the year-round WIA Youth Program.

To safeguard the WIA Youth Program Recovery Act funding, Philadelphia Workforce Development Corporation officials stated that they use key procedures to monitor PYN and its contractors. These procedures include ensuring that the age requirements are specified, reporting and deliverables are met, fiscal internal controls exist, payment processes are timely, fiscal and programmatic documentation exist, and if applicable, support payments exist. PYN contracted with service providers, and Philadelphia Workforce Development Corporation officials stated that they check whether PYN is monitoring these contractors and that all parties involved are adhering to Recovery Act policies. PYN monitors its contractors through site visits to ensure things such as the existence of eligibility documentation and compliance with work site safety requirements. In addition, PYN trains contractors and workplace supervisors on administrative responsibilities and employment activity expectations.

[54]According to Philadelphia Workforce Development Corporation and Philadelphia workforce board officials, PYN was the sole bidder for the past two rounds for the competitive process to secure the administration of YouthWorks, Philadelphia's comprehensive youth workforce development program, which includes year-round and summer WIA Youth Programs.

The South Central Workforce Investment Board had five contractors administer the Recovery Act–funded summer youth employment activities in its area. According to the South Central workforce board officials, the contracts were not awarded competitively as allowed under the L&I waiver from Labor. Officials stated that because they had recently competitively bid the contracts for the year-round WIA Youth Program, they did not compete the Recovery Act–funded WIA summer youth employment activity contracts.[55] The officials asked the five contractors that had recently been awarded year-round WIA Youth Program contracts to submit proposals to cover the employment activities funded by the Recovery Act WIA summer youth activity dollars. The officials stated that the requirements were procured using cost reimbursement contracts. The officials stated that this type of format ensures that only actual costs are reimbursed in compliance with the approved budget.

To safeguard Recovery Act WIA Youth Program funds, South Central workforce board officials stated that they used different mechanisms to monitor contractors. Informally, some workforce board officials periodically visited work sites to ensure compliance with safety requirements. Officials stated that some of these early site visits yielded disconcerting observations, such as park crew participants working without proper safety equipment or some not engaged in meaningful work. Officials added that these observations were relatively few and were quickly addressed by the contractors. In terms of formal monitoring, officials stated that two staff visited contractors and work sites. Before such visits, workforce board staff conducted premonitoring visits to remind contractors that they would be monitored and to review the standards with them. The monitoring tool the officials used covered topics such as employment activity supervision, time, and attendance.

[55] South Central workforce board officials stated that potential contractors were made aware that there would be additional Recovery Act funding available for WIA summer youth employment activities for those contractors that were successfully awarded year-round WIA Youth Program contracts.

Local Workforce Investment Areas Will Measure Work Readiness, and Pennsylvania Plans Additional Evaluations to Identify Best Practices for Serving Older Youth

Work readiness is the only measure that is required to assess the effectiveness of Recovery Act–funded WIA summer youth employment activities. Within the parameters set forth in federal agency guidance, local workforce investment areas may determine the methodology for measuring work readiness gains. In the Philadelphia workforce investment area, the same pre- and post-test work readiness assessment is administered for all work sites. The Philadelphia work readiness assessment focuses on seven skills—professionalism/work ethic, oral/written communication, lifelong learning/self-direction, technology, leadership, ethics and social responsibility, and teamwork and collaboration. According to board officials, in the South Central workforce investment area, contractors are required to measure work readiness at the beginning and end of an employment activity, but the decision on how to conduct the pre- and post-assessment was left up to the individual contractors. Both contractors we interviewed stated that they are using a pre- and post-test work readiness assessment. Without a standard work readiness assessment tool statewide and in some cases throughout the workforce investment area, Pennsylvania does not have consistent measures of work readiness outcomes from different work experience types, across workforce investment areas, or even across contractors for some workforce investment areas. Currently, L&I provides local workforce boards and contractors with a list of acceptable assessment tools, and L&I officials said that they are considering possible incentive grants for workforce boards and contractors that use a tool recommended by the state.

L&I plans to review completion rates, work readiness outcomes, expenditure rates, and characteristics of participants; analysis and listing of work site types; and best practices and innovative approaches to recruitment, retention, and work readiness. Recovery Act–funded WIA summer youth employment activities information is collected through Pennsylvania's Commonwealth Workforce Development System (CWDS), a tracking and reporting data system used by the Pennsylvania workforce boards. As we reported in July, local workforce investment areas had to report data manually, but CWDS is now available online to track and report Recovery Act–funded WIA summer youth employment activity data. Should additional information be needed, the system can be modified to collect those data from the workforce boards. The state officials said that they will not delegate Recovery Act quarterly recipient reporting responsibilities to any workforce boards. They also stated that the reporting processes and systems have been designed to ensure accurate and complete information. For example, officials said that they have developed unique identifiers to monitor and track WIA Youth Program activities separately from other funding streams. Through routine staff monitoring and quality assurance, officials stated that they will be able to ensure that reporting has all the required information fields as well as assign categories and subcategories of information. In terms of monitoring grantees, officials stated that they have processes in place, such as reviewing local monitoring documents, including those pertaining to service providers' financial and progress reports.

State officials said that they intend to conduct long-term evaluations of the Recovery Act–funded WIA summer youth employment activities. In particular, they plan to study the outcomes and employment activities for older youth from the ages of 22 to 24 years, as this was the first time older youth were served. Officials also want to look at the placements offered to all participants and whether certain placements (e.g., private sector or public sector work sites) provided better employment activities than others. State officials said that they plan to look at not only participant outcomes, but also at what efforts were successful and which activities and employment activities can be used for future job training activities throughout the state.

Local Housing Authorities Have Obligated 31 Percent of Public Housing Capital Fund Formula Grants

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management.[56] The Recovery Act requires HUD to allocate $3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date 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 that can award contracts 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 under way or included in their current required 5-year capital fund plans.

[56] Public housing agencies receive money directly from the federal government (HUD). Funds awarded to the public housing agencies do not pass through the state budget.

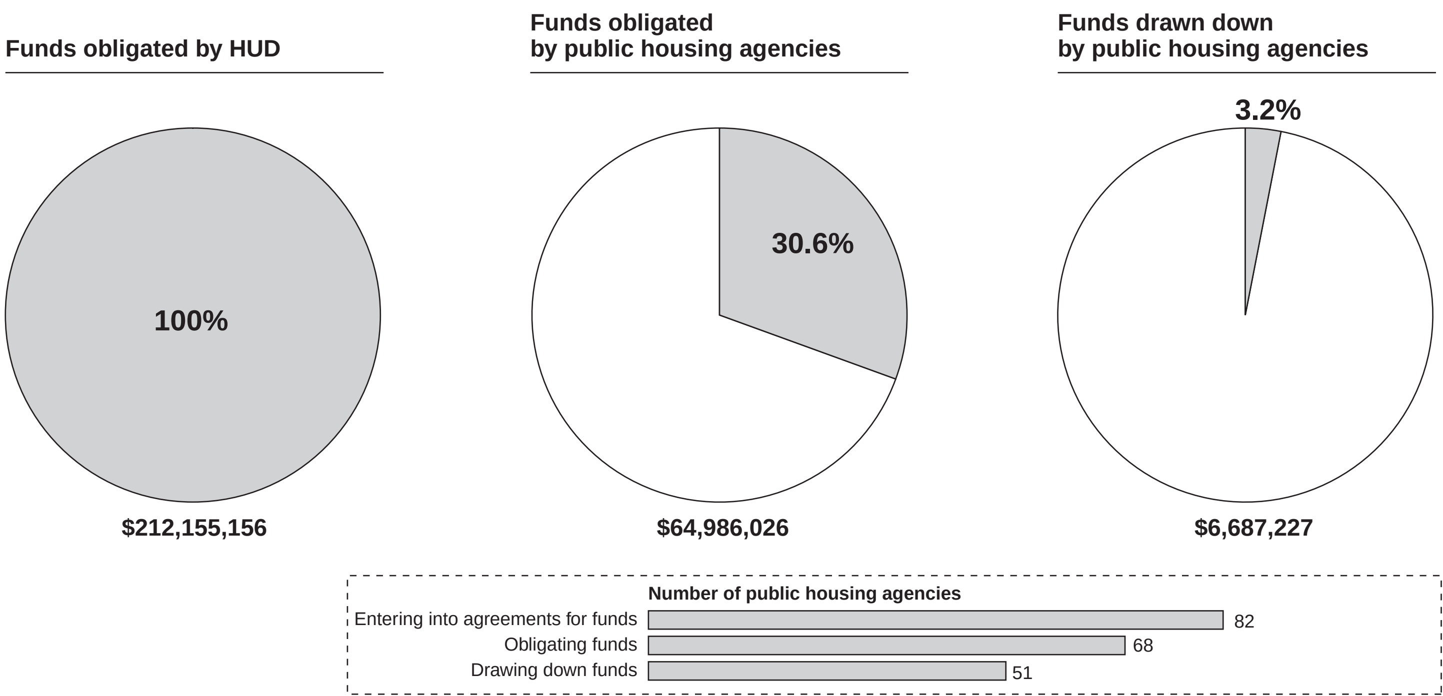
HUD is also required to award nearly $1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments. In a Notice of Funding Availability published 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 because of 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 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.

Pennsylvania has 82 public housing agencies that have received Recovery Act formula grants. In total these public housing agencies received $212.2 million in Public Housing Capital Fund formula grants. (See fig. 6.) As of September 5, 2009, 68 of these public housing agencies have obligated $65 million (31 percent), and 51 have drawn down $6.7 million. We visited two public housing agencies in Pennsylvania for our July report: the Philadelphia Housing Authority and the Harrisburg Housing Authority. We will provide updated information on these housing agencies in a future report.

Figure 6: Percentage of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Pennsylvania, as of September 5, 2009



Source: GAO analysis of HUD data.

Pennsylvania's Accountability Office Plans Centralized Reporting for Recovery Act Funds Received by the State and Is Developing Performance Measures

Pennsylvania's new Accountability Office, led by the Recovery Act Chief Accountability Officer, plans a centralized approach for the quarterly recipient reporting that state agencies must submit to comply with Section 1512 of the Recovery Act. Under OMB guidance, these recipient reports are to be submitted through www.FederalReporting.gov. Pennsylvania's Accountability Office coordinates a reporting working group, which also includes the Office of Information Technology, the Governor's Budget Office, and the Office of the Chief Accounting Officer, to plan and implement the recipient reporting. Over the summer of 2009, the working group identified the gaps between the information required for the recipient reporting and data available from Pennsylvania's current enterprise resource planning (ERP) system.[57] As we previously reported, the Office of Comptroller Operations established unique accounting codes within the state's integrated accounting system (ERP system) to track Recovery Act spending separately. Where practical, new data fields will be added to the accounting system to support the data extract for Recovery Act reporting. Whereas the financial data for Pennsylvania's state recipient reports will be drawn from the ERP system, the Office of Information Technology designed a new centralized Recovery Act data warehouse—the Central Access to Recovery Data System (CARDS)—to compile the other data elements gathered from program agencies and their subrecipients and vendors. Pennsylvania's Accountability Office is developing internal controls and a quality review process to help ensure that the data are complete and accurate before submission.

According to Pennsylvania Recovery Act officials, many subrecipient and vendor details, such as names and addresses, required under Section 1512 already existed within Pennsylvania's ERP system, since most organizations receiving Recovery Act funds through state agencies were already registered to do business with Pennsylvania state government. State program agencies receiving Recovery Act funds—the direct recipients—are responsible for collecting and entering any additional data for their subrecipients and vendors into CARDS. For example, PennDOT is the direct recipient for the Highway Infrastructure Investment funds and will collect data from its vendors—the contractors working on the highway and bridge projects. For the WIA Youth Program, L&I as the direct recipient will compile data from the local workforce area

[57]An ERP solution is an automated system using commercial off-the-shelf software and consisting of multiple, integrated functional modules that perform a variety of tasks, such as accounts payable, general ledger accounting, and grant management.

subrecipients, which in turn will gather data from their vendors on the summer youth activities.

According to the Senior Advisor for Recovery Implementation, the process of classifying subrecipients and vendors using the five-point test in OMB's guidance has been surprisingly difficult. Pennsylvania's Accountability Office plans to use the state ERP system coding to preliminarily assign entities to one category or the other. Initially, entities receiving Recovery Act funds coded as grant, debt service/investment, and transfer payment categories will be treated as subrecipients, and entities receiving Recovery Act funds coded as operating expenses will be treated as vendors. Pennsylvania's Accountability Office will override these preliminary classifications in cases where the federal awarding agency's instructions are plainly contrary.

On August, 26, 2009, Pennsylvania's Accountability Office issued instructions for program agencies detailing their reporting responsibilities and the timeline for preparing for the first recipient reports due on October 10, 2009. On August 31, 2009, Pennsylvania's Accountability Office issued companion instructions for use by the program agencies' vendors, subrecipients, and subrecipient vendors. By the end of August, each program agency was to identify its key reporting personnel, verify its identification numbers, and complete a onetime survey on its Recovery Act funding award received to date. In early September 2009, agency staff will receive CARDS training and will load onetime survey data from their outreach to vendors and subrecipients. All onetime data entry is to be completed by September 25, and program agencies are to begin entering quarterly data—such as the numbers of jobs, narrative on quarterly activities, and project status—beginning on October 1. Subrecipients are to provide their data by October 5, and the program agencies are to upload all data to CARDS by October 6. Each program agency is responsible for using CARDS to review and approve its final recipient report.

Pennsylvania's Accountability Office has registered at FederalReporting.gov and plans to transmit the recipient reports for Pennsylvania state agencies. As of September 11, 2009, the office expects to file at least 40 recipient reports by the October 10, 2009, deadline. To help oversee the reporting process, the reporting working group will set up a centralized operation focused exclusively on the recipient reporting effort from September 23 until October 30, 2009.[58] Pennsylvania's Accountability Office told the program agencies that the first 10 days of October will be difficult but manageable. Pennsylvania's Accountability Office will also manage the process for program agencies to revise their reports and respond to any issues flagged by federal agencies.

Looking beyond the recipient reporting on jobs and project status, Pennsylvania's Accountability Office is developing a performance measure framework to track results of Pennsylvania's Recovery Act spending and report meaningful outcomes to the public. Pennsylvania's Accountability Office has reached out to state agencies receiving Recovery Act funds to identify performance measures for each Recovery Act program. In addition to job creation measures, Pennsylvania's Accountability Office plans to compile both program-specific output measures as well as longer-term outcome measures. For example, output measures for highway and bridge projects might include the number of road miles resurfaced and the number of bridges rehabilitated, whereas longer-term outcomes would be reducing the percentage of road miles rated as in poor condition in terms of roughness and the share of Pennsylvania bridges rated as structurally deficient. Where possible, Pennsylvania's Accountability Office is trying to identify measures of energy savings or environmental improvement. After the first round of recipient reporting is complete in October, Pennsylvania's Accountability Office will continue work to finalize the performance measures and begin collecting data for publication on Pennsylvania's recovery Web site, www.recovery.pa.gov.

State Comments on This Summary

We provided the Governor of Pennsylvania with a draft of this appendix on September 9, 2009, and the Chief Implementation Officer and Chief Accountability Officer responded for the Governor on September 11, 2009. These officials agreed with our draft and provided clarifying and technical comments that we incorporated where appropriate.

[58]The centralized efforts will reopen in late December for the next quarterly recipient reporting round.

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