

May 2010

# RECOVERY ACT

## States' and Localities' Uses of Funds and Actions Needed to Address Implementation Challenges and Bolster Accountability (New York)



GAO

Accountability \* Integrity \* Reliability

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# Appendix XIII: New York

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## Overview

This appendix summarizes GAO's work on the sixth bimonthly review of American Recovery and Reinvestment Act of 2009 (Recovery Act)<sup>1</sup> spending in New York. The full report on all of GAO's work in 16 states and the District of Columbia may be found at <http://www.gao.gov/recovery/>.

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## What We Did

We reviewed seven programs funded by the Recovery Act—the Clean Water and Drinking Water State Revolving Funds (SRF), the Edward Byrne Memorial Justice Assistance Grants (JAG), the Highway Infrastructure Investment Program, the Weatherization Assistance Program, and three education programs: (1) the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF); (2) Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA); and (3) the Individuals with Disabilities Education Act, as amended (IDEA), Part B. These programs were selected primarily because they are receiving significant amounts of Recovery Act funds, recently began disbursing funds to states, or both. We focused on how funds were being used, how safeguards were being implemented, and how results were being assessed. For descriptions and requirements of the programs we covered, see appendix XVIII of [GAO-10-605SP](#).

Our work in New York also included understanding the state's fiscal condition and obtaining an update on two of the localities we visited for our December 2009 report. We visited New York City because it is the largest city in the state and its unemployment rate is above the state's rate.<sup>2</sup> We also visited Westchester County because it is a suburban county with an unemployment rate below the state's rate. Finally, we reviewed the work being done by the accountability community to oversee the use of Recovery Act funds.

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## What We Found

Funds from the programs we reviewed are helping New York state and local governments stabilize their budgets while also stimulating infrastructure development and expanding existing programs. The following summarizes findings for the areas we examined.

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

<sup>2</sup>The U.S. Department of Labor, Bureau of Labor Statistics (BLS) reported an 8.8 percent unemployment rate for New York state for March 2010. This rate is preliminary and has not been seasonally adjusted.

- **Clean Water and Drinking Water SRFs.** New York received about \$436.9 million in Recovery Act funding for the Clean Water SRF, more than any other state, and about \$86.8 million in Recovery Act funding for the Drinking Water SRF. Both SRFs relied primarily on project lists developed before the Recovery Act was passed to identify eligible projects. New York took innovative approaches to meeting Recovery Act requirements, such as partnering with another agency to identify new and existing green elements in clean water projects and developing a new grant program to meet the green reserve requirement.<sup>3</sup> We visited three SRF projects—an ecological restoration and improved stormwater management project in Brooklyn, a wastewater treatment plant upgrade project in Westchester County, and a new drinking water system project in Poestenkill. All three projects we visited reported that their final contract awards were lower than official cost estimates.
- **Highway Infrastructure Investment Program.** The U.S. Department of Transportation’s Federal Highway Administration (FHWA) apportioned \$1.12 billion in Recovery Act funds to New York in March 2009 for highway infrastructure and other eligible projects.<sup>4</sup> The federal government obligated the state’s full apportionment by the 1-year deadline of March 2, 2010. The New York State Department of Transportation (NYSDOT) reports that the majority of Highway Recovery Act funds are going towards the rehabilitation and repair of highways and bridges, as well as bridge replacement and highway reconstruction projects. As of May 3, 2010, \$238 million had been reimbursed by the federal government. NYSDOT officials report that bids for state projects were 13 percent lower than the state’s original estimated costs of the projects.
- **JAG Program.** The U.S. Department of Justice’s Bureau of Justice Assistance (BJA) awarded \$110.6 million in Recovery Act JAG funding to New York. On the basis of a statutory formula, BJA awarded about 60 percent to New York state (\$67.3 million), part of which (\$43.8 million) was passed on to localities. According to officials, the bulk of

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<sup>3</sup>The Recovery Act required states to reserve at least 20 percent of their funds for projects that address green infrastructure, water or energy efficiency, or other environmentally innovative activities.

<sup>4</sup>This does not include obligations associated with over \$175 million of apportioned funds that was transferred from FHWA to the Federal Transit Administration (FTA) for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

the state funds have been obligated to implement recently enacted drug law reforms and continue recidivism pilot programs.<sup>5</sup> BJA also awarded \$43.3 million in Recovery Act JAG funds directly to eligible localities in New York.<sup>6</sup> We visited two localities—New York City and Utica—that received such funds. While, according to officials, New York City is using nearly its entire direct local Recovery Act JAG award to retain personnel—such as New York City fire department and corrections officer positions—Utica is using most of its direct local Recovery Act JAG funds to purchase law enforcement equipment.

- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated \$394.7 million in Recovery Act funds to New York in March 2009 for the Weatherization Assistance Program. Through March 31, 2010, New York had weatherized 1,309 units—2.9 percent of its goal of 45,000 units. In part, this low completion rate reflects the emphasis in the state plan on weatherizing multifamily projects, which account for over half of this goal. Multifamily projects typically take longer to complete than one- to four-family homes. Yet state officials were confident that they would not only meet but exceed their goal. They reported that work on an additional 10,546 units was currently under way and that energy audits—which are required before weatherization can begin—of an additional 14,008 units had been completed. Once these 24,554 units are completed, New York will have completed 57.5 percent of the units needed to meet its goal.
- **Education programs.** Education allocated \$549 million in SFSF government services funds to New York, most of which the state appropriated to education programs that were facing cuts prior to the enactment of the Recovery Act. Although the state has disbursed only 15 percent of the funds (partly because of administrative delays), a senior state budget official said that she believes the SFSF government services funds will be obligated by the federal deadline of September 30, 2011, with disbursements also occurring by federal deadlines. The New York State Education Department is undertaking new monitoring of SFSF funds and some additional monitoring of Recovery Act ESEA Title I, Part A and IDEA, Part B funds.

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<sup>5</sup>Recidivism is a tendency to relapse into a previous condition or mode of behavior; especially relapse into criminal behavior.

<sup>6</sup>These are known as direct local awards.

- **State and localities' use of Recovery Act funds.** New York's persistent fiscal challenges have led to a projected budget gap of \$9.2 billion for fiscal year 2010-2011. The Governor's proposed 2010-2011 Executive Budget, as amended and supplemented by additional gap-closing recommendations, closes this deficit, but the state's legislature has not approved a budget. Officials reported that the fiscal stability of the localities we revisited have been positively affected by Recovery Act funds. However, localities are concerned about cuts in state aid and future budget gaps, especially after the Recovery Act ends.
- **Accountability.** The Stimulus Oversight Panel,<sup>7</sup> Office of the State Comptroller (OSC), and Economic Recovery and Reinvestment Cabinet, which is headed by the Governor's office, are primarily responsible for statewide oversight of Recovery Act funds.<sup>8</sup> In addition, an estimated 90 percent to 95 percent of the state's Recovery Act funding will be reviewed in the state's Single Audit.<sup>9</sup> The most recent Single Audit, which was issued November 25, 2009, for the fiscal year ending March 31, 2009, found material weaknesses in internal

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<sup>7</sup>In July 2009, the Governor created a Stimulus Oversight Panel chaired by the New York State Inspector General (NYSIG) with the state Division of Human Rights Commissioner, Metropolitan Transportation Authority Inspector General (IG), and Medicaid IG as members. The panel meets on a biweekly basis to examine the use of Recovery Act funds by each of the 22 New York state agencies designated to receive them, to develop coordination with other state and federal law enforcement partners responsible for the oversight of Recovery Act funds, to discuss the progress of investigations whose allegations were received through the Stimulus Complaint hotline, and to initiate proactive reviews when deemed necessary.

<sup>8</sup>State program departments and agencies also have internal audit departments that review Recovery Act funds and localities and transit or housing authorities play a role in managing some Recovery Act funds that do not pass through state offices.

<sup>9</sup>Single Audits are prepared to meet the requirements of the Single Audit Act, as amended, and provide a source of information on internal control and compliance findings and the underlying causes and risks. The Single Audit Act requires states, local governments, and nonprofit organizations expending \$500,000 or more in federal awards in a year to obtain an audit in accordance with the requirements set forth in the act. A Single Audit consists of (1) an audit and opinions on the fair presentation of the financial statements and the Schedule of Expenditures of Federal Awards; (2) gaining an understanding of and testing internal control over financial reporting and the entity's compliance with laws, regulations, and contract or grant provisions that have a direct and material effect on certain federal programs (i.e., the program requirements); and (3) an audit and an opinion on compliance with applicable program requirements for certain federal programs.

controls for two Recovery Act programs.<sup>10</sup> These involved 238 duplicate payments totaling \$5,950 in the Recovery Act Unemployment Insurance program and inadequate identification of Recovery Act funds as separate from regular program funds for the Medical Assistance Program (Medicaid). The state implemented a manual process to prevent future duplicate payments and took steps to improve identification of Recovery Act funds for Medicaid. According to New York State Inspector General (NYSIG) officials, NYSIG also has ongoing investigations related to complaints received through the Stimulus Complaint hotline.

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## Clean and Drinking Water SRFs in New York Used Innovative Approaches to Meet Recovery Act Requirements

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### New York Used Existing Plans to Identify “Shovel-Ready” Projects and Met the 1-year Deadline for Having Funds under Contract

New York received about \$436.9 million in Recovery Act funding for its Clean Water SRF, more than any other state.<sup>11</sup> The Clean Water SRF program is managed jointly by the New York State Department of Environmental Conservation (NYSDEC) and the New York State Environmental Facilities Corporation (NYSEFC). New York City received an allocation of \$219.5 million—or over half—of the total state funding for clean water. Officials reported that New York City has a large need for clean water funds and has annual capital construction costs of over \$2

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<sup>10</sup>A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a Federal program will not be prevented or detected by the entity's internal control.

<sup>11</sup>This amount includes about \$4.4 million in Clean Water Act (CWA) Section 604(b) Water Quality Management Planning Grants. Section 604(b) of the CWA provides for the reservation of 1 percent of each state's Clean Water SRF allotment (or \$100,000, if that is greater) each fiscal year to carry out planning under Sections 205(j) and 303(e) of the CWA. New York uses 604(b) grants to fund regional comprehensive water quality management planning activities. According to New York officials, the 604(b) program is administered separate from the SRF program by NYSDEC.

billion. New York state also received about \$86.8 million in Recovery Act funding for its Drinking Water SRF. The Drinking Water SRF is managed jointly by the New York State Department of Health (NYSDOH) and NYSEFC. Both SRF programs relied primarily on their 2009 Intended Use Plans, which were developed before the passage of the Recovery Act and are developed annually as part of the base SRF programs, to select projects that were “shovel ready.” New York awarded Recovery Act funds to 80 clean water projects and 30 drinking water projects, and met the deadline to have 100 percent of its Recovery Act funds awarded to projects that were under contract by February 17, 2010. These projects range from a clean water project to construct three sludge transportation vessels serving New York City’s water pollution control plants, which was awarded \$65.5 million in Recovery Act funds, to a drinking water project in the Town of Schodack, New York, which was awarded \$812,000 in Recovery Act funds to interconnect two water districts, replace water pipes, and improve a pump station.

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### New York Used Innovative Approaches to Meet the Green Reserve Requirement

The Recovery Act required states to reserve at least 20 percent of their funds for projects that address green infrastructure, water or energy efficiency, or other environmentally innovative activities. New York state’s SRFs took two innovative approaches to meet the green reserve requirement:

- (1) NYSEFC partnered with the New York State Energy Research and Development Authority (NYSERDA) to identify new and existing green elements in clean water projects, such as installing energy-efficient pumping motors and lighting where appropriate. NYSERDA conducted project-by-project energy audits to identify green project elements, both within existing project plans and as potential project improvements. In total, NYSERDA identified \$91 million in energy efficiency improvements that were incorporated into Recovery Act projects.
- (2) New York used a portion of its Recovery Act funds to create a new grant program called the Green Innovative Grant Program (GIGP). NYSEFC officials reported that GIGP was created to identify projects with a green focus and to assist in meeting the green reserve requirement. Projects awarded GIGP funds include green roofs, permeable pavement, rain harvesting, and progressive wastewater treatment processes. GIGP funded 35 clean water projects with \$38.2 million in Recovery Act funds, including 16 energy-efficiency projects; 13 green infrastructure projects, such as water harvesting and reuse

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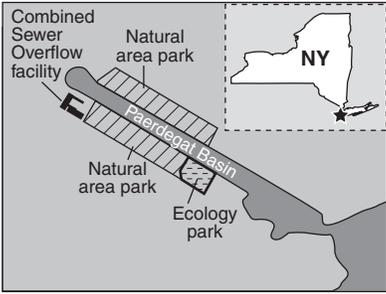
programs or wet weather management systems projects; 4 environmental innovation projects; and 2 water-efficiency projects. GIGP funded 14 drinking water projects with \$6.1 million of Recovery Act funds, including 7 water meter projects, 3 water-efficiency projects, and 4 energy-efficiency projects.

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**Officials Reported That Projects Will Benefit the Community; Also, Contract Awards on Some Recovery Act Projects Have Been Lower Than Official Cost Estimates**

We visited three (two Clean Water and one Drinking Water) SRF projects funded by the Recovery Act (see fig. 1).

Figure 1: Profile of Recovery Act Clean Water SRF and Drinking Water SRF Projects Visited by GAO

	Clean water		Drinking water
			
<b>Location</b>	Paerdegat Basin, Brooklyn, NY	Mamaroneck, NY	Town of Poestenkill, NY
<b>Description</b>	<ul style="list-style-type: none"> <li>• Ecological restoration of land adjacent to a Combined Sewer Overflow facility</li> <li>• Creation of natural area and ecology parks with walking trails and viewing platforms</li> </ul>	<ul style="list-style-type: none"> <li>• Biological nutrient removal upgrades to the Mamaroneck Wastewater Treatment Plant in Westchester County</li> </ul>	<ul style="list-style-type: none"> <li>• New drinking water system to supply 553 residences, an elementary school, and several businesses</li> <li>• Reduce current reliance on private wells (primarily residential), some of which are contaminated.</li> </ul>
<b>Total Recovery Act funding/ total cost</b>	\$14.6 million/ \$14.6 million	\$24.4 million/ \$55.4 million <sup>a</sup>	\$4.8 million/ \$9.5 million
<b>Total Recovery Act Green Reserve funding</b>	\$14.6 million	\$2.9 million	None
<b>Reported impact of project</b>	<ul style="list-style-type: none"> <li>• Restoring wetlands, naturally filtering stormwater runoff, and providing a community amenity</li> <li>• Creating an estimated 57.5 jobs a year during construction, and 3 jobs after completion to maintain the park</li> </ul>	<ul style="list-style-type: none"> <li>• Reducing the amount of nitrogen the plant discharges in the Long Island Sound</li> </ul>	<ul style="list-style-type: none"> <li>• Providing safe drinking water and promoting local business development</li> <li>• Generating an estimated 30 full time equivalent jobs</li> </ul>

Sources: GAO analysis; Town of Poestenkill (street sign photograph); Map Resources (NY map); and GAO (Mamaroneck Wastewater Treatment Plant).

<sup>a</sup>The total project was originally estimated to cost \$55.4 million. Of this, the municipality was to contribute \$400,000 for non-SRF-eligible project components and the remainder was financed through a \$55 million bond that was issued for the project before the contract was awarded. However, the award was below the estimate at \$45.9 million. As a result, the \$55.4 million now includes a \$9.1 million contingency, which is funded by base SRF funds, to be used in the event of cost overruns if needed.

Officials at each of the projects we visited reported community benefits from the project and noted benefits from having the project funded through the Recovery Act. For example, officials at the Paerdegat Basin project reported that it would not have been funded without Recovery Act funds. With Recovery Act funds, the project was not only able to proceed, but project planners were also able to increase the size of the project and add green components, such as porous pavement. This project is considered entirely green infrastructure, since it involves coastal habitat restoration and infrastructure to improve stormwater management. In the

town of Poestenkill, where we visited a drinking water project, a local official stated the additional incentive of the Recovery Act helped focus the project stakeholders to move the long-planned project ahead. All three of the projects we visited had final bids that came in lower than the official cost estimates. Subsequently, the lower than expected contract awards allowed NYSEFC to redistribute Recovery Act funds to other projects. For example, savings in New York City allowed NYSEFC to devote Recovery Act funds to projects involving upgrades and repairs for four water pollution control plants serving communities in Queens, Brooklyn, and Staten Island.

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**Internal Audit  
Departments Have Issued  
Findings on Recipient  
Reporting and NYSEFC is  
Hiring a Contractor to  
Provide Recovery Act  
Compliance and  
Monitoring Assistance**

As requested by the state's Economic Recovery and Reinvestment Cabinet, both NYSDEC and NYSDOH have issued internal audit reports related to the recipient reporting process for the SRFs.<sup>12</sup> The NYSDOH internal audit of recipient reporting recommended that NYSDOH (1) rework its process to ensure timely collection and reporting of all data; (2) implement the planned change to separate the data collection and review functions; (3) finalize the draft written procedures; and (4) ensure the procedures are complete, clear, and updated as necessary. NYSDOH officials report that they have fully implemented these recommendations and established a process for timely collection of reporting data, including a formal tracking system. However, NYSDOH reported that even with multiple follow-ups, a few recipients were late in reporting and NYSDOH withheld reimbursement as a means of enticing compliance. A NYSDOH Internal Audit official indicated she will continue to monitor the Drinking Water SRF Recovery Act quarterly recipient reports, with an emphasis on the expenditure and employment information. The audit of NYSDEC's Recovery Act recipient reporting process contained similar recommendations—to review and compare reported data with sources to verify the data, to develop written policies and procedures for recipient reporting data quality assurance plans, and to periodically review and update the risk assessments prepared relative to recipient reporting. NYSDEC developed a corrective action plan in response to these recommendations. According to a NYSDEC official, NYSDEC does not have any other internal audits of the Recovery Act SRF funds planned or under way.

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<sup>12</sup>NYSEFC, which helps administer both the Clean Water and Drinking Water SRFs, does not have an internal audit department.

NYSEFC officials reported that NYSEFC issued a Request for Proposals (RFP) on March 15, 2010, to hire a firm to provide compliance assistance and monitoring of Recovery Act recipients. According to a senior NYSEFC official and our review of the RFP, the selected firm's duties will include bi-monthly project site visits, inspections of project compliance with Recovery Act requirements, and reporting any allegations or suspicions of waste, fraud, or abuse to NYSEFC. The selected firm also will be required to undergo training from NYSIG with regard to identifying and reporting allegations of mismanagement of Recovery Act funds. A senior NYSEFC official reported that NYSEFC would like to have the firm under contract by May 21, 2010, and in the field visiting projects as early as June 1, 2010.

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## New York Plans to Meet Recovery Act Requirements for Highway Infrastructure Investment Program Funds and Is Implementing Changes to Improve Reporting

In March 2009, FHWA apportioned \$1.12 billion in Recovery Act funds to New York for highway infrastructure and other eligible projects. The federal government obligated the state's full apportionment by the 1-year deadline of March 2, 2010.<sup>13</sup> NYSDOT reports that the majority of Highway Recovery Act funds are going towards the rehabilitation and repair of highways and bridges, as well as bridge replacement and highway reconstruction projects. As of May 3, 2010, \$238 million had been reimbursed by FHWA. From March 2 through April 26, 2010, the FHWA deobligated \$717,032 of the highway funds for New York and has until September 30, 2010, to obligate these funds to other projects. NYSDOT officials attributed the deobligated amounts to a few specific projects—for example, one project had funds deobligated because of savings from contract awards that were below original state cost estimates and another project had issues with a right-of-way permit.

NYSDOT officials reported that bids for state projects were 13 percent lower than the state's original estimated costs of the projects. However, they also pointed out that approximately 16 percent of their projects were awarded to contractors who submitted bids that were higher than the state's estimated costs.

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<sup>13</sup>This does not include obligations associated with \$175.5 million of apportioned funds that were transferred from FHWA to FTA for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

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**New York Is on Track to Meet Its Maintenance of Effort Requirement**

The Recovery Act required the governor of each state to certify that the state would maintain the level of state spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted (which is known as a maintenance of effort—or MOE—requirement). Both FHWA and NYSDOT officials believe New York will meet its MOE requirement of \$2.1 billion. However, NYSDOT officials said the state’s multiyear budget deficits present a significant challenge in doing so.

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**NYSDOT’s Internal Audit Bureau Made Recommendations for Recipient Reporting Improvements and Plans Further Audit Work**

NYSDOT submits quarterly recipient report information on all of its Recovery Act highway projects, which is reported on the federal [www.recovery.gov](http://www.recovery.gov) Web site. As requested by the state’s Economic Recovery and Reinvestment Cabinet, NYSDOT’s Internal Audit Bureau completed a review of the department’s recipient reporting process. This audit was focused on highway project reporting and contained 13 recommendations, including recommendations to verify data elements to a third-party source, perform periodic data reviews, and develop policies and processes for identifying differences in data posted and reported. NYSDOT accepted all of the recommendations and is implementing them as part of the Corrective Action Plan. In addition, NYSDOT’s Internal Audit Bureau is conducting “real-time” audit work of reported project information, which is shared with NYSDOT officials for immediate action; a formal audit report is not prepared. As a part of this work, on April 5, 2010, NYSDOT’s Internal Audit Bureau issued an assessment of the completeness of 42 data fields that regional offices are required to provide for Recovery Act projects. NYSDOT officials report that corrective actions are underway in response to this review. Further, NYSDOT Internal Audit Bureau officials report that they plan future reviews, including a review of the completeness of NYSDOT’s employment reporting. Additionally, the Internal Audit Bureau is planning an audit of local Recovery Act projects, but the timeline and audit plan have not been finalized.

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## New York's JAG Award Is Planned to Largely Support Implementation of State Drug Law Reform

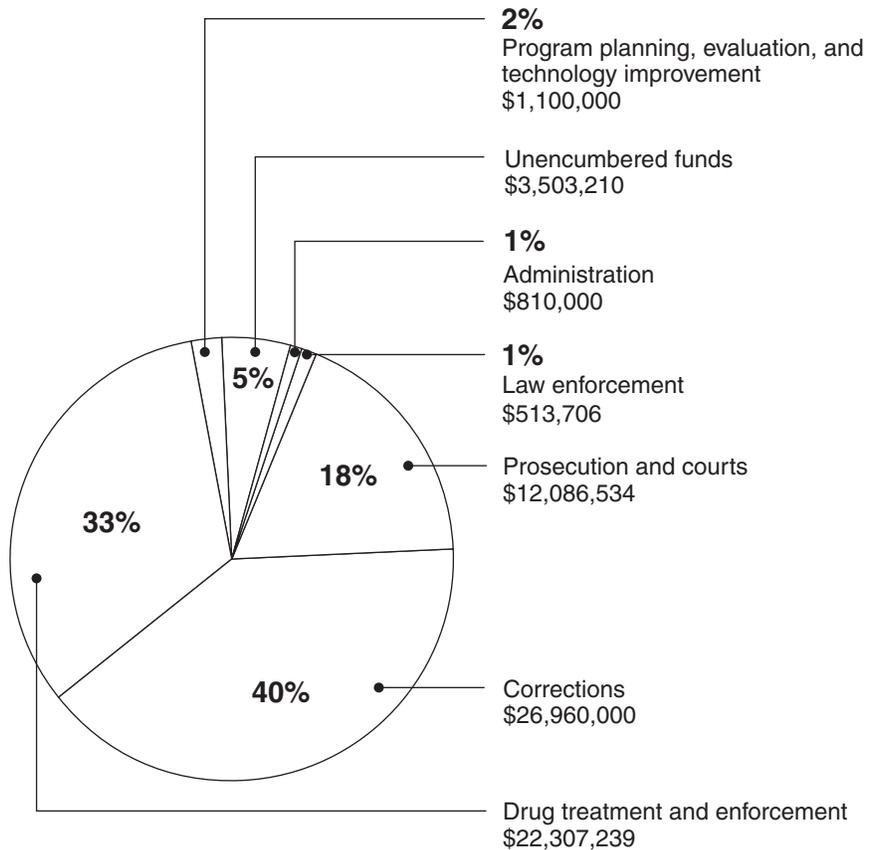
The Department of Justice's BJA awarded New York state and local governments about \$110.6 million in Recovery Act JAG funds. On the basis of a statutory formula, BJA awarded about 60 percent to New York state (\$67.3 million), part of which (\$43.8 million) was passed on to localities.<sup>14</sup> The Division of Criminal Justice Services (DCJS) administers JAG funds in New York and monitors the allocation of funds that are passed on to localities based on priorities outlined in the DCJS strategic plan. BJA awarded the remaining approximately 40 percent (\$43.3 million) directly to eligible localities in New York.

New York plans to use the majority of Recovery Act JAG funding to support corrections (for probation and reentry services), drug treatment and enforcement, and prosecution and courts program areas (see fig. 2).

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<sup>14</sup>The minimum percentage of Recovery Act JAG funds that New York state is required to pass through to local governments, referred to as "state pass-through funds" in this report, is 65.16 percent.

**Figure 2: State Allocation of JAG Funds by Program Area**



Source: New York State Division of Criminal Justice Services data.

According to officials, the state will use most of its Recovery Act JAG funds that it did not pass on to localities (the state’s share, which is the remaining 34.84 percent of the state’s award) to support implementation of reforms to the state’s Rockefeller Drug Laws (RDL), which emphasize treatment and prevention instead of incarceration for drug offenders.<sup>15</sup> For example, New York state plans to spend about \$22 million of Recovery Act JAG funds for drug treatment and enforcement and plans to use a share of

<sup>15</sup>In April 2009, Governor Paterson signed a law to reform the RDL, which previously required mandatory minimum prison terms for drug offenses by eliminating mandatory prison sentences for many drug offenses and emphasizing treatment and prevention. The legislation also provides judges discretion to divert nonviolent drug-addicted individuals to treatment alternatives.

the nearly \$27 million allocated for corrections to help implement recent state law changes eliminating mandatory prison terms for many drug offenses and increasing judicial discretion to sentence many non-violent drug offenders to probation. According to New York state officials, some localities have already obligated and expended JAG funds to support prosecution projects across the state that would help assistant district attorneys reduce the number of prison commitments, as required by the RDL reforms. DCJS officials also said Recovery Act JAG funding has been critical in helping to maintain innovative pilot programs, such as prisoner reentry programs that help reduce recidivism.

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**Officials Report Using Recovery Act JAG Funding for Programs to Reduce Recidivism and for Personnel and Equipment Costs**

According to state and local officials in New York, Recovery Act JAG funding was used to support programs to reduce the pace of recidivism. For example, six recipients used about \$14 million in pass-through Recovery Act JAG grants from New York state to fund job placement programs to facilitate hiring returning offenders. In addition, without direct local Recovery Act JAG funds, New York City officials said they would have been unable to support the \$6.9 million Institute of Inner Development program, which focuses on combating adolescent recidivism. The New York City Department of Corrections is tracking performance benchmarks to evaluate its program and measure the impact of Recovery Act JAG funds.

The two localities we visited—New York City and Utica—are also using Recovery Act JAG funds for personnel and equipment costs. (See fig. 3.) According to officials, nearly all of New York City's allocation of \$29.1 million in Recovery Act JAG funds has supported personnel costs, such as New York City fire department and corrections officer positions. New York City officials reported that without Recovery Act JAG funds, New York City would have eliminated 158 jobs because of budget cuts.

**Figure 3: Profile of Recovery Act JAG Projects Visited by GAO**

		
		Utica used JAG funds for mobile computer systems in police vehicles.
<b>Location</b>	New York, NY	Utica, NY
<b>Description</b>	To largely support essential public safety personnel, such as emergency call technicians, corrections officers, and fire department officers. Several agencies, including five district attorney's offices, the Department of Corrections, and the Fire Department are expected to receive funds. Funds are also planned to support implementation of Rockefeller Drug Laws reforms.	Funds will be shared between Utica and Rome police departments and Oneida County Sheriff's Department to improve public safety. Most funds will purchase equipment such as police patrol vehicles; light bars that provide high intensity light for police vehicles, and mobile computer systems. Funds will also be spent on developing a police station in a high crime neighborhood.
<b>Total Recovery Act funding</b>	\$29.1 million	\$271,831
	<ul style="list-style-type: none"> <li>• \$9.8 million for corrections (33.8 percent)</li> <li>• \$7.9 million for law enforcement (27.2 percent)</li> <li>• \$6.8 million for prosecution and courts (23.3 percent)</li> <li>• \$3.2 million for program planning, evaluation and technology improvement (10.9 percent)</li> <li>• \$1.4 million for crime victim and witness programs (4.8 percent)</li> </ul>	<ul style="list-style-type: none"> <li>• \$271,831 for law enforcement (100 percent)</li> </ul>
<b>Reported impact of project</b>	Officials estimate that funds enable New York City to retain 158 jobs that would otherwise have been eliminated due to budget cuts, and helped create 51 new jobs.	Officials expect that funds will support police officer overtime in a high crime neighborhood.

Sources: GAO analysis; Art Explosion (firefighter photograph); and GAO (computer systems photograph).

### DCJS Has Ongoing and Completed Audits Related to Recovery Act JAG Funds

As requested by New York's Economic Recovery and Reinvestment Cabinet, DCJS issued an audit report related to its compliance with recipient reporting requirements. DCJS's audit recommended that it clarify written procedures for reporting subrecipient expenditures and jobs; DCJS implemented a Corrective Action Plan as a result. In addition, according to DCJS officials, they are conducting joint site visits with the Office of

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Program Funding and Development to monitor selected grantees that have relatively large Recovery Act JAG awards. Recovery Act JAG funds were not reviewed as part of New York's fiscal year 2009 Single Audit.

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## New York Has Made Progress Using Recovery Act Weatherization Funds, but the Number of Completed Units Is a Lagging Indicator

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, which DOE is distributing to each of the states, the District, and seven territories and Indian tribes, to be spent by March 31, 2012. This 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 or modernizing heating or air conditioning equipment.

Through March 31, 2010, just over 9 months after the DOE approved New York's weatherization assistance plan, DHCR has obligated \$207.5 million of its total allocation of \$394.7 million in Recovery Act Weatherization Assistance Program funds. DHCR has disbursed \$60.8 million to the 65 local weatherization agencies in New York to fund weatherization activities under the Recovery Act and reported that a total of 1,309 units had been weatherized using these funds. This is only 2.9 percent of its stated goal of 45,000 units. In part, this low completion rate results from the emphasis in the state plan on weatherizing multifamily projects, which account for over half of this goal. Multifamily projects typically take longer to complete than one- to four-family homes. This emphasis reflects the fact that two thirds of New York's income eligible population live in rental housing which, for the most part, are multifamily residences. DHCR officials were confident that they would not only meet but exceed their goal. Although only 1,309 units are counted as completed, DHCR officials reported that work on 10,546 units was currently under way (see fig. 4 for an example of the work being done) and that energy audits—which are required before weatherization can begin—of an additional 14,008 units had been completed. Once these 24,554 units are completed, New York will have completed 57.5 percent of the units needed to meet its goal.

**Figure 4: Community Environmental Center Workers Insulate a Home Being Weatherized in Brooklyn, New York**



Source: GAO.

### Many Factors Delay Completion of Multifamily Projects

One explanation for the seemingly slow completion rates through March 31, 2010, is the proportion of planned multifamily projects. In its approved plan, DHCR estimated that multifamily projects—those that house more than four families—would constitute over 23,000 of its stated goal of 45,000 units.<sup>16</sup>

Many factors delay completion of multifamily projects. For example, DHCR requires that an entity approved by DHCR conduct an energy audit of the residence. While all 65 local weatherization agencies are approved to conduct energy audits of one- to four-family homes, only six are approved to conduct their own audits of multifamily projects. The

<sup>16</sup>DHCR initially set aside \$50 million and ultimately awarded \$60.3 million of Recovery Act funds to target multifamily housing that have specific weatherization needs. Much of this targeted housing consists of large multifamily housing projects whose weatherization requires special expertise to manage. In recognition of that need, DHCR awarded grants to nine temporary subgrantees as well as to three local weatherization agencies to manage these projects.

remaining agencies must contract with a DHCR-approved entity, such as the Association for Energy Affordability. Local agencies' demand for more energy audits as a result of the influx of funding from the Recovery Act has created a backlog, resulting in delays in starting projects. DHCR is in the process of training local agencies to allow them to conduct their own energy audits of multifamily projects, but according to DHCR officials, this process takes at least 1 year. DHCR hopes to have over 30 local agencies approved to do multifamily energy audits by the end of the year.

The process is further complicated by DHCR's requirement that the owners of a multifamily project contribute to payment for the cost of the project. According to DHCR officials, this requirement is typically 25 percent of the project's cost, but the exact terms of the ownership participation have to be negotiated, and until the agreement is finalized, solicitations for bids on the project cannot be requested.<sup>17</sup>

Finally, according to DHCR officials, units in a multifamily project cannot be counted as completed until all work on each unit is finished and the project has been inspected and accepted by the local weatherization agency. At one agency we visited, over 100 one- to four-family homes had been weatherized by March 1, 2010. The director noted that in March, two multifamily projects consisting of 300 units would be completed, raising the agency's production from 100 to over 400 in 1 month.

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### DHCR Has Taken Steps to Improve the Training of the Weatherization Work Force

As of March 31, 2010, DHCR required that all energy auditors and crew chiefs be certified by the Building Performance Institute.<sup>18</sup> In addition, other skilled workers will be required to achieve certification soon. Although DHCR does not require certification for all weatherization workers, it does mandate that all workers receive training in specific areas, such as Lead Safe Practices, and encourages all local weatherization agencies to provide their workers with appropriate training. DHCR funds two training centers in the state operated by the Association for Energy Affordability and the New York State Weatherization Directors'

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<sup>17</sup>According to DHCR officials, on April 1, 2010, DHCR amended this policy by no longer requiring direct ownership investment for housing under the control of the federal, state, or local government such as public housing and publicly-assisted private housing.

<sup>18</sup>The Building Performance Institute is a national independent not-for-profit standards development organization for residential energy efficiency and weatherization retrofit work.

Association. DHCR officials stated that, because they recognized a need to increase the pool of qualified weatherization workers to meet the needs of local weatherization agencies hiring additional staff, they used Recovery Act funds to expand the training opportunities for workers at those centers. To avoid training cancellations, local agencies are charged a nominal fee for enrolling their worker in the training classes. For the state fiscal year ending March 31, 2010, 2,688 workers attended training at those centers compared with 1,138 the previous year—a 136 percent increase.

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### DHCR Has a Strong Program and Fiscal Monitoring System in Place

A recent DOE review found that DHCR had a robust monitoring system in place. As outlined in its approved Weatherization Plan for the use of Recovery Act funds, DHCR has two sets of inspectors that visit each local weatherization agency at least once every 2 months. The program inspectors review the program files to ensure that the agency has followed program guidelines in determining eligibility and developing a work scope based upon an energy audit and that the work has been properly inspected. At each of the three agencies we visited, we reviewed a sample of program files. In every case, we found evidence that client eligibility had been determined based on DHCR guidelines,<sup>19</sup> an energy audit had been conducted, the proposed weatherization measures met program guidelines, that the work had been done, and both the client and post inspector had signed off on the project.

In addition, DHCR program inspectors physically visit homes weatherized by the agency. Typically, DHCR visits 10 percent to 20 percent of the one- to four-family homes weatherized, although DOE only requires that 5 percent be inspected, and every multifamily project completed. We accompanied two program inspectors on their on-site reviews of weatherization projects and found their inspections consistent with the procedures detailed in the state's Weatherization Policy and Procedures manual. In one case, the inspector reviewed the project and found everything in order. However, he recommended that the local agency add a door between the furnace room and the rest of the home as an additional step. In another situation, we observed the inspector discuss with agency staff the best strategy to deal with a structural situation that arose during

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<sup>19</sup>Clients may be eligible for weatherization based on either categorical or income eligibility. Clients are categorically eligible if they receive public assistance, Supplemental Security Income, food stamps or Home Energy Assistance benefits. DHCR uses the Low Income Home Energy Assistance Program income guidelines to determine income eligibility for the weatherization program.

an energy audit of a single-family home. Thus, in addition to their role as program monitors, the inspectors are a source of technical assistance to agency staff.

In addition to program monitors, according to DHCR officials, DHCR fiscal inspectors are supposed to do on-site reviews of agency accounting procedures. During these reviews, they should determine whether funds are properly accounted for and that the agency has proper internal controls in place. Further, state officials stated that they should review inventory practices used by the local agency to monitor the use of weatherization materials. As a result of these fiscal reviews, according to DHCR officials, two large recipients of Recovery Act weatherization funds have been placed under what DHCR calls “special conditions.” This means that before any vouchers can be submitted to DHCR for reimbursement, the on-site DHCR fiscal monitor must first review and approve them.

Besides DHCR and DOE reviews, local agencies are subject to other reviews conducted periodically by other entities, such as OSC and NYSIG. For example, according to a recent report, NYSIG has conducted recent reviews of weatherization activities in 11 counties and is providing fraud awareness training to all local weatherization agencies.

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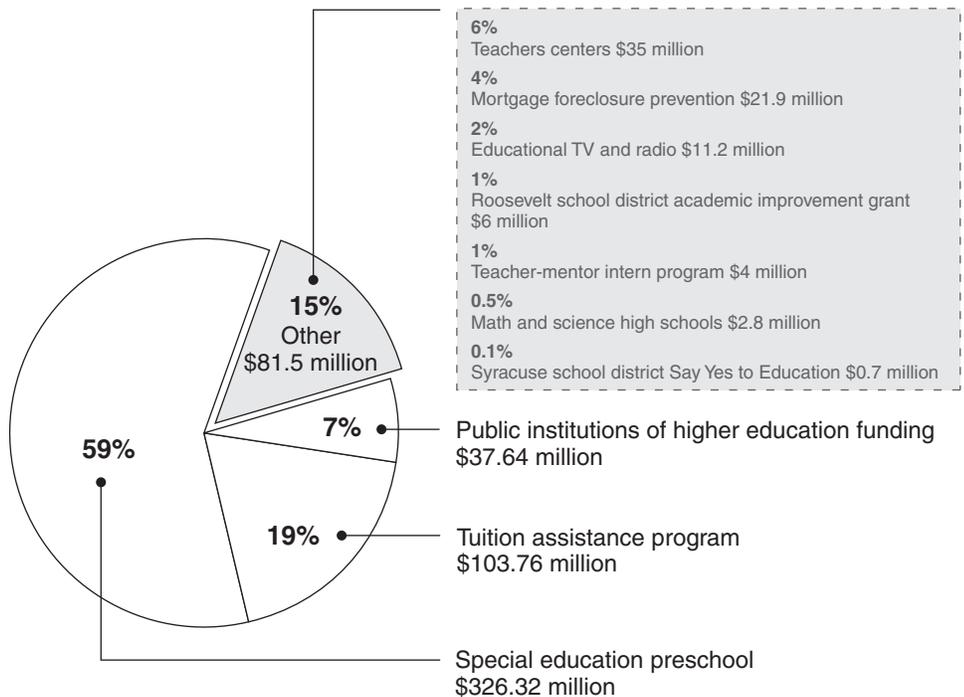
## New York Is Disbursing SFSF Government Services Funds Slowly to Programs Facing Cuts, and Recovery Act Education Programs Are Being Monitored

For this bimonthly report, we reviewed (1) the use of Recovery Act SFSF government services funds by the New York State Education Department (NYSED), Division of Budget, and DHCR and (2) the extent to which the state is monitoring the SFSF and Recovery Act ESEA Title I, Part A and IDEA, Part B funds to ensure that they are used appropriately.

**New York Primarily Is Using SFSF Government Services Funds for Education Programs That Faced Cuts, but Disbursements Remain Slow because of Administrative Delays**

Education allocated 81.8 percent of Recovery Act SFSF funds to states to support education programs (education stabilization funds) and the remaining 18.2 percent for public safety and other government services (government services funds), which may also include education programs. New York allocated most of its \$549 million allocation of government services funds on education programs that the state had previously intended to cut and a small amount on a Mortgage Foreclosure Prevention Program for homeowners. Two education programs are receiving approximately 80 percent of the government services funds—special education preschool and tuition assistance for low-income college students. The following figure shows the programs New York supported with Recovery Act SFSF government services funds.

**Figure 5: Programs Funded by Recovery Act SFSF Government Services Funds**



Source: GAO analysis of New York State Monitoring Plans and Protocols for the State Fiscal Stabilization Education and Other Government Services Fund.

Note: The SFSF funds have been programmed for Fiscal Year, School Year, and Academic School Year 2009-2010 and 2010-2011. Although the allocations were included in the NY 2010-2011 Executive Budget, they are subject to change pending enactment of the 2010-2011 State Budget.

As of April 23, 2010, only \$83.8 million, or 15 percent, of the government services funds allocation had been disbursed. As we previously reported,

New York is disbursing Recovery Act education funds slowly, relative to other states.<sup>20</sup> As of April 16, New York's rate of 15 percent was one of the lowest rates of funds disbursed compared with the 56 percent average among the 16 states and the District of Columbia included in our Recovery Act review. Nevertheless, a senior state budget official said she believes the SFSF government services funds will be obligated by the federal deadline of September 30, 2011, with disbursements also occurring by federal deadlines, even though the program receiving the most funding—the special education preschool program—and three other programs had not disbursed any government services funds as of April 23, 2010. State officials said this is partly because NYSED typically reimburses counties for their expenditures on the preschool program approximately 9 months after the start of the school year on July 1. Although the program begins at the start of the school year, it is funded by the state's budget for the next fiscal year, which begins on April 1. Officials are preparing to provide the first reimbursement to counties by the end of June, after taking additional steps to ensure that only Recovery Act funds are included in the reimbursement requests. An official at another program that had not disbursed funds as of April 23, the Mortgage Foreclosure Prevention Program, said they did not receive authorization from the state to disburse funds until March 2010. As of April 15, they have named 6 of the approximately 60 planned awardees and plan to expend all of the program's funds by September 2010. We will continue to monitor the SFSF government services funds disbursement rate for New York.

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<sup>20</sup>GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability (Appendixes)*, [GAO-10-232SP](#) (Washington, D.C.: Dec. 10, 2009).

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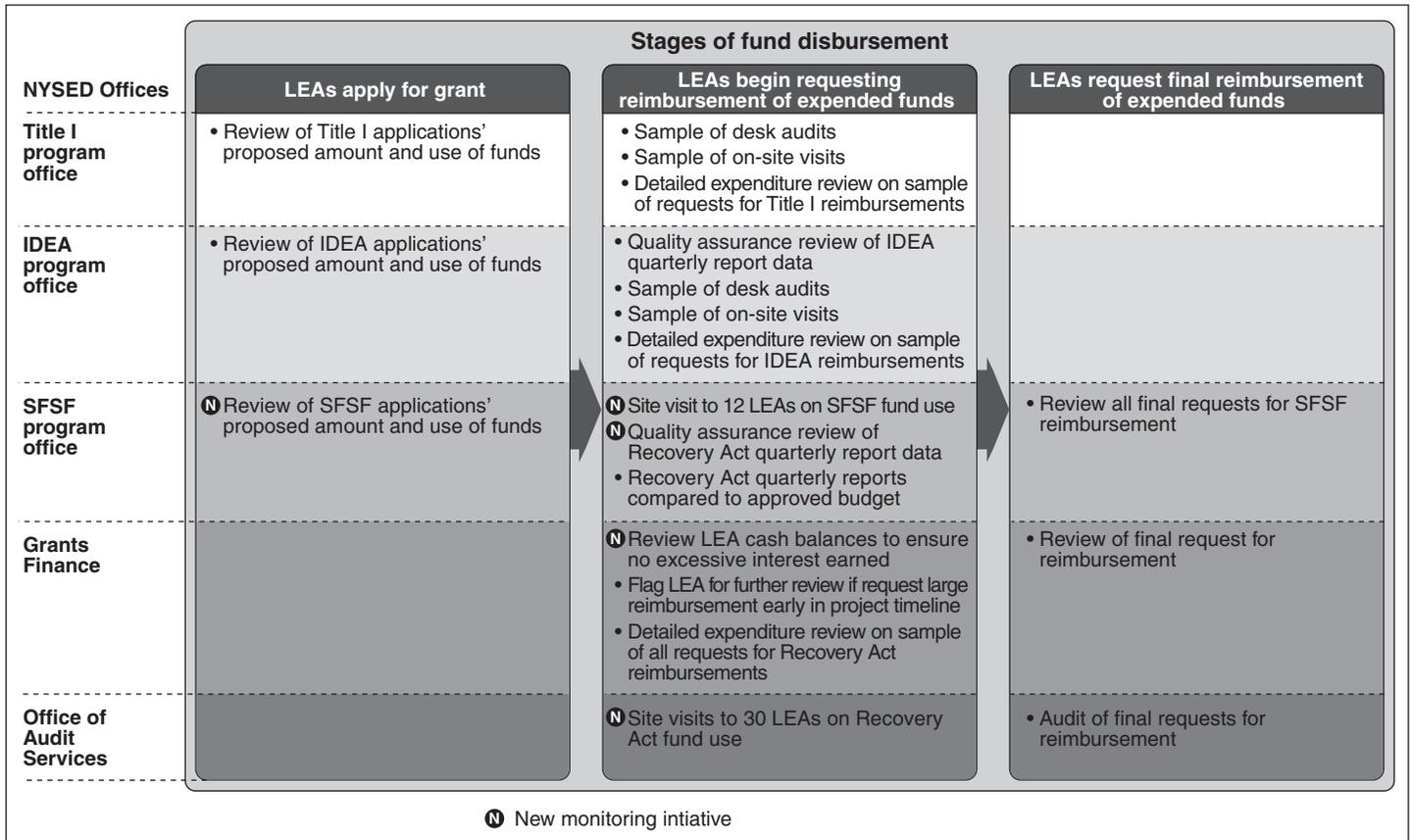
New York Has Begun to Implement a New SFSF Monitoring Plan and Undertake Some Additional Monitoring of ESEA Title I and IDEA Funds

The three state agencies responsible for overseeing the use of SFSF education stabilization funds and government services funds in New York—NYSED, the Division of Budget, and DHCR—finalized a new monitoring plan in March 2010 that includes reviews of all SFSF applications and quarterly reports, on-site monitoring visits, desk reviews, and audits of a sample of school districts, community colleges, and vendors to assess whether subrecipients are spending and safeguarding the SFSF funds according to Recovery Act requirements.<sup>21</sup> New York provided Education with the monitoring plan on March 12, 2010 and Education officials are currently reviewing the plan along with plans from other states. Under the new plan, NYSED expects to perform site visits at 37 of the state’s approximately 700 local educational agencies (LEA) by June 2011; the Division of Budget plans to visit 7 of the state’s 36 2-year colleges by the end of this summer; and DHCR plans to visit approximately 4 of 60 vendors receiving Recovery Act mortgage foreclosure prevention grants by next spring. Thirty of the 37 NYSED visits will oversee the use of all Recovery Act funds, while the other NYSED, Division of Budget, and DHCR visits will focus only on SFSF funds. Each agency selected sites based on risk assessments or random sampling and will require corrective action if a finding is made. Figure 6 highlights some new and existing monitoring activities of Recovery Act funds for SFSF, ESEA Title I, and IDEA by NYSED’s program and administrative offices. Monitoring Recovery Act education funds may pose a challenge as all of the NYSED offices have lost staff in recent years, which have not been replaced due to state budget cuts, and have incurred an increase in workload from the Recovery Act, such as reviewing a greater amount of grant applications from LEAs and providing support to LEAs struggling with Recovery Act requirements.

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<sup>21</sup>The SFSF monitoring plan was required as a condition of accepting education stabilization funds from the U.S. Department of Education and was recommended to New York by Education’s Office of Inspector General in *New York State System of Internal Control over American Recovery and Reinvestment Act Funds*, Ed-OIG/A02J0006 (Washington, D.C.: Nov. 10, 2009).

Figure 6: Highlights of Some NYSED Monitoring Activities of SFSF, Recovery Act ESEA Title I, and IDEA Funds



Source: GAO analysis of NYSED information.

Altogether, NYSED's program and administrative offices will conduct 42 visits to approximately 37 LEAs under its new SFSF monitoring plan. Five of these LEAs will be visited by more than one office. As of April 28, 2010, NYSED has published reports on four LEAs selected for visits and found the following:<sup>22</sup>

<sup>22</sup>NYSED's Office of Audit Services has published these reports on its Web site at [http://www.oms.nysed.gov/oas/Audit\\_Report/SchoolDistricts/SchoolDistricts.html](http://www.oms.nysed.gov/oas/Audit_Report/SchoolDistricts/SchoolDistricts.html). The school districts reviewed include Saranac Central, Malone Central, Hamburg Central, and Eden Central.

- Three LEAs had submitted requests to NYSED for reimbursement of education stabilization funds that included estimated future expenditures when they should only include expenditures to date.
- All of the LEAs lacked a process for ensuring compliance with federal cash management requirements to minimize the amount of time between receiving and disbursing funds and remitting interest on federal funds earned in excess of \$100. However, the audits concluded that the LEAs did not earn interest exceeding \$100 during the period audited.
- Two of the four LEAs were not regularly preparing personnel activity reports as federally required for staff salaries that are paid by multiple funding streams.

However, NYSED ESEA Title I and IDEA program officials said their offices have not enhanced their existing risk assessment for Recovery Act funds to account for the greater risk that funds could be misused because of the large increase in federal funding for these two programs from the Recovery Act. The ESEA Title I and IDEA program offices' existing monitoring protocols include reviews of annual applications for the approximately 700 LEAs, and desk audits and on-site visits of a sample of LEAs selected using risk based criteria, according to officials.

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## Although Recovery Act Funds Provided the State and Localities with Short-term Budget Support, Shortfalls Persist for Projected Budgets

New York state continues to face fiscal challenges, and the state's March 2010 unemployment rate increased to 8.8 percent, compared with 8.2 percent a year ago.<sup>23</sup> Since our December 2009 report, the Governor has proposed a 2010-2011 Executive Budget that closes a projected \$9.2 billion budget deficit through several avenues—additional federal fiscal relief, spending reductions, and revenue actions, such as increases in taxes and fees.<sup>24</sup> The Governor's plan recommends spending cuts in the following: school aid (\$1.1 billion, or 5 percent year-to-year, decrease), health care (\$1 billion, mainly in Medicaid and health care savings), and agency spending (\$1 billion in reductions to state agency operations). The 2010-2011 Executive Budget also proposes \$1.2 billion in revenue actions that increase taxes and fees. However, the state legislature must approve a budget before the state can finalize it.<sup>25</sup>

According to state budget officials, Recovery Act funds have provided critical short-term support to state finances. For example, the state has accelerated the use of \$391 million in SFSF funds by moving funds from future fiscal years to address the midyear budget gap in fiscal year 2009-2010. According to these officials, New York state plans to address the "funding cliff" that will result when Recovery Act funds are no longer available as part of the 2011-2012 Executive Budget. State officials will propose a range of efforts to close total projected budget gaps that grow from \$5 billion in fiscal year 2011-2012 to approximately \$12 billion by fiscal year 2013-2014.

As identified in our December 2009 report, Recovery Act funds have provided short-term budget relief to several localities throughout the state. We followed up with two of these localities, New York City and Westchester County, to update their latest use of funds, current fiscal

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<sup>23</sup>The U.S. Department of Labor, BLS reported the 8.8 percent unemployment rate for New York state for March 2010 and the 8.2 percent unemployment rate for March 2009. The March 2010 rate is preliminary. Both the March 2010 and 2009 rates have not been seasonally adjusted.

<sup>24</sup>State officials said that the state financial plan includes the receipt of \$1.06 billion in increased federal Medicaid funds for fiscal year 2010-2011 and another \$1.06 billion for fiscal year 2011-2012. The Medicaid estimate is based upon the state's expectation that Congress will extend the temporary increase in the Federal Medical Assistance Percentage under the Recovery Act.

<sup>25</sup>New York state operates on an April 1 through March 31 fiscal year. At the time of this report, the New York state legislature had not yet approved the budget details.

condition, and preparation for the phasing out of Recovery Act funds.<sup>26</sup>  
 (See table 1 for locality background information.)

**Table 1: Background on Selected Local Governments**

Local government	Population	Type of local government	Unemployment rate	Fiscal year 2010 operating budget
New York City	8,363,710	City	9.9%	\$63.5 billion
Westchester County	955,962	Suburban	7.2%	\$1.8 billion

Source: U.S. Census Bureau and U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics. Operating budget detail obtained from the New York City May 2010 Budget Summary and Westchester County's 2010 Adopted Summaries County Current Operating Budgets.

Notes: City population data are from the latest available estimate, July 1, 2008. County population data are from the latest available estimate, July 1, 2009. Unemployment rates are preliminary estimates for March 2010 and have not been seasonally adjusted. Rates are a percentage of the labor force. Estimates are subject to revisions.

New York City

**Officials report that Recovery Act funds helped maintain fiscal stability.** Since we last visited, New York City received \$383 million in additional Recovery Act formula and competitive grants funds, bringing the city's total Recovery Act funds to over \$7.2 billion for both capital and noncapital programs. Officials reported that Recovery Act funds helped offset expenses and maintain the city's fiscal stability to a significant extent. Programs in education (\$1.9 billion) and Medicaid (\$2.8 billion) continue to be the major use of funds.<sup>27</sup> Other programs that have recently received funding include a formula grant for Clean Water SRF projects (\$219.5 million) and competitive grants for the Broadband Technology Opportunities Program (\$22.2 million), the Health Information Technology Extension Program (\$21.7 million), and the Neighborhood Stabilization Program 2 (\$20.1 million). New York City officials reported applying for 93 competitive grants. Of these, the city was awarded 21, denied 59, and awaits the decision on 13 grants.<sup>28</sup> City officials stated they often work

<sup>26</sup>New York City operates on a July 1 to June 30 fiscal year while Westchester County operates on a January 1 to December 31 fiscal year.

<sup>27</sup>New York City officials stated that this amount includes the receipt of increased federal Medicaid funds. The Medicaid estimate is based upon the city's expectation that Congress will extend the temporary increase in the Federal Medical Assistance Percentage under the Recovery Act.

<sup>28</sup>For more information on specific New York City grants, see the Clean Water and Drinking Water SRFs and the Edward Byrne Memorial Justice Assistance Grants sections of this appendix.

with local and nonprofit organizations to identify and apply for Recovery Act funds.

**Current and proposed cuts in state aid concern New York City officials.** Although New York City revenues are projected to grow in fiscal year 2011, officials expect these levels to remain below prerecession totals. The city closed a projected fiscal year 2011 budget gap of \$4.9 billion through planned spending reductions and the use of the \$3.3 billion surplus funds from fiscal year 2010. However, New York City officials noted that this gap-closure plan does not account for proposed reductions in state assistance as part of the state's budget actions. According to officials, the state's proposed \$1.3 billion reduction in funding to New York City would likely result in potential layoffs in education (approximately 6,400 teachers) and a reduction of 800 uniformed firefighters through attrition.

**Officials are developing a plan for when Recovery Act funds are no longer available.** New York City officials said they are aware of the funding cliff that will result when Recovery Act funds are no longer available and are currently working on a plan to prepare for it. Although the city's January 2010 Financial Plan closes the fiscal year 2011 budget gap, the phasing out of Recovery Act funds will affect the budgets for fiscal years 2012 through 2014, when deficits above \$3 billion each year are expected to persist. New York City officials reported that any exit strategy from Recovery Act funds depends on the state's plan as well.

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## Westchester County

**Officials reported that Recovery Act funds affected fiscal stability.** Since our December 2009 report, the county has received a \$4.5 million Energy Efficiency and Conservation Block Grant (EECBG).<sup>29</sup> However, the main uses of the county's \$116.3 million in Recovery Act funds are upgrading the county's Mamaroneck Wastewater Treatment Plant (\$24.4 million) and for Medicaid (\$35.6 million).<sup>30</sup> Officials added that Recovery Act funds have helped counter declines in county revenues and offset some of the increased expenses in social services. Finally, county officials stated that the county maintains the application for and operation of many

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<sup>29</sup>Westchester County's Recovery Act funding detail is as of April 6, 2010.

<sup>30</sup>For more information on Westchester County's Mamaroneck Wastewater Treatment Plant, see the Clean Water and Drinking Water SRFs section of this appendix.

activities within the county, minimizing their need to coordinate with other local entities when applying for Recovery Act funds.

**Declines in sales tax and state aid continue to affect the county.**

The county budgeted about \$1 billion in tax revenues for fiscal year 2010, with an almost even split between receipts from property and sales tax revenues. Although property tax revenues have held steady during the downturn, sales tax revenues decreased about 10 percent from fiscal years 2008 to 2009. Officials added that state aid has been stagnant or decreasing in recent years, including reductions in funding for major service areas such as health care and transportation. Officials also stated that costs of health care and retirement benefits have increased as well. As a result, officials forecast a fiscal year 2011 budget gap of about 9 percent, even though sales tax revenues in fiscal year 2010 are predicted to increase 3 percent to 4 percent.

**Officials are identifying actions to address future budget gaps.**

Westchester County officials reported that they do not have a defined plan for addressing the funding cliff that will result when Recovery Act funds are no longer available. However, they are considering several actions to mitigate the phasing out of funds and future budget gaps. These actions include current fiscal year cuts to build a surplus for next year's predicted budget shortfall; possible layoffs; and addressing structural issues, such as Medicaid funding. Overall, county officials have sought to minimize future liabilities by focusing on grant applications for nonrecurring expenses in transportation and infrastructure over those for social services, which often require future-year funding.

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## New York Has Multiple Entities with Recovery Act Oversight Responsibilities

In New York, the Stimulus Oversight Panel,<sup>31</sup> Economic Recovery and Reinvestment Cabinet (headed by the Governor's office), and OSC are primarily responsible for statewide oversight of Recovery Act funds.<sup>32</sup> In addition, an estimated 90 percent to 95 percent of the state's Recovery Act funding will be part of the state's Single Audit. To date, these oversight entities have completed audits of a number of Recovery Act programs and reviewed crosscutting Recovery Act issues, such as civil rights compliance and recipient reporting.<sup>33</sup> According to NYSIG officials, NYSIG also has ongoing investigations related to complaints received through the Stimulus Complaint hotline, which will be posted on its Web site when complete.

Some findings from completed audits or oversight activities have led to enhanced guidance, revised procedures, or additional training. For example, NYSIG identified that funds from the Weatherization Assistance Program and Community Services Block Grants (CSBG) consistently have been distributed to many of the same community action groups with limited collective oversight and accountability.<sup>34</sup> Therefore, NYSIG is working to enhance field reviews by having both state agencies responsible for these programs—DHCR and the Department of State—and others, when appropriate, jointly review community action groups. NYSIG also has developed a training curriculum on fraud, waste, and abuse awareness to provide on-site to community action groups, not-for-profits, and localities receiving Recovery Act funding, which will commence shortly.

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<sup>31</sup>The NYSIG, state Division of Human Rights Commissioner, Metropolitan Transportation Authority IG, and Medicaid IG constitute the Stimulus Oversight Panel.

<sup>32</sup>OSC is responsible for tracking and monitoring the progress of Recovery Act funding and ensuring that the funding meets established internal controls. OSC also must review and approve all contracts over \$50,000; OSC does not have pre-approval authority over contracts awarded by local governments.

<sup>33</sup>The following programs have been audited: Weatherization Assistance Program (Weatherization), Community Services Block Grants (CSBG), Highway Infrastructure Investment Program (Highways), Unemployment Insurance, Workforce Investment Act of 1998 (WIA) Adult Program, WIA Youth Activities, WIA Dislocated Workers, and Medical Assistance Program (Medicaid). Additional work is planned for Weatherization, Highways, WIA, and Medicaid.

<sup>34</sup>NYSIG joined DHCR in fiscal and program audits of 11 community action groups that received Recovery Act weatherization grants and participated in a joint fiscal audit with the Department of State of a community action group receiving Recovery Act CSBG funding.

Another member of the Stimulus Oversight Panel, the Division of Human Rights (Human Rights), has examined general civil rights compliance procedures at agencies receiving Recovery Act funds. Human Rights determined that most agencies were aware of their general obligations to comply with the applicable civil rights laws and willing to investigate specific complaints if received. However, it found those agencies that do collect data about their contractors' employment practices do not analyze the data or monitor compliance. In response, it developed a set of best practices for compliance. It also has referred to a federal agency a possible violation regarding the award of a Recovery Act contract to a business fraudulently claiming minority status.

OSC has completed four audits of procurement procedures for Recovery Act related highway projects at 39 municipalities. These audits found that the local governments followed sound procurement procedures when awarding contracts funded with Recovery Act funds. However, OSC, through its contract-review responsibility, uncovered an issue with vendor responsibility on a contract awarded by the New York State Department of Transportation. As a result, NYSDOT officials reported that OSC initially did not approve the \$26.8 million Recovery Act highway contract and will now require more documentation of vendor responsibility for all new NYSDOT contracts over \$100,000. In response, NYSDOT officials stated that NYSDOT convened a meeting of its Contract Review Unit, conducted further investigation, obtained additional documentation, and added an Integrity Monitoring Agreement. NYSDOT officials reported that OSC ultimately approved the initially rejected contract.

The most recent Single Audit, which was issued November 25, 2009, for the fiscal year ending March 31, 2009, identified about \$1.8 billion in Recovery Act spending through March 31, 2009, in five programs: Unemployment Insurance, Workforce Investment Act of 1998 (WIA) Adult Program, WIA Youth Activities, WIA Dislocated Workers, and Medicaid. The auditors reported material weaknesses in internal controls concerning 238 duplicate payments totaling \$5,950 in the Unemployment Insurance program and inadequate identification of Recovery Act funds as separate from regular program funds for Medicaid. The state implemented a manual process to prevent future duplicate payments and took steps to improve identification of Recovery Act funds for Medicaid. According to officials, the Single Audit for the fiscal year ending March 31, 2010, will focus resources on the Weatherization Assistance Program and Highway Infrastructure Investment Program, which received significant Recovery Act funds.

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## State Comments on This Summary

We provided the Governor of New York with a draft of this appendix on May 6, 2010. A representative from the Governor's office responded on May 10, 2010. We also provided various state agencies and local officials with the opportunity to comment. In general, they agreed with our draft and provided some clarifying and technical suggestions that were incorporated as appropriate.

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## GAO Contacts

Susan Fleming, (202) 512-4431 or [flemings@gao.gov](mailto:flemings@gao.gov)

Dave Maurer, (202) 512-9627 or [maurerd@gao.gov](mailto:maurerd@gao.gov)

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## Staff Acknowledgments

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