

September 2010

RECOVERY ACT

Opportunities to Improve Management and Strengthen Accountability over States' and Localities' Uses of Funds (New York)



GAO

Accountability * Integrity * Reliability

Appendix XIII: New York

Overview

This appendix summarizes GAO's work on the seventh bimonthly review of American Recovery and Reinvestment Act of 2009 (Recovery Act)¹ 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/>.

What We Did

We reviewed six programs funded by the Recovery Act—three education programs and three energy programs. The three education programs we reviewed were (1) the 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. All three of these programs are administered by the U.S. Department of Education (Education). The three energy programs we reviewed were the State Energy Program (SEP), the Energy Efficiency and Conservation Block Grant (EECBG), and the Weatherization Assistance Program (Weatherization). All three of these programs are administered by the U.S. Department of Energy (DOE). 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-10-1000SP](#).

Our work in New York also included understanding the state's fiscal condition, visiting one locality—the Town of Brookhaven—to gain insight into its use of Recovery Act funds, and obtaining an update on the fiscal condition of one of the localities we visited for our December 2009 report—Steuben County.² We chose the local governments in order to visit a range of communities based on locality type, population size, and unemployment rates. Specifically, we visited the Town of Brookhaven because it is a suburban town and its unemployment rate is below the

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

²GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability (Appendixes)*, [GAO-10-232SP](#) (Washington, D.C.: December 2009).

state's rate.³ We followed up with Steuben County because it is a rural county with an unemployment rate above the state's rate. Finally, we reviewed the work being done by the accountability community to oversee the use of Recovery Act funds.

What We Found

Funds from the programs we reviewed have helped New York prevent reductions in education and health care funding and improve the energy efficiency of public buildings and private residences. Recovery Act funds are also stimulating infrastructure development and expanding existing programs. The following summarizes findings for the areas we examined.

- **Education programs.** Education allocated \$4.98 billion in SFSF, ESEA Title I, Part A, and IDEA, Part B funds to New York, of which the state has made \$3.9 billion available to local educational agencies (LEA). As of July 16, 2010, New York had drawn down about 48 percent of available funds. In examining the efforts of the Syracuse City School District (SCSD) and the New York State Education Department (NYSED) to safeguard this funding, we found that SCSD reduced its local spending on IDEA, Part B for the 2009-2010 school year despite being ineligible to do so. After we alerted SCSD officials to this maintenance-of-effort (MOE) issue, SCSD restored its local spending to the correct level. We also found that SCSD generally followed its procurement procedures in a sample of Recovery Act transactions. In addition, NYSED is continuing its monitoring of 30 high-risk LEAs.
- **SEP.** On July 2, 2009, DOE approved New York's plan for SEP and allocated it \$123.1 million in Recovery Act funds. The New York State Energy and Research Development Authority (NYSERDA)—the agency that administers SEP in New York—also elected to use \$2.5 million from EECBG to augment one of its SEP programs.⁴ As of June 30, 2010, NYSERDA had obligated \$109.2 million of its total allocation and had expended \$3.2 million to fund SEP activities under the

³The U.S. Department of Labor's Bureau of Labor Statistics reported an 8.2 percent unemployment rate for New York State for June 2010. This rate is preliminary and has not been seasonally adjusted.

⁴NYSERDA is a public benefit corporation created in 1975. Its goal is to help New York meet its energy goals by reducing energy consumption, promoting the use of renewable energy sources, and protecting the environment. Currently, NYSERDA is primarily funded by state rate payers through a systems benefit charge.

Recovery Act. NYSERDA is distributing most of these funds to subrecipients in the state to pay for energy efficiency and renewable energy projects ranging from the retrofitting of street lights with more energy-efficient bulbs to the installation of solar photovoltaic systems in homes and businesses. NYSERDA is generally using its established procedures to track and monitor these projects with an increased emphasis on reporting and impact evaluation requirements.

- **EECBG.** New York was allocated over \$175 million in formula-based Recovery Act EECBG funds. Some of the allocations went directly to local recipients, while those for smaller recipients went through the state. In New York, the funds for smaller recipients went through NYSERDA. We examined how NYSERDA and two direct-recipient localities—Orange County and the Town of Brookhaven—planned to use their EECBG funds, as well as their monitoring and reporting efforts. NYSERDA, Orange County, and the Town of Brookhaven received about \$30 million, about \$3.5 million, and about \$4 million, respectively. As of June 15, 2010, NYSERDA reported that it had obligated 100 percent of its funds. As of June 30, 2010, Orange County reported that it had obligated about \$19,000 (about 0.5 percent of its funds), and the Town of Brookhaven reported that it had obligated about \$49,000 (about 1.2 percent of its funds). However, we found that both of these recipients initially underreported their obligations by over \$500,000 combined but later corrected their reports. The recipients plan to use the funds for a variety of projects to improve the energy efficiency of public buildings and private homes and plan to evaluate program outcomes by tracking energy-savings metrics over time.
- **Weatherization.** DOE allocated \$394.7 million in Recovery Act funds to New York in March 2009 for Weatherization. In New York, these funds are administered by the Division of Housing and Community Renewal (DHCR). Through June 30, 2010, New York had weatherized almost 4,000 units—nearly three times the number it reported as of March 31, 2010, and about 8.5 percent of its goal of 45,000 units. DHCR officials said they believe this increase was the result of more multifamily projects working their way through the production process. These officials also believe similar jumps in production numbers will occur in future reporting periods because work on over 14,100 units was currently under way and energy audits—which are required before weatherization can begin—of over 19,200 additional units had been completed. Once work on these over 33,300 units is finished, New York will have completed about 82.7 percent of the units

needed to meet its goal. DHCR officials believe the state will meet its goal by March 31, 2012.

- **Accountability.** The Stimulus Oversight Panel and Office of the State Comptroller (OSC) continue to actively monitor Recovery Act funds.⁵ Since our May report, the New York State Inspector General (NYSIG) has completed a review of the Recovery Act Clean Water and Drinking Water State Revolving Funds (SRF). It has also continued to investigate complaints received through the Stimulus Complaint intakes. According to a NYSIG official, NYSIG has received approximately 25 allegations of waste, fraud, or abuse related to Recovery Act funds, predominately in the area of Weatherization. NYSIG expects to report on a number of substantiated claims in September. OSC's Local Government and School Accountability Division has completed its audits of transportation procurement procedures in 51 municipalities, with no significant findings, and has begun looking at how transportation claims are audited and paid for by local governments. OSC's Division of State Government Accountability has begun an audit of the Metropolitan Transportation Authority (MTA) that will examine, among other items, the systems and controls in place to ensure that Recovery Act funds are used for the proper purpose and to monitor waste, fraud, and abuse.
- **State and localities' use of Recovery Act funds.** According to state budget officials, the receipt of Recovery Act funds has greatly affected the state's fiscal stability as it has prevented cuts in education and health care funding and helped the state address budget gaps over 3 fiscal years. The localities we visited plan to or are using Recovery Act funds for financing Medicaid, energy programs, and community development, among other things.

⁵In 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 (MTA) 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 intakes, and to initiate proactive reviews when deemed necessary. 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.

New York Has Drawn Down Recovery Act Education Funds at an Increased Rate; NYSED's Monitoring of High-Risk LEAs Did Not Identify a MOE Compliance Issue

For this report, we examined the efforts of SCSD and NYSED to ensure appropriate use of the funding for three Recovery Act education programs—SFSF; ESEA Title I, Part A; and IDEA, Part B—the largest Recovery Act-funded education programs in New York. As the fifth largest LEA in New York, SCSD has about 21,000 students in 33 schools. It has a total operating budget of approximately \$425 million and employs more than 4,000 staff. We chose to review SCSD because of its size, large Recovery Act award, and multiple findings by independent auditors in past reports regarding its use of federal funds and internal controls.⁶ SCSD officials estimated that the district was allocated approximately \$34.4 million in SFSF, ESEA Title I, and IDEA, Part B Recovery Act funds. The school district planned to use these funds over 2 years with about 61 percent of these funds planned for use in the 2009-2010 school year and about 39 percent in the 2010-2011 school year. The district planned to use approximately 96 percent of the \$34.4 million for salaries. SCSD officials said that as of June 30, 2010, approximately 284 full-time equivalents (FTE) have been retained using Recovery Act funds. Overall, NYSED officials reported that Recovery Act education funds saved or created approximately 30,000 FTEs throughout the state in the quarterly reporting round that ended June 30, 2010.

In 3 Months, New York Almost Doubled Its Draw Down Rate of Recovery Act SFSF; ESEA Title I, Part A; and IDEA, Part B Funds, although Its Average Rate Still Lags behind that of Other States in Our Study

Education allocated \$4.98 billion to NYSED for the three Recovery Act education programs we reviewed. Of this funding, NYSED has made approximately \$3.9 billion available to LEAs, and as of July 16, 2010, New York had drawn down about \$1.9 billion, or about 48 percent of the total amount, up from 27 percent of the total amount as of April 16, 2010. However, the state continues to draw down these funds more slowly than other states because of administrative delays, as previously reported.⁷ As of July 16, 2010, New York's 48 percent draw down rate was lower than the

⁶The Office of the New York State Comptroller reported on a number of internal control problems in November 2009 in *Syracuse City School District, Internal Controls Over Selected Financial Operations*. In addition, in 2010, NYSED determined the LEA to be one of its high-risk LEAs based on a number of indicators related to fiscal condition, timeliness of reporting, and results of external audits. The SCSD Single Audit for school year 2008-2009 found deficiencies in the controls over purchasing and accounting related to some federal grant funds, among other things. SCSD has taken multiple actions to address these findings, including the recent purchase of a new accounting software system.

⁷GAO, *Recovery Act: States' and Localities' Uses of Funds and Actions Needed to Address Implementation Challenges and Bolster Accountability (Appendixes)*, [GAO-10-605SP](#) (Washington, D.C.: May 2010).

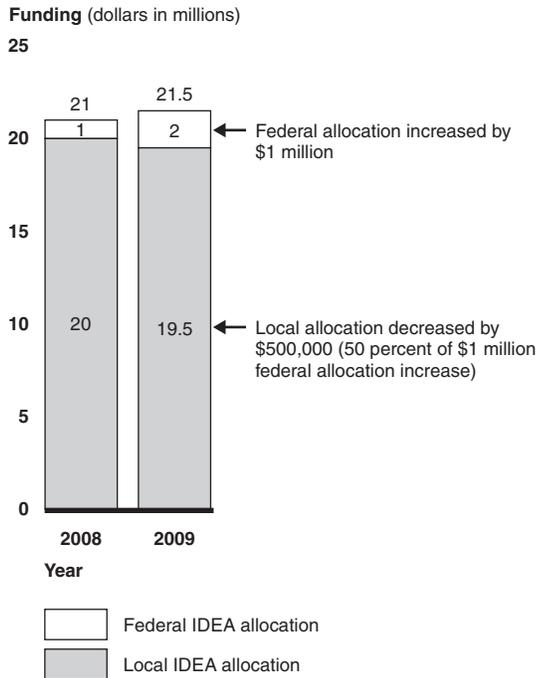
average rate of 64 percent among the 16 states and the District of Columbia included in our review.

SCSD Reduced Its Local Spending on Special Education, despite Being Ineligible to Do So, but Subsequently Corrected Its Error

IDEA requires that an LEA maintain local funding for special education at the previous year's level, referred to as MOE, except under certain circumstances. To be eligible to reduce its IDEA funding, an LEA must meet the requirements of IDEA, including meeting certain performance indicators defined by the state educational agency.⁸ (See fig. 1 for an illustration of this concept).

⁸IDEA allows an LEA that has received an increase in federal funds to reduce its local MOE by 50 percent of the amount of the increase, as long as it spends the amount saved on activities authorized under ESEA. In addition, an LEA is eligible to reduce its MOE if the reduction is attributable to certain circumstances, such as a decrease in the enrollment of students with disabilities.

Figure 1: Hypothetical Example of an Eligible LEA Reducing Its MOE by the Maximum Allowable Amount



Source: GAO analysis.

SCSD officials told us in March 2010 that they reduced the district’s local spending on special education in the 2009-2010 school year. However, we determined, and SCSD officials subsequently agreed, that SCSD was not eligible for the MOE reduction in the 2009-2010 school year because it was not meeting performance indicators related to graduation and dropout rates among disabled students and it had a significantly high percentage of students with disabilities being suspended for more than 10 days, among other indicators. After we notified SCSD officials that the district was ineligible to reduce its MOE, SCSD restored its local IDEA spending to meet MOE requirements.

In March 2010, GAO also notified NYSED of the issue, and as a result, NYSED’s IDEA program office asked the SCSD officials to return the funds to SCSD’s special education budget. NYSED officials said that SCSD

should have known of its ineligibility, because the NYSED officials had corresponded multiple times with SCSD on the subject.⁹

NYSED monitors MOE by requiring an LEA's annual application for IDEA funds to include the local funding amount of special education for the previous 2 years and an estimate of the local spending on special education for the application year. The application requires each district to certify that its MOE requirements are met or to provide an explanation for why it is eligible to reduce its MOE. Because of a reporting error on the SCSD 2009-2010 application, NYSED was unaware that the LEA reduced its MOE. In June 2009, SCSD submitted an application to NYSED for federal IDEA funds that we found to contain incorrect information through our review of local budget documents. While SCSD's application to NYSED for IDEA funds reported an increase of \$125,793 in local spending from the 2008-2009 through 2009-2010 school years, it had actually reduced its local spending by about \$2.3 million.¹⁰ When we notified SCSD officials during our visit in March 2010 of the error and SCSD's ineligibility to reduce its MOE by approximately \$2.3 million, they attributed the error to miscommunication among staff in the special education and finance offices and a misunderstanding of the eligibility rules for reducing MOE.

NYSED officials said that if GAO had not discovered the error, it would have likely been discovered in the annual Single Audit that occurs after the

⁹On May 15, 2009, prior to SCSD's submission of its IDEA application on June 22, 2009, NYSED issued a letter to SCSD detailing the potential IDEA award allocation for the 2009-2010 school year. In bold and underlined text, it described that SCSD was not eligible for a reduction in its MOE. The IDEA application itself also explains eligibility for MOE reduction. In addition, on June 29, 2009, NYSED issued another letter to SCSD explaining its status on state performance plan performance indicators and the resulting consequences.

¹⁰GAO did not attempt to verify the accuracy of the data source used to calculate the local spending on special education. Previous audits, as mentioned above, found internal control flaws in the SCSD financial accounting system, including a lack of controls over revenues, accounts receivable, and accounts payable.

award year ends.¹¹ If the error had not been detected until then, NYSED officials said it is possible that they then would have had to take steps to recover the funds or withhold them from SCSD's next federal IDEA allocation and redistribute them to other recipients. We have previously reported that the reduction of MOE by LEAs in all states could affect future spending on special education because, when an LEA is allowed to reduce local MOE in one year, it lowers the level of local spending that the LEA must maintain in subsequent years for the special education population.¹²

SCSD Generally Followed Its Procedures for Purchasing Goods and Services with Recovery Act Funds

During our site visit, to assess the extent to which SCSD followed its procedures, we reviewed a nonstatistical sample of 26 expenditures of Recovery Act funds for goods, services, and salaries under the SFSF; ESEA Title I, Part A; and IDEA, Part B programs and interviewed finance and program officials regarding use of Recovery Act education funds, procurement procedures, and inventory controls. As of December 22, 2009, SCSD had expended approximately \$4.8 million in Recovery Act funds for these three programs.¹³ We reviewed a selective sample of transactions, which totaled \$122,733. Forty-three percent of this amount represented salary expenses. Our review of these transactions found that

¹¹Single Audits are prepared to meet the requirements of the Single Audit Act, as amended, (31 U.S.C. §§ 7501–7507) 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. The Office of Management and Budget (OMB) Circular A-133 compliance supplement requires auditors to review compliance with matching, level of effort, and earmarking for IDEA, Part B programs.

¹²[GAO-10-232SP](#).

¹³We reviewed Recovery Act expenditures up to December 22, 2009, because that was the cutoff for the latest request for reimbursement by SCSD to NYSED. The objective of this was to compare the total of Recovery Act SFSF; ESEA Title I, Part A; and IDEA, Part B disbursements provided by SCSD to the total of reimbursements the district requested from NYSED to ensure that we had a complete list of transactions from which to draw a sample.

SCSD officials had generally followed its procedures for review and approval of these expenditures.

NYSED Continues Recovery Act Monitoring of 30 LEAs

NYSED's Office of Audit Services continues to perform site visits to high-risk LEAs, with a goal of visiting 30 of 68 LEAs that it identified as high risk, as we reported in May 2010.¹⁴ The objectives of the audits include reviewing the use of Recovery Act funds, determining whether a reasonable internal control system exists, and checking for compliance with specific federal requirements over the use of federal funds. As of July 30, 2010, NYSED has published reports on 4 more LEAs selected for site visits, bringing the total to 8.¹⁵ NYSED published a report on SCSD in June 2010, but did not review SCSD's MOE compliance. NYSED officials told us that the major findings among the LEAs as of June 16, 2010, were as follows:

- Unique accounting codes for Recovery Act funds were needed to ensure accountability.
- Time and effort certifications were incomplete.¹⁶
- LEAs were typically unaware of federal cash management regulations and lacked a process for ensuring compliance with them.
- LEA quarterly reporting under Recovery Act section 1512 had been relatively accurate with some minor discrepancies.

To respond to the federal cash management findings, NYSED has held presentations for six groups of LEA officials across the state to educate them on developing processes for complying with the requirements.

¹⁴[GAO-10-605SP](#).

¹⁵NYSED'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. The school districts reviewed include Saratoga Springs City, Saranac Central, Malone Central, Hamburg Central, Eden Central, Brentwood Union Free, Syracuse City, and Connetquot Central.

¹⁶OMB Circular A-87 (codified at 2 C.F.R. Part 225) establishes principles and standards for state and local governments in determining allowable costs for federal awards, including grants, and requires grantees to support salaries and wages charged to grant funds by payrolls, time and effort certifications, or other supporting documentation.

New York's Recovery Act SEP Is Funding Energy Efficiency and Renewable Energy Projects

The Recovery Act appropriated \$3.1 billion to SEP to be administered by DOE and spent over a 3-year period by the states, U.S. territories, and the District of Columbia. SEP provides funds through formula grants to achieve national energy goals such as increasing energy efficiency and decreasing energy costs. Created in 1996, SEP has typically received under \$50 million per year. As such, the Recovery Act provided a substantial increase in funding for this program.

Upon DOE's approval of New York's plan for SEP on July 2, 2009, New York was allocated \$123.1 million in Recovery Act SEP funds. NYSERDA—the agency that administers SEP in New York—also elected to use \$2.5 million from EECBG to augment one of its SEP programs. Through June 30, 2010, NYSERDA has obligated \$109.2 million of its total allocation and has expended \$3.2 million to fund SEP activities under the Recovery Act. NYSERDA officials were confident that NYSERDA would meet DOE's deadline for obligating these Recovery Act funds, which is January 2, 2011 (18 months from the day the State Plan was approved).

NYSERDA chose to use the Recovery Act SEP funding to develop four new programs instead of expanding funding for established programs. Officials felt this strategy would minimize the budgetary impact on their existing programs once Recovery Act funding is expended. The four Recovery Act SEP-funded programs in New York are described in table 1.

Table 1: NYSERDA Recovery Act SEP Programs

Dollars in millions	
Program description	Amount allocated
<i>Energy Efficiency Program:</i> Provides funding to promote energy efficiency among municipalities, schools, hospitals, public colleges and universities, and non-profit organizations.	\$82.6
<i>Renewable Energy Program:</i> Provides financial support to encourage the development of alternative renewable energy sources within the state, such as solar photovoltaic, solar thermal, wind, and biomass systems.	\$31.0
<i>Clean Fleet Program:</i> Provides financial support to accelerate the introduction of light, medium, and heavy-duty alternative fuel vehicles and other advanced vehicle technologies into local community fleets.	\$4.6
<i>New York Energy Codes Program:</i> Provides technical assistance to local code officials to achieve a high level of compliance with the Energy Conservation Construction Code of New York. NYSERDA’s goal is to have the state reach 90 percent compliance with this code within 10 years. NYSERDA is coordinating this effort with the New York Department of State, which has administrative oversight of building codes in New York.	\$4.8 ^a
Total	\$123.1^b

Sources: NYSERDA officials and documentation.

^aIn addition to the \$4.8 million in Recovery Act SEP funds allocated to the New York Energy Codes Program, NYSERDA also allocated \$2.5 million in Recovery Act EECBG funds to augment the services provided through this program.

^bThe totals for each program include administrative costs. In total, NYSERDA allocated \$3,788,751 (3.07 percent) for Recovery Act SEP administrative costs. Numbers in table do not add to total because of rounding.

NYSERDA issued program opportunity notices (PON) and a series of requests for proposals (RFP) to implement its Recovery Act SEP programs. First, NYSERDA issued a PON to fund energy conservation studies. According to officials, through this PON, NYSERDA awarded \$5 million to fund 216 energy conservation studies, many of which formed the basis for proposals submitted in response to subsequent RFPs issued by NYSERDA to select projects to fund using Recovery Act SEP funds.

We spoke to NYSERDA officials, who shared the following information about the awarding of Recovery Act SEP funds. NYSERDA elected to award the implementation funding for the Energy Efficiency, Renewable Energy, and Clean Fleet programs through one RFP but in several evaluation and funding “rounds” rather than all at once. The first round closed on August 24, 2009, and awarded \$24.9 million to 87 projects. Another \$40.1 million was awarded to 118 projects selected in Round 2, which closed on November 27, 2009. The third round for funding requests closed on April 7, 2010, and awarded 44 projects \$9 million. To ensure that the funds were distributed statewide, NYSERDA divided the state into seven regions and separately evaluated and awarded funding requests from each region. NYSERDA issued another PON for a separate component of the Renewable Energy Program and selected five

contractors that were awarded \$10 million to install solar photovoltaic systems in homes and businesses throughout the state. Other Renewable Energy Program funding will be provided to the Long Island Power Authority to help finance infrastructure improvements needed to facilitate the purchase of electricity produced from solar energy and incorporate it into the power grid. The New York Energy Codes Program funds were awarded through two RFPs, with five awards made in total.

Officials further explained the following details. With the exception of the funding for the Long Island Power Authority under the Renewable Energy Program, the grants and contracts were awarded through a competitive evaluation process. A panel that included both outside experts and NYSERDA staff reviewed, evaluated, and ranked each application. Then, a multidisciplinary, NYSERDA-staffed committee reviewed the rankings and made a recommendation on which projects to fund to NYSERDA's senior management. Once funds are awarded, NYSERDA enters into a contract with each subrecipient.

NYSERDA Plans to Use Established Procedures to Track and Monitor SEP Funds with an Increased Emphasis on Evaluating and Reporting Impact

NYSERDA officials did not anticipate any special problems with tracking and monitoring Recovery Act funds. The officials told us that they are using existing procedures and internal controls to oversee Recovery Act funds. For example, the staff who manage the contracts are separate from those who approve payments under the contracts, and NYSERDA conducts site visits on a regular basis to monitor each project. In addition, NYSERDA has hired an independent firm to assist it in managing, overseeing, and monitoring its Recovery Act programs and to aid in recipient reporting.

NYSERDA plans to measure predicted energy savings from these projects. For example, its initial estimate of annual energy savings resulting from the \$74 million awarded to date under the Energy Efficiency, Renewable Energy, and Clean Fleet Programs is \$18.7 million. It plans to use measures such as energy saved and the resultant energy cost savings, the capacity of renewable energy installed, and the reduction of greenhouse gas emissions to evaluate the projects. According to officials, each contract requires subrecipients to comply with NYSERDA's methodology for evaluating the impact of individual projects. NYSERDA is paying for the cost of the evaluation process using Recovery Act funds and will be responsible for its implementation and oversight.

NYSERDA is also participating in DOE's national evaluation of the Recovery Act SEP. DOE has issued a best practices guide to evaluate the program, and NYSERDA is following this guide as well as its normal processes.

**SEP Reporting and
Accountability Activities
Are under Way**

For the reporting period ending June 30, 2010, NYSERDA reported that Recovery Act SEP funds had funded 46.5 FTEs. NYSERDA officials said that they established a procedure to manage the reporting process and did not feel that the Recovery Act reporting requirements presented any problems. An internal audit by NYSERDA determined that the authority had good internal controls in place to provide oversight to the reporting process.

The Recovery Act programs will be included in both NYSERDA's annual financial audit and in the state's Single Audit. An official with NYSERDA's Internal Audit division indicated that he does not have any specific plans to audit Recovery Act SEP funds at this time. He may conduct a review in the future, however, depending on the results of his annual risk assessment. Currently, he is conducting an audit of a program that is being funded with Recovery Act funds that are not part of SEP—NYSERDA's Energy Efficient Appliance Rebate Program.¹⁷

¹⁷Under the Recovery Act, NYSERDA was allocated \$18.7 million to provide cash rebates to New York residents who purchase high-efficiency appliances.

Recipients Plan to Use Recovery Act EECBG Funds to Improve the Energy Efficiency of Public and Private Buildings in New York; Reporting Challenges Exist

EECBG, which was funded for the first time by the Recovery Act,¹⁸ provides funds through competitive and formula grants to cities, counties, states, territories, and Indian tribes to develop and implement projects to improve energy efficiency and reduce energy use and fossil fuel emissions in their communities. The Recovery Act provided \$3.2 billion for EECBG. Of that total, approximately \$2.7 billion was awarded on a formula basis and up to \$454 million will be awarded on a competitive basis. Our Recovery Act EECBG work in New York focused on the formula-driven funds.

As of August 20, 2010, New York had been allocated over \$175 million in formula-based Recovery Act EECBG funds. Some of the allocations went directly to local recipients, while those for smaller recipients went through the state. In New York, the funds for smaller recipients went through NYSERDA. We examined how NYSERDA and two direct-recipient localities—Orange County and the Town of Brookhaven—planned to use their EECBG funds, as well as their monitoring and reporting efforts. We selected Orange County and the Town of Brookhaven because, at the time we made our selection, they were the county and municipality (other than New York City) that received the most funds and had already begun to outlay funds. We did not select New York City because another oversight entity is conducting work there.

A Lack of Understanding of the Term “Obligate” Led Two Localities to Initially Underreport the Amount of Funds Obligated, but They Later Corrected Their Reports

Of the over \$175 million in Recovery Act EECBG funds allocated to New York as of August 20, 2010, the three entities we visited received over \$37 million (about 21 percent) of these funds. NYSERDA was awarded almost \$30 million, while the Town of Brookhaven was awarded over \$4 million and Orange County was awarded over \$3.5 million.

DOE required grantees to obligate all funds within 18 months of the effective date of the award and encouraged grantees to have at least 90 percent of their funds under contract and obligated by June 25, 2010.¹⁹ NYSERDA was the only entity we examined that met the June 25, 2010,

¹⁸The EECBG program was authorized in Title V, Subtitle E, of the Energy Independence and Security Act that was signed into law on December 19, 2007.

¹⁹According to DOE guidance, “obligation” in this context means the binding commitment of Recovery Act funds by the recipient to other entities for the execution of projects. This figure is inclusive of funds already spent (i.e. outlays) and commitments outstanding but not invoiced or otherwise liquidated.

goal. As of June 15, 2010, NYSERDA reported that it had obligated 100 percent of its funds. As of June 30, 2010, Orange County reported that it had obligated \$18,813.76 (about 0.5 percent of its funds), and the Town of Brookhaven reported that it had obligated \$48,999.59 (about 1.2 percent of its funds). However, we found that these two localities initially underreported their obligations by over \$500,000 combined. For example, in our meeting with Orange County, an official said that \$200,000 had been obligated for its energy audits contract, but in its second quarter 2010 report to DOE, the county initially only reported that \$18,813.76 of its Recovery Act EECBG funds had been obligated. The Town of Brookhaven had a similar issue. In Brookhaven, an official reported that the town had entered into a contract for the Parks Administration building (for which \$383,878 in Recovery Act EECBG funds has been allocated), but in its second quarter 2010 report to DOE, the town initially only reported that \$48,999.59 of its Recovery Act EECBG funds had been obligated. When we raised this issue with officials from both the county and the town, we were told that the officials had misunderstood the definition of “obligate” thinking that the term applied to funds that had already been expended but not also those that were under contract. An official from each entity told us that they subsequently corrected and resubmitted their reports to DOE.

Recipients Plan to Use Most Recovery Act EECBG Funds to Improve the Energy Efficiency of Public Buildings and Private Residences

NYSERDA is using the majority—about 81 percent—of its Recovery Act EECBG funds for a competitive grant program for small municipalities (i.e., those that did not receive direct funding) to perform activities similar to those that were funded under the EECBG program for large municipalities. NYSERDA’s Recovery Act EECBG projects are described in table 2.

Table 2: NYSERDA Recovery Act EECBG Projects

Project description	Amount allocated
<i>Project Implementation Funding for Small Municipalities:</i> Allocated funds for a competitive grant program for small municipalities in New York. The eligible activities for funding under this grant program mirror those of EECBG direct funding for large municipalities.	\$24,069,789
<i>Advanced Code Compliance:</i> Added to SEP to assist municipalities with meeting advanced energy code compliance.	2,500,000
<i>Evaluation and Implementation Contractors:</i> Allocated for evaluation and implementation contractors.	2,274,918
<i>Administrative costs</i>	915,893
Total	\$29,760,600

Source: NYSERDA officials.

Orange County is using its funds for building energy audits and retrofits of public buildings and for a financial incentive program for municipalities and school districts in the county. These efforts are described in table 3.

Table 3: Orange County Recovery Act EECBG Projects

Project description	Amount allocated
<i>Performance Audit:</i> Allocated for energy audits of 10 county buildings and facilities. The audits will be used to develop a list of projects for each site that could be undertaken to improve the energy efficiency of those sites. The selection of these sites was based, primarily, on those facilities with the largest utility bills with some exceptions. For example, the waste treatment plant was not included.	\$200,000
<i>Building Retrofit:</i> Allocated for undertaking various improvements recommended in the energy audits of the 10 sites conducted under the performance audit project. Specific improvements will be selected based on feasibility and payback in terms of energy savings.	2,717,399
<i>Municipal Incentives Financing:</i> Allocated for a competitive grant program for local governments and school districts in the county to fund various activities, such as energy audits, feasibility studies, Property Assessed Clean Energy (PACE) programs, and training. These funds cannot be used for capital improvements or projects.	430,000
<i>Administrative costs</i>	169,301
Total	\$3,516,700

Source: Orange County officials.

The Town of Brookhaven is using its funds for at least one public building and two financial incentive programs for residents—one called Green Homes for energy audits and retrofits to private homes and one called Go Solar for solar photovoltaic or solar thermal (hot water) generation panels on private homes. Both programs have a revolving loan component that requires the homeowner to contribute about 30 percent of the project’s cost. For the Green Homes project, this loan is to be paid through an interest-free benefit assessment applied to the homeowner’s tax bill. The town’s projects are described in table 4.

Table 4: Town of Brookhaven Recovery Act EECBG Projects

Project description	Amount allocated
<i>New Parks Administration Building:</i> Allocated for energy efficiency features in the new Parks Administration building that the town plans to start building in fall 2010.	\$383,878
<i>Old Town Hall:</i> Allocated for an energy efficiency rehabilitation of the old Town Hall. However, that project is on hold at least until next year and may be canceled. If that happens, the town would reallocate the funds among the other three projects.	479,822
<i>Go Solar:</i> Allocated for the installation of solar panels on 50 to 100 single family homes. To select participants, the town conducted a lottery in which it drew names for about 150 homes. The town has assigned the first 34 homes to contractors, which are analyzing the homes for favorable solar applications. The town requires each home to have an energy audit (at the homeowner’s expense) and some level of energy efficiency before it can qualify for solar installation. If the energy audit does not show that the home has the required level of efficiency, the homeowner can choose to stay in the program by bringing the home into compliance at his/her own cost. There is a \$50,000 cap per household for this program.	1,535,220
<i>Green Homes:</i> Allocated for energy audits of and retrofits to 250 to 300 single family homes. The participants were selected on a first come, first served basis. The town received about 335 applications overall, and 256 of these were postmarked on the first available date. The town Ethics Commissioner and an independent auditing firm selected the participants from these applicants. Contractors will perform energy audits and retrofits. There is a \$10,000 cap per household for this program.	1,535,220
<i>Administrative costs</i>	207,060
Total	\$4,141,200

Source: Town of Brookhaven officials.

None of the Recipients Reviewed Reported Internal Controls Challenges regarding Recovery Act EECBG Funds, but One Recipient May Have a Conflict of Interest Issue regarding Management and Oversight of Its Recovery Act EECBG Funds.

None of the three recipients we reviewed reported challenges regarding their internal controls and processes to monitor the use of Recovery Act EECBG funds. However, we found that in the Town of Brookhaven, there may be a conflict of interest issue regarding management and oversight of its EECBG funds. The town’s Senior Auditor initially managed the programs funded by Recovery Act EECBG funds and now advises the staff managing these programs. In addition, he is responsible for reporting to DOE and OMB and oversees the creation and gathering of information for these reports. Professional standards for internal auditors that have been set forth by the Institute of Internal Auditors (IIA) state that “internal auditors must have an impartial, unbiased attitude and avoid any conflict of interest.”²⁰ A practice advisory to the IIA’s standards states that “internal auditors are not to accept responsibility for non-audit functions or duties that are subject to periodic internal audit assessments. If they have this

²⁰IIA, *International Standards for the Professional Practice of Internal Auditing*, 1120, Individual Objectivity. IIA defines conflict of interest as “any relationship that is, or appears to be, not in the best interest of the organization.”

responsibility, then they are not functioning as internal auditors.”²¹ In addition, the practice advisory states that “when the internal audit activity, chief audit executive (CAE), or individual internal auditor is responsible for, or management is considering assigning, an operational responsibility that the internal audit activity might audit, the internal auditor’s independence and objectivity may be impaired.” As we have previously reported, having responsibility for both managing and auditing an activity creates an inherent conflict of interest that potentially weakens the integrity of the organization’s oversight.²²

When we raised this issue with the Town of Brookhaven, an official said that the town considers the activities performed by the Senior Auditor to be consistent with the functioning of its Finance Department and the requirements of the programs. The official also stated that the town and the professionals in the Finance Department are aware of the need for proper internal controls and have established levels of approval and review that assure such controls. The official said that, if the town did an internal audit of any Recovery Act programs, the town’s Supervisor, Board, Audit Committee, or Commissioner of Finance would have to initiate the audit and the Senior Auditor would have to recuse himself from participating in the audit.

Recipients Plan to Monitor Program Outcome Metrics, but Do Not Have Plans to Undertake Program Audits of Recovery Act EECBG Activities

All three of the recipients we reviewed have plans to monitor the outcomes of the projects funded with Recovery Act EECBG funds. According to officials, for NYSERDA’s Project Implementation Funding for Small Municipalities, a standard component of the contract requires subrecipients to comply with NYSERDA’s methodology for evaluating the impact of individual projects. NYSERDA’s Energy Analysis department will also conduct an additional third-party independent evaluation of its metrics.

²¹IIA Practice Advisory 1130.A2-1, *Internal Audit’s Responsibility for Other (Non-audit) Functions*.

²²GAO, *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed (Appendixes)*, [GAO-09-1017SP](#) (Washington, D.C.: September 2009).

Orange County plans to track outcome metrics related to national energy goals, such as reducing fossil fuel emissions, throughout the payback period of the projects. It is using a contractor to develop the process for monitoring the metrics.

The Town of Brookhaven is collecting information that would allow for longer-term monitoring of the impact of its Green Homes and Go Solar Programs on energy savings and emissions of four greenhouse gases. Both programs will employ baseline and exit audits of participants' homes, in conjunction with audits of their electric, natural gas, and oil bills, to verify projected outcomes. Each homeowner participating in the program has agreed to provide utility bills for 1 year prior to and 5 years after the project, which the town will use to monitor changes in homes' energy efficiency, environmental impact, and expected payback cycles. The town emphasized, though, that it may not have the resources needed to conduct the longer-term monitoring itself and is seeking to partner with a local university to conduct the analysis.

NYSERDA's Internal Audit department may conduct a program audit of NYSERDA's Recovery Act EECBG activities. Neither Orange County nor Brookhaven planned to undertake program audits of their Recovery Act EECBG activities, but the use of funds may be audited through their annual financial audits or federal Single Audits.

Although the Recipients Reported Excellent Working Relationships with Their DOE Project Officers, Two Recipients Had Difficulties in Implementing Reporting Guidance

EECBG recipients must submit quarterly reports on jobs, expenditures, and a variety of other programmatic information through www.federalreporting.gov and DOE's PAGE system. In addition, recipients of grants greater than \$2 million must report to DOE on a subset of key metrics on a monthly basis.

Each of the entities we reviewed praised DOE's collaboration and was generally positive about DOE's guidance, yet our review revealed that officials in both Orange County and the Town of Brookhaven did not fully understand some of the guidance. For example, as previously detailed, it appears that both Orange County and Brookhaven did not report obligations in accordance with the guidance. In addition, Orange County underreported the number of jobs created or retained because it did not report all FTEs funded with Recovery Act funds as required by OMB. Under OMB's December 18, 2009, guidance, recipients should report all

jobs funded with Recovery Act funds; recipients are not required to make subjective judgments on whether jobs were created or retained as a result of the Recovery Act.²³ Although a county official reported that a contractor is conducting work under a Recovery Act contract, the county initially did not report any FTEs in its most recent quarterly report to OMB. The official said that she did not think the contractor had any documented jobs created or saved and sought clarification from DOE on how to report the FTEs. DOE instructed the county to report based on all of the hours worked by the contractor and its subcontractors that are paid with Recovery Act funds. The county will correct its report.

New York's Use of Recovery Act Weatherization Funds Has Increased Significantly since March 2010

The Recovery Act appropriated \$5 billion for Weatherization, which DOE is distributing to each of the states, the District of Columbia, 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-efficient improvements to their homes by, for example, installing insulation or modernizing heating or air conditioning equipment.

According to OSC data, through June 30, 2010, just over 12 months after DOE approved New York's weatherization assistance plan, DHCR had obligated \$259.3 million of its total allocation of \$394.7 million in Recovery Act Weatherization funds. At that time, OSC also reported that DHCR had disbursed \$87.3 million to fund weatherization activities under the Recovery Act. Actual production numbers reported by DHCR as of June 30, 2010, showed a sharp increase from those reported as of March 31, 2010, as shown in table 5.

²³OMB, Memorandum M-10-08, *Updated Guidance on the American Recovery and Reinvestment Act—Data Quality, Non Reporting Recipients, and Reporting of Job Estimates* (Washington, D.C., Dec. 18, 2009).

Table 5: Comparison of Production Numbers in the New York State Weatherization Program from March 31, 2010 through June 30, 2010

	Production as of March 31, 2010	Production as of June 30, 2010	Percentage increase	Percentage of goal
Units weatherized	1,309	3,843	193.6%	8.5%
Units with work in progress	10,546	14,134	34.0	
Units with completed energy audits	14,008	19,232	37.3	
Total	25,863	37,209		

Sources: DHCR officials and documentation.

DHCR officials stated that they believe the increases shown in table 5 are partly a result of multifamily projects working their way through the production process. Multifamily projects, which account for over half of the estimated number of units to be weatherized in New York using Recovery Act funds, take longer to get under way and complete than single family homes for a variety of reasons. These include more complicated energy audits and, in many cases, the requirement for owner participation in the cost of the project, which must be negotiated before work can begin. Further, according to state 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. DHCR officials believe similar jumps in production numbers will occur in future reporting periods. Once the 33,366 units in progress or with completed energy audits are completed, New York will have completed 82.7 percent of the units needed to meet its goal of weatherizing 45,000 units using Recovery Act funds. DHCR officials were confident that New York would meet its goal by March 31, 2012.

Weatherization in New York Has Been Closely Monitored by Outside Agencies

The use of Recovery Act funds in Weatherization continues to be reviewed by independent auditors. For example, in June 2010, DOE issued a report on its monitoring of the program in New York and reported no findings. Meanwhile, NYSIG has conducted reviews related to the Recovery Act Weatherization program. It has also investigated complaints received through the Stimulus Complaint intakes—some of which, according to a NYSIG official, relate to allegations of collusion at the local agency level of the Recovery Act Weatherization program. NYSIG expects to report on a number of substantiated claims in September 2010. In addition, New York’s Single Audit for this year will include Weatherization. Because of the high level of oversight of the Recovery Act Weatherization program by outside agencies, DHCR’s own internal audit efforts have been directed toward other programs within the agency that have received Recovery Act

funds. For example, DHCR has initiated a compliance review of the use of Recovery Act funds in the Tax Credit Assistance Program.

DHCR Reported that the Most Recent Recipient Reporting Process Went Smoothly

For the reporting period ending June 30, 2010, DHCR reported that Recovery Act Weatherization funds had created 765 FTEs. DHCR officials said that the reporting process went fairly smoothly, since this was the first quarter in which DOE, OMB, or both had not significantly changed the rules for producing the reports. DHCR conducted an internal audit of the recipient reporting process that determined that adequate internal controls were in place to provide oversight of the reporting process.

New York's Accountability Community Has Completed a Number of Recovery Act Audits; NYSIG Expects to Report on Substantiated Recovery Act Complaints in September 2010

In New York, the Stimulus Oversight Panel,²⁴ Economic Recovery and Reinvestment Cabinet (headed by the Governor's office), and OSC are primarily responsible for statewide oversight of Recovery Act funds.²⁵ 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.²⁶ Since we last reported in May 2010,²⁷ the Stimulus Oversight Panel and OSC have continued to actively monitor Recovery Act activities.

The Stimulus Oversight Panel has continued to hold biweekly meetings with the state agencies that received Recovery Act funds. Through June 2010, a NYSIG official reported that 14 of the 22 agencies that received funds had appeared before the panel. The individual panel members are also undertaking activities in their areas of expertise. For example, the

²⁴The NYSIG, the state Division of Human Rights Commissioner, MTA IG, and Medicaid IG constitute the Stimulus Oversight Panel.

²⁵OSC 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.

²⁶The following programs have been audited: Weatherization Assistance Program, Community Services Block Grants, Highway Infrastructure Investment Program, Unemployment Insurance, Workforce Investment Act of 1998 (WIA) Adult Program, WIA Youth Activities, WIA Dislocated Workers, and Medical Assistance Program (Medicaid).

²⁷[GAO-10-605SP](#).

Medicaid Inspector General has planned several reviews and NYSIG has conducted reviews related to Weatherization and the Clean Water and Drinking Water SRFs. Related to the SRFs, according to a NYSIG official, NYSIG has visited six Recovery Act funded projects throughout the state and found the SRFs to be well managed by Environmental Facilities Corporation (EFC). NYSIG also found that responsibility rests with the locality, not the relevant state agencies, to oversee the entire bidding process and, because few rural localities have encountered such large-scale water projects, they may be more susceptible to waste, fraud, and abuse. According to a NYSIG official, NYSIG has worked with EFC to promote greater oversight of the local projects, particularly in the bidding process, and has provided anti-fraud awareness training and materials. NYSIG has also continued to investigate complaints received through the Stimulus Complaint intakes. According to a NYSIG official, NYSIG has received approximately 25 allegations of waste, fraud, or abuse related to Recovery Act funds, and although a good number have proven unsubstantiated, NYSIG expects to report on a number of substantiated claims in September.

Since our last report in May 2010, OSC's Division of Local Government and School Accountability has completed its audits of procurement procedures for Recovery Act-related highway projects. In total, OSC completed five audits of transportation procurements that covered 51 municipalities. OSC did not have any significant findings from those audits. OSC is now in the process of looking at how transportation claims are audited and paid for by local governments. OSC issued its first report on this, which covered 10 municipalities in the capital region (around Albany), in August 2010 and found that each local government had systems in place and followed adequate claims processing procedures. In addition, with limited exceptions, OSC found that Recovery Act payments were made according to contract and project bid specifications, and related expenditures were reasonable, accurate, and supported. OSC is planning to conduct another audit of this type of 8 to 10 units of local government probably in western New York (either Buffalo or Rochester). OSC plans to start this audit in late summer.

OSC's Division of State Government Accountability is undertaking an audit of one of the two agencies it has deemed most at risk—the MTA. This audit will examine the systems and controls in place to ensure that Recovery Act funds are used for the proper purpose and to monitor waste, fraud, and abuse; performance; and the process for certifying internal controls for the Division of Budget. OSC had originally planned to concurrently undertake a similar audit of NYSED, the other agency to be

deemed most at risk, and nine other agencies within the next year. However, these have been deferred. An OSC official said that the division's top priority now is to do work that will save money for the state, because the state is in a perilous financial situation.

According to data from the Federal Audit Clearinghouse, which is responsible for receiving and distributing Single Audit results, it received New York's Single Audit reporting package for the year ending March 31, 2009, on December 23, 2009. This was the first Single Audit for New York that includes Recovery Act programs and it identified 39 significant internal control deficiencies related to compliance with federal program requirements, of which 32 were classified as material weaknesses. As we reported in May, some of these material weaknesses and significant deficiencies occurred in programs that included Recovery Act funds.

Recovery Act Funds Have Allowed Localities to Address Infrastructure Needs and Pursue Energy Efficiency Opportunities; However, the State and Its Localities Continue to Face Budget Pressures

Recovery Act funds have helped New York stabilize state finances to a great extent and have prevented reductions in education and health care funding, according to state budget officials. New York State used about \$10.6 billion in Recovery Act SFSF funds and funds made available as a result of the increased Medicaid FMAP to address budget gaps across 3 fiscal years.^{28, 29} Budget officials confirmed that the state’s fiscal challenges remain the same as those identified in our May report. State officials forecast a \$8 billion budget gap for fiscal year 2011-2012 and report that the state will address the phasing out of Recovery Act funds this fall when next year’s budget is developed.

We visited the Town of Brookhaven and followed up with Steuben County to add to our understanding of New York’s localities’ use of Recovery Act funds, current fiscal conditions, and preparation for phasing out of Recovery Act funds.³⁰ (See table 6 for locality background information.)

Table 6: Background on Selected Local Governments

Local government	Population	Type of local government	Unemployment rate	Fiscal year 2010 operating budget
Town of Brookhaven	490,416	Town	6.9	\$151.2 million
Steuben County	96,552	County	9.0	183.3 million

Sources: U.S. Census Bureau and U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics data. Operating budget detail obtained from the Town of Brookhaven 2010 Adopted Budget and Steuben County’s 2010 Adopted Budget Summary.

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

²⁸New York State operates on an April 1 through March 31 fiscal year.

²⁹The Recovery Act initially provided eligible states with an increased FMAP for 27 months from October 1, 2008, to December 31, 2010. Recovery Act, div. B, title V, § 5001, Pub. L. No. 111-5, 123 Stat. at 496. On August 10, 2010, federal legislation was enacted amending the Recovery Act and providing for an extension of increased FMAP funding through June 30, 2011, but at a lower level. See Pub. L. No. 111-226, § 201, 124 Stat. 2389 (Aug. 10, 2010).

³⁰The Town of Brookhaven and Steuben County are not responsible for the operations of their school districts. The Town of Brookhaven is also not responsible for administering its Medicaid Program, which is managed by Suffolk County.

Town of Brookhaven

The Town of Brookhaven has received a total of \$9.9 million in Recovery Act funds. It has also been allocated \$46.5 million in Recovery Zone Bonds (\$18.6 million for Recovery Zone Economic Development Bonds and \$27.9 million for Recovery Zone Facility Bonds).³¹ The town expects to use \$5.2 million of the Recovery Act funds to construct a new energy-efficient wastewater treatment plant. It also received \$4.1 million in EECBG funds and \$609,000 in Community Development Block Grant funds that it is using for rehabilitation of homes and construction of curbs and sidewalks.³² In addition, there are 10 proposed projects to be financed by Recovery Zone Economic Development Bonds; the four largest proposed projects are a building purchase for \$4.2 million; sewer lines for \$3.5 million; and two different sidewalk projects for \$1.6 million and \$1.2 million, respectively. Brookhaven officials stated that as of July 21, 2010, additional projects financed by the \$2.1 million in Recovery Zone Economic Development Bonds remain under consideration. Officials reported that the issuance of Recovery Zone Facility Bonds is controlled by the town's Industrial Development Agency and that agency is currently reviewing funding proposals.

Brookhaven officials reported that the town applied to the Recovery Act Retrofit Ramp-Up program as part of a consortium with the Community Development Corporation of Long Island and seven other communities. Officials stated that although the \$20 million application was denied, the consortium may receive funds from NYSERDA to fund a portion of this program. Finally, town officials noted that there are currently no Recovery Act grant awards awaiting decision and one official stated that all of the town's Recovery Act grants were received through formula, not competitive, grants.

The town's revenues have decreased during the economic downturn because of reductions in mortgage tax revenues, landfill fees, and non-property tax revenues. An official reported that, similar to other localities, Brookhaven is under budgetary pressure. To deal with the downturn and anticipated impact of state budget actions, town officials reported that

³¹Recovery Zone Economic Development Bonds are a type of direct payment Build America Bond (BAB) created under the Recovery Act and administered by the Internal Revenue Service. Direct payment BABs allow issuers the option of receiving a federal payment instead of allowing a federal tax exemption on the interest payments.

³²For more information on the Town of Brookhaven's EECBG funding, see the EECBG section of this appendix.

Brookhaven applied \$13 million of reserves toward its fiscal year 2010 budget and implemented austerity measures to stabilize expenditures.³³ The town plans to use approximately 5 percent of the EECBG funds to cover program administrative expenses and believes any future administrative costs will depend on continued reporting requirements. Because only a small portion of these funds is being used for administrative costs, officials said that Recovery Act funds have minimally affected the town's fiscal stability.

Steuben County

Since our December 2009 report,³⁴ Steuben County has received a total of two Recovery Act competitive grants and received additional Recovery Act funds for several programs in its fiscal year 2010 operating budget.³⁵ The additional Recovery Act funding received since our December 2009 report includes \$76,726 for a state energy program grant; \$4.2 million in Medicaid; and \$53,034 for foster care, food stamps, and adoption. Medicaid and highway infrastructure investment continue to be the county's largest amount of Recovery Act funds awarded. As of July 14, 2010, the county had received about \$8 million in Recovery Act funds. Steuben County officials reported applying six times for five competitive grants—one grant had two application rounds. Of these, the county was awarded two grants, denied three, and awaits the disposition of another.

Steuben County, along with five other counties in the region, partnered with the Southern Tier East and Southern Tier Central Planning Development Boards to develop a proposal for the Broadband Technology Opportunities Program funded by the Recovery Act. This application, currently awaiting decision, requested approximately \$24 million in funds and will benefit organizations such as hospitals, public safety entities (e.g., police and fire stations), school districts, colleges, and municipal organizations. County officials stated that the six counties will contribute \$6 million in matching funds. Steuben County committed \$1.2 million in matching funds for the 130 miles of fiber that will be installed in the county. In addition, a county official confirmed that the development boards secured a partnership with Corning, Inc., to supply slightly over \$1 million in fiber optic cabling.

³³The Town of Brookhaven operates on a January 1 to December 31 fiscal year.

³⁴[GAO-10-232SP](#).

³⁵Steuben County operates on a January 1 to December 31 fiscal year.

Steuben County officials reported that Recovery Act funds have moderately affected the county's fiscal stability. However, officials added that with slight declines in sales tax receipts, potentially severe cuts pending from the state, and an increase in retirement costs, the county's fiscal situation could decline. Furthermore, with the increased Medicaid funds expiring, the county will need to fill approximately a \$2.9 million gap annually starting in fiscal year 2011. County officials are developing a plan to address the phasing out of Recovery Act funds. Part of this plan will include a staff reduction of 6 to 11 percent, a tax increase, and use of reserve funds. Officials stated that they hope to ease any staff reductions through retirement incentives and increase efficiencies through the consolidation of services.

State Comments on This Summary

We provided the Governor of New York with a draft of this appendix on August 18, 2010. A representative from the Governor's office responded on August 23, 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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