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RECOVERY ACT

States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses (Colorado)

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Contents

Appendix III: Colorado

Overview

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

Use of Funds: Our work in Colorado focused on eight federal programs,[2] selected primarily because these programs have begun disbursing funds to states and include existing programs receiving significant amounts of Recovery Act funds or significant increases in funding, and new programs. Colorado estimates that it will receive a total of $3.5 billion in Recovery Act funds, and is targeting funds to help restore the state's budget and to meet key program needs during the current budget crisis. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **U.S. Department of Education (Education) State Fiscal Stabilization Fund.** Education has awarded Colorado $509 million, or about 67 percent of the state's total State Fiscal Stabilization Fund (SFSF) allocation of $760 million. Colorado had obligated a total of almost $176 million of the funds as of June 30, 2009.[3] Colorado is using these funds primarily to support its higher education system; without the funds, according to state officials, budget cuts could have resulted in the closure of some institutions and increased tuition at others. Local education officials we spoke with stated that their districts do not yet have specific plans for the funds, but anticipate using them to retain teachers and reduce the potential for layoffs.

- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned $404 million in Recovery Act funds to Colorado, of which 30 percent was suballocated to metropolitan and other areas. As of June 25, 2009, the federal government's obligation was $244 million, and Colorado had awarded 29 projects. Colorado plans 92 projects

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

[2] In some states, GAO also reviewed a ninth program receiving funds under the Recovery Act, the Workforce Investment Act Youth Program. GAO did not review this program in Colorado.

[3] Obligation, as used by the state, refers to funds that have been encumbered with a contract or other agreement.

using Recovery Act funds, with the initial projects consisting primarily of routine paving projects and later projects involving highway construction and bridge replacement. For example, one ongoing project in central Colorado involves paving 12.5 miles of highway, while a planned project in the Denver metro area will replace two bridges on Interstate 76.

- **Funds made available as a result of increased Medicaid Federal Medical Assistance Percentage (FMAP).** As of June 29, 2009, Colorado had received almost $241 million in increased FMAP grant awards, of which it had drawn down more than $197 million, or almost 82 percent of funds. Colorado reported using funds made available as a result of the increased FMAP to offset the state budget deficit[4] in an effort to avoid or mitigate Medicaid benefit cuts and provider rate cuts resulting from the state's economic conditions.[5]

- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education has provided Colorado $80.5 million in Recovery Act IDEA Part B and C funds, or 50 percent of the state's total allocation of $161 million. These funds, which are managed by two different state departments in Colorado, are targeted for, among other things, assistive technology for students with disabilities and professional development for special education teachers. As of June 29, 2009, Colorado's Department of Education had reimbursed school districts more than $3.9 million for Part B and had obligated an additional $156,000. As of June 30, 2009, the Department of Human Services had obligated more than $3.3 million for contracts with service providers under Part C.

- **Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA).** Education has awarded Colorado $55.6 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total

[4]Colorado officials noted that the use of the words budget deficit is not necessarily applicable, because the state's constitution requires it to have a balanced budget annually and does not permit a budget deficit. Therefore, while Medicaid officials' response to our data collection instrument indicated that the funds made available as a result of the increased FMAP were being used to offset the state budget deficit, officials believe that a more accurate description of the use of these funds is that they are allowing the state to minimize needed program cuts and provider rate cuts.

[5]The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

allocation of $111 million. As of June 29, 2009, Colorado had reimbursed individual school districts about $279,000. Planned uses of the funds in Colorado include preschool education, family literacy improvements, and teacher development.

- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about $79.5 million in Recovery Act weatherization funding to Colorado. As of June 30, 2009, DOE had provided $7.95 million to the state and Colorado had obligated $5.25 million of these funds, of which almost $1 million had been spent. Colorado plans to hire additional staff and purchase equipment to help it weatherize more than 16,000 housing units using Recovery Act funds.

- **Edward Byrne Memorial Justice Assistance Grant Program.** The Department of Justice's Bureau of Justice Assistance has allocated a total of $29.9 million for state and local governments in Colorado. As of June 26, 2009, Colorado had received its full state award of $18.3 million and had obligated and spent about $13,700 of these funds.[6] The Colorado Department of Public Safety, which administers these grants for the state, received nearly 200 applications from state and local entities for grant funds, and will select applications for funding in July 2009, for award beginning October 1, 2009. Of available funds, 60 percent will be awarded to local government entities while 40 percent will be awarded to state agencies.

- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development (HUD) has allocated almost $17 million in Recovery Act funding to 43 public housing agencies in Colorado. Based on information available as of June 20, 2009, about $2.4 million (14 percent) had been obligated by those agencies and about $201,000 (1 percent) had been spent. At the three housing authorities we visited, this money, which flows directly from HUD to public housing agencies, is being used for various projects including construction of new units, rehabilitation of existing units, and smaller-scale projects such as fence and window replacement at rural housing units.

[6]We did not review Edward Byrne Memorial Justice Assistance Grants awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17; therefore, not all of these funds have been awarded.

Safeguards and Internal Controls

Colorado has, since our April 2009 report,[7] developed a coding structure to account for Recovery Act funds separately from non-Recovery Act funds, addressing officials' concerns that tracking the funds might be difficult with the state's aging central accounting system. The responsibility for tracking and monitoring of, and exercising internal controls over, Recovery Act funds has largely been delegated to the individual state departments, which will generally use existing systems and internal control procedures. Although the State Controller initially expressed concerns that the state does not have a centralized process for monitoring the effectiveness of state departments' internal controls, that office has taken steps to address these concerns. In addition, the state departments use their Single Audit Act audits (Single Audit), among other information, as a source of information to assess program risks and monitor funds.[8] The Office of the State Auditor (which is responsible for conducting the state's Single Audit) had concerns about the lack of timely guidance from the Office of Management and Budget (OMB) on specific audit requirements related to state departments' expenditures of Recovery Act funds. In addition, the office noted that additional funding will be needed to cover the cost of the Recovery Act audit work. State officials told us that the state might be able to provide Recovery Act funds to cover these audit costs, consistent with OMB guidance on using Recovery Act funds to cover certain administrative costs associated with implementing the act, but that no proposal has been developed.[9]

Assessing the Effects of Recovery Act Spending

While it is still too early to assess the impacts of Colorado's Recovery Act funding, state officials are planning to track and monitor centrally the results of this spending, including identifying the number of jobs created and retained through Recovery Act spending. Officials with the Colorado

[7] GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues is Essential*, GAO-09-580 (Washington, D.C.: Apr. 23, 2009).

[8] The Single Audit Act of 1984, as amended (31 U.S.C. ch. 75), requires that each state, local government, or nonprofit organization that expends $500,000 or more a year in federal awards must have a Single Audit conducted for that year subject to applicable requirements, which are generally set out in Office of Management and Budget Circular No. A-133, Audits of States, Local Governments and Non-Profit Organizations (June 27, 2003). If an entity expends federal awards under only one federal program, the entity may elect to have an audit of that program.

[9] See OMB Memorandum, M-09-18, *Payments to State Grantees for Administrative Costs of Recovery Act Activities.*

Recovery office said that they are still evaluating whether they will modify and use an existing system or acquire a new system to track and monitor effects. The state plans to report data centrally on jobs created and retained, but some state department officials said that reporting guidelines have not yet been finalized and that they need guidance, particularly on counting jobs created and retained.

Colorado Is Relying on Recovery Act Funds to Help Stabilize Its Budget and to Meet Various Program Needs across the State

In the face of declining tax revenues and large proposed cuts in the previous and current fiscal years' budgets, Colorado is using Recovery Act funding to help it continue providing services in key programs such as higher education and Medicaid, according to state budget officials, as well as to maintain funding in other programs. Colorado's budget situation continues to worsen; the Governor signed a balanced budget on May 1, 2009, based on then-current legislative estimates showing general fund revenues declining $800 million in fiscal year 2008-2009 from the previous fiscal year and declining an additional $100 million from fiscal year 2008-2009 to fiscal year 2009-2010 (out of an operating budget of about $18 billion).[10] The actions taken by the state to balance the budget—which it is constitutionally required to do—included transferring reserves from cash funds (special funds created from the collection of fees, such as waste disposal fees, for specific purposes) into the general fund, cutting programs, establishing a state hiring freeze and imposing 4 furlough days on nonessential state employees, and spending half the state's 4 percent budget reserve.[11] The state's subsequent June 22, 2009, revenue forecast showed an additional shortfall of almost $250 million in revenues for fiscal years 2008-2009, which the state addressed by transferring additional cash reserves that had been designated to balance the 2009-2010 budget.[12] The state will then need to take action to balance the 2009-2010 budget, although the need for this action may be mitigated by a slight increase in general fund revenues ($85 million) predicted by the June forecast in contrast to the decline in revenues predicted in the March forecast.

The Recovery Act helped the state avoid more severe actions, including proposals to cut as much as 60 percent of the state's contribution to its

[10]The estimate is from the state's March 20, 2009, legislative council forecast.

[11]According to budget officials, the General Assembly passed legislation to allow the reserve to be reduced to zero in fiscal year 2008-2009 and to settle at 2 percent in fiscal year 2009-2010.

[12]The estimate is from the state's June 22, 2009, legislative council forecast.

higher education system; according to the state budget officials, the most important sources of Recovery Act funds in alleviating the state's budget crisis are the increased FMAP award for Medicaid, which has allowed the state to maintain a level of service that it would not have without Recovery Act funds, and the SFSF, which will be used to support higher education and, to a lesser degree, K-12 education programs. State budget officials said that their future year budget plans anticipate continued weak revenues as well as the phasing out of Recovery Act funds. In balancing budgets over the next few years, the officials noted that although the state will have less flexibility to transfer cash fund reserves because the excess in the funds was largely used in balancing the fiscal year 2008-2009 budget, the state passed legislation that allows it to set aside larger amounts of reserves to be used in future years.[13] When revenues recover, the state's ability to restore cuts will be aided by recently passed legislation removing restrictions on how state revenues can be allocated.

State Fiscal Stabilization Fund

The Recovery Act created the SFSF to be administered by the U.S. Department of Education. The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial SFSF award requires each state to submit an application to Education that provides several assurances. These include assurances that the state will meet maintenance of effort requirements (or it will be able to comply with waiver provisions) and that it will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. Furthermore, the state applications must contain baseline data that demonstrate the state's current status in each of the assurances. States must allocate 81.8 percent of their SFSF funds to support education (education stabilization funds), and must use the remaining 18.2 percent for public safety and other government services, which may include education (government services funds). After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to school districts or public institutions of

[13]Prior to this legislation the state was permitted to retain as a reserve 4 percent of the amount appropriated for the general fund for fiscal years 2007-2008 and after. This legislation permits Colorado to retain 4.5 percent for fiscal year 2012-2013, and that percentage increases by one-half percent each fiscal year to 6.5 percent in fiscal year 2016-2017. After fiscal year 2016-2017 it remains at 6.5 percent. 2009 Colo. Sess. Laws 2254.

higher education (IHE). When distributing these funds to school districts, states must use their primary education funding formula but maintain discretion in how funds are allocated to public IHEs. In general, school districts maintain broad discretion in how they can use stabilization funds, but states have some ability to direct IHEs in how to use these funds.

Under the Recovery Act, Colorado was allocated more than $760 million in SFSF funds, $622 million of which will be used as education stabilization funds and $138 million of which will be used as government services funds. The state sent its application for the stabilization funds to Education on May 29, 2009; after receiving questions from Education, the state revised the application and resubmitted it on June 8, 2009. Education approved the application and awarded Colorado $509 million, or about 67 percent of the total, on June 10, 2009. As of June 30, 2009, the state had obligated a total of $175.6 million of these funds: $150.7 million of the education stabilization funds and $24.9 million of the government services funds. The state plans to spend the majority of the SFSF education stabilization funds—$452 million—for higher education, while allocating the remaining $170 million to the state's K-12 system. This focus on using Recovery Act funds for higher education is a result of the state's constitutional requirement to maintain its level of funding for K-12 programs, according to state officials. The requirement is for the state to increase its share of K-12 education funding by an amount equal to inflation plus 1 percent annually through fiscal year 2010-2011. As a result of this requirement, Colorado's K-12 programs were not jeopardized to the same extent as higher education when the state was considering budget cuts, and thus local school districts will receive a lower amount from the SFSF program.

The $452 million for higher education will be spent in increments of roughly $150 million per year over the next 3 years, beginning in fiscal year 2008-2009 and has been designated for the state's 4-year, 2-year, and vocational institutions. According to state officials, without the State Fiscal Stabilization Fund, the state's general fund contribution to higher education could have been cut by 60 percent, with the effect of drastically restructuring the system of higher education. According to officials, during budget debates, cuts of anywhere from $30 million to about $450 million in general fund contributions to higher education were discussed. Although the effects of such cuts are unknown because they did not occur, officials told us that if the larger amount had been cut, some schools could have become privately funded, others could have been closed, and tuition could have been raised significantly. The state plans on having higher education institutions apply for the funds, as provided for in Education's guidance for the Recovery Act, and having the institutions sign a letter stating that the funds will be used to mitigate tuition increases if they are accepted. State officials said they do not anticipate institutions declining to apply.

The $170 million in K-12 funding will be spent over 2 fiscal years. The state will allocate the funds to schools based on the state's school finance formula, which provides a per-pupil amount of money plus additional money to recognize variation among districts created by cost of living, personnel costs, size, and pupils at risk. This includes, for example, a total of $10.4 million for Denver County School District 1 and $14.8 million for Jefferson County School District R-1, two school districts we visited during our work.[14] Officials at the two school districts said that they are waiting for instructions from the state on what requirements they must meet to apply for stabilization funds and, as such, do not yet have formal plans for the use of the funds. However, the officials stated that, in part, they intend to use the funds to retain teachers, reduce the potential for layoffs, and restore funding cuts to programs. Denver County School District 1 officials added that they would likely use the funds to improve the academic achievement of low performing students and sustain existing programs to increase teacher effectiveness and the distribution of highly qualified teachers. According to state officials, school districts will need to apply for their funds by signing a letter supporting the four education assurances outlined in the Recovery Act, specifically (1) improving equity in teacher distribution; (2) improving collection and use of data; (3) enhancing the quality of academic standards and assessments; and (4) supporting struggling schools.

Colorado officials applied $70 million of the $138 million in SFSF government services funds to the state's general fund to avoid cuts to government services in the Department of Corrections. In addition, the state plans to use $10 million to pay for education incentives such as Race to the Top, a competitive grant to improve education quality and results statewide. State officials said that they have not decided how to use the remaining $58 million of government services funds. One possible use, according to officials, could be to pay for administrative costs associated

[14]We selected these two school districts for inclusion in our work because (1) they are receiving large amounts of Recovery Act funding relative to other school districts in the state; (2) they were both identified as districts having several schools in improvement status, which, according to Department of Education guidance, is a formal acknowledgement that the school is not meeting the challenge of successfully teaching all of its students; and (3) they represent both urban and suburban districts.

with Recovery Act funds. We previously reported that Colorado officials were concerned about how they could pay for the management and oversight of Recovery Act funds. State officials are still concerned that state offices that have oversight over Recovery Act funds, such as the Office of State Controller, the State Auditor's office, and the Governor's Recovery office, did not receive direct funds for their Recovery Act work and were not sure how this work would be funded. State officials said that the state is considering whether to use a portion of the remaining government services funds to pay for administrative costs, or whether to use the 0.5 percent of total Recovery Act funds received by the state that may be used for such costs, as described in OMB guidance issued May 11, 2009.

Highway Infrastructure Investment

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

As we previously reported, $403,924,130 was apportioned to Colorado in March 2009 for highway or other eligible projects in Colorado. As of June 25, 2009, $243,910,077 had been obligated. The U.S. Department of Transportation (USDOT) has interpreted the term "obligation of funds" to mean the federal government's contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement. As of June 25, 2009, $40,938 had been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

According to officials with the Colorado Department of Transportation (CDOT), 92 Recovery Act projects are planned throughout the state. While the initial set of projects under contract are mostly routine pavement preservation and improvement projects, CDOT also plans to use Recovery Act funds for highway construction, bridge replacement, and other more complex projects. For example, one planned project in the Denver metropolitan area will replace two bridges on Interstate 76. For types of projects which have had funds obligated as of June 25, 2009, see table 1.

Table 1: Highway Obligations for Colorado by Project Type as of June 25, 2009

Dollars in millions

	Pavement projects			Bridge projects				
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other[a]	Total
	$4	$134	$70	$0	$17	$0	$19	**$244.0**
Percent of total obligations[b]	1.5	55.1	28.8	0.0	6.9	0.0	7.6	**100.0**

Source: GAO analysis of FHWA data.

[a]Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

[b]Total does not add to 100 due to rounding.

As of June 26, 2009, CDOT had awarded contracts on 29 projects and, as of June 29, had completed construction on 1 project. GAO reviewed two projects with awarded contracts, including a $5.2 million repaving project along US-24/US-285 in Chaffee County, an economically distressed rural area in central Colorado,[15] and a $700,000 repaving project on Belleview Avenue in Arapahoe County, in the Denver metropolitan area.[16] Although conditions along Belleview Avenue had deteriorated beyond the point at which routine maintenance would be useful, CDOT officials reported that without Recovery Act funds, the project would likely not have been completed until 2010 or 2011. With Recovery Act funds, the project was completed by June 29, 2009. Similarly, despite poor road conditions along US-24/US-285, that project would not have been scheduled for construction until fiscal year 2011, but will likely be completed by October 2009 with Recovery Act funds.

[15]Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended.

[16]In selecting Recovery Act highway projects for further review, we looked for projects that were (1) of varying size, (2) in areas with varying economic characteristics, and (3) under contract or construction. Because no locally-administered projects were under contract at the time of our review, we used the list of 10 CDOT-administered projects under contract as of May 11 as the basis for our selection. The projects we selected consisted of one relatively small project in a large urban area (the Belleview Avenue project in metropolitan Denver) and one relatively large project in an economically distressed area (the US 24/US-285 project in Chaffee County).

CDOT officials reported that bids for the initial Recovery Act projects had come in lower than the engineers' estimates, freeing up funds for other projects. The awarded bid on the Belleview Avenue project was 30 percent below CDOT's estimate, partially due to low asphalt prices,[17] which came in at $53 per ton, compared to the engineers' estimate of $90 per ton. Similar cost savings on the US-24/US-285 project allowed CDOT to add an additional 4 miles of repaving to the project, increasing the total project length to 12.5 miles. CDOT officials attributed the low bids to the economic recession, with many contractors in need of work, as well as to downward trends in the prices of certain key commodities such as asphalt. Officials stated that they did not know how long this bidding climate would continue, but the department has adjusted its cost estimates to account for it. Consequently, bids on more recently advertised projects have come in closer to engineers' estimates. As of June 26, 2009, Colorado had total bid savings of $26,653,841—that is, the cumulative difference between engineers' estimates and the awarded contract amounts. FHWA has been deobligating funds as a result of contracts being awarded for less than originally estimated, but CDOT has chosen to wait to use these funds until it knows whether it will need them for any projects with higher than anticipated bid amounts, or whether it will be able to allocate funds to additional projects in targeted areas.

Funds appropriated for highway infrastructure spending must be used as required by the Recovery Act. The states are required to ensure that 50 percent of apportioned Recovery Act funds are obligated within 120 days of apportionment (before June 30, 2009) and that the remaining apportioned funds are obligated within 1 year.[18] The Secretary of Transportation is to withdraw and redistribute to other states any amount that is not obligated by any state within these time frames. Under the act, the states are to give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas. The states are also to certify that the state will maintain the level of spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state planned to expend from state sources as of February 17,

[17]Asphalt is a material used to pave roads.

[18]The 50 percent rule applies only to funds apportioned to the state and not to the 30 percent of funds required by the Recovery Act to be suballocated, primarily based on population, for metropolitan, regional, and local use.

2009, for the period beginning on that date and extending through September 30, 2010.[19]

In Colorado, as of June 25, 2009, 74.5 percent of the $283 million that FHWA has determined is subject to the 50 percent rule for the 120-day redistribution had been obligated, thereby meeting the 50 percent obligation requirement. According to officials with both CDOT and FHWA, Colorado plans to expend all Recovery Act highway funds within 3 years. While a few projects with multiple funding sources may extend beyond 3 years, CDOT is planning to expend Recovery Act funds first in these cases.

Although the Recovery Act directs states to prioritize projects in economically distressed areas, CDOT and its local partners began planning in anticipation of the Recovery Act in December of 2008, before the Recovery Act was passed—and, as a result, selecting projects in economically distressed areas was not initially one of CDOT's top priorities. CDOT officials stated that, in selecting projects, they prioritized those that (1) would create construction jobs, (2) would be shovel ready, and (3) could meet obligation and completion timeframes; in addition, CDOT selected projects using existing agreements to share transportation funds equitably across the state. Nevertheless, in keeping with the Recovery Act's direction on economically distressed areas, CDOT officials said they have since encouraged their local partners to prioritize projects in economically distressed areas when selecting additional projects, and together they have selected 36 projects in economically distressed areas within the state.

On March 19, 2009, Colorado submitted its required maintenance-of-effort certification to USDOT. CDOT determined its maintenance of effort using the amount of state dollars planned, as of February 17, 2009, for expenditure during the remainder of fiscal year 2008-2009, all of 2009-2010, and a portion of 2010-2011. In our April report, we noted that USDOT was reviewing conditional and explanatory certifications, such as the one submitted by Colorado, to determine whether they were consistent with

[19] States that are unable to maintain their planned levels of effort will be prohibited from benefiting from the redistribution of obligation authority that will occur after August 1 for fiscal year 2011. As part of the federal-aid highway program, FHWA assesses the ability of each state to have its apportioned funds obligated by the end of the federal fiscal year (September 30) and adjusts the limitation on obligations for federal-aid highway and highway safety construction programs by reducing for some states the available authority to obligate funds and increasing the authority of other states.

the law. The Secretary of Transportation informed Colorado on April 20, 2009, that conditional and explanatory certifications were not permitted, and gave Colorado the option of amending its certification by May 22, 2009, which the state did. According to USDOT officials, USDOT is reviewing Colorado's resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. USDOT is currently evaluating whether the state's method of calculating the amounts it planned to expend for the covered program is in compliance with USDOT guidance.

Medicaid FMAP

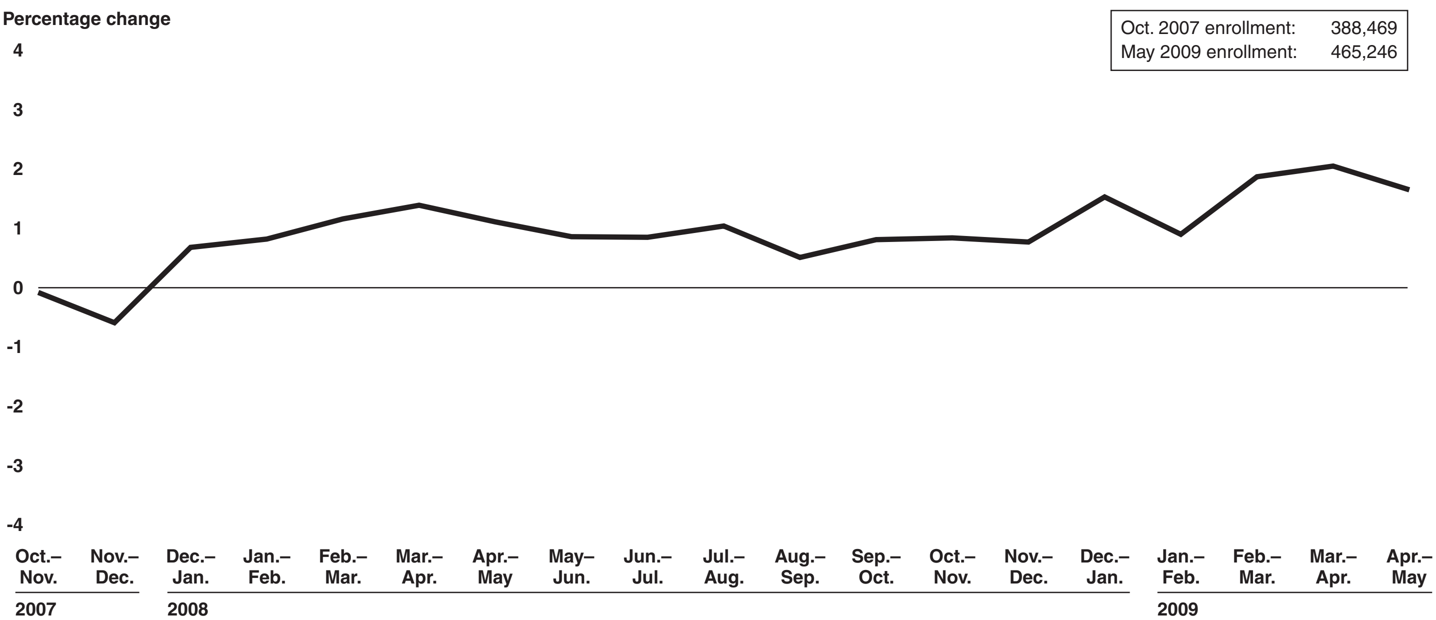
Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the FMAP, which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, through December 31, 2010.[20] On February 25, 2009, the Centers for Medicare & Medicaid Services made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.[21] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states would otherwise have to use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

[20]See Recovery Act, div. B, title V, §5001.

[21]Although the effective date of the Recovery Act was February 17, 2009, states generally may claim reimbursement for the increased FMAP for Medicaid service expenditures made on or after October 1, 2008.

From October 2007 to May 2009, the state's Medicaid enrollment grew from 388,469 to 465,246, an increase of 20 percent.[22] The increase in enrollment was generally gradual during this period, and most of the increase in enrollment was attributable to the population group of children and families. (See fig. 1.)

Figure 1: Monthly Percentage Change in Medicaid Enrollment for Colorado, October 2007 to May 2009



Source: GAO analysis of state reported data.

Note: The state provided projected Medicaid enrollment for May 2009.

As of June 29, 2009, Colorado had drawn down $197,034,548 in increased FMAP grant awards, which is almost 82 percent of its awards to date.[23] Of the states we studied, Colorado was the only state that had not drawn

[22]The state provided projected Medicaid enrollment for May 2009.

[23]Colorado received increased FMAP grant awards of almost $241 million for the first three quarters of federal fiscal year 2009.

down increased FMAP funds as of GAO's first report in April 2009.[24] Colorado officials reported that they are using funds made available as a result of the increased FMAP to offset the state budget deficit—specifically, to avoid or mitigate Medicaid benefit cuts and provider rate cuts resulting from the state's economic conditions.[25] Officials noted that in December 2008, the Colorado legislature realized that significant provider rate cuts would be necessary in light of the state's economic climate. While the Medicaid program cut rates by 2 percent, the funds made available as a result of the increased FMAP allowed the state to forgo a more substantial reduction in rates of 4 percent—which officials noted would have had a severe impact on access to services for Medicaid beneficiaries. Additionally, Colorado Medicaid officials noted that without funds made available as a result of the increased FMAP, the state would have explored more stringent cuts in addition to provider rates, such as prescription drugs.

In using the increased FMAP, Colorado officials reported that the Medicaid program has incurred additional costs related to

- personnel needed to ensure programmatic compliance with requirements associated with the increased FMAP;
- personnel needed to ensure compliance with reporting requirements related to the increased FMAP; and
- personnel associated with routine administration of the state's Medicaid program.[26]

[24]Colorado officials said that the delay in drawing down increased FMAP was a result of two issues: (1) the state's extensive review of the five attestations that accompanied the increased FMAP and the development of the state's responses to these attestations to ensure compliance and (2) the state's coordination with the Office of the State Controller and other state departments on the development of a statewide coding and reporting mechanism for funds received through the Recovery Act.

[25]As noted above, Colorado officials said the use of the words budget deficit is not necessarily applicable, because the state's constitution requires it to have a balanced budget annually and does not permit a budget deficit. Officials believe that a more accurate description of the use of these funds is that they are allowing the state to minimize needed program cuts and provider rate cuts.

[26]According to Colorado Office of State Planning and Budgeting officials, the department of Health Care Policy and Financing (HCPF) has not received approval to hire any new personnel, and therefore increased FMAP has resulted in an increase in workload for HCPF rather than an increase in personnel.

Officials told us that the delay in drawing down increased FMAP funds was partially due to the state needing to implement coding requirements that were established by the Office of the State Controller on a statewide basis for funding from the Recovery Act. The coding requirements were established on a statewide basis to track and report on the increased FMAP funds per OMB guidelines. Specifically, new funds and legislative line items were created on a statewide basis to assist the Office of the State Controller with the tracking and reporting of funding from ARRA. Official guidance on the use of these funds and budget line items was provided by the Office of the State Controller. In addition, new grant budget lines were created to track and report the receipt of increased FMAP dollars separately from regular FMAP dollars at the department level and a reconciliation process was created to reconcile increased FMAP expenditures to the additional FMAP grant awards. With the completion of these modifications, the state officials noted that they do not have concerns regarding the state's ability to maintain eligibility for the increased FMAP.[27]

Individuals with Disabilities Education Act, (Parts B and C)

The Recovery Act provided supplemental funding for programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), the major federal statute that supports special education and related services for infants, toddlers, children, and youth with disabilities. Part B includes programs that ensure preschool and school-aged children with disabilities have access to a free and appropriate public education and Part C programs provide early intervention and related services for infants and toddlers with disabilities or at risk of developing a disability and their families. IDEA funds are authorized to states through three grants—Part B preschool-age, Part B school-age, and Part C grants for infants and families. States were not required to submit an application to Education in order to receive the initial Recovery Act funding for IDEA Parts B and C (50 percent of the total IDEA funding provided in the Recovery Act). All IDEA Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements.

[27]In their technical comments to us, Colorado officials said that the implementation of the processes for the tracking and reporting of increased FMAP expenditures do not directly relate to the state's ability to maintain eligibility for the increased FMAP. It is the state's responses to the five attestations that ensure the state's ability to maintain eligibility for the increased FMAP. Quarterly updates will help the state ensure compliance with the five attestations and its eligibility for increased FMAP.

The Department of Education made available the first half of states' IDEA allocations on April 1, 2009, with Colorado receiving a total of $80.5 for all IDEA programs of its approximately $161 million allocation. As of June 29, 2009, Colorado had reimbursed $3,943,067 in Part B funds to individual school districts and had obligated an additional $156,050. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The first half of the state's allocation consisted of:

- $2.6 million in Part B preschool grants,
- $74.4 million in Part B grants to states for school-aged children and youth, and
- $3.5 million in Part C grants for infants and families for early intervention services.

States will receive the remaining 50 percent by September 30, 2009, after submitting information to Education addressing how they will meet Recovery Act accountability and reporting requirements. Denver County School District 1 officials stated that they have drafted a plan for the use of funds, and that it provides intensive professional development for special education teachers who focus on innovative and proven strategies in reading, math, writing, and science. It also proposes obtaining state-of-the-art assistive technology devices and associated training to enhance access to the general curriculum for students with disabilities. Jefferson County School District R-1 officials said they have not completed a plan for how to use funds; however, one proposal they are considering is the retention of about 88 paraprofessional staff to support teachers. Additionally, they intend to use their IDEA Recovery Act funds to provide professional development in the areas of transition planning, literacy, and math as well as to obtain state-of-the-art assistive technology devices.

In Colorado, the Department of Human Services is responsible for managing IDEA Part C. The department, which received the first half of its allocation, or $3.5 million, had obligated $3,336,454 as of June 30, 2009. State officials said that the funds would generally go to contracts with community centered boards and some universities that provide professional and paraprofessional development as well as technology and services, such as video equipment, speech and occupational therapy, and transitional assistance needed to provide service to preschool children and their families.

Elementary and Secondary Education Act, Title I, Part A

The Recovery Act provides $10 billion to help local educational agencies educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA). The Recovery Act requires these additional funds to be distributed through states to local education agencies using existing federal funding formulae, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, local educational agencies are required to comply with current statutory and regulatory requirements, and must obligate 85 percent of their fiscal year 2009 funds (including Recovery Act) by September 30, 2010.[28]

The U.S. Department of Education made the first half of states' Title I, Part A Recovery Act funds available on April 1, 2009, with Colorado awarded $55.6 million of its approximately $111 million total allocation, with actual distributions subject to reimbursement requests. As of June 29, 2009, Colorado had reimbursed districts a total of $278,962. The Colorado Department of Education is urging local districts to use these funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. The two school districts we visited, Denver County School District 1 and Jefferson County School District R-1, received the first half of their allocation, or $15.7 million and $4.7 million, respectively. Denver County School District 1 officials said they plan to use the funds for professional development activities that will expand student intervention programs, parent and community engagement, teacher standards and evaluations, and use of data and assessment tools. Jefferson County School District R-1 officials said that funds will be disbursed across all Title I schools ensuring they have an increased Title I allocation for the next two years. Among others, they intend to use the funds to improve the district's Home Instruction for Parents of Preschool Youngsters program, which is aimed at improving family literacy, and for instructional coaches in elementary and secondary schools to provide professional development to teachers, particularly in reading and math.

The state will require school districts to apply for their Title I funds, and the districts we visited told us they are in the process of applying. The

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

Colorado Department of Education summarized federal guidance to assist the school districts as they develop their applications. Specifically, the state informed the districts they should address the extent to which their proposed use of funds will (1) drive improved results for students in poverty, (2) increase educators' long-term capacity to improve results, (3) accelerate reform and school improvement plans, (4) avoid the funding cliff effect (resulting from the expiration of Recovery Act funds) and improve productivity, and (5) foster continuous improvement through measurement of results. State and local education officials have expressed concern about avoiding the funding cliff, which is described as the degree to which proposed uses of funding avoid recurring costs that districts and schools are unprepared to assume when this funding ends. State officials also emphasized the importance of investing Recovery Act funds in ways that increase the long-term capacity of local schools to develop high achieving students. Officials at both school districts we visited indicated they are considering employing teachers on a temporary basis with the expectation that by the time Recovery Act money runs out, attrition will allow employment of some teachers on a permanent basis.

U.S. Department of Energy Recovery Act Weatherization Assistance Program

The Recovery Act appropriated $5 billion for the Weatherization Assistance Program, administered by the U.S. Department of Energy (DOE) through each of the states and Washington, D.C.[29] This funding is a significant addition to the annual appropriations for the weatherization program that have been about $225 million per year in recent years. The program is designed to reduce the utility bills of low-income households by making long-term energy efficiency improvements to homes by, for example, installing insulation, sealing leaks around doors and windows, or modernizing heating equipment and air circulating fans. During the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. According to DOE, by reducing the utility bills of low-income households instead of offering aid, the Weatherization Assistance Program reduces their dependency by allowing these funds to be spent on more pressing family needs.

DOE allocates weatherization funds among the states and Washington D.C., using a formula based on low-income households, climate

[29]DOE also allocates funds to American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, the Navajo Nation, and the Northern Arapahoe tribe.

conditions, and residential energy expenditures by low-income households. DOE required each state to submit an application as a basis for providing the first 10 percent of Recovery Act allocation. DOE will provide the next 40 percent of funds to a state once the department has approved its state plan, which outlines, among other things, its plans for using the weatherization funds and for monitoring and measuring performance. DOE plans to release the final 50 percent of the funding to each state based on the department's progress reviews examining each state's performance in spending its first 50 percent of the funds and the state's compliance with the Recovery Act's reporting and other requirements.

DOE allocated about $79.5 million in Recovery Act weatherization funding to Colorado for a 3-year period. In Colorado, the Governor's Energy Office is responsible for administering the program. Colorado applied for the initial 10 percent allocation (about $7.9 million) on March 17, 2009, and DOE provided the funds to the office on April 1, 2009. According to officials, DOE advised the Governor's Energy Office to use these funds for ramp-up purposes, such as hiring and training new staff and purchasing materials and equipment. DOE guidance issued on April 1, 2009, prohibited using the initial allocation for production of weatherized homes; however, DOE subsequently issued guidance on June 9, 2009, that lifted this limitation.[30] Officials said they are using these funds to, among other things, hire new personnel, provide training and technical assistance, and purchase new equipment. The Governor's Energy Office also committed almost $7.4 million or about 93 percent of this initial allocation to its subgrantees (the agencies that contract for weatherization services in 10 regions around the state). As of June 30, 2009, the Governor's Energy Office had obligated $5,252,506 or 66 percent of its initial allocation, of which about $997,873 had been spent.

The Governor's Energy Office undertook a planning process to develop its Weatherization Program Plan, which it submitted to DOE on May 8, 2009. To guide development of state plans, DOE issued a Funding Opportunity Announcement on March 12, 2009, which provided registration and submission requirements, and also issued additional guidance on accessing weatherization funds under the Recovery Act, such as providing

[30]DOE's June 9, 2009, guidance lifted this limitation for local agencies that previously provided services and are included in the state's Recovery Act plan. New providers, however, remain subject to the limitation until the state's plan is approved.

revised eligibility provisions. Officials from the Governor's Energy Office said that Colorado's plan is expected to be approved by DOE on July 1, 2009, the timing of which concerned the officials because the office plans to begin its program and contracts with subgrantees on July 1, 2009.

With the Recovery Act funds, the Governor's Energy Office plans to weatherize 16,280 units and increase its number of weatherization subgrantees and areas of coverage. In developing the state plan for spending Recovery Act funds, officials from the Governor's Energy Office talked to their subgrantees to determine how much additional weatherization funding the subgrantees believed they could reasonably spend—in 2008, Colorado received almost $5.5 million from DOE for the program, compared to almost $80 million allocated under the Recovery Act—and, in doing so, recognized that not all subgrantees may be equipped to handle the influx of funds. In compiling the numbers from the subgrantees, officials at the Governor's Energy Office determined that there was a gap between available Recovery Act funds and the amount of work the subgrantees believed they could deliver, so the Governor's Energy Office initiated two new requests for proposals to identify entities who could fill in the gaps to conduct weatherization work in certain regions of the state. The Governor's Energy Office also plans to initiate two statewide requests for proposals.

In the fall of 2008, before the Recovery Act passed, the Governor's Energy Office conducted a comprehensive assessment of its Weatherization Assistance Program, which officials said helped position Colorado to handle the influx of Recovery Act funds. The assessment included a review of internal operations, tracking mechanisms, and oversight of subgrantees and their performance. As a result of this assessment, the Governor's Energy Office hired additional staff, including an additional quality assurance staff member, a new client manager, an outreach manager, and an information technology specialist.

Edward Byrne Memorial Justice Assistance Grant Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) program within the Department of Justice's Bureau of Justice Assistance (BJA) provides federal grants to state and local governments for law enforcement and other criminal justice activities, such as crime prevention and domestic violence programs, corrections, treatment, justice information sharing initiatives, and victims' services. Under the Recovery Act, an additional $2 billion in grants is available to state and local governments for such activities, using the rules and structure of the existing JAG program. The level of funding is formula based and is determined by a combination of crime and population statistics. Using this formula, 60 percent of a state's JAG allocation is awarded by BJA directly to the state, which must in turn allocate a formula-based share of those funds to local governments within the state. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state. The total JAG allocation for Colorado's state and local governments under the Recovery Act is about $29.9 million, a significant increase from the fiscal year 2008 allocation of about $2.2 million.

As of June 26, 2009, Colorado had received its full state award of $18.3 million[31] and had spent $13,743 for computers and staff time to support the program, according to state officials. The state Department of Public Safety administers the JAG program in Colorado and plans to use 10 percent of the full award for administrative costs as allowed for under the JAG program. The department plans to allocate the remainder of the full award to be consistent with the JAG pass-through requirements (which are based on a formula that takes into account a state's crime expenditures). As a result, approximately 60 percent of the remaining funds are to be awarded to local government entities and 40 percent to state entities.

The department intends to allocate these funds through a competitive process, for which it solicited applications starting on March 27, 2009. The department is now evaluating the 193 applications that it received by the May 1, 2009, deadline. Department of Public Safety program managers are reviewing the applications for thoroughness, completeness, ability to report in a timely way, and other information. According to the department's application, final awards should be made to applicants whose proposals, among other things, have an ability to create and preserve jobs, clearly address a priority area, and clearly address a funding need through the use of statistics, among other criteria. The priority areas for awarding JAG funds include, among other programs, community and neighborhood programs that assist in preventing and controlling crime; planning, evaluation, and technology improvement programs; and law enforcement programs, in particular those focusing on the integration of services so that law enforcement agencies can better prioritize service requests.

After its review, the department plans to present the applications, the week of July 6, 2009, to the JAG Board, a group of individuals appointed by

[31]Due to rounding, this number does not exactly equal 60 percent of the total JAG award.

the Governor to represent state and local levels of the state's criminal justice system, including, among others, police chiefs, prosecutors, adult and juvenile corrections representatives, and mental health and substance abuse treatment providers. The board will discuss, score, and select applications for funding. After an appeals process in August, the Department of Public Safety will then finalize the grant documents and provide awards for funding to begin on October 1, 2009. Monitoring of those awarded funds will be conducted by program staff and additional temporary staff the department has hired specifically to be responsible for Recovery Act funds. The department plans to conduct monitoring through review of the quarterly reports submitted by subgrantees, and as well, to conduct a site visit of each subgrantee receiving Recovery Act funds.

Public Housing Capital Grants

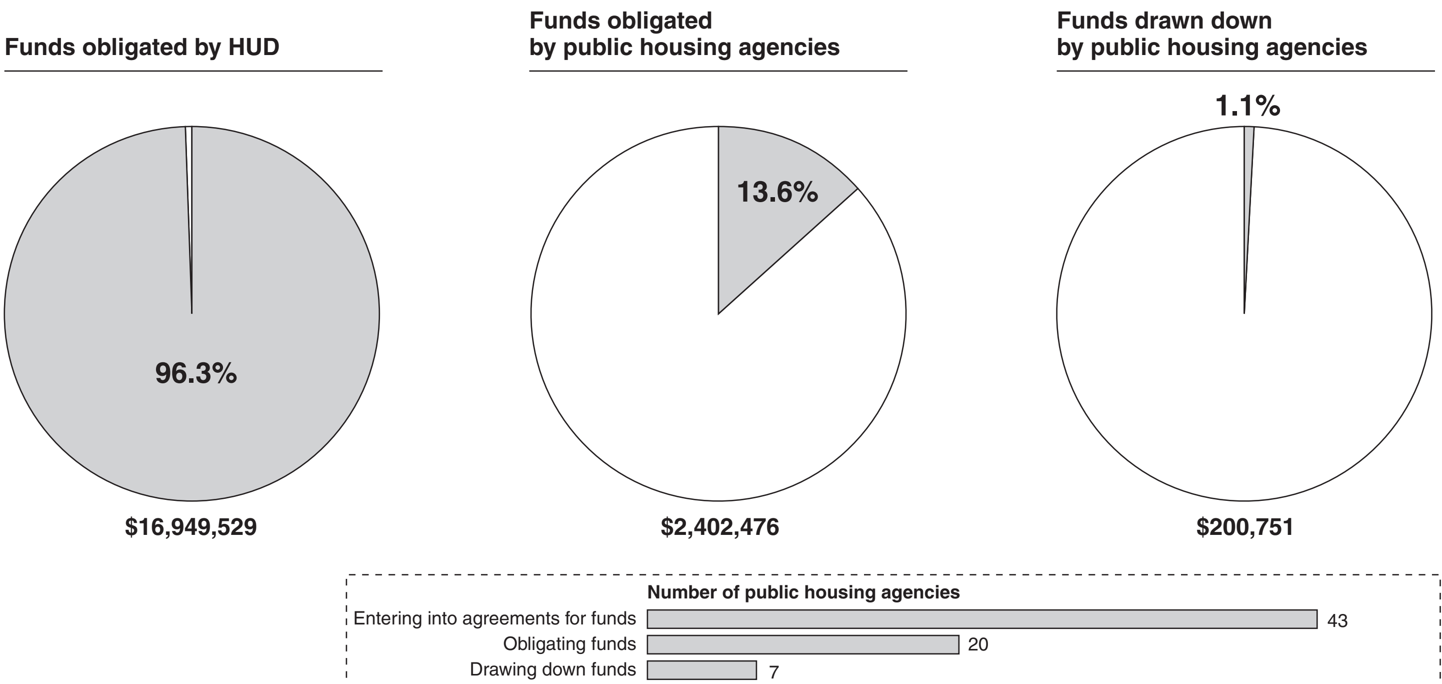
The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies for improving the physical condition of their properties; developing, financing, and modernizing public housing; and improving management.[32] The Recovery Act requires HUD to allocate $3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. Recovery Act requirements specify that public housing agencies must obligate funds within 1 year of the date they are made available to public housing agencies for obligation, expend at least 60 percent of funds within 2 years of that date, and expend 100 percent of the funds within 3 years of that date. Public housing agencies are expected to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, as well as capital projects that rehabilitate vacant units, or those already underway or included in the required 5-year capital fund plans. HUD is also required to award $1 billion to housing agencies based on competition for priority investments, including investments that leverage private sector funding/financing for renovations and energy conservation retrofit investments. On May 7, 2009, HUD issued its Notice of Funding Availability (NOFA) that describes the competitive process, criteria for applications, and timeframes for submitting applications.[33]

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

[33]HUD released a revised NOFA for competitive awards on June 3, 2009. The revision included changes and clarifications to the criteria and timeframes for application, and to funding limits.

Colorado has 43 public housing agencies that have received Recovery Act formula grant awards. In total these public housing agencies received $16,949,529 from the Public Housing Capital Fund formula grant awards. As of June 20, 2009, the state's public housing agencies had obligated $2,402,476 (14 percent) and spent $200,751 (1 percent). (See fig. 2.) Officials from the Housing Authority of the City and County of Denver told us the authority has been slow to spend Recovery Act funds because of regulatory requirements that must be met, including amending its 5-year plan, completing environmental clearances, and getting projects approved by its board of commissioners.

Figure 2: Percent of Public Housing Capital Funds Allocated by HUD that Have Been Obligated and Drawn Down in Colorado



Source: GAO analysis of HUD data.

Note: HUD allocated $653,763 in Capital Fund formula grants from the Recovery Act to four additional public housing agencies in Colorado, but these housing agencies either chose not to accept Recovery Act funding or no longer had eligible public housing projects that could utilize the funds. As a result, these funds have not been obligated by HUD.

The three public housing agencies we visited in Colorado—the Housing Authority of the City and County of Denver, Holyoke Housing Authority, and Housing Authority of the Town of Kersey—received Capital Fund formula grants totaling almost $7.9 million.[34] HUD allocated $7,799,206 in formula capital funds to the Housing Authority of the City and County of Denver, $59,934 to the Holyoke Housing Authority, and $29,193 to the Housing Authority of the Town of Kersey. As of June 20, 2009, the Housing Authority of the City and County of Denver had obligated about $14,000 and had not drawn down any Recovery Act funds, the Holyoke Housing Authority had obligated about $32,000 and drawn down about $21,000, and the Housing Authority of the Town of Kersey had not obligated or drawn down any Recovery Act funds.

The Housing Authority of the City and County of Denver—a large, urban housing authority—plans to use its Capital Fund formula grants to build 90 new housing units[35] and rehabilitate 389 housing units across three projects.[36] For example, one project planned by the Housing Authority is to use about $250,000 in Capital Fund formula grants to replace existing water heaters in 200 units with energy-efficient water heaters and to complete exterior painting. According to Denver officials, this project is scheduled to begin in June 2009 and will be completed by December 2009. The Housing Authorities of Holyoke and the Town of Kersey are small, rural housing authorities that have used or are planning to use Recovery Act funds for smaller-scale projects. For example, the Holyoke Housing Authority plans to use about $14,000 in Recovery Act funds to replace wooden patio fences at 30 units with vinyl fences and attached solar lights. This project began in June 2009 and is scheduled to be completed in July 2009. Figure 3 shows before and after views of two adjacent units whose fences were replaced early in the project. The Housing Authority of the Town of Kersey plans to use some of its Recovery Act funds to replace

[34]We selected three housing agencies throughout the state that received varying amounts of Recovery Act funds and were of varying sizes; the Housing Authority of the City and County of Denver is a large housing authority that received almost $7.8 million in Recovery Act funds whereas the Housing Authorities of Holyoke and the Town of Kersey are very small housing authorities that each received well under $100,000 in Recovery Act funds. We also selected these housing agencies because one had already spent Recovery Act funds at the time of our visit while the other two had not.

[35]The 90 new units that the Housing Authority of the City and County of Denver plans to build will include public housing and low-income housing tax credit units.

[36]These projects include one that is currently not on the Housing Authority's list of projects to fund with Capital Fund formula grants. However, officials expect to be able to fund it with Capital Fund formula grants because they expect to fund other projects with competitive grants, therefore making formula grants available to fund this project.

older windows in 18 units with energy-efficient windows. This project is scheduled to begin in July 2009 and be completed in September 2009. Figure 4 shows a housing unit at the Kersey housing authority; the lower windows have already been replaced with energy-efficient windows (using past Capital Fund formula dollars) while the four upper windows are original, single-pane windows that the Kersey housing authority plans to replace using Recovery Act funds.

Figure 3: Two Public Housing Units at the Holyoke, Colorado Housing Authority Before and After New Fences Were Installed

Source: GAO.

Before

Source: Holyoke Housing Authority.

After

Figure 4: One Public Housing Unit at the Kersey, Colorado Housing Authority Before New Energy-Efficient Windows Were Installed (Upper Windows)

Source: GAO.

Officials from the three housing authorities we visited said that they selected projects to fund with Capital Fund formula grants based on needs assessments and their 5-year project plans. As noted, the Recovery Act directs housing agencies to give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available, projects that rehabilitate vacant rental units, and capital projects that are already underway or are included in the 5-year capital funds plans. According to officials from the Housing Authority of the City and County of Denver, in prioritizing projects to fund with Capital Fund formula grants, they mainly focused on ongoing and planned projects, including projects that were already through the design phase and one that was already under contract. The Housing Authority of the City and County of Denver has a very low vacancy rate, so rehabilitating vacant rental units was not a key concern, according to officials, although they do plan to address two long-term vacant units using Recovery Act funds. Officials from the Housing Authorities of Holyoke and the Town of Kersey said that they also focused on ongoing or planned projects to fund with Recovery Act formula grants; these housing authorities also have few vacant units. Once the housing authorities' project lists were compiled, they had to be approved by each authority's board of commissioners.

Officials from the three housing authorities we visited did not anticipate any challenges in accessing Capital Fund formula grants or in meeting accelerated time frames for spending Recovery Act funds. Officials from the Housing Authority of the City and County of Denver said that they had already begun the environmental clearance process for the projects they plan to fund with Recovery Act funds. In addition, one of the projects they plan to fund with Recovery Act funds was already under contract when the project was selected, so the officials said that they were able to change the contract to add in elements that they originally did not have the funds to complete. Officials from the Housing Authorities of Holyoke and the Town of Kersey said that they planned to spend all Recovery Act funds by the end of 2009.

Colorado Will Track Recovery Act Funds Separately, but Officials Continue to Have Concerns about the State's Capacity to Audit Recovery Act Funds

Since we last reported, Colorado has implemented a separate coding structure in its state accounting system, the Colorado Financial Reporting System (COFRS), to identify and track Recovery Act funds. The unique coding will allow the state to track and report on state departments' use of Recovery Act funds. During the current reporting cycle, we discussed internal controls with state and local officials. Historically, the state's internal controls over funds have been decentralized, in that the state relies on its departments to ensure that funds are properly tracked and appropriate internal controls are in place; furthermore, according to the Controller, the state does not have responsibility for local entities' internal controls. With the additional reporting requirements in the Recovery Act, the Controller believes it is necessary to begin monitoring the departments' internal controls to help them ensure their internal controls are sound. In addition, state departments and local entities rely on internal and external audits, including their Single Audit reports, to identify weaknesses in their fund management. However, state officials continue to express concerns about having resources to cover the potentially increased audit workload associated with the Recovery Act, particularly in fiscal year 2009-2010 when the bulk of the funds will be spent. State officials have considered providing additional funding to the State Auditor's office to cover this workload but have not made a final proposal or decision.

Colorado Has Established a Coding Structure to Track and Report Recovery Act Funds Separately

Colorado officials continue to modify their accounting system and processes to meet requirements for tracking Recovery Act funds. In April, we reported that state officials were concerned that COFRS's age might make it difficult to use the system to track Recovery Act funds in a timely way, and that some individual state departments do not use the COFRS grant module and therefore must manually post aggregated revenue and expenditure data to the system. In particular, the Colorado Department of Transportation and the state's institutions of higher education have their own accounting systems. We also reported that state officials had concerns about the tracking and reporting of funds received by local entities directly from federal agencies without passing through the state.

Since our April 2009 report, the Controller has integrated a new coding structure in COFRS that allows the state's departments and agencies to distinguish Recovery Act funds from other federal funds. The Controller issued guidance on May 13, 2009, that established unique coding for Recovery Act grants that will allow the state to segregate Recovery Act funds from regular federal funds in reporting operating revenues and expenditures, financial statements, and grant activity. In addition, the guidance requires state departments that use COFRS as their main accounting system to also use the COFRS grant management module to separately track Recovery Act grants. According to the Controller, reporting requirements will be worked out with the Colorado Department of Transportation and the state's institutions of higher education.

This new coding structure will not affect local entities that receive Recovery Act funds directly from federal agencies. These local entities have their own accounting systems and are responsible for tracking and reporting their Recovery Act activities to the federal government directly. For example, the three public housing authorities we visited will use their established systems to track Recovery Act funds separately from other funds.

Colorado's Internal Control Responsibilities Are Traditionally Decentralized, but the State Controller Is Taking Action to Provide More Central Oversight of Recovery Act Funds

Colorado's internal control structure is decentralized, in that the Controller's office manages the state's fiscal policies and procedures while each department is responsible for ensuring that its programs have sufficient internal controls. Under Colorado law, each principal department of the executive branch of the state government must maintain systems of internal accounting and administrative control for all agencies in the department. These systems of internal accounting and administrative control must provide for, among other things, (1) adequate authorization and record-keeping procedures to provide effective control over state assets, liabilities, revenues, and expenditures; and (2) an effective process of internal review and adjustments for changes in condition.[37] The head of each principal department of the state is to file a written statement that the department's system of internal accounting and control either does or does not fully comply with the specified requirements.[38] Although the Controller's office ensures that these statements are filed every year, historically, the Controller has not had the resources to ensure that proper internal controls are in place.

Overall, state departments and local entities will use their existing internal controls to manage Recovery Act funds and programs. For example, CDOT officials said that they are using the department's existing processes to manage Recovery Act funds and projects. The processes include accounting and project management controls throughout all phases of a project. CDOT processes all payments through a secure software system that reports data down to the unit level and requires at least two people to be involved in all payments. CDOT prepares independent cost estimates before accepting bids and allows only pre-qualified contractors to submit bids; it also uses a computer program that checks for bid collusion. During the construction phase, contractors must comply with detailed specifications and keep daily diaries of work accomplished. CDOT project personnel remain on site to ensure that the project is built in accordance with the contract requirements. During final review, a CDOT engineer who was not involved in the design or construction phases reviews the final project documentation. Moreover, Recovery Act projects are receiving additional oversight. For example, CDOT assigned a manager to ensure

[37] Colo. Rev. Stat. § 24-17-102.

[38] Colo. Rev. Stat. § 24-17-103. In the event that a statement is filed that indicates that the systems employed by the department are not in compliance with the applicable requirements, the statement must further detail specific weaknesses known to exist, together with plans and schedules for correcting any such weaknesses.

and coordinate CDOT's compliance with the Recovery Act at all levels and is increasing site visits, holding weekly progress reviews, and requiring more documentation at all levels for Recovery Act projects.

Similarly, the housing authorities we visited are using their established internal controls to oversee Recovery Act funds and projects. For example, officials from these housing authorities said that they already monitor projects funded with Capital Fund formula grants on a regular basis and did not plan to increase site visits to Recovery Act projects. The offices for the two small housing authorities we visited were located on site with the housing authorities' units, so officials said that it is easy to monitor all projects. Officials from the Housing Authority of the City and County of Denver said that they do regular site visits to monitor projects, although an official from this authority said that they may increase their monitoring to ensure compliance with the Buy American provision of the Recovery Act,[39] depending on reporting guidance received from OMB.

Some state officials expressed concerns that some programs might be at increased risk for improper use of, and reporting on, Recovery Act funds due to long standing material weaknesses or inadequate accounting systems. One of these programs, Medicaid, is operated by the Department of Health Care Policy and Financing and audits have identified areas of significant risk related to state expenditures of Medicaid funds. Both the fiscal year 2007 and fiscal year 2008 Single Audits identified material weaknesses in the state's Medicaid program. The 2007 Single Audit found that Colorado Medicaid did not process initial applications or eligibility redeterminations in a timely manner and that the program lacked documentation to support its eligibility decisions. Program officials agreed with nearly all of the material weaknesses that were identified and proposed corrective actions for each. The 2008 Single Audit found similar themes as those raised in 2007, as well as additional issues related to items such as cash management, provider licensing, and training of staff. The Legislative Audit Committee held a hearing on the program in the spring of 2009 and the State Auditor subsequently requested that the Department of Health Care Policy and Financing develop a plan to correct its problems. In May 2009, the Department issued a corrective action plan addressing the identified material weaknesses.

[39]With certain exceptions, Recovery Act funds may not be used for construction, alteration, maintenance, or repair of a public building or public work unless all the iron, steel, and manufactured goods used in the project are produced in the United States. Recovery Act, div. A, title XVI, § 1605.

Another program that some state officials said was at increased risk for improper use of, and reporting on, Recovery Act funds is the weatherization program because of the large increase in federal funds that it is receiving under the Recovery Act. Officials in the Governor's Energy Office stated that they plan to conduct monthly visits of all subgrantees, in contrast to the semiannual or annual visits they made before the Recovery Act passed. Officials further stated that putting all reports online—which will be done through a new Web-based tracking system—will enable them to monitor subgrantee performance in real time. As a result, they hope to be able to identify problems at their inception. For example, subgrantees have monthly performance requirements laid out in their contracts. By monitoring performance in real time, officials with the Governor's Energy Office should immediately become aware of any underperformance by subgrantees and can take proactive measures, such as providing help or additional expertise to that subgrantee.

According to the Controller, the Recovery Act's emphasis on accountability and transparency heightens the need for the state to have a centralized process for monitoring the effectiveness of state departments' internal controls. According to the Controller, his office has not historically had the resources to carry out that role. Given the increased need for and attention to the state's internal controls, the Controller's office is developing an internal control toolkit that will provide state departments information on internal control systems and checklists to formalize and improve their existing processes and identify potential weaknesses. In addition, the Controller's office is in the process of filling its internal auditor position, which has been vacant for over 2 years. According to the Controller, the auditor will work with state departments to promote and monitor internal controls, as well as monitor proper tracking and reporting of Recovery Act funds.

State Officials Are Concerned about Capacity to Audit Recovery Act Funds

Under the Single Audit Act, any nonfederal entity that spends over $500,000 in federal awards in one fiscal year is required to have a Single Audit. In Colorado, the State Auditor's office is responsible for carrying out, or contracting portions of, the state's annual Single Audit of state departments. (Local entities, such as the school districts we visited, which exceed the $500,000 amount, are required to have a Single Audit separate from the state audit.) The State Auditor's office, in conducting its annual

Single Audit, must plan to provide adequate audit coverage each year.[40] We reported in April that state officials were concerned about the increasing need for internal and external audit coverage of Recovery Act funds, including coverage by the State Auditor's office.

Effective Single Audit coverage is important because state department officials told us that they use their Single Audit reports to identify and correct weaknesses in their internal controls. As noted above, for example, the Department of Health Care Policy and Financing was identified in statewide Single Audit reports as having significant weaknesses. In addition, CDOT uses the Single Audit reports submitted by localities to identify areas of high risk that could affect their transportation programs. Most of the time, local entities do not conduct audit testing on transportation projects they manage because the expenditures on these projects are relatively small. For this reason, CDOT's audit division reviews local entities' Single Audit reports to assess those entities' controls, and may require corrective action plans if weaknesses are found. Further, CDOT requires full documentation of expenses for localities managing transportation projects unless they provide CDOT with evidence that they have sufficient controls to manage projects with less oversight. Finally, the Colorado Department of Education relies on audits from the local school districts to assess and determine if there are weaknesses in a district's management of federal funds. They also use audits to identify districts that may receive a site visit from department staff.

At the local level, the Denver housing authority's management of federal funds has been reviewed through its annual Single Audit and other audits. Because no material weaknesses related to the housing authority's financial systems have been identified, housing authority officials do not anticipate any challenges or system changes related to Recovery Act funds. Similarly, each of the two rural housing authorities we visited is audited each year by external auditors.

While state departments and local entities use their Single Audit reports to identify weaknesses in their management of federal funds, state officials continued to express concerns about the state's capacity to handle the potential increase in internal and external audit workload associated with

[40]The office develops an annual audit plan that includes about 35 to 40 financial and 20 to 25 performance audits, and considers three key components when developing the plan: (1) audits required by law or other legal requirements; (2) audits requested; and (3) audits identified by the office on the basis of risk.

Recovery Act funds and additional reporting requirements. The Office of the State Auditor is currently performing the Single Audit for fiscal year 2008-2009 and, according to officials, they will be able to adjust their audit plan to include audit work for Recovery Act funds expended by state departments in this fiscal year. At the same time, they are developing the audit plan for fiscal year 2009-2010, the period when the bulk of Recovery Act funds will be spent. Officials with the Office of the State Auditor said that without OMB guidance on audit and reporting requirements, they cannot finalize the plan and therefore do not know what resources they will need to carry it out. However, they expect the workload to increase beyond the resources available. State officials have discussed using administrative funds to cover some of the costs of additional audit work by the State Auditor's office, but no proposal or decision has been made about the use of these funds.

Colorado May Use Additional Data Gathering Systems to Assess the Effect of Recovery Act Dollars in the State, But State Officials Said Guidance on Job Creation and Retention Is Needed

Although it is still too early to assess the impacts of Colorado's Recovery Act funding, state officials are planning to centrally track and monitor the results of this spending.[41] State Recovery office officials said they are still evaluating whether to modify an existing system or acquire a new system to report on the effects of Recovery Act funds. The state will gather data including the number of jobs created and retained by the funds. However, some state department officials said that reporting guidelines have not yet been finalized and that they need guidance, particularly guidance on counting jobs created and retained.[42]

Colorado Is Assessing Systems to Track and Report on the Effects of Recovery Act Funding

State officials said that they plan to centrally track and report nonfinancial information to demonstrate the effects of Recovery Act spending across Colorado. To accomplish this, the state Recovery office is still assessing whether it will modify and use an existing state system or acquire an off-the-shelf system available from private companies. This decision will be made during the next few months; the state plans to participate in OMB's July 10, 2009, reporting effort and assess that effort and the options available to report Recovery Act information, although officials said that they have not heard from OMB regarding the state's participation.[43] The state is awaiting additional OMB guidance on reporting requirements to

[41]On June 11, 2009, the state issued a status report on Recovery Act funds and will update this report periodically. The report is: Governor's Economy Recovery Team, *The American Recovery and Reinvestment Act: A Colorado Status Report* (Denver, Colo., 2009), http://www.colorado.gov/governor/press/pdf/ColoradoStatusReport.pdf (accessed June 12, 2009).

[42]As noted on the following pages, several state and local officials told us that they were seeking additional guidance on how to report on Recovery Act funds. OMB provided such guidance on June 22, 2009; however, we did not subsequently discuss the guidance with officials to determine whether it met their needs. See OMB Memorandum, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009.*

[43]In July 2009, OMB and the Recovery Accountability and Transparency Board plans to conduct a small-scale pilot test of the reporting procedures and data collection system developed for recipient reporting. Actual required reporting will begin October 10, 2009, for the quarter ending September 30, 2009.

make a determination about what it will need to report, according to state and department officials.

Some state agencies, such as the state Departments of Education and Transportation, plan to use their existing systems to track and report performance information. At least one state agency may modify a recently developed system to track Recovery Act results, while another state department will use a federal system to gather program results. The Governor's Energy Office developed a new Web-based tracking system, which it plans to roll out on July 1, 2009, that will facilitate real-time reporting of program performance. The system compares costs across the program and monitors certain performance measures, such as installations of energy conservation measures and units. The state already reports to DOE on progress and funding, but officials from the Governor's Energy Office said that until they receive additional guidance from OMB, they will not know whether additional data may need to be collected. However, these officials noted that because they developed their tracking system in house, they can customize it to track any additional requirements provided by DOE or OMB.

Officials at the Colorado Department of Public Safety said that they will need to report on new JAG-specific programmatic performance measures created by BJA, and will need to report more frequently than in the past. The officials said that BJA is developing a system to gather and report information on these measures, but that depending on the system's capabilities and BJA's reporting requirements, the department may develop an electronic reporting system for subgrantees to report to the state. The department is concerned about the accuracy of the data reported by subgrantees directly to the federal government because the measures are new and complex. Officials stated that the data would be more accurate if the reporting time frames were lengthened—from the 30 days required by BJA for JAG-specific measures to a minimum of 45 days—to provide the state time to review the information and work with the subgrantees to refine it.

Some State Departments Said Guidance Is Needed to Report Jobs Created and Retained

State departments and local entities plan to track and report on the number of jobs created and retained, but some officials said that they are waiting for OMB guidance on how to count these positions. For example, some state and local education officials told us they need clear guidance on the information they will be required to report, so that they can adjust their existing monitoring and reporting processes and systems accordingly. Similarly, officials from the Housing Authority of the City and

County of Denver said that they track certain information on housing projects, such as occupancy rates, resident complaints, section 3 employment,[44] and women and minority business goals, and were awaiting guidance on how to track data on jobs created or retained. They noted that they may reserve some funds to do an assessment of their projects' effects on the economy and job creation. Officials from the two rural housing authorities we visited said that they do not currently track any performance measures, other than ensuring work is completed. They noted that because of the size of their projects, the projects funded with Recovery Act funds would not result in substantial job creation, other than creating short-term work for some contractors.

Finally, Department of Public Safety officials continued to have concerns about reporting jobs data, as we reported in our April 2009 report. Although officials said that the applicants' ability to report will be one way of scoring the applications for funding, they are still concerned that the requirement to report jobs data 10 calendar days after the quarter will be difficult for the state and subgrantees to meet. The officials said they are also awaiting guidance from OMB on how to count jobs created and retained. In particular, the officials questioned how jobs should be counted from one quarterly report to the next and were concerned about avoiding duplication in counting jobs.

On the other hand, CDOT has received guidance on measuring jobs created or retained from the U.S. Department of Transportation and has directed local entities and contractors to gather specific data. Although only a few of Colorado's Recovery Act-funded highway projects have begun construction, CDOT does not anticipate any difficulties in reporting jobs created or retained. However, officials added that it would be difficult for them to report these categories separately if required to in the future. Officials stated that the information contractors are being asked to provide under the Recovery Act is similar to information already reported by contractors for other purposes. In particular, contractors have experience providing data about workers on CDOT-funded construction sites because they must submit certified payroll records to CDOT for themselves and their subcontractors to comply with Davis-Bacon Act reporting

[44]Under section 3 of the Housing and Urban Development Act of 1968, employment and other opportunities generated by federal financial assistance for housing and community development programs are to be directed, to the greatest extent possible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. 12 U.S.C. § 1701u.

requirements.[45] On June 12, 2009, CDOT submitted its second monthly employment report to the U.S. Department of Transportation. In total, CDOT has reported 65 direct on-project jobs created or retained as a result of Recovery Act funding.

Colorado's Comments on This Summary

We provided officials in the Colorado Governor's Recovery office, as well as other pertinent state officials, with a draft of this appendix on June 19, 2009. State officials generally agreed with this summary of Colorado's recovery efforts to date. The officials also provided technical comments, which were incorporated, as appropriate.

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[45] The Recovery Act requires all laborers and mechanics employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wages as determined under the Davis-Bacon Act. Recovery Act, div. A, title XVI, § 1606. Under the Davis-Bacon Act, the Department of Labor determines the prevailing wage for projects of a similar character in the locality. 40 U.S.C. §§ 3141-3148.