

July 2009

# RECOVERY ACT

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



GAO

Accountability \* Integrity \* Reliability

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# Appendix VIII: Massachusetts

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## Overview

The following summarizes GAO's work on the second of its bimonthly reviews of American Recovery and Reinvestment Act (Recovery Act)<sup>1</sup> spending in the commonwealth of Massachusetts. 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:** GAO's work in Massachusetts focused on nine federal programs, selected primarily because they have begun disbursing funds to states, include new programs, or include existing programs receiving significant amounts of Recovery Act funds. Program funds are being directed to help Massachusetts stabilize its budget and support local governments, particularly school districts, and several are being used to expand existing programs. Funds from some of these programs are intended for disbursement through states or directly to localities. The funds include the following:

- **Funds Made Available as a Result of Increased Medicaid Federal Medical Assistance Percentage (FMAP).**<sup>2</sup> As of June 29, 2009, Massachusetts had received over \$1.2 billion in increased FMAP grant awards, of which it had drawn down over \$833 million, or almost 68 percent. The commonwealth is using these funds to cover the state's increased Medicaid caseload, maintain current populations and benefits, increase provider payment rates, and make additional state funds available to offset the state budget deficit.
- **Highway Infrastructure Investment funds.** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$438 million in Recovery Act funds to Massachusetts, of which 30 percent was suballocated to metropolitan and other areas. As of June 25, 2009, the federal government's obligation was \$174 million, and Massachusetts had contracted for 20 projects and advertised for an additional 10 projects. All were quick-start projects largely involving road paving except for one complex project that includes construction of a new highway interchange. For example, one project in Adams entails 1.5 miles of road resurfacing and sidewalk reconstruction on Route 116. All paving except the topcoat is planned to be completed

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

<sup>2</sup>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.

before winter. Another project in Swansea involves resurfacing Route 6 from the Somerset town line to the Rehoboth town line and that paving is expected to be completed before winter.

- **U.S. Department of Education State Fiscal Stabilization Fund (SFSF).** The U.S. Department of Education (Education) has awarded Massachusetts about \$666 million, or about 67 percent of its total SFSF allocation of \$994 million. The commonwealth has obligated \$412 million as of June 26, 2009. Massachusetts is using these funds to restore state aid to school districts, helping to stabilize their budgets and, among other uses, retain staff. For example, a Lawrence Public Schools official said these funds would prevent the layoff of 123 staff members, including 90 teachers.
- **Title I, Part A, of the Elementary and Secondary Education Act (ESEA) of 1965.** Education has awarded Massachusetts about \$82 million in Recovery Act ESEA Title I, Part A, funds or 50 percent of its total allocation of \$163 million. Of these funds, the commonwealth has allocated \$78 million to local education agencies, based on information available as of June 30, 2009. These funds are to be used to help educate disadvantaged youth. For example, the Boston Public Schools plan to use these funds for benchmark assessments, a student information system, and targeted upgrades of computer facilities for teacher and student use.
- **Individuals with Disabilities Education Act (IDEA), Parts B and C.** Education has awarded about \$149 million in Recovery Act IDEA, Part B and C, funds, or 50 percent of its total allocation of \$298 million. Massachusetts has allocated all of its available Part B funds to local education agencies, based on information available on June 30, 2009. These funds are planned to be used to support special education and related services for infants, toddlers, children, and youth with disabilities. For example, Boston Public Schools plan to use these funds to hire staff; invest in prereferral to special education intervention, autism-related technology, and training; and expand inclusion activities.
- **Weatherization Assistance Program.** The U.S. Department of Energy (DOE) allocated about \$122 million in Recovery Act weatherization funding to Massachusetts for a 3-year period. DOE has provided \$12.2 million to the commonwealth, and Massachusetts has obligated none of these funds as of June 30, 2009, as it is awaiting approval of its state plan. In July 2009, Massachusetts plans to begin disbursing its funds for weatherizing low-income families' homes and

state and federal public housing, and for developing an energy-related training center.

- **Workforce Investment Act Youth Program.** The U.S. Department of Labor allotted about \$24.8 million to Massachusetts in Workforce Investment Act Youth Recovery Act funds. The commonwealth has allocated \$21.1 million to local workforce boards, based on information available on June 30, 2009. Massachusetts plans to use 60 percent of Recovery Act funds under this program by September 30, 2009, to create about 6,500 summer jobs for youth.
- **Edward Byrne Memorial Justice Assistance Grants.** The Department of Justice's Bureau of Justice Assistance has awarded \$25 million directly to Massachusetts in Recovery Act funding. Based on information available as of June 26, 2009, about \$13 million (51 percent) of these funds have been obligated by the Executive Office of Public Safety and Security, which administers these grants for the commonwealth.<sup>3</sup>
- **Public Housing Capital Fund.** The U.S. Department of Housing and Urban Development has allocated about \$82 million in Recovery Act funding to 68 public housing agencies in Massachusetts. Based on information available as of June 20, 2009, about \$3.1 million (4 percent) had been obligated by 20 of those agencies. At the two public housing agencies we visited (in Boston and Revere), this money, which flows directly to public housing agencies, is being used for various capital improvements, including modifying bathrooms, replacing roofs and windows, and adding security features.

**Safeguarding and transparency:** Massachusetts has begun planning its oversight efforts. Officials from the State Auditor's Office have drafted an audit plan and are currently planning the risk assessments they will perform of programs receiving funding under the Recovery Act. The state Inspector General intends to focus on gaps in coverage. The oversight agencies have expressed concern regarding their 2010 budgets and potential staffing cuts due to the commonwealth's fiscal situation. The extent of these cuts will not be known until the budget is passed for the fiscal year, which begins July 1, 2009. The commonwealth is in the process

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<sup>3</sup>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.

of putting into place a plan to obtain additional resources for these oversight agencies. Massachusetts has enhanced its accounting system to track Recovery Act funds that flow through the state accounting system. The Comptroller's Office has included questions on compliance with Recovery Act provisions in its internal control questionnaire, and the Governor's Office is continuing to assess whether agencies need new procedures for managing these funds.

**Assessing the effects of spending:** Massachusetts agencies are beginning to develop strategies for collecting and reporting employment outcomes, focusing on incorporating federal guidance and adapting existing systems for collecting and reporting on jobs created and retained. State program officials report using a variety of methods to measure employment outcomes, which could lead to reporting inconsistencies. For example, highway construction projects are submitting monthly information on employees paid, while weatherization program officials have estimated the number of jobs that will be created using a model for the construction trades. Existing programs receiving Recovery Act funds are beginning to develop plans for measuring program performance.

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## Massachusetts Has Accelerated the Use of Recovery Act and Rainy-Day Funds to Close a Growing Budget Gap

As we noted in our April 2009 report,<sup>4</sup> the commonwealth of Massachusetts was, at that time, addressing a budget gap of approximately \$3 billion out of a total state operating budget of about \$28 billion.<sup>5</sup> Since our last bimonthly report, this projected gap has grown to nearly \$4 billion. The major cause of the widening budget gap is reduced revenue collections, which continue to be significantly lower than officials had anticipated. For example, tax collections in April alone were nearly one-half billion dollars lower than expected.<sup>6</sup> To close this widening budget gap, the state plans to use an additional \$561 million in state "rainy-day" funds and make available other state funds by using \$412 million from the Recovery Act's State Fiscal Stabilization Fund (SFSF) for fiscal year 2009,

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<sup>4</sup>GAO-09-580.

<sup>5</sup>Massachusetts law requires the governor to recommend, the state legislature to enact, and the governor to approve a general appropriations bill that constitutes a balanced budget for Massachusetts. No supplemental appropriation bill is to be approved which would cause the state budget for any fiscal year not to be balanced. Mass. Gen. Laws ch. 29, § 6E.

<sup>6</sup>Massachusetts Department of Revenue, *April 2009 Tax Collection Summary*.

which ended on June 30.<sup>7</sup> In addition, the state has already reduced expenditures by more than \$1 billion (including eliminating state positions and implementing management furloughs) and used additional revenue from other sources to make up for some of the state's revenue decline. These included voluntary cuts and contributions from entities outside the governor's budget-cutting authority, such as the legislature, the judiciary, and quasi-public agencies. State officials noted that the occurrence of a significant revenue shortfall late in the fiscal year made it nearly impossible for the state to rely on any additional spending cuts or tax increases to balance its budget. Therefore, state officials noted that accelerating their use of Recovery Act and state rainy-day funds was the most viable solution to balance the budget.

Both the Governor and legislature have also proposed using a combination of federal Recovery Act funds, such as state funds made available as a result of increased FMAP and rainy-day funds, to avoid substantial budget spending cuts to stabilize its budget for fiscal year 2010. The state had hoped to leave a sizable amount of the SFSF and rainy-day funds available for 2011 but changed its approach because of its deteriorating fiscal condition. Using more of these funds in the current fiscal year will likely make it more difficult for the state to balance its budget after Recovery Act funds are no longer available, unless economic conditions improve substantially.

The growth in services to disadvantaged populations and maintenance-of-effort requirements pose added risks to the state's longer-term budget stability. Although state officials report that safety net caseloads are growing slowly in Massachusetts, they are concerned that future caseload growth could further strain the state's budget at a time when Recovery Act funding is no longer available.<sup>8</sup> Massachusetts officials also expressed concerns over maintenance-of-effort requirements attached to many federal programs, including those funded through the Recovery Act, as future across-the-board spending reductions could pose challenges for maintaining spending levels in these programs. State officials said that

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<sup>7</sup>Massachusetts officials refer to their rainy-day funds as stabilization funds. However, to avoid confusion with the Recovery Act's SFSF funds, we use rainy-day funds in this appendix to refer to these reserve funds.

<sup>8</sup>Massachusetts officials stated that caseloads for programs such as Temporary Assistance for Needy Families (TANF) and Commonwealth Care have grown, but not much beyond anticipated levels.



maintenance-of-effort requirements that require maintaining spending levels that are based upon prior-year, fixed-dollar amounts will pose more of a challenge than upholding spending levels based upon a percentage of program spending provided for the same purpose in a previous fiscal year. The SFSF program provides an example of the former.<sup>9</sup> However, a state may obtain a maintenance-of-effort waiver for the SFSF program by demonstrating that the percentage of its total state revenues that will be used to support elementary, secondary, and public higher education for the relevant fiscal year will be equal to or greater than the percentage of its total state revenues that were used to support elementary, secondary, and public higher education for the preceding fiscal year.<sup>10</sup>

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## Increased FMAP Funds Have Allowed Massachusetts to Maintain Health Care Reform Initiatives

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 Federal Medical Assistance Percentage (FMAP), which may range from 50 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.<sup>11</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) 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.<sup>12</sup> 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

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<sup>9</sup>Under SFSF, for fiscal years 2009, 2010, and 2011, the Recovery Act requires states to maintain funding at least at their 2006 levels.

<sup>10</sup>Massachusetts officials indicated they would apply for a waiver.

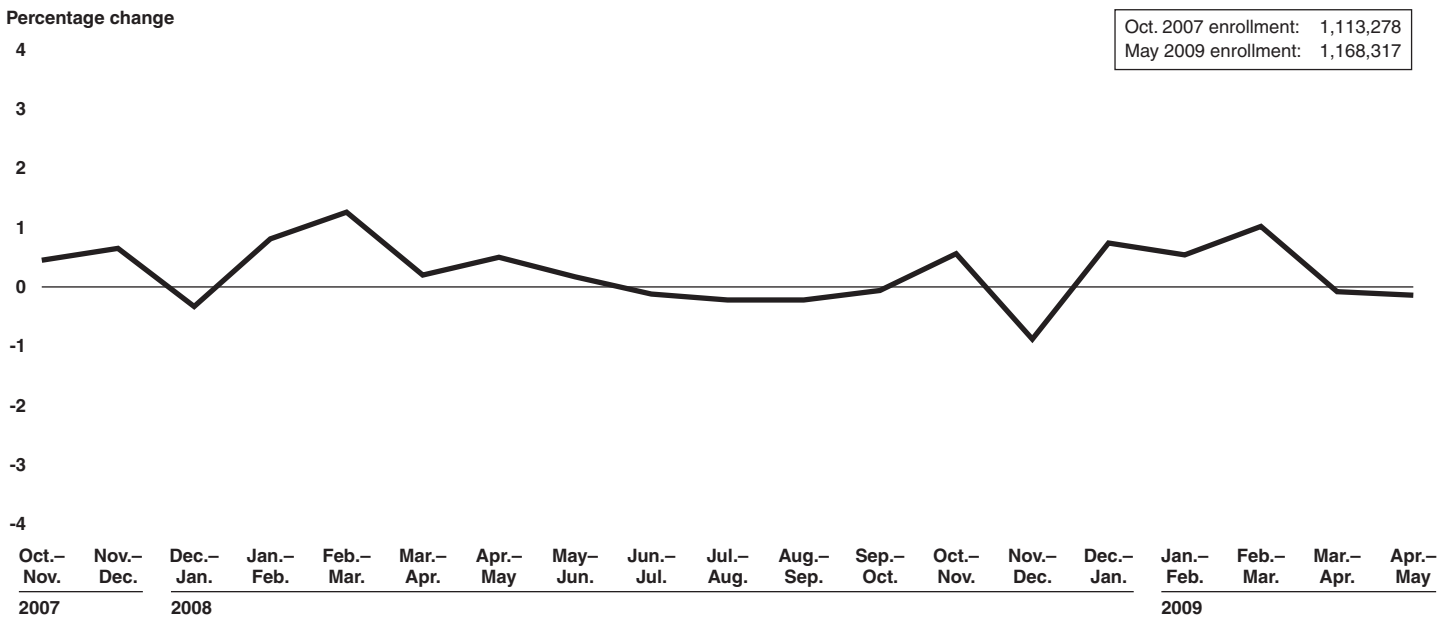
<sup>11</sup>See Recovery Act, div. B, title V, §5001.

<sup>12</sup>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.

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.

From October 2007 to May 2009, the state’s Medicaid enrollment grew from 1,113,278 to 1,168,317, an increase of 5 percent.<sup>13</sup> Enrollment varied during this period, and there were periods in which enrollment decreased (see fig. 1). The increase in enrollment was mostly attributable to the population groups of (1) children and families and (2) nondisabled, nonelderly adults.

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



Source: GAO analysis of state reported data.

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

As of June 29, 2009, Massachusetts had drawn down over \$833 million in increased FMAP grant awards, which is almost 68 percent of its awards to

<sup>13</sup>The state provided projected Medicaid enrollment data for May 2009.

date.<sup>14</sup> Massachusetts officials reported that they plan to use funds made available as a result of the increased FMAP to offset the state budget deficit, to cover the state's increased Medicaid caseload, to maintain current populations and benefits and to increase provider payment rates, pending state legislative approval to do so.

Massachusetts officials noted that the state is 3 years into implementing major health care reforms. The officials indicated that the increased FMAP has allowed the state to maintain this reform initiative in a very difficult economic climate. Additionally, they further noted that in the absence of the funds, the state would have been faced with more difficult decisions about how to cut spending. According to these officials, even with the increased FMAP, Massachusetts faces the need to make significant cuts to programs for the elderly and for people with developmental disabilities, as well as public health and mental health programs. In using the increased FMAP, Massachusetts 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 needed for routine administration of the state's Medicaid program.

The 2007 and 2008 Single Audits for Massachusetts did not identify any material weaknesses specifically related to the Medicaid program.<sup>15</sup> Further, Medicaid officials indicated that they did not have any concerns regarding the state's ability to maintain eligibility for the increased FMAP. However, they noted that the state is implementing a new system—NewMMIS—which would include online claims processing, among other

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<sup>14</sup>Massachusetts received increased FMAP grant awards of over \$1.2 billion for the first three quarters of federal fiscal year 2009. In their technical comments to us, Massachusetts officials indicated that the state is working with CMS to categorize a significant amount of the state's supplemental increased FMAP grant award as regular FMAP.

<sup>15</sup>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 (OMB) 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.

things, and that it would be 6 months before the state could request certification of the system from CMS. Because Massachusetts Medicaid pays providers on a weekly rather than daily basis, state officials continue to discuss issues related to the state's compliance with the Recovery Act's prompt payment reporting requirements.<sup>16</sup> Specifically, state officials reported that they would like guidance from CMS on the availability of waivers for this requirement for states that have just implemented a NewMMIS system.

As we previously reported, the state is using existing accounting systems to track these funds but has developed distinct revenue source codes that distinguish increased FMAP from general FMAP funds. However, officials reported that although the state can identify increased FMAP revenues that are deposited into its General Fund, the process for tracking the subsequent appropriation and expenditure of these funds is not yet implemented.

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## First Round of Massachusetts Recovery Act Highway Fund Projects Under Way

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.<sup>17</sup>

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<sup>16</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

<sup>17</sup>With a few exceptions, the federal government does not pay for the entire cost of construction or improvement of federal-aid highways. To account for the necessary dollars to complete the project, federal funds must be "matched" with funds from other sources. Unless otherwise specified in the authorizing legislation, most projects will have an 80 percent federal share.

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Massachusetts was apportioned \$438 million in March 2009 for highway infrastructure and other eligible projects. As of June 25, 2009, \$174 million has been obligated. The U.S. Department of Transportation has interpreted the term “obligation of funds” to mean the federal government’s contractual commitment to pay for the federal share of the project. This commitment occurs at the time the federal government approves a project and a project agreement is executed. As of June 25, 2009, \$147,874 has been reimbursed by FHWA. States request reimbursement from FHWA as the state makes payments to contractors working on approved projects.

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**Massachusetts Selected Quick-Start Projects, Used Accelerated Bidding Procedures, and Received Bids Below Cost Estimates**

As we reported in our April 2009 report, Massachusetts began planning for federal highway infrastructure investment under potential stimulus legislation before the Recovery Act was passed. The commonwealth convened a task force to identify a priority list of transportation infrastructure investments. This task force identified projects that could be started quickly, focusing on projects that could be implemented in under 180 days, as well as projects that that could be completed within a 2-year time frame. As a result, the initial Recovery Act funded projects advertised for bid were all small, short-term projects that require little lead time for planning and design, enabling contractors to begin work quickly. (See table 1.) Many initial round projects were also chosen to coincide with the construction season, which excludes the winter months. The two Massachusetts projects we visited—in Adams and Swansea—were in the early stages of construction; contractors had erected signage and were installing erosion control barriers before commencing construction. The Adams project, estimated to cost \$1,714,860, entails 1.5 miles of road resurfacing and sidewalk reconstruction on Route 116 and is expected to be complete in July 2010. The Swansea project, estimated to cost \$4,440,310, will resurface Route 6 from the Somerset town line to the Rehoboth town line and is expected to be complete in August 2010. According to state transportation officials, the bulk of the work will likely be completed before the winter shut-down; they expect that the only remaining work will be minor and low-cost.

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

Dollars in millions

	Pavement projects			Bridge projects				Total <sup>b</sup>
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement	Other <sup>a</sup>	
	\$0	\$164	\$0	\$0	\$0	\$2	\$7	<b>\$174</b>
Percent of total obligations	0.0	94.3	0.0	0.0	0.0	1.4	4.2	<b>100.0</b>

Source: GAO analysis of Federal Highway Administration data.

<sup>a</sup>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.

<sup>b</sup>Total may not add because of rounding.

As of June 25, 2009, Massachusetts had awarded contracts for 20 projects, and notice to proceed orders had been issued on all of these projects signaling that construction could begin. According to state transportation officials, because these projects are mainly small repaving projects, they should all be completed within 2 years. To ensure that projects get started quickly, Massachusetts has accelerated the bid evaluation and award cycle by shortening the time that contractors have to prepare their bids and the time between bid opening and issuing a notice to proceed for construction. According to Massachusetts transportation officials, the normal bidding cycle takes 90 to 120 days from bid opening to award and notice to proceed, but for Recovery Act funded projects, transportation officials have been able to cut that time to less than 60 days. For example, the project we visited in Swansea was advertised on March 14, 2009; bids were opened 30 days later on April 14, 2009; and the contract was awarded on April 23, 2009—roughly 1 week after bid opening and 6 weeks after the project was advertised.

The recessionary economy in Massachusetts has led to an environment in which bids are coming in below estimates. Massachusetts transportation officials are reporting that contracts for Recovery Act projects are being awarded for about 87 percent of estimated costs. Officials believe this is a short-term trend caused by excess capacity in the construction market because of the state’s economic downturn. According to one official, in the past they could expect 4 to 5 contractors to bid on a state construction contract, but lately they are seeing 10 to 15 contractors bidding for a single contract. State officials believe that as more Recovery Act funded construction projects get under way, bids will be more in line with cost estimates. Because officials believe this is a temporary situation, the state

has no plans to change its estimating practices. Officials reported that if additional money is available as a result of this trend, they have identified several small projects that could be funded.

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**Massachusetts Expects to Meet All Recovery Act Requirements, but Maintenance of Effort Requirement Poses Challenges**

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 the 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. 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. 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.
- give priority to projects that can be completed within 3 years, and to projects located in economically distressed areas (EDA). EDAs are defined by the Public Works and Economic Development Act of 1965, as amended.
- 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, 2009, for the period beginning on that date and extending through September 30, 2010.<sup>18</sup>

Massachusetts has met the Recovery Act requirement that 50 percent of their apportioned funds are obligated within 120 days. Of the \$293,705,678 that is subject to this provision, 59.1 percent was obligated as of June 25, 2009. In order to ensure that 50 percent of the apportioned Recovery Act

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<sup>18</sup>States that are unable to maintain their planned level 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 their 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.

funds were obligated within 120 days, the commonwealth selected projects worth over \$170 million, in case some plans did not materialize. Given the state's focus on selecting small projects that can be moved quickly to construction, the state had to pull together many projects in order to meet the 50 percent obligation requirement. For example, with the exception of one large interchange project in Fall River that was estimated to cost \$66.8 million, projects planned for the initial funding cycle had costs estimated to range from \$624,440 to just over \$9 million. Massachusetts also transferred \$12.8 million of Recovery Act highway funding that was subject to the 50 percent rule for the 120-day redistribution from FHWA to the Federal Transit Administration. According to FHWA guidance, once transferred, these funds are no longer subject to the 50 percent obligation requirement.<sup>19</sup>

Massachusetts will be able to expend most of its apportioned funds in 3 years because it has made it a priority to select projects that could begin in 180 days and be completed within 2 years. The Recovery Act Coordinator for the Massachusetts Executive Office of Transportation reported that, given that the first projects are predominantly resurfacing, most are likely to be completed within 2 years of award. The only project that will probably not be completed within 2 years is the Fall River-Freetown Route 24 Interchange project which, because of its complexity, will likely take longer.

As of June 25, 2009, Massachusetts obligated funds to three projects worth an estimated total of \$80,619,327 located in the state's only EDA. These projects include the Swansea project, a resurfacing project in Westport estimated to cost \$6 million, and the \$73.4 million Fall River development park project, of which \$70.1 million is federal funds. This project supports an economic development project and includes construction of a new highway interchange on Route 24 and new access roadways to the proposed Fall River Executive Park. The state has given priority to selecting Recovery Act projects in EDAs but has also added its own criteria by selecting projects through its economic growth district initiative. Massachusetts has only one county—Bristol County—that is defined by section 301 of the Public Works and Economic Development Act of 1965 as an EDA. Under its growth districts initiative, the state has identified additional areas as being appropriate locations for significant

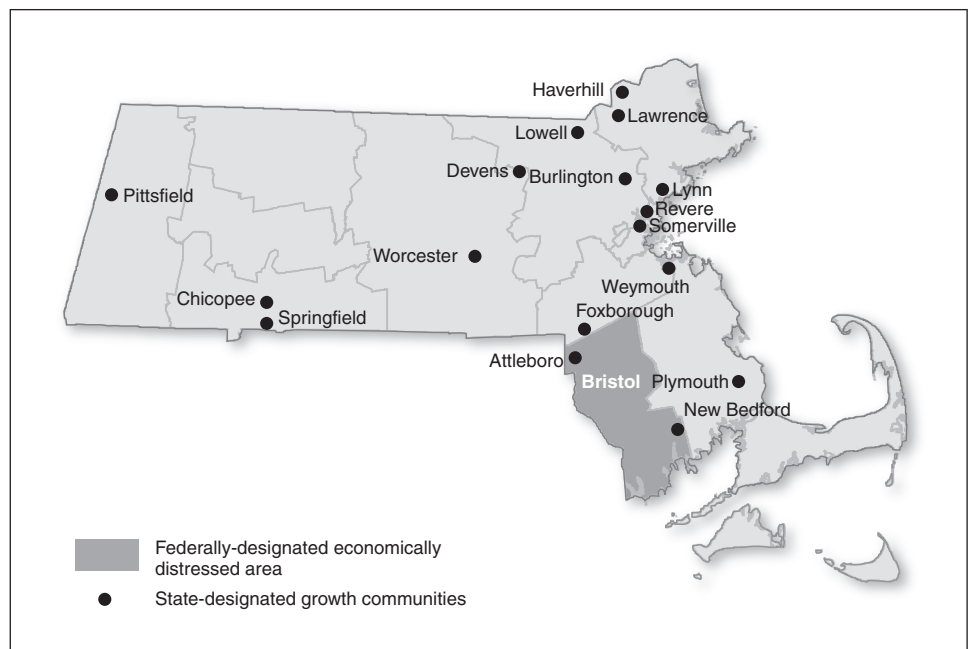
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<sup>19</sup>Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to the Federal Transit Administration.



new commercial, residential or mixed-use growth, as shown in figure 2. As they plan for the future, officials report that they will look to select projects that will leverage infrastructure development with new housing and building development, which in turn will create additional jobs.

**Figure 2: Federally-Designated EDA and State-Designated Growth Districts Targeted for Highway Infrastructure Projects**



Sources: GAO analysis of Bureau of Economic Analysis and Executive Office of Housing and Economic Development (EOHC) information; Census (map).

As we reported in April 2009, Massachusetts submitted a “conditional” maintenance-of- effort certification, meaning that the certification was subject to conditions or assumptions, future legislative action, future revenues, or other conditions. Specifically, Massachusetts stated that it might have to make downward adjustments to the size of its capital investment plan if revenues did not meet current projections. On April 22, the U.S. Department of Transportation Secretary informed the states that conditional and explanatory certifications were not permitted, provided additional guidance, and gave the states the option of amending their certifications by May 22, 2009. Massachusetts resubmitted its certification on May 26, 2009. According to U.S. Department of Transportation officials, the department is reviewing Massachusetts’s resubmitted certification letter and has concluded that the form of the certification is consistent with the additional guidance. The department is currently evaluating

whether the states' method of calculating the amounts they planned to expend for the covered programs is in compliance with Department of Transportation guidance.

Massachusetts transportation officials, however, expressed concern about the state's ability to maintain its level of state expenditures in light of its deteriorating fiscal situation. The commonwealth's certification was based upon its \$14.3 billion capital spending plan, which includes roughly \$8.1 billion in transportation spending. Because the 5-year plan was developed before the full extent of the state's worsening fiscal condition was known, the state felt compelled to add a disclaimer to their initial certification to explain why it may be unable to maintain planned levels of state spending over the course of the Recovery Act grant. The commonwealth floats bonds to pay for capital projects. The state is concerned that as revenues continue to shrink, it may be unable to afford the full amount of the capital projects called for in its 5-year plan.

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## Massachusetts Already Using State Fiscal Stabilization Funds

The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to Education that provides several assurances. These include assurances that the state will (1) meet maintenance-of-effort requirements (or it will be able to comply with waiver provisions) and (2) 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, the state 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 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.

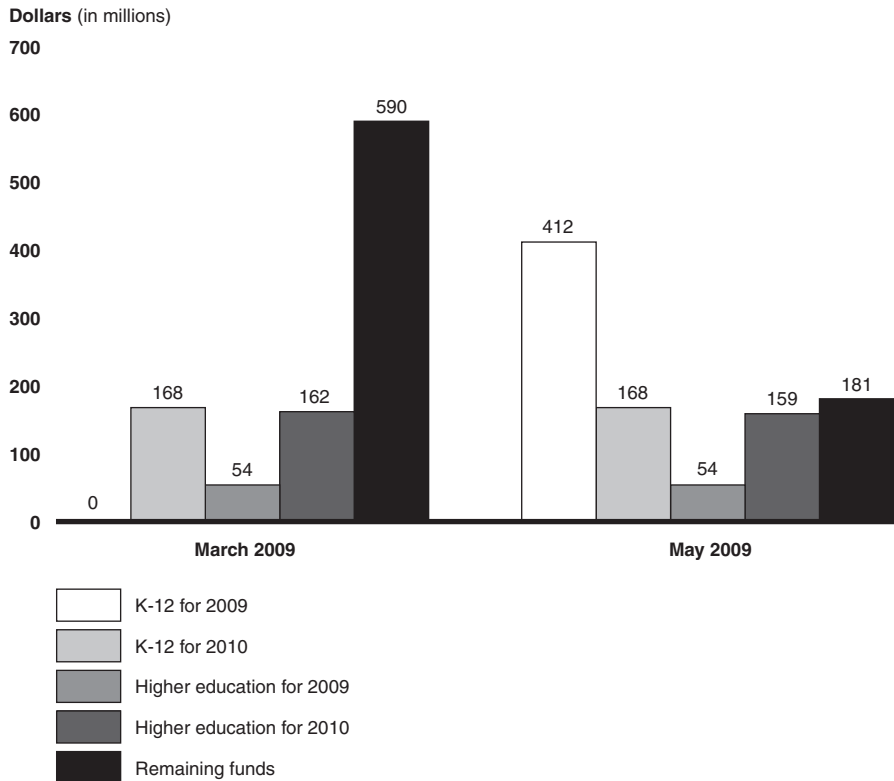
In 2009, Massachusetts was allocated just over \$994 million in SFSF. Of this amount, about \$813 million, or about 82 percent, are for education stabilization funds, and \$181 million, or about 18 percent, are for government services funds. The state will use about \$466 million of the SFSF funds to restore elementary and secondary, and public higher education funding for fiscal year 2009 (which ended on June 30, 2009); has made plans for about \$347 million for fiscal year 2010 (which began on July 1, 2009); and will have about \$181.5 million remaining, of which about \$70.5 million is for government services funds.<sup>20</sup> State officials explained that originally they did not intend to commit over three-fourths of the state's SFSF allocation so soon and that they are keenly aware of the limited Recovery Act resources they will have available for the remainder of 2010 and 2011.

As shown in figure 3, in March 2009, the Governor, as part of his fiscal year 2010 recovery plan, committed \$168 million to 166 school districts to help reduce teacher layoffs and program cuts in fiscal year 2010, and \$162 million to public university and college campus budgets to help reduce layoffs, program cuts, and student fee hikes in fiscal year 2010. Later, the amount committed to public colleges and universities was decreased to \$159 million. The Governor also announced plans to use approximately \$20 million from the government services fund for public safety in fiscal year 2010, bringing proposed total SFSF spending for fiscal year 2010 to \$347 million.

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<sup>20</sup>The SFSF funds to restore public higher education funding for fiscal year 2009, about \$54 million, will be allocated to institutions of higher education in fiscal year 2010 for expenses incurred during that fiscal year.

**Figure 3: Changes in Planned Uses of SFSF Funds for K-12 and Higher Education from March 2009 to May 2009**



Source: GAO analysis of Massachusetts Executive Office of Education data.

Note: The Governor plans to use approximately \$20 million from the government services fund for public safety in fiscal year 2010.

In March 2009, Massachusetts had not planned on using any of its SFSF funds for fiscal year 2009 for kindergarten to 12th grade (K-12) education and had anticipated having \$590 million remaining for use after fiscal year 2010. However, since March, the state has altered its planned uses of SFSF funds for later years to include \$412 million in spending for K-12 education for fiscal year 2009. This additional spending was prompted by further declines in state revenues that forced the already cash-strapped state in May to reduce its own fiscal year 2009 contributions to K-12 education by the same amount. The state used \$322 million in education stabilization funds and \$90 million, or about half, of its government services funds to backfill these cuts. These funds were available to school districts in late June 2009. Officials from one school district said they would use these funds to meet payroll for the last quarter of fiscal year 2009.

SFSF spending in 2010 is estimated to represent about 3 percent of the state's spending on K-12 education. The state's total fiscal year 2010 budget for K-12 education is projected to be \$5.3 billion, of which about \$896 million comes from non-Recovery Act federal spending. State officials told us that, given the state's level of spending on K-12 education, they were not at risk of failing to meet the SFSF maintenance-of-effort requirement to maintain support for K-12 at least at the level of such support in fiscal year 2006. State officials told us that projected state K-12 education spending far exceeds 2006 levels. However, this is not the case for higher education. Similar to K-12 education, states must maintain their higher education spending at least at fiscal year 2006 levels to meet the SFSF maintenance-of-effort requirement. Officials explained that current spending for higher education in Massachusetts is not far from the fiscal year 2006 levels.

To ensure that the state would be eligible to receive SFSF funding, state officials indicated in their application that they would apply for a maintenance-of-effort waiver for higher education for fiscal year 2010. State officials want to use state education spending as a percent of total state revenue when compared with the preceding year to meet their maintenance-of-effort requirement for higher education, rather than as aggregate spending on a per full-time equivalent student basis. State officials showed in their SFSF application that proposed education spending—for both K-12 and higher education—for fiscal year 2010 as a percent of revenue, is slightly greater than in fiscal year 2009, even though actual spending will be less.<sup>21</sup> The state SFSF application was approved on May 27, 2009.

In mid-May, education officials from the Boston Public Schools and the Lawrence Public Schools discussed with us their planned use of SFSF

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<sup>21</sup>The maintenance-of-effort waiver criterion for fiscal year 2010 is that the percentage of the total state revenues used to support public education for the fiscal year is at least as great as the percentage of the total state revenues used to support public education for fiscal year 2009.

funding for the last quarter of fiscal year 2009 and for fiscal year 2010.<sup>22</sup> Officials from Lawrence Public Schools, with an enrollment of approximately 12,000 students, said that if they get SFSF funds in lieu of the state dollars they were expecting for fiscal year 2009, they also receive the SFSF fiscal year 2010 dollars that the Governor announced in March, and there are no additional cuts to state education funding, they will use the funds to help them maintain their current level of instruction, including avoiding some layoffs. Lawrence Public Schools officials said that the SFSF funds they hope to receive, \$14.3 million for fiscal year 2009 and \$6.7 million for fiscal year 2010, would help them avoid a layoff of 123 of the 2,000 staff members, including 90 teachers. According to Lawrence Public Schools officials, almost 100 percent of their budget comes from the state. These officials noted that some of the funds greater than those needed to meet contractual obligations will be used for capital improvements on several buildings over 100 years old. Officials from the Boston Public Schools, with an enrollment of nearly 56,000 students, said they were not expecting to receive any SFSF funding for fiscal year 2010 because their education spending was already at the level set by the state's primary funding formula. They said that the \$23 million in SFSF they receive for fiscal year 2009 will just replace the state's shortfall, not allowing them to do anything differently than planned.

## ESEA Title I, Part A Education Funds Flowing to School Districts through Existing Mechanism

The Recovery Act provides \$10 billion in additional funds to help local education agencies (LEAs) educate disadvantaged youth by making additional funds available under Title I, Part A of the Elementary and Secondary Education Act (ESEA) of 1965. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas. These formulas are based on factors such as the concentration of students from families living in poverty. A total of 258 of the state's 391 school districts, regional technical vocational schools, and charter schools are eligible to receive these funds. In using the funds, local education agencies (LEA) are required to comply with current statutory and regulatory requirements. One of these requirements

<sup>22</sup>We conducted site visits to the Boston Public Schools and the Lawrence Public Schools. We chose these districts based on estimated ESEA Title I allocations and the number of schools in improvement under ESEA requirements. In Massachusetts, schools and districts are identified for improvement when, for 2 or more consecutive years, they do not make adequate yearly progress toward meeting performance targets for English and/or math. Boston Public Schools is a large city school district with 102 schools in need of improvement. Lawrence Public Schools is a large suburban school district with 20 schools in need of improvement.

is that an LEA may only receive funds for a fiscal year if per-student funding or the aggregate expenditures of the LEA and the state, with respect to the provision of free public education by the LEA for the preceding fiscal year, were not less than 90 percent of such funding for the second preceding fiscal year. LEAs must obligate 85 percent of its fiscal year 2009 funds (including Recovery Act funds) by September 30, 2010, unless granted a waiver, and all of their funds by September 30, 2011. The U.S. Department of Education (Education) is advising LEAs to use the funds in ways that will build their long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers. Education also is encouraging LEAs to give particular consideration to early childhood education programs.

Education allocated the first half of states' ESEA Title I, Part A allocations on April 1, 2009, with Massachusetts receiving \$81.8 million of its total \$163 million allocation. In fiscal year 2009, Massachusetts's regular ESEA Title I allocation was approximately \$234 million. The state is expecting its regular allocation to be slightly more in fiscal year 2010, about \$244 million. According to state education officials, they view Recovery Act ESEA Title I funds as an addition to their regular allocation.

LEAs began receiving ESEA Title I Recovery Act funds on July 1, 2009, and will continue to draw down funds as they incur allowable expenses. State officials required LEAs to submit an application prior to receipt of these funds. The state is using its usual administrative processes to make these funds available to LEAs.

Both state and local officials talked about the Recovery Act's goal of job preservation and creation. They explained that ESEA Title I funds are unlikely to generate new positions but may help with job retention for teachers and staff. State and Boston Public Schools officials suggested that there is tension between the Recovery Act's goal of job creation and Education's guidance to invest these one-time funds thoughtfully to minimize the "funding cliff" that would occur once those funds are no longer available. Education officials said that ESEA Title I requirements are stringent, and funding can only be used for limited purposes. Massachusetts provided guidance to its LEAs, encouraging them to make strategic investments that will have an impact beyond fiscal year 2010 and fiscal year 2011, when Recovery Act funding is gone. State officials provided LEAs with a list of some of the ways a district could use its Recovery Act funds to make strategic investments. The list included, among other things, investing in licensure and career development,

dropout prevention, professional development, and purchase of equipment.

Officials from the Boston Public Schools, which is receiving \$20.9 million from the first allocation of ESEA Title I Recovery Act funds, said that they will seek a waiver from Education to the ESEA Title I supplemental educational services requirement. Under ESEA Title I, supplemental educational services must be available to students in schools that have not met state targets for increasing student achievement (adequate yearly progress) for 3 or more years. Boston education officials explained that they intend to use their regular ESEA Title I allocation for supplemental educational services,<sup>23</sup> but said they would like to use their Recovery Act funds for benchmarking assessment, a student information system, and targeted upgrades of computer facilities for teacher and student use. According to Boston education officials, these investments can positively impact the learning of students districtwide, unlike supplemental educational services that tend to benefit individual students.

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## State Officials Required Submission of Application for Receipt of Recovery Act IDEA Parts B and C Funds

The Recovery Act provides 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 provides funding to 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 allocated 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). 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. All IDEA

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<sup>23</sup>The term “supplemental educational services” means tutoring and other supplemental academic enrichment services that are in addition to instruction provided during the school day, which are specifically designed to increase the academic achievement of eligible students as measured by the state’s assessment system and enable these children to attain proficiency in meeting state academic achievement standards.



Recovery Act funds must be used in accordance with IDEA statutory and regulatory requirements. Included in these are the following:

- a maintenance-of-effort requirement that state and local expenditures for special education not fall below those of the previous fiscal year; and
- a requirement that Part B funds supplement, rather than supplant, state and local funding.

Education allocated the first half of the states' IDEA allocations on April 1, 2009, with Massachusetts receiving a total allocation of about \$149 million for all IDEA programs. The largest share of IDEA funding is for the Part B school-aged program for children and youth. The state's initial allocation was

- \$5.1 million for Part B preschool grants,
- \$140.3 million for Part B grants to states for school-aged children and youth, and
- \$3.7 million for Part C grants for infants and families for early intervention services.

Seven LEAs received IDEA Part B funds in early June to make up for funding cuts at the local level. As of July 2009, the remaining LEAs with approved applications can begin receiving funds and can continue to do so as needed.

The state required its LEAs to submit applications to the state for IDEA Part B funds. As part of the application for grants for school-aged children and youth, LEAs had to specify how they planned to use at least 50 percent of their total fiscal year 2010 Recovery Act Part B allocation to assist students with disabilities and advance education reform in four areas: (1) educator quality and effectiveness, (2) enhanced systems and programs for students with disabilities and their families, (3) assessment and data systems, and (4) college and career readiness. The state suggested that no more than 50 percent of the remaining total allocation be used for recovery purposes to sustain and support existing special education programs and to advance short-term economic goals by spending quickly to save jobs and improve student achievement.

State officials said they provided guidance related to IDEA Part B maintenance-of-effort requirements, consistent with their understanding, to LEAs through presentations around the state and postings on their Web

site. However, Boston Public Schools officials still had questions. Officials from the Boston Public Schools, which received an initial allocation of \$10 million in IDEA Recovery Act funds, want additional guidance from Education. Specifically, Boston school officials want guidance on the impact reserving funds for prereferral to special education interventions will have on the requirement that Part B funds supplement, rather than supplant state and local funding.

Boston Public Schools officials said they plan to use their initial Recovery Act IDEA funds to invest in some positions, prereferral to special education interventions, autism technology and training, and expansion of inclusion activities. According to Boston officials, they want to decrease the number of students who are referred to special education. Currently, the Boston Public Schools has a 20 percent referral rate to special education. Also, officials said they want to provide more and better services to those students who need special education services. For example, Boston officials said that they cannot provide the full range of services that autistic children might need. Through purchasing technology and training staff, they might be able to provide services to more autistic children.

Officials from the Lawrence Public Schools, which received an initial allocation of \$2.4 million in IDEA Recovery Act funds, said they are comfortable with the guidance they received from state officials and Education. Lawrence officials said they are considering several ways to use their initial allocation, including professional development and the purchase of alternative instructional models. According to Lawrence officials, by building the capacity of all teachers, they anticipate that they may reduce the need for special education services.

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## Massachusetts Using WIA Youth Funds to Create Summer Employment Opportunities within Targeted Municipalities

The Recovery Act provides an additional \$1.2 billion in funds nationwide for the Workforce Investment Act (WIA) Youth program to facilitate the employment and training of youth. The WIA Youth program is designed to provide low income in-school and out-of-school youth age 14 to 21, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act extended eligibility through age 24 for youth receiving services funded by the act. In addition, the Recovery Act provided that, of the WIA Youth performance measures, only the work-readiness measure is required to assess the effectiveness of summer only employment for youth served with Recovery Act funds. Within the parameters set forth in federal agency guidance, local areas may determine the methodology for

measuring work readiness gains. The program is administered by the U.S. Department of Labor and funds are distributed to states based upon a statutory formula; states, in turn, distribute at least 85 percent of the funds to local areas, reserving up to 15 percent for statewide activities. The local areas, through their local workforce investment boards, have flexibility to decide how they will use these funds to provide required services. In the conference report accompanying the bill which became the Recovery Act,<sup>24</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. Summer employment may include any set of allowable WIA Youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component. Work experience may be provided at public sector, private sector, or nonprofit work sites. The worksites must meet safety guidelines and federal and state wage laws.<sup>25</sup>

The Executive Office of Labor and Workforce Development (EOLWD) oversees the WIA Youth program in Massachusetts, along with other workforce-related programs such as the unemployment insurance, workforce development, and employment service programs. The state is divided into 16 local workforce investment areas, each with its own workforce investment board, which oversees the WIA Youth program, as well as other employment and training programs. At the state level, EOLWD contracts the oversight, technical assistance and monitoring of WIA services to the Commonwealth Corporation—a quasi public agency created by the State Legislature. Financial contracts for WIA Youth funding are issued through a state contracting process that includes all United States Department of Labor Employment and Training Administration resources that is managed by EOLWD's Department of Workforce Development and Division of Career Services. The state develops guidance that is disseminated through the Commonwealth Corporation to the local boards. Each board then manages its WIA programs directly or procures a third party to manage the programs.

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<sup>24</sup>H.R. Conf. Rep. No. 111-16, at 448 (2009).

<sup>25</sup>Current federal wage law specifies a minimum wage of \$6.55 per hour until July 24, 2009, when it becomes \$7.25 per hour. Where federal and state law have different minimum wage rates, the higher standard applies. The Massachusetts minimum wage rate is \$8.00 per hour. Mass. Gen. Laws ch. 151, § 1

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Massachusetts Is  
Leveraging Recovery Act  
Dollars to Expand Summer  
Youth Services

EOLWD allocated \$21,112,332 of the \$24,838,038 WIA Youth Recovery Act funds to the 16 workforce investment areas within the state. EOLWD officials stated that they have instructed the local boards to spend the majority of their Recovery Act funds, at least 60 percent, by September 30, 2009, and the remainder of the funds by September 2010, with the goal of rapidly stimulating the economy. As of June 23, 2009, about \$728,000 (3 percent) of the \$24.8 million in WIA Youth Recovery Act money has been expended in total. The two local boards we visited, the Central Massachusetts Workforce Investment Board in Worcester and the Lower Merrimack Workforce Investment Board in Lawrence, were allocated about \$2.0 million and \$1.5 million in WIA Youth Recovery Act money, respectively. The Central Massachusetts Board has spent about \$346,000—about 18 percent of their total WIA Youth Recovery Act Funds as of June 23, 2009, while the Lower Merrimack Valley Board has spent about \$54,000—about 4 percent as of June 23, 2009. Officials from both boards stated that these expenditures were for planning and administration activities to get their summer programs operational.

EOLWD has proposed recommendations on how to use the 15 percent WIA Youth state set-aside funds. Officials stated that a portion of the funds will go to the Commonwealth Corporation for monitoring local board activities. The Commonwealth Corporation plans to use these funds to hire additional staff to assist with its monitoring. The state has used some of these funds to develop an eligibility guidance tool for state agencies and local boards and to provide a series of eligibility and workplace safety trainings.

According to State officials, WIA Youth Recovery Act dollars will be used to fund summer programs in all cities and towns<sup>26</sup> in all 16 workforce investment areas. The programs will serve about 6,500 eligible youth this summer, with each youth working an estimated 30 hours per week for 8 weeks at the rate of \$8 per hour. In total, the Governor's Office plans to create about 10,000 summer jobs for youth in 60 communities across the state by leveraging and coordinating \$21.1 million in Recovery Act WIA Youth funds, \$3.1 million in Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) funds provided to the state Executive Office of Public Safety and Security, and \$6.7 million in state funded Youthworks

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<sup>26</sup>In state fiscal year 2008, 14 of the 16 local workforce boards operated Youthworks summer programs in 25 cities.

program.<sup>27</sup> The Governor stated that this approach will maximize state and federal resources, increase the number of jobs for young people, and expand services for youth up to age 24.<sup>28</sup> It is proposed that the JAG funding will create new summer jobs programs in 35 cities and towns that previously did not have summer programs. The state funded Youthworks program will target 25 cities and towns in the state and only serves young people from these communities.

The Central Massachusetts Board plans to use their WIA Youth Recovery Act money to serve 500 youth<sup>29</sup> in three local regions by offering youth work experience combined with training. The board has put out a request for proposal for these opportunities. Local officials will match the youth with the different opportunities proposed by providers. It has contracted out the administration of its WIA Youth funds to the Worcester Community Action Council, Inc., which will conduct youth outreach, compile youth applications, and provide completed applications to the board for enrollment.

The Lower Merrimack Board plans to use their WIA Youth Recovery Act money to serve 700 youth by offering them either work experience or work experience combined with training, and has put out a request for proposal for these opportunities.<sup>30</sup> Local officials stated that an example of work experience combined with training would be a program that employs the youth for part of the day (such as a basketball coach at a Boys and Girls Club), and then provides the youth a learning opportunity (such as

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<sup>27</sup>For state fiscal year 2008, the state served 3,827 youth (130 percent of their target goal for youth served) through the state Summer Youthworks program with \$5,660,334 in funding and 433 youth (152 percent of their target goal for youth served) through the state Youthworks Year-Round program with \$689,665 in funding.

<sup>28</sup>The Recovery Act extended eligibility through age 24 for youth receiving services funded by the Recovery Act. For state fiscal year 2010, the state funded Youthworks program will provide employment opportunities to youth ages 14 to 21 that are from families that are below 200 percent of the federal poverty level and placed at risk by one or more risk factors.

<sup>29</sup>In state fiscal year 2008, the Central Massachusetts Board served 387 youth (139 percent of their target goal for youth served) through the state Summer Youthworks program with \$533,081 in funding. For state fiscal year 2009, the board plans to serve an additional 300 youth through the state-funded Youthworks program in the City of Worcester.

<sup>30</sup>In state fiscal year 2008, the Lower Merrimack Board served 197 youth (113 percent of their target goal for youth served) through the state Summer Youthworks program with \$336,655 in funding. For state fiscal year 2009, the board plans to serve an additional 205 youth through the state-funded Youthworks program.

academic tutoring) for the other part of the day. The board works with the ValleyWorks One-Stop career center to operate the youth summer program and with the Division of Grants Administration, a division of the city of Lawrence, to administer the youth summer program and intends to target some older youth.<sup>31</sup> As of June 26, 2009, the board has 315 completed applications for the WIA Youth summer program and should meet its goal of 700 youth with the applications it has in progress.<sup>32</sup> Youth will actually be enrolled on the first day of the program, July 6, 2009.

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## WIA Youth Program Operation Presents Challenges

State officials expressed concern regarding the documentation requirements for youth to qualify for the WIA Youth program, particularly as compared to the requirements of their state funded Summer Youthworks program for state fiscal year 2010. The WIA Youth program's documentation requirements are more restrictive than the state-administered program, impacting the ease with which youth can document their eligibility. For example, youth entering the state program can demonstrate their financial eligibility if they receive benefits from the federal free lunch program. In contrast, to obtain WIA Youth services, youth must produce documentation such as a gross wages and salary statement.

State and local officials also stated that the accelerated time frames to enroll youth in the program while still meeting all of the Recovery Act provisions is challenging. State officials also expressed a concern that the two workforce investment boards that do not run summer programs through the state funded Youthworks program may face challenges in starting new programs.<sup>33</sup> State officials told us that they plan to conduct more oversight of these two Boards. Finally, officials from one board we visited stated that it will be logistically challenging for them to deliver and collect weekly timesheets from the numerous youth in the program.

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<sup>31</sup>The board is targeting youth who may also be currently classified as a dislocated worker and receiving unemployment insurance. For these youth to join the summer program, they would have to forgo their unemployment insurance benefits.

<sup>32</sup>There are 292 applications awaiting only a work permit, and another 308 applications require the youth to participate in orientation and submit documents requesting a work request.

<sup>33</sup>Fourteen of the 16 local boards ran a stand-alone summer youth employment program in 2008. Although WIA Youth requires a summer component in its year-round program, it does not provide for a stand-alone summer program. Smaller WIA boards do not typically run stand-alone programs.

Officials from both local boards we visited stated that they had very little time between when they were allocated the grant and when the first youth are expected to begin the program. Moreover, the Lower Merrimack Board had to quickly ramp up to hire and train staff to administer the WIA Youth summer program, and it faced logistical issues with securing the physical space for staff to work. Officials from this board also stated that they were surprised that some providers they had worked with in the past did not submit proposals for work experiences combined with a training component this year. For example, the Learning for Life program within the Haverhill Public Schools has submitted proposals in prior years but did not submit a proposal this year.<sup>34</sup>

Since the youth participating in WIA summer youth employment activities will be subsidized by Recovery Act funds, the state has instructed local areas to take precautions regarding worksite placements to ensure that WIA Youth-funded work experiences do not unfavorably impact current employees or replace the work of employees who have experienced a layoff. State guidance specifies that WIA Youth-funded work experiences are to increase the work-readiness skills of youth and are not designed to enhance the profit margin of a company. For example, officials at the Lower Merrimack Board told us that they are working with one municipality and a local union to ensure that the WIA Youth funded summer positions are not supplanting municipal jobs.

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## Massachusetts Has Proposed Priority Areas for Edward Byrne Memorial Justice Assistance Grant Funding

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 are 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

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<sup>34</sup>Previous Learning for Life proposals were to serve in-school youth with both an education component for a portion of the day—such as classroom learning, as well as a work activity—such as working in the Haverhill City Hall Café.

funds to local governments. The remaining 40 percent of funds is awarded directly by BJA to eligible units of local government within the state.<sup>35</sup> The total JAG allocation for Massachusetts state and local governments under the Recovery Act is about \$40.8 million, a significant increase from its previous fiscal year 2008 allocation of about \$3.1 million. JAG funds going directly to the state government are expected to total approximately \$25 million, consistent with the Recovery Act's allocation formula, while Massachusetts cities and towns will receive about \$15.7 million directly in funds. Of JAG funds going to the Massachusetts state government, most (about \$13.6 million) is planned to be used to supplement current state public safety programs and retain jobs and support core services.<sup>36</sup> These state-run programs have been generating deficits from their state-supported funds. In addition, state government officials plan to use about \$5.9 million to support local law enforcement agencies across the state whose operations have been adversely affected by state and local budget conditions, while a portion, about \$3.1 million, will be used to supplement an annual summer jobs program targeted to at-risk youth administered by workforce investment boards throughout the state. For the \$5.9 million planned to support local law enforcement agencies, the state is establishing grant criteria and awaiting project proposals from cities and towns. The remainder of funds (approximately \$2.4 million) are planned for state JAG administration.

Even though BJA approved the state's application, Massachusetts was not to obligate, expend, or draw down JAG funds until the state resolved special conditions specified in BJA's grant approval letter, such as addressing outstanding audit report findings. According to state officials, one audit found that federal grant funds had been allocated to the wrong state agency; however, these officials noted that this finding was addressed by reallocating these funds to the correct state agency. State officials told us that they subsequently submitted documentation to BJA to address these conditions. According to state officials, as of June 2, 2009, these special conditions were met, and the state subsequently received notice that BJA approved the state's grant and lifted all conditions. State

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<sup>35</sup>We did not review these funds awarded directly to local governments in this report because the Bureau of Justice Assistance's solicitation for local governments closed on June 17.

<sup>36</sup>As of June 18, 2009, \$12.7 million has been allocated for the Massachusetts Department of Correction (MADOC) for medical, dental, and mental health services for those incarcerated by MADOC.



officials say that funds will be available for use for the WIA Youth program after officials from the Executive Offices of Public Safety and Security and Labor and Workforce Development sign an interagency agreement and the Office of the State Comptroller processes the necessary paperwork.

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## Massachusetts Receiving Large Influx of Recovery Act Weatherization Funds with Plans to Begin Weatherizing Housing Units July 2009

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 the District of Columbia.<sup>37</sup> 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 the District of Columbia, using a formula based on low-income households, climate 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.

In Massachusetts, a network of 12 community-based organizations operates the Weatherization Assistance Program under contract within the

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<sup>37</sup>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 Indian tribe, and the Northern Arapahoe Indian tribe.

state's Department of Housing and Community Development (DHCD). The Community Services Unit within DHCD has administrative, programmatic, and fiscal oversight of the program. Massachusetts expects to receive about \$122 million in Recovery Act funds over a 3-year period. This represents a significant funding increase over prior weatherization program funding. For example, Massachusetts received \$6.5 million and \$11.7 million in fiscal years 2008 and 2009, respectively. After applying for funding on March 23, 2009, Massachusetts received approximately 10 percent, or over \$12 million, of their Recovery Act funds for weatherization on April 3, 2009. In an April 2, 2009, e-mail from a DOE program manager, Massachusetts was advised that these funds could be spent on development of the state Recovery Act plan for weatherization required by DOE, application package, and other activities such as training.<sup>38</sup> Massachusetts, however, has not used this initial allocation, but rather used DOE fiscal year 2009 weatherization funds to fund expenses related to the development of the state plan, application package, and other activities (as well as weatherization activities). According to state officials, they plan to begin dispersing the Recovery Act funds at the beginning of the state's fiscal year 2010, which is on July 1, 2009. According to a DHCD official, the 10 percent already received and the 40 percent that the state will receive upon plan approval will be used for the same purpose—completion of weatherization work and related expenses in accordance with the approved state plan. Massachusetts submitted its Recovery Act weatherization plan to DOE for review and approval on May 11, 2009. Because DOE has yet to approve its state plan, Massachusetts is not yet authorized to obligate any of the Recovery Act funds provided by DOE.<sup>39</sup>

Once the state plan is approved by DOE, DHCD will issue contracts to its local subgrantees and have the contracts go through the state's accounting system. After contracts are in place, DHCD expects that obligations and

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<sup>38</sup>These were in accordance with Weatherization Program Notice 09-1B, Grant Guidance to Administer the American Recovery and Reinvestment Act of 2009 Funding, and applicable regulations. In addition, this e-mail advised that no Recovery Act funds could be used for production until DOE approval of state Recovery Act plans. However, on June 9, 2009, DOE issued revised guidance lifting this limitation to allow states to provide funds for production activities to local agencies that previously provided services and are included in state Recovery Act plans.

<sup>39</sup>According to officials, they are awaiting guidance from the U.S. Department of Energy on Davis-Bacon wage rates.

expenditures at the local agencies will move quickly. Expected uses of these funds are described below.

**Table 2: Massachusetts Planned Use of Recovery Act Weatherization Funds**

Weatherization funds <sup>a</sup>	Estimated units	Activity
\$86,139,495	12,157	Weatherization services using existing weatherization network (Community Action Agencies and Housing Assistance Corporation)
25,000,000	3,846	Weatherization of state-owned public housing
6,000,000	923	Weatherization of expiring use/preservation properties <sup>b</sup>
1,000,000	N/A	Development of Massachusetts Clean Energy Center <sup>c</sup>

Source: State Plan: 2009 American Recovery and Reinvestment Act Weatherization Assistance Program for Low Income Persons, Commonwealth of Massachusetts, Department of Housing and Community Development.

<sup>a</sup>The remainder of the \$122,077,457 allocation will be used for the administrative budget of the Massachusetts weatherization program (\$2,690,056) and for other training and technical assistance activities (\$1,247,906) other than the development of the Clean Energy Center.

<sup>b</sup>This is property where owners can convert to market-rate properties after a specific passage of time or when contractual obligations expire. The effort to keep these expiring use properties affordable is called affordable housing preservation.

<sup>c</sup>The Massachusetts Executive Office of Energy and Environmental Affairs plans to develop a training center to develop and maintain workforce and career training for energy efficiency and building science in Massachusetts.

DHCD officials began preparing for the large influx of weatherization funds by holding meetings in November 2008 with local agencies and utility program providers, asking them, for example, to hire additional administrative staff and energy auditors, as well as to recruit and train additional weatherization contractors.<sup>40</sup> To reach the state’s weatherization goals under the Recovery Act, the state originally planned an increase in the number of energy auditors from 42 to approximately 72 and the number of contractors from 60 to about 125 (subsequently revised to 100).<sup>41</sup> The state is currently using 2009 existing weatherization program funds to strengthen its ability to train new-hires to the weatherization workforce. For example, in March 2009, the training process began for

<sup>40</sup>Energy auditors perform inspections of energy, health, and safety concerns of homes after households are determined eligible for weatherization services.

<sup>41</sup>As of June 25, 2009, the hiring goal for energy auditors had been reached with the need for weatherization contractors amended to a total of 100. With 18 new weatherization contractors, the state notes that an additional 22 need to be brought under contract to meet their revised total.

over 25 new energy auditors with a statewide workshop,<sup>42</sup> and the department expects an ongoing focus on training and technical assistance activities not only for energy auditors, but also for private sector contractors.<sup>43</sup> According to DHCD officials, they received comprehensive verbal guidance from DOE on such issues as development of and timelines for the Recovery Act state weatherization plan, grant application procedures, reporting requirements, and training plans for the weatherization workforce.

DHCD officials said that their biggest concern about Recovery Act funds for weatherization relates to the need for direction from DOE on applying Davis-Bacon wage rates. They noted that their ability to weatherize housing units with Recovery Act funds is contingent on receiving direction regarding requirements for wages as well as instructions for implementation. Officials said they have requested training related to requirements in the Davis-Bacon Act. Another concern is spending Recovery Act money quickly and effectively, while maintaining the quality of work. They also expressed concern about turnover among crew members for private sector contractors. They said this might be relatively high due to such factors as outside work in extreme temperatures or inside work in restricted areas such as attics and crawlspaces.

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<sup>42</sup>The training was focused on such issues as how the weatherization program works in Massachusetts; the expectation for energy auditors who are essentially job-site coordinators working with the weatherization program contractor; quality assurance requirements; the importance of accurate measurements; health and safety concerns, requirements, and testing; the use of special instrumentation; identifying thermal and air barriers; attic and sidewall insulation; and heating system identification, combustion, and safety testing. Most of these auditors were expected to be certified through DHCD's Energy Auditor Certification process by June 2009.

<sup>43</sup>This is in response to increased funding from both the Recovery Act as well as the 2009 weatherization program grant in addition to increased low-income rate payer utility efficiency program funding.

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## Local Housing Agencies Receive Capital Formula Grants

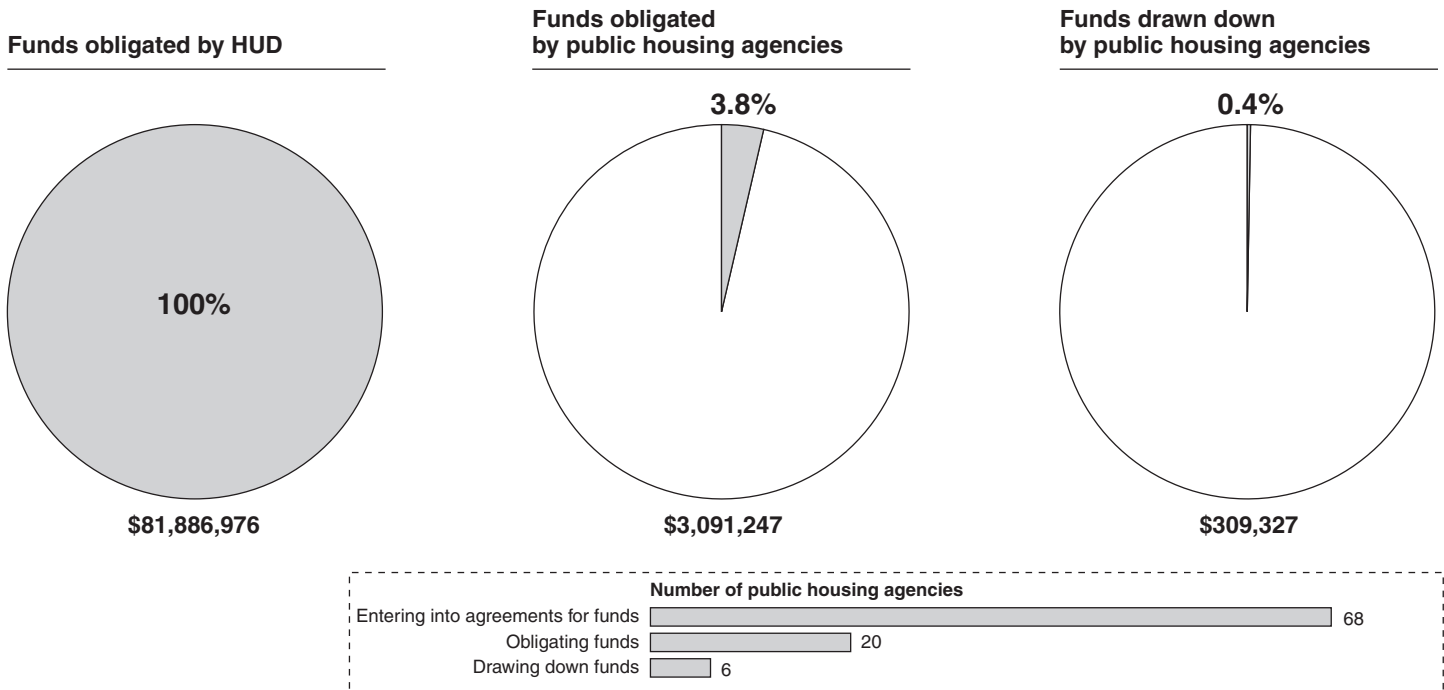
The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties for the development, financing, and modernization of public housing developments, and for management improvements.<sup>44</sup> The Recovery Act requires the U.S. Department of Housing and Urban Development (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, 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 projects that rehabilitate vacant units, or those already under way 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 or 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 time frames for submitting applications.<sup>45</sup>

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<sup>44</sup>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.

<sup>45</sup>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.

**Figure 4: Percent of Public Housing Capital Funds Allocated by HUD That Have Been Obligated and Drawn Down in Massachusetts**



Source: GAO analysis of HUD data.

As described in figure 4, in Massachusetts, all 68 public housing agencies eligible for Recovery Act formula grant awards received a total of \$81,886,976 from the Public Housing Capital Fund formula grant awards.<sup>46</sup> As of June 20, 2009, \$3,091,247 (3.8 percent) of the total amount had been obligated by 20 Massachusetts public housing agencies and \$309,327.23 (.4 percent) had been drawn down or expended by 6 Massachusetts public housing agencies.

We visited the Boston Housing Authority and the Revere Housing Authority in Massachusetts for site visits related to their use of Capital Fund formula grants totaling \$33,653,805. We selected the Boston Housing Authority because it received the largest capital fund grant allocation in Massachusetts and selected the Revere Housing Authority because it was

<sup>46</sup>Individual awards ranged from \$13,311 for the Hanson Housing Authority to over \$33 million for the Boston Housing Authority.

designated as “troubled” by HUD several years ago.<sup>47</sup> Their grants were awarded on the basis of the Capital Fund formula used for awards made in fiscal year 2008 and computed based on data on buildings and units reported to HUD as of September 30 of the prior fiscal year.<sup>48</sup>

Officials at the Boston Housing Authority, which was allocated \$33,329,733, met weekly for several months to select projects in light of Recovery Act priorities. Of the 15 projects finally selected, 11 of those were part of the 5-year capital plan and the remaining four selected on the basis of needs identified outside 5-year capital plans. The 15 projects did not address the Recovery Act requirement that housing agencies give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available. Boston Housing Authority officials had determined that awarding construction contracts of any size or complexity based on a fair public bidding process within 120 days with no prior notice would be highly unlikely. For example, state building code requirements, they said, require that a registered architect or engineer complete the design phase of a project before notice can be given to potential bidders.<sup>49</sup> According to Boston Housing Authority officials, while there were other projects with a completed design phase and which were ready to bid, these had reached that stage because funding other than Recovery Act monies had already been allocated and budgeted for those projects. Officials believed that to change the funding for these projects to Recovery Act funding would violate the Recovery Act prohibition on supplanting funds. In addition, since Boston Housing Authority officials stated that they do not have vacant units beyond vacancies from normal turnover, the Recovery Act priority for rehabilitation of vacant units was inapplicable.

For the 15 projects selected, the Boston Housing Authority plans to use all \$33 million of its grant allocation for these projects which will serve 5,090 units with completion of all projects expected by the end of 2011. These projects range from redevelopment to bathroom and plumbing system replacements, boiler replacements, roof replacements, and adding security

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<sup>47</sup>On January 31, 2007, the housing authority’s progress in addressing issues leading to this designation led HUD to remove the authority from a “troubled” status.

<sup>48</sup>Each public housing authority’s amount from the Capital Fund formula is the average of the public housing authority’s share of existing modernization need and its share of accrual need (by which method each share is weighted 50 percent). 24 C.F.R. § 905.10.

<sup>49</sup>780 CMR 116.0 of the Massachusetts State Building Code.

features to elevators and lobbies at multiple locations. As of June 30, 2009, Recovery Act funds had not been drawn down to pay for any of the 15 projects.

One example of a current, already-planned, project that the Boston Housing Authority determined as benefiting from additional funding from the Recovery Act is bathroom modernization of 152 units at Mary Ellen McCormack, a public housing development in South Boston. This project began in February 2009 with an estimated completion date of June 2011. Using \$3,976,000 in Recovery Act funding, this project will involve the complete replacement of all bathroom plumbing and waste lines, paint, tile, lighting, and electrical fixtures, and the installation of new venting.

The Revere Housing Authority decided Recovery Act funds would be used for one project—installing energy-efficient windows in a 100-unit housing project. Revere officials identified this project on the basis of needs which emerged after their initial capital planning process, and then included this project upon resubmission of their capital plan after the passage of the Recovery Act. To date, officials in Revere have contracted with an architectural firm to perform the following functions: analysis of current window conditions, design of new windows, administering the bidding process, reviewing bid submissions, contract administration, and closeout of the contract. While \$22,500 was obligated by the Revere Housing Authority as of June 2, 2009, they have not drawn down any funds as of June 30, 2009, but will do so once invoices are received. The project is estimated to be completed in March 2010.

Another major component of HUD Recovery Act funding for federal public housing is the competitive grants program, with \$1 billion available nationally for projects characterized by priority public housing investments intended to leverage private sector funds for renovations and energy conservation. The Boston Housing authority has begun to compile a list of proposed projects and officials told us they planned to apply for this funding. A Revere official noted that they will apply in the future.

Neither the Boston Housing Authority nor the Revere Housing Authority described challenges in accessing funds. In terms of meeting accelerated time frames, Boston Housing Authority officials described the tension between spending Recovery Act funds as effectively as they can while getting the funding out in an expeditious fashion. When asked about the Recovery Act requirement related to the application of prevailing wage rates, officials in Revere indicated that they are used to meeting Davis-Bacon requirements and view meeting these wage levels as a seamless



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part of their contractual agreements with workers.<sup>50</sup> Boston officials also mentioned that they are accustomed to working with Davis-Bacon requirements.

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## Massachusetts Takes Steps to Oversee and Safeguard Recovery Act Funds

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### Central Government Entities and State Agencies Have Taken Steps to Provide Oversight of Recovery Act Funds

Three state organizations—the State Comptroller’s Office, the Office of Infrastructure Investment, and the Governor’s Office—have all led focused efforts to ensure that agency internal control activities are sufficient for managing and overseeing Recovery Act funds. The Comptroller’s Office is working with state agencies to determine whether they need to establish new processes or procedures for internal controls by instructing state agencies to update their internal control plans. This update requires state agencies to complete a self-assessment questionnaire containing specific questions on compliance with Recovery Act provisions. The Office of Infrastructure Investment has contracted with consultants on project management issues to evaluate Recovery Act-related internal control gaps across the state and is in the process of hiring a compliance manager to assist with Recovery Act oversight. Furthermore, the Governor’s Office required that each state executive agency conduct a risk assessment and had the assessments reviewed by the state oversight entities. The State Auditor’s Office plans to use these assessments to target its Recovery Act oversight work.

In addition to the efforts taken by central state entities to prepare for oversight activities, executive agencies we visited plan to conduct oversight of their respective Recovery Act funds. Examples of oversight activities include conducting site visits and inspections, performing desk audits, and ensuring daily oversight of contractors. Specifically, transportation officials stated that oversight of projects includes daily

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<sup>50</sup>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.

oversight of both contractors and subcontractors. In addition, resident engineers for each work site keep daily records of employee hours worked and the number of items (e.g., catch basin covers) installed. Weatherization projects under DHCD must be inspected by weatherization certified auditors before a contractor is paid, and department officials participate in about 15 percent of these inspections. Officials from the Executive Office of Public Safety and Security stated that they are developing specific subgrant conditions related to Recovery Act funds, including compliance with the Office of Inspector General's rules on waste, fraud, and abuse. They will also conduct site visits and desk reviews of JAG recipients. The EOWLD stated that they will continue their existing oversight activities, such as annually reconciling the Workforce Investment Boards' planned versus actual expenses and periodically performing site visits to boards to review such items as eligibility documentation, standard operating procedures, and subrecipient monitoring.

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### Single Audit Results Used by State Officials for Oversight Activities

Officials at the State Auditor's Office said they use the results of the Single Audit to target their oversight and require corrective action plans, when necessary. Officials from the Executive Office of Education and the Executive Office of Transportation said they review the Single Audit management decision letters to determine if any one of their programs had a finding. If there is a finding, the agency will notify the respective programmatic area and schedule meetings to address the issue. Education officials we met with stated that education findings are infrequent and typically minor in scope. However, in both 2007 and 2008, the same material weakness occurred within the Massachusetts Department of Education's Department of Early Education and Care<sup>51</sup> regarding the use of expired procurements. The State Auditor instructed the department to correct this practice, but during its 2008 Single Audit, the State Auditor reported the same finding. According to state officials, the correction to this material weakness is a multiyear process. The Massachusetts Department of Education is scheduled to complete the largest

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<sup>51</sup>The 2007 Massachusetts Single Audit contained three material weaknesses and other findings. The 2008 Single Audit repeated one of these material weaknesses where the Department of Early Education and Care was using four procurements created by its predecessor, the Office of Child Care Services, for services provided by federally funded child care programs that were developed between 1998 and 2001. The department had received multiple extensions from the state procurement oversight agency and was required to perform new procurements for the period beginning July 1, 2005.

procurement rebid by July 2009, and will then follow the same process for the other rebids. For the 2009 Single Audit (year ending June 30, 2009), the State Auditor is reviewing four major programs, including the Department of Early Education and Care, based on this ongoing material weakness. In addition, the state is negotiating with the firm that works on the single audit to perform more real time audits along with their typical single audits in order for the state to obtain information on internal control issues on a real time basis.

Similarly, state transportation officials stated that if any findings are uncovered during the Single Audit, they will work with the State Auditor to develop corrective action plans. Transportation officials further stated that there have not been any significant transportation findings within the past 5 years.

The 2008 Single Audit for Massachusetts contained one material weakness in the education area regarding procurement, noted above, and other findings mostly related to program monitoring and supervisory review.

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**State Inspector General and Auditor Have Not Finalized Oversight Plans, State Attorney General Continues Oversight Efforts with STOP Fraud Task Force**

Neither the State Auditor nor the State Inspector General have yet finalized their plans to conduct oversight of the state Recovery Act funds. The State Auditor's Office recently drafted an audit plan, outlining specific areas to target, and has begun some preliminary work to confirm their plans. The State Inspector General said he anticipates targeting areas where there is no other oversight by reviewing the oversight planned by the federal Inspectors General, the State Auditor, and the state Attorney General and will then fill in any gaps, with a focus on procurement. The organizations did not receive additional funding to provide Recovery Act oversight and are still uncertain about their resource levels for fiscal year 2010 (beginning July 1, 2009). The Governor's Office, however, is hoping to provide these oversight agencies with additional resources using Recovery Act administrative funds. State officials expect Massachusetts to continue experiencing larger than expected revenue shortages and therefore significant budget cuts. In addition, the STOP Fraud Task Force created by the state Attorney General continued to meet and coordinate on oversight issues.<sup>52</sup>

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<sup>52</sup>As stated in our prior report, the state Attorney General has convened a task force to coordinate on oversight issues with the federal and state oversight community.

Given that significant amounts of Recovery Act funds are now beginning to flow to the state, it is important that oversight agencies quickly finalize their plans and shift their limited resources appropriately to safeguard these funds.

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### The State Has Taken Steps to Track Recovery Act Funds

Massachusetts state and local agencies have taken steps to track the flow of Recovery Act funds coming into the state. The state Comptroller's Office is providing and updating guidance to state agencies on its Web site, working with agency financial personnel to separately code Recovery Act funds in its state accounting system, and holding weekly conference calls with these agency finance representatives to provide a question and answer forum on Recovery Act requirements. The Comptroller's Office is also generating statewide reports on Recovery Act-related revenue and spending. During meetings with the state Executive Offices of Workforce and Labor Development, Education, and Public Safety and Security, officials confirmed they are using the state's accounting system to track their respective Recovery Act funds. In addition, the Massachusetts Office of Infrastructure Investment recently contracted with a project management consultant to work with state officials on presentation and coordination of Recovery Act reporting.

While preparations have been under way, challenges with tracking Recovery Act funds remain. Some funding streams, such as unemployment insurance, were not included in the state reporting system as of the end of May 2009. According to the state Comptroller's Office, there is the risk that some expenditures will be coded as state money, rather than Recovery Act money, because some agencies do not have a past history of receiving federal funds and may therefore occasionally miscode these funds. However, he does not expect this error to occur in any material way. A more prominent challenge for the state is that those Recovery Act funds going directly to recipients other than Massachusetts state agencies—such as independent state authorities, local governments, or other entities—continues to be problematic for state-tracking purposes because these funds will not flow, and therefore not be tracked, through the state accounting system. Pending legislation, if passed, would require all entities receiving Recovery Act funds in Massachusetts to report funds received to the state.

In addition to statewide tracking activities, some agencies plan to track Recovery Act funds with their own in-house systems. For example, officials from the Executive Office of Transportation stated they have an online database that allows transportation officials to segregate, itemize,

and track Recovery Act funds. Similarly, the EOLWD has issued a budget template that requires local Workforce Investment Boards to list their planned expenditures of Recovery Act money by functional categories. The template also includes auto-fill metrics that highlight whether the Board's budget expenditures will meet state guidelines deadlines. At the local level, both of the Workforce Investment Boards we met with are issuing separate contracts for serving youth this summer and establishing separate accounting codes for tracking Recovery Act funds. The two local housing agencies we visited will use HUD's Electronic Line of Credit Control System to separately code and track Recovery Act grants. Moreover, some agencies are issuing Recovery Act monies as separate grants to ensure the separate tracking of these funds.

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### Central Capacity to Track and Oversee Recovery Act Funds

Centralized tracking and oversight activities related to the Recovery Act require additional resources and the state plans to use Recovery Act funds to cover the cost of certain central administrative activities. Following May 2009 guidance from the federal Office of Management and Budget (OMB),<sup>53</sup> state officials plan to use the option of a percentage chargeback of certain Recovery Act funds to provide additional staffing resources to entities responsible for oversight, monitoring, and tracking Recovery Act funds. The chargeback would be used for staff additions to the recently created Office of Infrastructure Investment, the state Comptroller's Office, the state Budget Office, the State Auditor's Office, Attorney General's Office, and the state Inspector General's Office. The Governor filed legislation to put a mechanism in place for this chargeback, and the state Budget Office sent a proposal to HHS to obtain authorization to use a chargeback mechanism. In May, the Secretary of the Executive Office for Administration and Finance asked the State Auditor, the state Attorney General, and the state Inspector General to provide a detailed description of the work each office would need to perform regarding Recovery Act work, and a description of the resources each would need to perform this work. As of June 25, 2009, the State Auditor and the state Inspector General had submitted this information, and the state Attorney General planed to do so.

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<sup>53</sup>OMB M-09-18, Memorandum for the Heads of Departments and Agencies.

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## Approaches for Assessing the Effects of Recovery Act Spending Continue to Develop

Under the Recovery Act, state and local recipients are expected to report on a number of data elements, including the use of funds, the amount expended or obligated, and the estimated number of jobs created and retained. Provisions under the act also require federal agencies to adapt current performance evaluation and review processes to include information on the completion status of projects funded under the Recovery Act, as well as program and economic outcomes that are consistent with Recovery Act requirements. In addition to reporting on jobs created and retained, OMB guidance directs federal agencies to collect performance information from entities who receive funding to the extent possible. The guidance also requires agencies to instruct recipients to collect and report performance information as part of their quarterly submissions that is consistent with the agency's program performance measure.<sup>54</sup> The reporting requirements will allow an assessment of what OMB describes as the marginal performance impact of Recovery Act requirements.

While there are still some lingering questions related to measuring employment and the applicability of this requirement to programs funded under the act, state agencies are beginning to develop strategies for collecting and reporting employment outcomes. To date, the focus has been on incorporating federal guidance and adapting existing systems for collecting and reporting on jobs created and sustained. While there are still some lingering questions related to measuring employment and the applicability of this requirement to programs funded under the act, state agencies are beginning to develop strategies for collecting and reporting employment outcomes. In addition, existing programs that are receiving supplemental funds through the Recovery Act are beginning to address performance outcomes using existing approaches but are waiting for federal guidance before putting plans in place.

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<sup>54</sup>Peter R. Orszag, Memorandum for the Heads of Departments and Agencies, Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 (April 3, 2009). This guidance supplements, amends, and clarifies the initial guidance issued by OMB on February 18, 2009.

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## Various Approaches Are Being Used to Measure Jobs, but Questions about Measuring Job Creation Remain

Massachusetts officials expressed some concern about how to assess the effects of Recovery Act spending in terms of jobs created and retained. The Governor's Deputy Chief Counsel told us that the state is continuing to face challenges associated with quantifying the impact of Recovery Act funds. The state Comptroller has sent guidance to chief information officers at state agencies to plan for how they will benchmark and report on the impact of Recovery Act funds. However, questions remain on how state agencies will define a job created, as well as other impacts. State agency officials are trying to be proactive by developing plans for reporting on jobs created prior to funds being spent.

The state Comptroller also reported that he does not have clear guidance on reporting requirements for each of the Recovery Act funding streams, particularly as they relate to recipient reporting and jobs reporting. The Comptroller believes his office has an obligation to provide state agencies with guidance as to which program agencies need to report and which do not. However, in the absence of clear federal guidance, he is unsure if the guidance his office has provided is accurate.

Program agency officials also expressed lingering concern about the lack of guidance specific to their individual programs. While the federal OMB has provided general guidance on the requirements that states assess and report on the effects of Recovery Act spending on jobs created and retained, OMB guidance gives federal agencies discretion in the data they choose to collect from state and local entities for their programs. For example, Massachusetts Department of Education officials stated that they are wary of the potential for a funding cliff, or the depletion of the Recovery Act funding, in 2 years, and therefore have serious concerns about using ESEA Title I funds to generate new jobs. Officials believe that local education agencies are more likely to use Recovery Act funds to retain, rather than to create, new jobs.

State program officials report using a variety of methods to measure employment outcomes which could lead to reporting inconsistencies. For example, Massachusetts transportation officials require contractors and subcontractors to submit monthly employment information, including the number of employees, hours worked, and payroll amounts, but it is unclear how this information will be used to identify new and existing employees. Moreover, transportation officials report that it is not unusual for a single worker to be employed at two projects, and in this situation, that would be considered two jobs created. Similarly, local housing agency officials told us that they will identify the number of jobs created through Occupational Safety and Health Administration cards that are required of

every individual who works on the project. In addition, the housing agency will have access to daily information on the employees working for contractors by project. However, they will not be able to track how long individuals have worked on the project. Finally, state officials overseeing Recovery Act-funded weatherization projects have developed estimates on the number of jobs that will be created—anywhere from 250 to 300 jobs—using estimates based on a model developed for DOE’s Weatherization Assistance Program from the U.S. Bureau of Economic Analysis model for the construction trades. State officials also expect several spin-off jobs will be created and characterize these jobs as being an indirect result of dollars spent.

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### Massachusetts Agencies Are Beginning to Address Performance Reporting Requirements Using Existing Approaches

OMB guidance also encourages recipients to collect and report performance information that is consistent with the agency’s program performance measures and broader goals of the act. When asked about measurement of performance outcomes, some state officials reported that they are largely using existing approaches to meet these requirements. For example, public safety program officials said there are preliminary plans in place for reporting on program activities and expenditures of law enforcement programs funded through the JAG program, but the final plan would depend, in part, on what performance measures the U.S. Department of Justice ultimately requires states to use. These performance indicators are likely to include measures to improve program quality such as the amount of the award spent on improving criminal justice information systems. These officials also reported that they had plans for collaborating with the EOLWD to develop plans to report on that portion of the JAG funding that Massachusetts is using to support summer youth employment programs.

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### State Comments on This Summary

We provided the Governor of Massachusetts with a draft of this appendix on June 17, 2009, and representatives from the Governor’s Office and the oversight agencies responded on June 19, 2009. In general, they agreed with our draft and provided some clarifying information, which we incorporated. The officials also provided technical suggestions that were incorporated, as appropriate.



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