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GAO

Report to Congressional Committees

April 2009

RECOVERY ACT

As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential

GAO-09-580

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As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential

GAO Accountability·Integrity·Reliability

Highlights

Highlights of GAO-09-580, a report to Senate and House Committees on Appropriations, Senate Committee on Homeland Security and Governmental Affairs, and House Committee on Oversight and Government Reform

Why GAO Did This Study

The American Recovery and Reinvestment Act of 2009 (Recovery Act) is estimated to cost about $787 billion over the next several years, of which about $280 billion will be administered through states and localities. The Recovery Act requires GAO to do bimonthly reviews of the use of funds by selected states and localities. In this first report, GAO describes selected states' and localities' (1) uses of and planning of Recovery Act funds, (2) accountability approaches, and (3) plans to evaluate the impact of funds received. GAO's work is focused on 16 states and the District of Columbia—representing about 65 percent of the U.S. population and two-thirds of the intergovernmental federal assistance available through the Recovery Act. GAO collected documents from and interviewed state and local officials, including Governors, "Recovery Czars," State Auditors, Controllers, and Treasurers. GAO also reviewed guidance from the Office of Management and Budget (OMB) and other federal agencies.

What GAO Recommends

GAO makes a number of recommendations, which are discussed on the next page. In general, OMB concurred with the overall objectives of our recommendations and plans to work with GAO to further accountability for these funds.

View GAO-09-580 or key components.
For more information, contact J. Christopher Mihm at (202) 512-6806 or mihmj@gao.gov.

What GAO Found

Uses and Planning for Recovery Act Funds

About 90 percent of the estimated $49 billion in Recovery Act funding to be provided to states and localities in FY2009 will be through health, transportation and education programs. Within these categories, the three largest programs are increased Medicaid Federal Medical Assistance Percentage (FMAP) grant awards, funds for highway infrastructure investment, and the State Fiscal Stabilization Fund (SFSF). The funding notifications for Recovery Act funds for the 16 selected states and the District of Columbia (the District) have been approximately $24.2 billion for Medicaid FMAP on April 3, $26.7 billion for highways on March 2, and $32.6 billion for SFSF on April 2.

Increased Medicaid FMAP Funding

Fifteen of the 16 states and the District have drawn down approximately $7.96 billion in increased FMAP grant awards for the period October 1, 2008 through April 1, 2009. The increased FMAP is for state expenditures for Medicaid services. The receipt of this increased FMAP may reduce the state share for their Medicaid programs. States have reported using funds made available as a result of the increased FMAP for a variety of purposes. For example, states and the District reported using these funds to maintain their current level of Medicaid eligibility and benefits, cover their increased Medicaid caseloads-which are primarily populations that are sensitive to economic downturns, including children and families, and to offset their state general fund deficits thereby avoiding layoffs and other measures detrimental to economic recovery.

Highway Infrastructure Investment

States are undertaking planning activities to identify projects, obtain approval at the state and federal level and move them to contracting and implementation. For the most part, states were focusing on construction and maintenance projects, such as road and bridge repairs. Before they can expend Recovery Act funds, states must reach agreement with the Department of Transportation on the specific projects; as of April 16, two of the 16 states had agreements covering more than 50 percent of their states' apportioned funds, and three states did not have agreement on any projects. While a few, including Mississippi and Iowa had already executed contracts, most of the 16 states were planning to solicit bids in April or May. Thus, states generally had not yet expended significant amounts of Recovery Act funds.

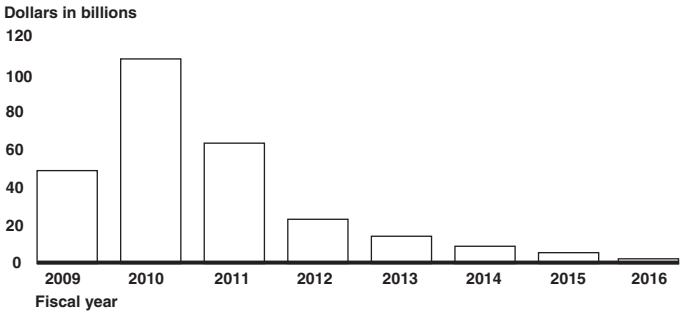
State Fiscal Stabilization Fund

The states and D.C. must apply to the Department of Education for SFSF funds. Education will award funds once it determines that an application contains key assurances and information on how the state will use the funds. As of April 20, applications from three states had met that determination-South Dakota, and two of GAO's sample states, California and Illinois. The applications from other states are being developed and submitted and have

not yet been awarded. The states and the District report that SFSF funds will be used to hire and retain teachers, reduce the potential for layoffs, cover budget shortfalls, and restore funding cuts to programs.

This report contains separate appendixes on each of the 16 states and the District that discuss the plans and uses of funds in these three major programs as well as selected other programs that are receiving Recovery Act funds.

Planning continues for the use of Recovery Act funds. The figure below shows the projected timing of funds made available to states and localities.



Source: GAO analysis of CBO and FFIS data.

State activities include appointing Recovery Czars; establishing task forces and other entities, and developing public websites to solicit input and publicize selected projects. In many states, legislative authorization is needed before the state can receive and/or expend funds or make changes to programs or eligibility requirements.

Accountability Approaches

GAO found that the selected states and the District are taking various approaches to ensuring that internal controls to manage risk up-front; they are assessing known risks and developing plans to address those risks. However, officials in most of the states and the District expressed concerns regarding the lack of Recovery Act funding provided for accountability and oversight. Due to fiscal constraints, many states reported significant declines in the number of oversight staff—limiting their ability to ensure proper implementation and management of Recovery Act funds. State auditors are also planning their work including conducting required single audits and testing compliance with federal requirements. The single audit process is important for effective oversight but can be modified to be a more timely and effective audit and oversight tool for the Recovery Act and OMB is weighing options on how to modify it.

Nearly half of the estimated spending programs in the Recovery Act will be administered by non-federal entities. State officials suggested opportunities to improve communication in several areas. For example, they wish to be notified when Recovery Act funds are made available directly to prime recipients within their state that are not state agencies.

Plans to Evaluate Impact

Two of the several objectives of the Recovery Act are to (1) preserve existing jobs and stimulate job creation and (2) promote economic recovery. Officials in nine of the 16 states and the District expressed concern about determining jobs created and retained under the Recovery Act, as well as methodologies that can be used for estimation of each.

GAO's Recommendations

OMB has moved out quickly to guide implementation of the Recovery Act. As OMB's initiatives move forward, it has opportunities to build upon its efforts to date by addressing several important issues.

Accountability and Transparency Requirements

The Director of OMB should:

-- adjust the single audit process to provide for review of the design of internal controls during 2009 over programs to receive Recovery Act funding, before significant expenditures in 2010

--continue efforts to identify methodologies that can be used to determine jobs created and retained from projects funded by the Recovery Act.

--evaluate current requirements to determine whether sufficient, reliable and timely information is being collected before adding further data collection requirements.

Administrative Support and Oversight

The Director of OMB should clarify what Recovery Act funds can be used to support state efforts to ensure accountability and oversight.

Communications

The Director of OMB should provide timely and efficient notification to (1) prime recipients in states and localities when funds are made available for their use, (2) states, where the state is not the primary recipient of funds, but has a state-wide interest in this information, and (3) all recipients, on planned releases of federal agency guidance and whether additional guidance or modifications are expected.

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United States Government Accountability Office
Washington, DC 20548

April 23, 2009

Report to Congressional Committees:

The Nation faces what is generally reported to be the most serious economic crisis since the Great Depression. In response, the American Recovery and Reinvestment Act of 2009 (Recovery Act)[1] was enacted to promote economic recovery, make investments, and to minimize and avoid reductions in state and local government services. The Congressional Budget Office (CBO) estimated that the Recovery Act's combined spending and tax provisions will cost $787 billion over ten years, of which more than $580 billion will be in additional federal spending. The stated purposes of the Recovery Act are to:

- preserve and create jobs and promote economic recovery;
- assist those most impacted by the recession;
- provide investments needed to increase economic efficiency by spurring technological advances in science and health;
- invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
- stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

The Recovery Act specifies several roles for GAO including conducting bimonthly reviews of selected states' and localities' use of funds made available under the act.[2] Accordingly, our objectives for this report were to describe (1) selected states' and localities' uses of and planning for Recovery Act funds, (2) the approaches taken by the selected states and localities to ensure accountability for Recovery Act funds, and (3) states' plans to evaluate the impact of the Recovery Act funds they received.

To address these objectives, we selected a core group of 16 states and the District of Columbia (District) that we will follow over the next few years to provide an ongoing longitudinal analysis of the use of funds provided in conjunction with the Recovery Act. The states are Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Massachusetts, Michigan,

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

[2]Recovery Act, div. A, title IX, §901.

Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. These states contain about 65 percent of the U.S. population and are estimated to receive collectively about two-thirds of the intergovernmental federal assistance funds available through the Recovery Act. We selected these states and the District on the basis of outlay projections, percentage of the U.S. population represented, unemployment rates and changes, and a mix of states' poverty levels, geographic coverage, and representation of both urban and rural areas. In addition, we visited a non-probability sample of about 60 localities within the 16 selected states.[3]

We collected documents from and conducted semi-structured interviews with executive-level state and local officials and staff from Governors' offices, "Recovery Czars," State Auditors, Controllers, and Treasurers. We also interviewed staff from state legislatures. In addition, our work focused on federal, state, and local agencies administering programs receiving Recovery Act funds. We analyzed data and interviewed officials from the federal Office of Management and Budget (OMB). We also analyzed other federal guidance on programs selected for this review and spoke with relevant program officials at the Centers for Medicare & Medicaid Services (CMS), the U.S. Department of Transportation and the U.S. Department of Education. We did not review state legal materials for this report, but relied on state officials and other state sources for description and interpretation of relevant state constitutions, statutes, legislative proposals, and other state legal materials.

We based our selection of the programs to review for this initial report on Recovery Act funding and potential risks associated with receipt of additional funds for these programs. An estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways. These three programs are therefore highlighted throughout this report. The information obtained from this review cannot be generalized to all states and localities receiving Recovery Act funding. A detailed description of our scope and methodology can be found in Appendix I.

[3]This total includes two entities in the District of Columbia which received direct federal funding that was not passed through the District government.

We conducted this performance audit from February 17, to April 20, 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Recovery Act funds are being distributed to states, localities, other entities, and individuals through a combination of formula and competitive grants and direct assistance. Nearly half of the approximately $580 billion associated with Recovery Act spending programs will flow to states and localities affecting about 50 state formula and discretionary grants as well as about 15 entitlement and other countercyclical programs. As noted above, three of the largest streams of funds flowing to states and localities are (1) the temporary increase in FMAP funding which will provide states with approximately $87 billion in assistance; (2) the State Fiscal Stabilization Fund, which will provide nearly $54 billion to help state and local governments avert budget cuts, primarily in education; and (3) highway infrastructure investment funds of approximately $27 billion.

Medicaid FMAP

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The amount of federal assistance states receive for Medicaid service expenditures is known as the FMAP. Across states, the FMAP may range from 50 to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states.

Under the Recovery Act, states are eligible for an increased FMAP for expenditures that states make in providing services to their Medicaid populations.[4] The Recovery Act provides eligible states with this increased FMAP for 27 months between October 1, 2008, and December 31, 2010. On

[4]See Recovery Act, div. B, title V, § 5001 (a)-(c). U.S. territories are also eligible for an increased FMAP subject to a different formula than states. Recovery Act div. B, title V, § 5001 (d).

February 25, 2009, 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.[5] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. For the first two quarters of 2009, the increases in the FMAP for the 16 states and the District ranged from 7.09 percentage points in Iowa to 11.59 percentage points in California. (See table 1.)

Table 1: FMAP Changes from Fiscal Year 2008 to the First Two Quarters of Fiscal Year 2009, for 16 states and the District

State	Fiscal Year 2008 FMAP	Fiscal Year 2009 FMAP, first two quarters	Difference
Arizona	66.20	75.01	8.81
California	50.00	61.59	11.59
Colorado	50.00	58.78	8.78
District of Columbia	70.00	77.68	7.68
Florida	56.83	67.64	10.81
Georgia	63.10	73.44	10.34
Illinois	50.00	60.48	10.48
Iowa	61.73	68.82	7.09
Massachusetts	50.00	58.78	8.78
Michigan	58.10	69.58	11.48
Mississippi	76.29	83.62	7.33
New Jersey	50.00	58.78	8.78
New York	50.00	58.78	8.78
North Carolina	64.05	73.55	9.50
Ohio	60.79	70.25	9.46
Pennsylvania	54.08	63.05	8.97
Texas	60.56	68.76	8.20

Source: GAO analysis of HHS data, as of April 16, 2009.

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

Highway Infrastructure Investment

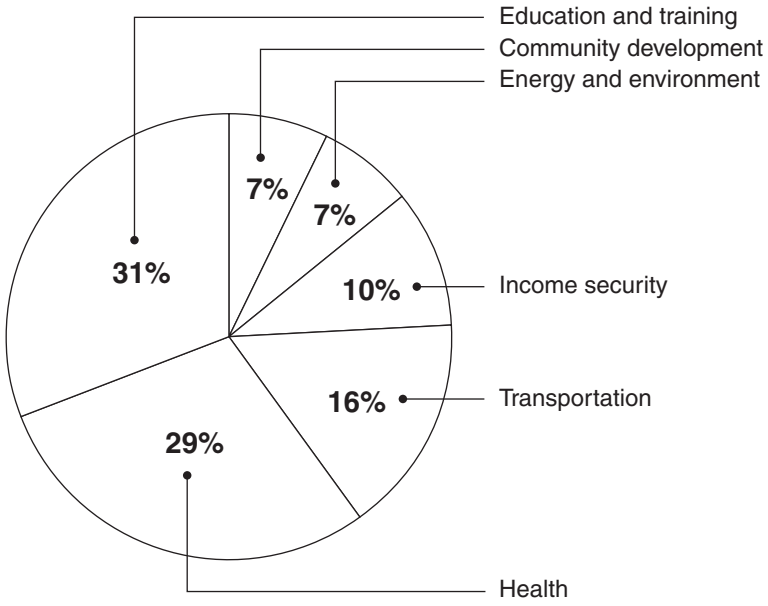
The Recovery Act provides approximately $48 billion to fund grants to states, localities, regional authorities and others for transportation projects of which the largest piece is $27.5 billion for highway and related infrastructure investments. The Recovery Act largely provides for increased transportation funding through existing programs-such as the Federal-Aid Highway Surface Transportation Program—a federally funded, state-administered program. Under this program, funds are apportioned annually to each state department of transportation (or equivalent) to construct and maintain roadways and bridges on the federal-aid highway system. The Federal-Aid Highway Program refers to the separately funded grant programs mostly funded by formula, administered by the Federal Highway Administration (FHWA) in the U.S. Department of Transportation.

State Fiscal Stabilization Fund

The Recovery Act provided $53.6 billion in appropriations for the State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education. The Recovery Act requires that the Secretary of Education set aside $5 billion for State Incentive Grants, referred to by the department as the Reach for the Top program, and the establishment of an Innovation Fund. After reserving these and certain other funds, the remaining funds are to be distributed to states by formula, with 61 percent of the state award based on the state's relative share of the population aged 5 to 24 and 39 percent based on the state's relative share of the total U.S. population. The Recovery Act specifies that 81.8 percent (about $39.5 billion) of these remaining funds are to be distributed to states for support of elementary, secondary, and postsecondary education, and early childhood education programs. The remaining 18.2 percent of SFSF (about $8.8 billion) is available for public safety and other government services including for educational purposes. The Department of Education announced on April 1, 2009 that it will award the SFSF in two phases. The first phase—$32.6 billion—represents about two-thirds of the SFSF.

Figure 1 shows the distribution of Recovery Act funds to states by broad functional categories over the next several years.

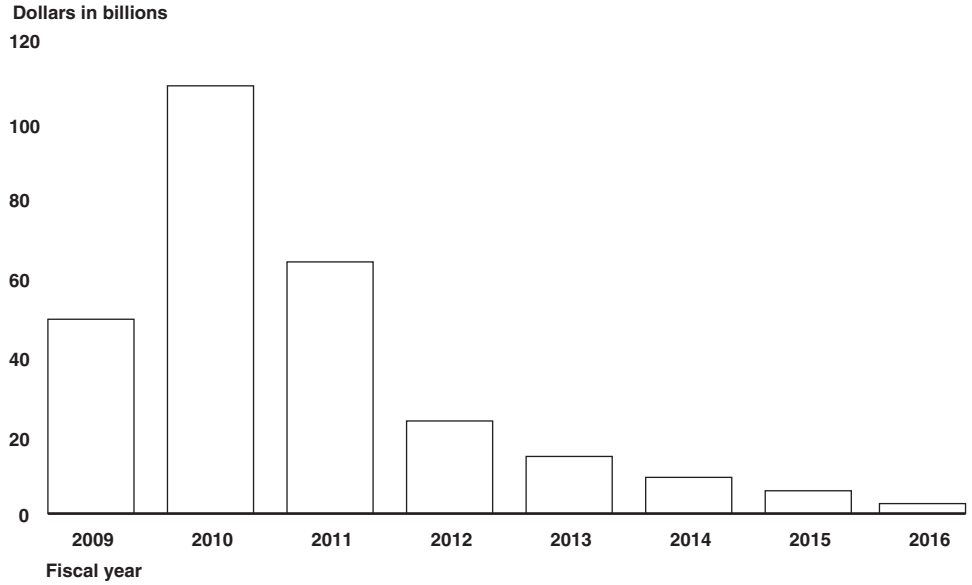
Figure 1: State and Local Recovery Act Funding by Broad Functional Category, Fiscal Years 2009-2019



Source: GAO analysis of CBO and FFIS data.

The timeline of Recovery Act spending has been a key issue in the debate and design of the Recovery Act because of the elapsed time between when policy changes are first proposed and actual spending begins to flow from enacted changes. Figure 2 shows the projected timing of state and local-administered Recovery Act spending.

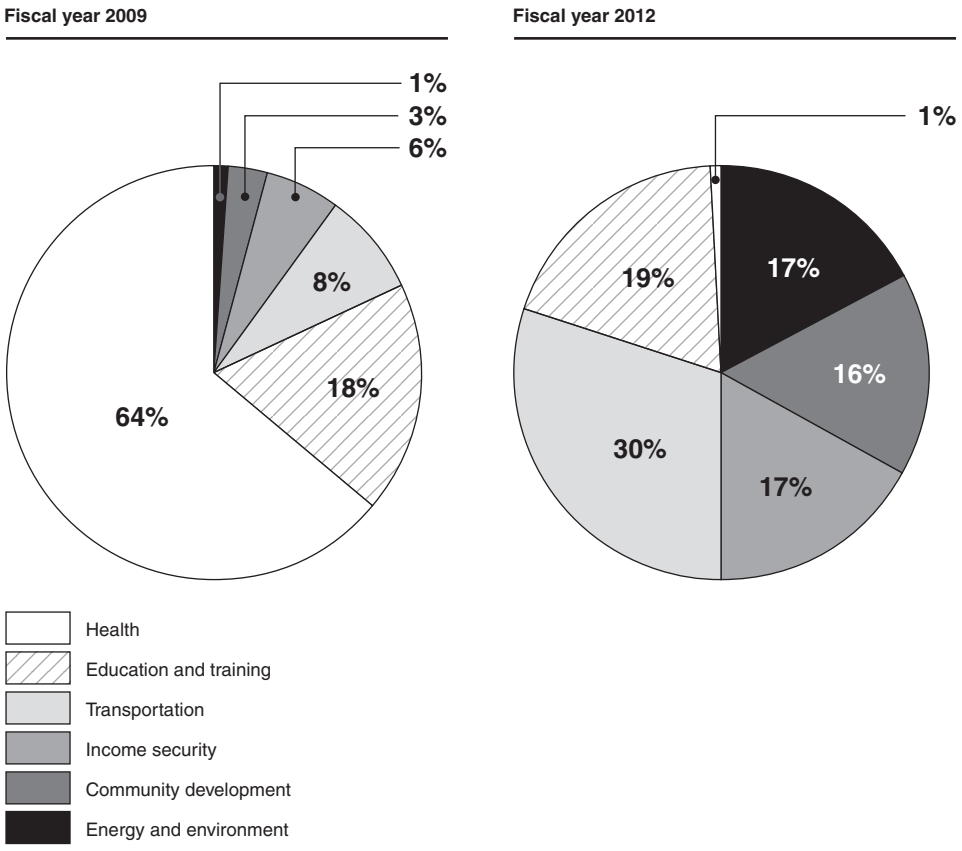
Figure 2: Projected Timing of Federal Recovery Act Funding Made Available to States and Localities by Fiscal Year



Source: GAO analysis of CBO and FFIS data.

Over time, the programmatic focus of Recovery Act spending will change. As shown in figure 3, about two-thirds of Recovery Act funds expected to be spent by states in the current 2009 fiscal year will be health related, primarily temporary increases in Medicaid FMAP funding. Health, education, and transportation is estimated to account for approximately 90 percent of fiscal year 2009 Recovery Act funding for states and localities. However, by fiscal year 2012, transportation will be the largest share of state and local Recovery Act funding. Taken together, transportation spending, along with investments in the community development, energy, and environmental areas that are geared more toward creating long-run economic growth opportunities will represent approximately two-thirds of state and local Recovery Act funding in 2012.

Figure 3: Composition of State and Local Recovery Act Funding, Fiscal Years 2009 and 2012



Source: GAO analysis of CBO and FFIS data.

The administration has stipulated that every taxpayer dollar spent on economic recovery must be subject to unprecedented levels of transparency and accountability. To that end, the Recovery Act established the Recovery Accountability and Transparency Board to coordinate and conduct oversight of funds distributed under the Act in order to prevent fraud, waste and abuse. The Board includes a Chairman appointed by the President, and ten Inspectors General specified by the

Act.[6] The Board has a series of functions and powers to assist it in the mission of providing oversight and promoting transparency regarding expenditure of funds at all levels of government. The Board will report on the use of Recovery Act funds and may also make recommendations to agencies on measures to avoid problems and prevent fraud, waste and abuse.

The Board is also charged under the Act with establishing and maintaining a web site, www.recovery.gov, (Recovery.gov) to foster greater accountability and transparency in the use of covered funds. The website currently includes overview information about the Recovery Act, a timeline for implementation, a frequently asked questions page, and an announcement page that is to be regularly updated. The administration plans to develop the site to encompass information about available funding, distribution of funds, and major recipients. The website is required to include plans from federal agencies; information on federal awards of formula grants and awards of competitive grants; and information on federal allocations for mandatory and other entitlement programs by state, county, or other appropriate geographical unit.[7] Eventually, prime recipients of Recovery Act funding will provide information on how they are using their federal funds. Currently, Recovery.gov features projections for how, when, and where the funds will be spent, as well as which states and sectors of the economy are due to receive what proportion of the funds. As money starts to flow, additional data will become available. In addition to Recovery.gov, OMB has also issued guidance directing executive branch agencies to develop a dedicated portion of their web sites for information related to the recovery.

To ensure a high level of accountability, OMB has issued guidance to the heads of federal departments and agencies for implementing and

[6]The Recovery Accountability and Transparency Board is comprised of a chairperson appointed by the President; Inspectors General from the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Justice, Transportation, Treasury, and the Treasury Inspector General for Tax Administration; and any other Inspector General designated by the President from any agency that expends or obligates Recovery Act funds.

[7]Recovery Act, div. A, title XV, § 1527(c)(11)–(13).

managing activities enacted under the Recovery Act.[8] OMB has also issued for comment detailed reporting requirements for Recovery Act fund recipients that include the number of jobs created and jobs retained as a result of Recovery Act funding.[9] OMB's guidance documents are available on Recovery.gov. In addition, the Civilian Acquisition Council and the Defense Acquisition Regulations Council have issued an interim rule revising the Federal Acquisition Regulation (FAR) to require a contract clause that implements these reporting requirements for contracts funded with Recovery Act dollars.[10]

The Recovery Act also assigns GAO a range of responsibilities to help promote accountability and transparency. Some are recurring requirements such as providing bimonthly reviews of the use of funds made available under Division A of the Recovery Act by selected states and localities and reviews of quarterly reports on job creation and job retention as reported by Recovery Act fund recipients. Other requirements include targeted studies in several areas such as small business lending, education, and trade adjustment assistance. We completed the first of these mandates on April 3, 2009, by announcing the appointment of 13 members to the Health Information Technology Policy Committee, a new advisory body established by the Recovery Act. The committee will make recommendations on creating a policy framework for the development and adoption of a nationwide health information technology infrastructure, including standards for the exchange of patient medical information. On April 16, 2009, we issued a report completing a second mandate to report on the actions of the Small Business Administration (SBA) to, among other things, increase liquidity in the secondary market for SBA loans.[11]

[8]See, OMB memoranda, M-09-10, *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, February 18, 2009, and M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, April 3, 2009.

[9] OMB, "Information Collection Activities: Proposed Collection; Comment Request," 74 *Fed. Reg.* 14824 (Apr. 1, 2009).

[10]74 Fed. Reg. 14,639 (March 31, 2009).

[11]GAO, *Small Business Administration's Implementation of Administrative Provisions in the American Recovery and Reinvestment Act of 2009*, GAO-09-507R (Washington, D.C.: April 16, 2009).

States' and Localities' Use of and Plans for Recovery Act Funds Focus on Purposes of the Act and States' Fiscal Stresses

Officials in the 16 selected states and the District indicated they have used certain Recovery Act funds and continue planning for the use of additional funds they have not yet received. States' existing intergovernmental programs—such as Medicaid, transportation, and education—have been among the first programs to receive Recovery Act funds. Planning continues for the use of Recovery Act funds for these and other program areas. States' planning actions include appointing Recovery Czars; establishing task forces and other entities, and developing public web sites to solicit input and publicize selected projects. In some cases, according to state officials, state legislation will be required to receive and expend funds or to make required changes to programs for eligibility prior to using the funds. States' approaches to planning for Recovery Act funds also vary in response to state legislative and budget processes regarding the use of federal funds and states' fiscal situations.

States' Use of Recovery Act Funds by Selected Program Areas

The three largest programs making funds available to the state and localities so far have been the Medicaid FMAP, highways funds, and the SFSF. Table 2 shows the breakout of funding available for these three programs in the 16 selected states and the District that GAO visited. Recovery Act funding for these 17 jurisdictions accounts for a little less than two-thirds of total Recovery Act funding for these three programs.

Table 2: Notification of Recovery Act Funds for GAO Core States and the District of Columbia for Select Programs (Dollars in thousands)

(Dollars in thousands)

State	Medicaid FMAP	Highways	States Fiscal Stabilization Fund
Arizona	$534,576	$521,958	$681,360
California	$3,331,167	$2,569,568	$3,993,379
Colorado	$226,959	$403,924	$509,363
District of Columbia	$87,831	$123,508	$59,883
Florida	$1,394,945	$1,346,735	$1,809,196
Georgia	$521,251	$931,586	$1,032,684
Illinois	$992,042	$935,593	$1,376,965
Iowa	$136,023	$358,162	$316,467
Massachusetts	$1,182,968	$437,865	$666,153
Michigan	$700,522	$847,205	$1,066,733
Mississippi	$225,471	$354,564	$321,131
New Jersey	$549,847	$651,774	$891,424
New York	$3,143,641	$1,120,685	$2,021,924

(Dollars in thousands)			
State	**Medicaid FMAP**	**Highways**	**States Fiscal Stabilization Fund**
North Carolina	$657,111	$735,527	$951,704
Ohio	$760,647	$935,677	$1,198,882
Pennsylvania	$1,043,920	$1,026,429	$1,276,766
Texas	$1,448,824	$2,250,015	$2,662,203
Total Case Study	**$16,937,745**	**$15,550,776**	**$20,836,218**
Percent of National Total	**70**	**58**	**64**
National Total	**$24,233,145**	**$26,660,000**	**$32,552,620**
Notifications as of	**April 3, 2009**	**March 2, 2009**	**April 2, 2009**

Source: GAO analysis of agency data.

Note: For Medicaid FMAP amounts shown are the increased Medicaid FMAP Grant Awards as of April 3, 2009. For Highways, the amounts shown are the full state apportionment. For the SFSF, the amounts shown are the initial release of the state allocation.

Medicaid FMAP

Under the Recovery Act, states are eligible for an increased FMAP for expenditures that states make in providing services to their Medicaid populations.[12] The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008 and December 31, 2010. Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates.

In our sample of 16 states and the District, officials from 15 states and the District indicated that they had drawn down increased FMAP grant awards, totaling $7.96 billion for the period of October 1, 2008 through April 1, 2009—47 percent of their increased FMAP grant awards. In our sample, the extent to which individual states and the District accessed these funds varied widely, ranging from 0 percent in Colorado to about 66 percent in New Jersey. Nationally, the 50 states and several territories combined have drawn down approximately $11 billion as of April 1, 2009,

[12]See Recovery Act, div. B, title V, § 5001 (a)-(c). U.S. territories are also eligible for an increased FMAP subject to a different formula than states. Recovery Act div. B, title V, § 5001 (d).

which represents almost 46 percent of the increased FMAP grants awarded for the first three quarters of federal fiscal year 2009 (Table 3).[13]

Table 3: FMAP Grant Awards and Funds Drawn Down, for 16 States and the District

(Dollars in thousands)

State	FMAP grant awards	Funds drawn	Percentage of funds drawn
Arizona	$534,576	$286,286	53.6
California	$3,331,167	$1,511,539	45.4
Colorado	$226,959	0	0.0
District of Columbia	$87,831	$49,898	56.8
Florida	$1,394,945	$817,025	58.6
Georgia	$521,251	$311,515	59.8
Illinois	$992,042	$117,081	11.8
Iowa	$136,023	$81,663	60.0
Massachusetts	$1,182,968	$272,559	23.0
Michigan	$700,522	$462,982	66.1
Mississippi	$225,471	$114,112	50.6
New Jersey	$ 549,847	$362,235	65.9
New York	$3,143,641	$1,739,073	55.3
North Carolina	$657,111	$414,644	63.1
Ohio	$760,647	$420,630	55.3
Pennsylvania	$1,043,920	$330,811	31.7
Texas	$1,448,824	$665,665	45.9
Total	**$16,937,745**	**$7,957,718**	**47.0**

Source: GAO analysis of HHS data.

Note: FMAP grant awards are those funds awarded as of April 3, 2009, and funds drawn down are as of April 1, 2009.

In order for states to qualify for the increased FMAP available under the Recovery Act, they must meet certain requirements. In particular

- **Maintenance of Eligibility:** In order to qualify for the increased FMAP, states generally may not apply eligibility standards, methodologies, or procedures that are more restrictive than those in effect under their state Medicaid programs on July 1, 2008.[14] In

[13]This amount includes funds drawn down by U.S. territories and the District.

[14]See Recovery Act, div. B, title V, § 5001(f)(1).

guidance to states, CMS noted that examples of restrictions of eligibility could include (1) the elimination of any eligibility groups since July 1, 2008 or (2) changes in an eligibility determination or redetermination process that is more stringent than what was in effect on July 1, 2008. States that fail to initially satisfy the maintenance of eligibility requirements have an opportunity to reinstate their eligibility standards, methodologies, and procedures before July 1, 2009 and become retroactively eligible for the increased FMAP.

- **Compliance with Prompt Payment:** Under federal law states are required to pay claims from health practitioners promptly.[15] Under the Recovery Act, states are prohibited from receiving the increased FMAP for days during any period in which that state has failed to meet this requirement.[16] Although the increased FMAP is not available for any claims received from a practitioner on each day the state is not in compliance with these prompt payment requirements, the state may receive the regular FMAP for practitioner claims received on days of non-compliance. CMS officials told us that states must attest that they are in compliance with the prompt payment requirement, but that enforcement is complicated due to differences across states in methods used to track this information. CMS officials plan to issue guidance on reporting compliance with the prompt payment requirement and are currently gathering information from states on the methods they use to determine compliance.

- **Rainy Day Funds:** States are not eligible for an increased FMAP if any amounts attributable (either directly or indirectly) to the increased FMAP are deposited or credited into any reserve or rainy day fund of the state.[17]

- **Percentage Contributions from Political Subdivisions:** In some states, political subdivisions—such as cities and counties—may be required to help finance the state's share of Medicaid spending. States that have such financing arrangements are not eligible to receive the

[15]States are required to pay 90 percent of clean claims from health care practitioners 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).

[16]This provision only applies to claims received after February 17, 2009, the date of enactment of the Recovery Act.

[17]This prohibition does not apply to any increase in FMAP based on maintenance of the states' prior year FMAPs.

increased FMAP if the percentage contributions required to be made by a political subdivision are greater than what was in place on September 30, 2008.[18]

In addition to meeting the above requirements, states that receive the increased FMAP must submit a report to CMS no later than September 30, 2011 that describes how the increased FMAP funds were expended, in a form and manner determined by CMS.[19] In guidance to states, CMS has stated that further guidance will be developed for this reporting requirement. CMS guidance to states also indicates that, for federal reimbursement, increased FMAP funds must be drawn down separately, tracked separately, and reported to CMS separately. Officials from several states told us they require additional guidance from CMS on tracking receipt of increased FMAP funds and on reporting on the use of these funds.

The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services.[20] However, the receipt of this increased FMAP may reduce the state share for their Medicaid programs. States have reported using these available funds for a variety of purposes. In our sample, individual states and the District reported that they would use the funds to maintain their current level of Medicaid eligibility and benefits, cover their increased Medicaid caseloads—which are primarily populations that are sensitive to economic downturns, including children and families, and to offset their state general fund deficits thereby avoiding layoffs and other measures detrimental to economic recovery. Ten states and the District reported using these funds to maintain program eligibility. Nine states and the District reported using these funds to maintain benefits. Specifically, Massachusetts reported that during a previous financial downturn, the state limited the number of individuals eligible for some services and reduced certain program benefits that were optional for the state to cover. However, with the funds made available as a result of the increased FMAP, the state did not have to make such reductions. Similarly, New Jersey reported that the state used these funds to eliminate premiums for certain children in its State Children's Health Insurance

[18]This prohibition does not apply to any increase in FMAP based on maintenance of the states' prior year FMAPs.

[19]Recovery Act, div. B, title V, § 5001 (g)(1).

[20]Recovery Act, div. B, title V, § 5001 (a)-(c), (h)(1).

Program, allowing it to retain coverage for children whose enrollment in the program would otherwise have been terminated for non-payment of premiums. Nine states and the District reported using these funds to cover increases to their Medicaid caseloads, primarily to populations that are sensitive to economic downturns, such as children and families. For example, New Jersey indicated that these funds would help the state meet the increased demand for Medicaid services. According to a New Jersey official, due to significant job losses, the state's proposed 2010 budget would not have accommodated all the applicants newly eligible for Medicaid and that the funds available as a result of the increased FMAP have allowed the state to maintain a "safety net" of coverage for uninsured and unemployed people. In addition, 10 states and the District indicated that the increased funds made available would help offset deficits in their general funds. Pennsylvania reported that because funding for its Medicaid program is derived, in part, on state revenues, program funding levels fluctuate as the economy rises and falls. However, the state was able to use funds made available to offset the effects of lower state revenues. Arizona officials also reported that the state used funds made available as a result of the increased FMAP to pay down some of its debt and make payroll payments, thus allowing the state to avoid a serious cash flow problem.

Finally, six states in our sample also reported that they used funds made available as a result of the increased FMAP to comply with prompt payment requirements. Specifically, Illinois reported that these funds will permit the state to move from a 90-day payment cycle to a 30-day payment cycle for all Medicaid providers. Three states also reported using these funds to restore or to increase provider payment rates.

In our sample, many states and the District indicated that they need additional guidance from CMS regarding eligibility for the increased FMAP funds. Specifically, 5 states raised concerns about whether certain programmatic changes could jeopardize the state's eligibility for these funds. For example Texas officials indicated that guidance from CMS is needed regarding whether certain programmatic changes being considered by Texas, such as a possible extension of the program's eligibility period, would affect the state's eligibility for increased FMAP funds. Similarly, Massachusetts wanted clarification from CMS as to whether certain changes in the timeframe for the state to conduct eligibility re-determinations would be considered a more restrictive standard. Four states also reported that they wanted additional guidance from CMS regarding policies related to the prompt payment requirements or changes to the non-federal share of Medicaid expenditures. For example, California

officials noted that the state reduced Medicaid payments for in-home support services, but that counties could voluntarily choose to increase these payments without altering the cost sharing arrangements between the counties and the state. The state wants clarification from CMS on whether such an arrangement would be allowable in light of the Recovery Act requirements regarding the percentage of contributions by political subdivisions within a state toward the non-federal share of expenditures.

In response to states' concerns regarding the need for guidance, CMS told us that it is in the process of developing draft guidance on the prompt payment provisions in the Recovery Act. One official noted that this guidance will include defining the term practitioner, describing the types of claims applicable under the provision, and addressing the principles that are integral to determining a state's compliance with prompt payment requirements. Additionally, CMS plans to have a reporting mechanism in place through which states would report compliance under this provision. With regard to Recovery Act requirements regarding political subdivisions, CMS described their current activities for providing guidance to states. Due to the variability of state operations, funding processes, and political structures, CMS has been working with states on a case-by-case basis to discuss particular issues associated with this provision and to address the particular circumstances for each state. A CMS official told us that if there were an issue(s) or circumstance(s) that had applicability across the states, or if there were broader themes having national significance, CMS would consider issuing guidance.

Highway Infrastructure Investment

Of the $27.5 billion provided in the Recovery Act for highway and related infrastructure investments, $26.7 billion is provided to the 50 states for restoration, repair, construction and other activities allowed under the Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. Nearly one-third of these funds are required to be sub-allocated to metropolitan and other areas. States must follow the requirements for the existing program, and in addition, the Recovery Act requires that the Governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. The certifications must include a statement of the amount of funds the state planned to expend from state sources as of the date of enactment, during the period beginning on the date of enactment through September 30, 2010, for the types of projects that are funded by the appropriation.

The U.S. Department of Transportation is reviewing the Governors' certifications regarding maintaining their level of effort for highways. According to the Department, of the 16 states in our review and the District of Columbia, three states have submitted a certification free of explanatory or conditional language—Arizona, Michigan, and New York. Eight submitted "explanatory" certifications—certifications that used language that articulated assumptions used or stated the certification was based on the "best information available at the time," but did not clearly qualify the expected maintenance of effort on the assumptions proving true or information not changing in the future. Six submitted a "conditional" certifications, which means that the certification was subject to conditions or assumptions, future legislative action, future revenues, or other conditions.[21]

Recovery Act funding for highway infrastructure investment differs from the usual practice in the Federal-aid Highway Program in a few important ways. Most significantly, for projects funded under the Recovery Act, the federal share is 100 percent; typically projects require a state match of 20 percent while the federal share is typically 80 percent. Under the Recovery Act, priority is also to be given to projects that are projected to be completed within three years. In addition, within 120 days after the apportionment by the Department of Transportation to the states (March 2, 2009), and specifically before June 30, 2009, 50 percent of the apportioned funds must be obligated.[22] Any amount of this 50 percent of apportioned funding that is not obligated may be withdrawn by the Secretary of Transportation and redistributed to other states that have obligated their funds in a timely manner. Furthermore, one year after enactment the Secretary will withdraw any remaining unobligated funds and redistribute them based on states' need and ability to obligate additional funds. These provisions are applicable only to those funds apportioned to the state and not those funds required by the Recovery Act to be suballocated to metropolitan, regional and local organizations.

[21]The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[22]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

Finally, states are required to give priority to projects that are located in economically distressed areas as defined by the Public Works and Economic Development Act of 1965, as amended. In March 2009, FHWA directed its field offices to provide oversight and take appropriate action to ensure that states gave adequate consideration to economically distressed areas in selecting projects. Specifically, field offices were directed to discuss this issue with the states and to document its review and oversight of this process.

States are undertaking planning activities to identify projects, obtain approval at the state and federal level and move them to contracting and implementation. However, because of the steps necessary before implementation, states generally had not yet expended significant amounts of Recovery Act funds. States are required to reach agreement with the Department of Transportation (DOT) on a list of projects reimbursement from DOT for these projects. States will then request reimbursement from DOT as the state makes payments to contractors working on approved projects.

As of April 16, 2009, the U.S Department of Transportation reported that nationally $6.4 billion of the $26.6 billion in Recovery Act highway infrastructure investment funding provided to the states had been obligated – meaning Transportation and the states had reached agreements on projects worth this amount. As shown in Table 4 below, for the locations that GAO reviewed, the extent to which the Department of Transportation had obligated funds apportioned to the states and Washington D.C. ranged from 0 to 65 percent. For two of the states, the Department of Transportation had obligated over 50 percent of the states' apportioned funds, for 4 it had obligated 30 to 50 percent of the states' funds, for 9 states it had obligated under 30 percent of funds, and for three it had not obligated any funds.

Table 4: Highway Apportionments and Obligations as of April 16, 2009 (Dollars in millions)

State	Amount apportioned	Amount obligated	Percent of apportionment obligated	Number of projects
Arizona	$522	$148	28	26
California	2,570	261	10	20
Colorado	404	118	29	19
District of Columbia	124	37	30	1
Florida	1,347	0	0	0
Georgia	932	0	0	0
Illinois	936	606	65	214
Iowa	358	221	62	107
Massachusetts	425	64	15	19
Michigan	847	111	13	27
Mississippi	355	137	39	32
New Jersey	652	281	43	12
New York	1,121	277	25	108
North Carolina	736	165	22	53
Ohio	936	0	0	0
Pennsylvania	1,026	309	30	108
Texas	2,250	534	24	159
Total	**$15,538**	**$3,269**	**21**	**905**

Source: FHWA.

Note: Totals may not add due to rounding.

In most states we visited, while they had not yet expended significant funds, they were planning to solicit bids in April or May. They also stated that they planned to meet statutory deadlines for obligating the highway funds. A few states had already executed contracts. As of April 1, 2009, the Mississippi Department of Transportation (MDOT), for example, had signed contracts for 10 projects totaling approximately $77 million.[23] These projects include the expansion of State Route 19 in eastern Mississippi into a four-lane highway. This project fulfills part of MDOT's 1987 Four-Lane Highway Program which seeks to link every Mississippian to a four-lane highway within 30 miles or 30 minutes. Similarly, as of April 15, 2009, the Iowa Department of Transportation had competitively awarded 25 contracts valued at $168 million. Most often, however, we found that

[23]As of April 16, 2009, the U.S. Department of Transportation had obligated $137.0 million for 32 Mississippi projects.

highway funds in the states and the District have not yet been spent because highway projects were at earlier stages of planning, approval, and competitive contracting. For example, in Florida, the Department of Transportation (FDOT) plans to use the Recovery Act funds to accelerate road construction programs in its preexisting 5- year plan which will result in some projects being reprioritized and selected for earlier completion. On April 15, 2009, the Florida Legislative Budget Commission approved the Recovery Act-funded projects that FDOT had submitted.

For the most part, states were focusing their selection of Recovery Act-funded highway projects on construction and maintenance, rather than planning and design, because they were seeking projects that would have employment impacts and could be implemented quickly. These included road repairs and resurfacing, bridge repairs and maintenance, safety improvements, and road widening. For example, in Illinois, the Department of Transportation is planning to spend a large share of its estimated $655 million in Recovery Act funds[24] for highway and bridge construction and maintenance projects in economically distressed areas, those that are shovel-ready, and those that can be completed by February 2012. In Iowa, the contracts awarded have been for projects such as bridge replacements and highway resurfacing—shovel-ready projects that could be initiated and completed quickly. Knowing that the Recovery Act would include opportunities for highway investment, states told us they worked in advance of the legislation to identify appropriate projects. For example, in New York, the state DOT began planning to manage anticipated federal stimulus money in November 2008. A key part of New York's DOT's strategy was to build on existing planning and program systems to distribute and manage the funds.

State Fiscal Stabilization Fund

The states and D.C. must apply to the Department of Education for SFSF funds. Education will award funds once it determines that an application contains key assurances and information on how the state will use the funds. As of April 20, applications from three states had met that determination-South Dakota, and two of GAO's sample states, California

[24]According to the Federal Highway Administration, Illinois' share of Recovery Act funds for highway infrastructure investment is approximately $936 million. This total consists of $655 million for IDOT projects and $281 million in sub-allocations for local governments' highway projects. The $655 million to IDOT includes $627 million for IDOT to use statewide and $28 million for mandatory transportation enhancements. Transportation enhancements include activities such as provision of facilities for pedestrians and bicyclists, preservation of abandoned railway corridors, acquisition of scenic easements, and historic preservation projects.

and Illinois. The applications from other states are being developed and submitted and have not yet been awarded. The states and the District report that SFSF funds will be used to hire and retain teachers, reduce the potential for layoffs, cover budget shortfalls, and restore funding cuts to programs. The applications to Education must contain certain assurances. For example, states must assure that, in each of fiscal years 2009, 2010, and 2011, they will maintain state support at fiscal year 2006 levels for elementary and secondary education and also for public institutions of higher education (IHEs). However, the Secretary of Education may waive maintenance of effort requirements if the state demonstrates that it will commit an equal or greater percentage of state revenues to education than in the previous applicable year. The state application must also contain (1) assurances that the state is committed to advancing education reform in increasing teacher effectiveness, establishing state-wide education longitudinal data systems, and improving the quality of state academic standards and assessments; (2) baseline data that demonstrates the state's current status in each of the education reform areas; and (3) a description of how the state intends to use its stabilization allocation.

Within two weeks of receipt of an approvable SFSF application, Education will provide the state with 67 percent of its SFSF allocation. Under certain circumstances, Education will provide the state with up to 90 percent of its allocation. In the second phase, Education intends to conduct a full peer review of state applications before awarding the final allocations.

After maintaining state support for education at fiscal year 2006 levels, states are required to use the education portion of the SFSF to restore state support to the greater of fiscal year 2008 or 2009 levels for elementary and secondary education, public IHEs, and, if applicable, early childhood education programs. States must distribute these funds to school districts using the primary state education formula but maintain discretion in how funds are allocated to public IHEs. If, after restoring state support for education, additional funds remain, the state must allocate those funds to school districts according to the funding formula found in Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), commonly known as the No Child Left Behind Act. However, if a state's education stabilization fund allocation is insufficient to restore state support for education, then a state must allocate funds in proportion to the relative shortfall in state support to public schools and IHEs. Education stabilization funds must be allocated to school districts and public IHEs and cannot be retained at the state level.

Once stabilization funds are awarded to school districts and public IHEs, they have considerable flexibility over how they use those funds. School districts are allowed to use stabilization funds for any allowable purpose under the Elementary and Secondary Education Act (ESEA), (commonly known as the No Child Left Behind Act), the Individuals with Disabilities Education Act (IDEA), the Adult Education and Family Literacy Act, or the Perkins Act, subject to some prohibitions on using funds for, among other things, sports facilities and vehicles. In particular, because allowable uses under the Impact Aid provisions of ESEA are broad, school districts have discretion to use Recovery Act funding for things ranging from salaries of teachers, administrators, and support staff to purchases of textbooks, computers, and other equipment. The Recovery Act allows public IHEs to use SFSF funds in such a way as to mitigate the need to raise tuition and fees, as well as for the modernization, renovation, and repair of facilities, subject to certain limitations. However, the Recovery Act prohibits public IHEs from using stabilization funds for such things as increasing endowments, modernizing, renovating, or repairing sports facilities, or maintaining equipment. According to Education officials, there are no maintenance of effort requirements placed on local school districts. Consequently, as long as local districts use stabilization funds for allowable purposes, they are free to reduce spending on education from local-source funds, such as property tax revenues.

States have broad discretion over how the $8.8 billion in SFSF funds designated for basic government services are used. The Recovery Act provides that these funds can be used for public safety and other government services and that these services may include assistance for education, as well as for modernization, renovation, and repairs of public schools or IHEs, subject to certain requirements. Education's guidance provides that the funds can also be used to cover state administrative expenses related to the Recovery Act. However, the Act also places several restrictions on the use of these funds. For example, these funds cannot be used to pay for casinos (a general prohibition that applies to all Recovery Act funds), financial assistance for students to attend private schools, or construction, modernization, renovation, or repair of stadiums or other sports facilities.

States' expected that SFSF uses by school districts and public IHEs would include retaining current staff and spending on programmatic initiatives, among other uses. Some states' fiscal condition could affect their ability to meet maintenance of effort (MOE) requirements in order to receive SFSF monies, but they are awaiting final guidance from Education on procedures to obtain relief from these requirements. For example, due to

substantial revenue shortages, Florida has cut their state budget in recent years and the state will not be able to meet the maintenance-of-effort requirement to readily qualify for these funds. The state will apply to Education for a waiver from this requirement; however, they are awaiting final instructions from Education on submission of the waiver. Florida plans to use SFSF funds to reduce the impact of any further cuts that may be needed in the state education budget.

In Arizona, generally, state officials expect that SFSF recipients, such as local school districts, will use their allocations to improve the tools they use to assess student performance and determine to what extent performance meets federal academic standards, rehire teachers that were let go because of prior budget cuts, retain teachers, and meet the federal requirement that all schools have equal access to highly qualified teachers, among other things. Funds for the state universities will help them maintain services and staff as well as avoid tuition increases. Illinois officials stated that the state plans to use all of the $2 billion in State Fiscal Stabilization funds, including the 18.2 percent allowed for government services, for K-12 and higher education activities and hopes to avert layoffs and other cutbacks many districts and public colleges and universities are facing in their fiscal year 2009 and 2010 budgets. State Board of Education officials also noted that U.S. Department of Education guidance allows school districts to use stabilization funds for education reforms, such as prolonging school days and school years, where possible. However, officials said that Illinois districts will focus these funds on filling budget gaps rather than implementing projects that will require long-term resource commitments. While planning is underway, most of the selected states reported that they have not yet fully decided how to use the 18.2 percent of the SFSF which is discretionary.

Localities Report Limited Initial Use of Recovery Act Funds

In addition to funds for Medicaid, transportation, and SFSF which flow primarily directly to the states, the Recovery Act provided funds for other program areas ranging from housing to training to alternative energy. Localities' planning for the use of Recovery Act education funds varied according to both the status of federal guidance in place at the time of our review and individuals states' and localities' own planning process. New Jersey state education officials said they were initially limited in their ability to provide guidance to local institutions because they were awaiting guidance from the U.S. Department of Education. As a result, school district officials we interviewed in Newark and Trenton said they are waiting for state officials to tell them what their allocations are for each of the federal Recovery Act education programs. The timing of the federal and state guidelines for these funds are important as the local schools

districts are planning their upcoming fiscal year budgets and would like to know how the Recovery Act funds would complement their upcoming school spending. According to the governor's chief of staff, the state already funds local school districts with $8.8 billion in state funds, so ensuring accountability for the use of state funds to so many school districts is not a new challenge to the state oversight agencies. On April 1, 2009, the U.S. Department of Education issued guidance to the states on how Recovery Act funds could be used for education. State officials are continuing to review the guidance, and on April 16, 2009, issued guidance to local school districts outlining each district's allocation of additional funds made available under the Recovery Act for programs authorized under Title I of the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act. In Arizona, Tempe School District No. 3 plans to use the vast majority of the Recovery Act funding for ESEA Title I for existing programs, but it has tentative plans to use portions of it each year to hire two temporary regional facilitators and to fund five existing preschool programs, among other uses.

Officials from the selected states and the District said there were plans in place to apply for and use Recovery Act funds. For example, Michigan plans to apply for $67 million in Recovery Act funds for crime control and prevention activities under the Department of Justice's Edward Byrne Memorial Justice Assistance Grants. Michigan Department of Community Health officials told us that about $41 million of these funds will support, among other things, state efforts to reduce the crime lab backlog, funding for multi-jurisdictional courts, and localities' efforts regarding law enforcement programs, community policing, and local correctional resources. An additional $26 million in Recovery Act funds will go directly to localities to support efforts against drug-related and violent crime. On April 13, 2009, Michigan began accepting grant applications for the Byrne program and will continue to accept them until May 11, 2009. In another example, officials in the District told us that as of April 3, 2009, the District Department of Employment Services had received about $1.5 million for adult Workforce Investment Act (WIA) programs, about $3.8 million for dislocated workers programs, and almost $4 million for youth programs. They said that D.C. plans to use these Recovery Act funds in accordance with the U.S. Department of Labor's guidance stating the intent of the Recovery Act to use WIA Adult funds to provide the necessary services to substantially increased numbers of adults to support their entry or reentry into the job market, and that WIA Dislocated Worker funds be used to provide the necessary services to dislocated workers to support their reentry into the job market.

Recovery Act Funds Expected to Alleviate Some State Fiscal Pressures As States Continue to Adjust Budget Plans to Address Current and Emerging Challenges

Officials in all of the selected states indicated they were able to reduce or eliminate expected budget shortfalls through the inclusion of Recovery Act funds in their budget projections. In Texas, some representatives told us that absent the availability of Recovery Act funds, state agencies likely would have been asked to make cuts of about 10 percent for the state's fiscal year 2010-2011 biennial budget, in addition to the state drawing upon the rainy day fund. However, other officials representing the Texas Office of the Governor said that budget deficit situations do not necessarily result in the state using its rainy day fund. The officials stressed that—to meet the requirement to pass a balanced budget—a variety of other solutions could be considered, such as budget reallocations among state agencies and programs, as well as spending cuts. Colorado officials said Recovery Act funds will help prevent cuts to state programs such as transportation. Illinois officials said the state hopes to avert layoffs and create new jobs with Recovery Act funds.

Officials in Massachusetts also said that federal Recovery Act funds are critical to addressing the Commonwealth's immediate fiscal pressures. State officials expect to use a significant portion of funds made available as a result of their state-projected $8.7 billion in Recovery Act funds (over 2 years) for budget stabilization. As of April 2009, the Commonwealth is addressing a budget shortfall of approximately $3.0 billion, driven largely by lower-than-anticipated revenues. The combination of funds made available as a result of the increased FMAP and state rainy day funds— a reserve fund built up during more favorable economic conditions to be used during difficult economic times—will help the state avoid cuts in several areas, including health care, education, and public safety. Faced with declining revenue projections since fiscal year 2008, Pennsylvania officials believe that funds made available as a result of the Recovery Act are critical to help alleviate the immediate fiscal pressure and help balance the state budget. Based on February 2009 projections, Pennsylvania faces a $2.3 billion shortfall in fiscal year 2009, largely because of lower-than-expected revenues.

Despite the infusion of Recovery Act funds into state budgets, some state officials reported that the current fiscal situation still requires action to maintain balanced budgets. These actions include budget reductions, fee increases and scaling back of state rebates of local property taxes. In Georgia, officials amended the state budget by reducing revenue estimates, using reserves, and cutting program funding. These actions were necessary despite the inclusion of additional Medicaid funds made available as a result of the Recovery Act. The largest budget cuts in New Jersey come from scaling back of state rebates of local property taxes by

$500 million, and reducing state payments to the pension funds by $895 million.

Officials in the selected states acknowledged the Recovery Act's contributions to easing immediate fiscal pressures but remain wary of continued fiscal pressures likely to remain after federal assistance ends. Officials in several states reported that their planning efforts focused on maintaining existing services rather than creating new programs or staff positions which could extend their state's financial liabilities beyond the end date for Recovery Act funds. Officials generally expected to use Recovery Act funds to fill gaps in existing programs rather than funding new initiatives. In the midst of program budget cuts, state officials acknowledged the challenge of ensuring that, where required to do so, they use Recovery Act funds to supplement and not supplant current state program funds.[25] For example, in Arizona, programs receiving Recovery Act funds may have a share of the state general fund reduced to help balance the fiscal year 2010 budget, thus demonstrating the state has met the prohibition on supplanting state funds could be a challenge. The Arizona Treasurer's Office estimated that even with Recovery Act funding, Arizona's expenditures were expected to exceed revenues through about 2014, and the state's "rainy day" fund has been depleted.[26]

In California, even when the state Legislative Analyst's Office factors in the state's anticipated Recovery Act funding and a package of state budget solutions that will be voted on in a May 19, 2009 special election, it estimates an $8 billion deficit in fiscal year 2009-10. Further, since the release of the governor's budget in January 2009, the state's economic condition continues to deteriorate, and the state legislature and governor may need to develop additional budgetary solutions to rebalance the 2009-10 budget following an update of the budget in May.[27]

[25]For certain programs, states may use Recovery Act funds to supplement but may not supplant current state program funds. Certain other programs are not subject to this restriction.

[26]In addition, the Arizona state legislature passed a budget in January 2009 that closed an estimated shortfall of $1.8 billion for fiscal year 2008 and $2.1 billion for fiscal year 2009.

[27]In January 2009, the fiscal year 2009-2010 Governor's Budget projected that the state would end the 2009-2010 period with a $41.6 billion deficit if the state took no corrective actions.

States' Actions to Plan for Use of Recovery Act Funds Include New and Existing Entities and Processes

All of the 16 selected states and the District reported taking action to plan for and monitor the use of Recovery Act funding. Some states reported that Recovery Act planning activities for funds received by the state are directed primarily by the governor's office. In New York, for example, the governor provides program direction to the state's departments and offices, and he established a Recovery Act Cabinet comprised of representatives from all state agencies and many state authorities to coordinate and manage Recovery Act funding throughout the state. In North Carolina, Recovery Act planning efforts are led by the newly created Office of Economic Recovery and Investment, which was established by the governor to oversee the state's economic recovery initiatives.

Other states reported that their Recovery Act planning efforts were less centralized. In Mississippi, the governor has little influence over the state Departments of Education and Transportation, as they are led by independent entities. In Texas, oversight of federal Recovery Act funds involves various stakeholders, including the Office of the Governor, the Office of the Comptroller of Public Accounts, and the State Auditor's Office as well as two entities established within the Texas legislature specifically for this purpose—the House Select Committee on Federal Economic Stabilization Funding and the House Appropriations' Subcommittee on Stimulus.[28]

Several states reported that they have appointed "Recovery Czars" or identified a similar key official and established special offices, task forces or other entities to oversee the planning and monitor the use of Recovery Act funds within their states. In Michigan, the governor appointed a recovery czar to lead a new Michigan Economic Recovery Office, which is responsible for coordinating Recovery Act programs across all state departments and with external stakeholders such as GAO, the federal OMB, and others.

Some states began planning efforts before Congress passed the Recovery Act. For example, the state of Georgia recognized the importance of accounting for and monitoring Recovery Act funds and directed state agencies to take a number of steps to safeguard Recovery Act funds and

[28]Under Texas law, according to state officials, the governor is the state's chief budget officer, but the state legislature and the Legislative Budget Board have a large role in the state's budget process, which operates on a 2-year cycle. Both the governor and the Legislative Budget Board develop budget recommendations and submit budget proposals to the legislature, which adopts a budget (general appropriations bill) for the 2-year period.

mitigate identified risks. Georgia established a small core team in December 2008 to begin planning for the state's implementation of the Recovery Act. Within 1 day of enactment, the governor appointed a Recovery Act Accountability Officer, and she formed a Recovery Act implementation team shortly thereafter. The implementation team includes a senior management team, officials from 31 state agencies, an accountability and transparency support group comprised of officials from the state's budget, accounting, and procurement offices, and five cross-agency implementation teams. At one of the first implementation team meetings, the Recovery Act Accountability Officer disseminated an implementation manual to agencies, which included multiple types of guidance on how to use and account for Recovery Act funds, and new and updated guidance is disseminated at the weekly implementation team meetings.

In contrast, officials in some states are using existing mechanisms rather than creating new offices or positions to lead Recovery Act efforts. For example, a District official stated that the District would not appoint a Recovery Czar, and instead would use its existing administrative structures to distribute and monitor Recovery Act funds to ensure quick disbursement of funds. In Mississippi, officials from the Governor's Office said that the state did not establish a new office to provide statewide oversight of Recovery Act funding, in part because they did not believe that the act provided states with funds for administrative expenses—including additional staff. The Governor did designate a member of his staff to act as a stimulus coordinator for Recovery Act activities.

All 16 states we visited and the District have established Recovery Act web sites to provide information on state plans for using Recovery funding, uses of funds to date, and, in some instances, to allow citizens to submit project proposals. For example, Ohio has created www.recovery.Ohio.gov, which represents the state's efforts to create an open, transparent, and equitable process for using Recovery Act funds. The state has encouraged citizens to submit proposals for use of Recovery Act funds, and as of April 8, 2009, individuals and organizations from across Ohio submitted more than 23,000 proposals. Iowa officials indicated they want to use the state's recovery web site (www.recovery.Iowa.gov) to host a "dashboard" function to report updated information on Recovery Act spending that is easily searchable by the public. Also in Colorado, the state plans to create a web-based map of projects receiving Recovery Act funds to help inform the public about the results of Recovery Act spending in Colorado.

States' Legislatures Approve Use of Recovery Act Funds

In many states we spoke to, officials reported that their planning efforts were affected by the need for the state legislature to approve state agencies' use of Recovery Act funds.[29] For example, in Florida, the state legislature must authorize the use of all Recovery Act funds received by the state; including those passed on to local governments. In Colorado, some Recovery Act funds, including those going to Child Care Development Block Grants (CDBG) and the Temporary Assistance to Needy Families (TANF) Emergency Contingency Fund, must be allocated by the Colorado General Assembly, which is in session only through early May. Mississippi officials also plan to use Recovery Act funds to address the state's fiscal challenges. Mississippi legislative officials we met with told us that the state legislature was considering adding escalation language to the current fiscal year's appropriations bills that would authorize state agencies to spend any Recovery Act funds received. The legislature normally conducts its regular session between the beginning of January and the end of March. However, the legislature recessed early during the 2009 regular session in part because of uncertainty regarding how Recovery Act funds that the state will receive should be spent. The legislature plans to reconvene in early May 2009 to complete its work on the state's fiscal year 2010 budget.

Selected States' and the District's Plans to Track Recovery Act Funds

The selected states' and localities' tracking and accounting systems are critical to the proper execution and accurate and timely recording of transactions associated with the Recovery Act. OMB has issued guidance to the states and localities that provides for separate "tagging" of Recovery Act funds so that specific reports can be created and transactions can be traced. Officials from all 16 of the selected states and the District told us they have established or were establishing methods and processes to separately identify (i.e., tag), monitor, track, and report on the use of the Recovery Act funds they receive. The states and localities generally plan on using their current accounting system for recording Recovery Act funds, but many are adding identifiers to account codes to track recovery act funds separately. Many said this involved adding digits to the end of existing accounting codes for federal programs. In California for instance, officials told us that while their plans for tracking, control, and oversight are still evolving, they intend to rely on existing accountability

[29]We did not review state legal materials for this report, but relied on state officials and other state sources for description and interpretation of relevant state constitutions, statutes, legislative proposals, and other state legal materials.

mechanisms and accounting systems, enhanced with newly created codes, to separately track and monitor Recovery Act funds that are received by and pass through the state. Several officials told us that the state's accounting system should be able to track Recovery Act funds separately.

In one state, Arizona, officials told us that state agencies will primarily be responsible for administering, tracking, reporting on and overseeing Recovery Act funds for their respective programs because the state government is highly decentralized. The state's existing accounting system will have new accounting codes added in order to segregate and track the Recovery Act funds separately from other funds that will flow through the state government. Under Arizona's decentralized government, some larger agencies, and program offices within them, have their own accounting systems that will need to code and track Recover Act funds as well. The Arizona General Accounting Office has issued guidance to state agencies on their responsibilities, including how they were to receive, disburse, tag or code in their accounting systems, track separately, and to some extent report on these federal resources.

A concern expressed by state officials is that agencies within the state often use different accounting software making it difficult to ensure consistent and timely reporting. For example, Georgia officials stated that the majority of state agencies use the same software; however, some agencies do not use this software and others have greatly customized the software. Similarly, officials from the Illinois Office of the Internal Auditor said that the state is assessing an issue that could affect reporting — specifically that there are currently more than 100 separate financial systems used throughout the Illinois state government. Furthermore, Colorado state officials are concerned that their accounting system is outdated and said they faced challenges in meeting federal reporting requirements. Some state departments do not use the state financial system grant module and therefore manually post aggregate revenue and expenditure data. As a result, they may have to compile a list of Recovery Act funding received outside of their central financial management system. State officials are determining what approach they will use in tracking funds, and told us they plan to create an accounting fund and a centrally defined budget coding structure through which to track state agencies' use of Recovery Act funds.

State Concerns Over Accountability of Recovery Act Funds Going to Sub-Recipients or Directly to Localities and Other Non-State Entities

State officials reported a range of concerns regarding the federal requirements to identify and track Recovery Act funds going to sub-recipients, localities and other non-state entities. These concerns include their inability to track these funds with existing systems, uncertainty regarding state officials' accountability for the use of funds which do not pass through state government entities, and their desire for additional federal guidance to establish specific expectations on sub-recipient reporting requirements.

Officials from many of the 16 selected states and the District told us that they had concerns about the ability of sub-recipients, localities, and other non-state entities to separately tag, monitor, track, and report on the Recovery Act funds they receive. For example, in New Jersey officials noted that certain towns and cities, as well as regional planning organizations, can apply for and directly receive federal funds under the terms of the Recovery Act. According to the state Inspector General, the risk for waste, fraud and abuse increases the farther removed an organization is from state government controls. While some state officials said that they have statewide investigative authority, they would not be able to readily track the funding going directly to local and regional government organizations and nonprofits as a result of the funding delivery and reporting requirements set up in the Recovery Act. In addition, staff from the State Auditor's office noted that some smaller cities and towns in New Jersey are not used to implementing guidance from the state or federal government on how they are using program funds and this could result in the localities reporting using funds for ineligible purposes.

Officials in many states expressed concern about being held accountable for funds flowing directly from federal agencies to localities or other recipients. For example, officials in Colorado expressed concern that they will be held accountable for all Recovery Act funds flowing to the state, including those funds for which they do not have oversight or even information about, because some funds flow directly to non-state entities within Colorado (such as school districts and transportation districts).

Officials in some states said they would like to at least be informed about funds provided to non-state entities in order to facilitate planning for the use of these funds and so they can coordinate Recovery Act activities. For example, Georgia officials do not expect to track and report on funds going directly to localities, but would like to be informed about these funds so that the state can coordinate with localities. They cited Recovery Act-funded broadband initiatives and health funding to nonprofit hospitals

as areas where a lack of coordination could result in a duplication of services or missed opportunities to leverage resources. Officials at the Colorado Department of Public Safety told us that, because Colorado and other states expressed interest in receiving data on localities' grant funding, the federal Bureau of Justice Assistance in the U.S. Department of Justice began providing data to the states on localities' funding.

In another example, officials told us that the Ohio Administrative Knowledge System (OAKS) will allow the state to tag Recovery Act funding. However, they said in many cases state agencies will rely on grantees and contractors to track the funds to their end use. Because the state intends to code each Recovery Act funding stream separately and recipients typically manage more than one funding stream at a time, state officials said recipients should be able to track Recovery Act funds separately from other funding sources. However, state and local officials we interviewed raised concerns about the capacity of grantees and contractors to track funds spent by sub-recipients. For example, officials with the Ohio Department of Education said they can track Recovery Act funds to school districts and charter schools, but they have to rely on the recipients' financial systems to be able to track funds beyond that. An official with the Columbus City Schools said that while they could provide assurances that Recovery Act funds were spent in accordance with program rules; they could not report back systematically how each federal Recovery Act dollar was spent. Officials with the Columbus Metropolitan Housing Authority also noted limitations in how far they could reasonably be expected to track Recovery Act funds. They said they could track Recovery Act dollars to specific projects but could not systematically track funds spent by subcontractors on materials and labor. These officials added, however, that if they required the contractors to collect this information from their subcontractors, they would be able to report back with great detail. Still, they said, without additional guidance from the federal government on specific reporting requirements, they were hesitant to specify requirements for their contractors to collect the data.

Pennsylvania officials said that the state will rely on sub-recipients to meet reporting requirements at the local level. Recipients and sub-recipients can be local governments or other entities such as transit agencies. For example, about $367 million in Recovery Act money for transit capital assistance and fixed guideway (such as commuter rails and trolleys) modernization was allocated directly to areas such as Philadelphia, Pittsburgh, and Allentown. State officials also told us that the state would not track or report Recovery Act funds that go straight from the federal

government to localities and other entities, such as public housing authorities.

Officials in several states indicated that either their states would not be tracking Recovery Act funds going to the local levels or that they were unsure how much data would be available on the use of these funds. For example, Massachusetts officials told us that the portion of recovery funds going directly to recipients other than Massachusetts state government agencies, such as independent state authorities, local governments, or other entities, will not be tracked through the Office of the Comptroller. While state officials acknowledged that the Commonwealth lacks authority to ensure adequate tracking of these funds, they also are concerned about the ability of smaller entities to manage Recovery Act funds, particularly smaller municipalities that traditionally do not receive federal funds and who are not familiar with Massachusetts tracking and procurement procedures, and recipients receiving significant increases in federal funds. In order to address this concern, the state administration introduced emergency legislation that, according to state officials, includes a provision requiring all entities within Massachusetts that receive Recovery Act money to provide information to the state on their use of Recovery Act funds. Nevertheless, two large non-state government entities we spoke with—the city of Boston and the Massachusetts Bay Transportation Authority (an independent authority responsible for the metropolitan Boston's transit system)—believe that their current systems, with some modifications, will allow them to meet Recovery Act requirements. For example, the city of Boston hosted the Democratic National Convention in 2004 and officials said that their system was then capable of segregating and tracking a sudden influx of temporary funds.

This response was common among the selected states. For example, officials in Florida told us that the state's accounting system will not track the portion of Recovery Act funds that flow directly to local entities from federal agencies. Officials in Michigan's Auditor General's Office told us that their oversight responsibilities do not include most sub-recipients that receive direct federal funding, so any upfront safeguards to track or ensure accountability have not been determined.[30] Mississippi officials also said that although special accounting codes will be added to the Statewide Automated Accounting System in order to track the expenditure

[30]Some Michigan state departments are sub-recipients of other state departments and so these recipients are under the State Auditor General's authority.

of Recovery Act funds, the system would not track Recovery Act funds allocated directly to local and regional government organizations and nonprofit organizations.

In Arizona, the portion of recovery funds going directly to recipients other than Arizona government agencies, such as independent state authorities, local governments, or other entities, may not be tracked by the state. State officials expressed concern that they may not be able to attest to localities' ability to tag, track, and report on Recovery Act funds when these entities receive the moneys directly from federal agencies rather than through state agencies. Department heads and program officials generally expected that they could require sub-recipients receiving funds from the state, through agreements, grant applications, and revised contract provisions, to separately track and report Recovery Act funding. For example, unemployment program managers said they were issuing new intergovernmental agreements with localities to cover new reporting requirements. However, several of the state officials did raise questions about the ability of some local organizations to do this, such as small, rural entities, boards or commissions, or private entities not used to doing business with the federal government. Furthermore, several of the state department officials acknowledged that either some state agency information systems have data reliability problems, which will have to be resolved, or they had sub-recipients who in the past had problems providing timely and accurate reporting, but said that they would work with these entities to comply, and also had sanctions to use as a last resort.

Officials in Arizona, Florida, Georgia, and New York, also expressed concern that the new requirement to provide reports on use of Recovery Act funds within 10 days after a quarter ends may be challenging to meet by both state and local entities. In some program areas, some state officials raised concerns that the Recovery Act requirement will create much shorter deadlines for processing financial data that local areas will have difficultly meeting.

Selected States' and Localities' Internal Controls and Safeguards to Manage and Mitigate the Risk of Mismanagement, Waste, Fraud, and Abuse of Recovery Act Funds

The selected states and the District are taking various approaches to ensure that internal controls are in place to manage risk up-front, rather than after problems develop and deficiencies are identified after the fact, and have different capacities to manage and oversee the use of Recovery Act funds. Many of these differences result from the underlying differences in approaches to governance, organizational structures, and related systems and processes that are unique to each jurisdiction. A robust system of internal control specifically designed to deal with the unique and complex aspects of the Recovery Act funds will be key to helping management of the states and localities achieve the desired results. Effective internal control can be achieved through numerous different approaches, and, in fact, we found significant variation in planned approaches by state. For example,

- New York's Recovery Act cabinet plans to establish a working group on internal controls; the Governor's office plans to hire a consultant to review the state's management infrastructure and capabilities to achieve accountability, effective internal controls, compliance and reliable reporting under the act; and, the state plans to coordinate fraud prevention training sessions.
- Michigan's Recovery Office is developing strategies for effective oversight and tracking of the use of Recovery Act funds to ensure compliance with accountability and transparency requirements.
- Ohio's Office of Internal Audit plans to assess the adequacy and effectiveness of the current internal control framework and test whether state agencies adhere to the framework.
- Florida's Chief Inspector General established an enterprise-wide working group of agency program Inspectors General who are updating their annual work plans by including the Recovery Act funds in their risk assessments and will leave flexibility in their plans to address issues related to funds.
- Massachusetts's Joint Committee on Federal Recovery Act Oversight will hold hearings regarding the oversight of Recovery Act spending.
- Georgia's State Auditor plans to provide internal control training to state agency personnel in late April. The training will discuss basic internal controls, designing and implementing internal controls for Recovery Act programs, best practices in contract monitoring, and reporting on Recovery Act funds.

States' and Localities' Internal Controls Will Be Critical to Ensuring That Recovery Act Funds Are Used Appropriately

Internal controls include management and program policies, procedures, and guidance that help ensure effective and efficient use of resources; compliance with laws and regulations; prevention and detection of fraud, waste, and abuse; and the reliability of financial reporting. Because Recovery Act funds are to be distributed as quickly as possible, controls are evolving as various aspects of the program become operational. Effective internal control is a major part of managing any organization to achieve desired outcomes and manage risk. GAO's Standards for Internal Control include five key elements: control environment, risk assessment, control activities, information and communication, and monitoring.[31]

Control Environment

The control environment should create a culture of accountability by establishing a positive and supportive attitude toward improvement and the achievement of established program outcomes. Control environment includes the integrity and ethical values maintained and demonstrated by management, the organizational structure, and management's philosophy and operating style. As detailed earlier in this report, although the implementation has varied, many locations we reviewed have attempted to enhance their control environment through the appointment of a Recovery czar or the establishment of boards or working groups that focus on the Recovery Act. Also, as noted earlier, state officials expressed concerns about the reliability and accuracy of data coming from localities.

Risk Assessments

The second feature of strong internal controls is risk assessment—that is, performing comprehensive reviews and analyses of program operations to determine if risks exist and the nature and extent of risks have been identified. Some states told us that they are conducting such risk assessments and the existing body of work by state auditors and others provide a good roadmap for states to use to pinpoint key areas of concern and to strengthen internal controls and subsequent oversight. For example, the Illinois Office of Internal Audit is performing a risk assessment of all programs related to the Recovery Act, and North Carolina's Office of Internal Audit is assessing the risk of the state department's financial management system and internal controls. Michigan's major state departments are conducting self assessments of controls, including identification of internal control and programmatic weaknesses. In Georgia, the budget office is requiring state agencies to complete a tool that assesses risk as part of the budget process for the

[31]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

Recovery Act funds. Selected states have thus far identified various risks that the Recovery Act funds and programs face, including Georgia officials identifying three state departments with increased risk—the Georgia Department of Labor that is on a different accounting system than other state departments, the Georgia Department of Transportation which had previously identified accounting problems and is currently being reorganized, and the Georgia Department of Human Resources, which is currently being divided into three parts, which increases risk. Additionally, Massachusetts' fiscal year 2007 Single Audit report also identified deficiencies, especially in the Department of Education's sub-recipient monitoring.

Officials in several of the selected states told us that risk assessment is being conducted to look at programs receiving Recovery Act funds. Officials in Texas' State Auditor's Office noted that relatively high risks generally can be anticipated with certain types of programs such as new programs with completely new processes and internal controls; programs that distribute significant amounts of funds to local governments or boards, and programs that rely on sub-recipients for internal controls and monitoring. Officials from New York, North Carolina, and Pennsylvania commented that the weatherization program was an example of a program at increased risk.

The results of recent audits are a readily available source of information to use in the risk assessment process. Material weaknesses and other conditions identified in an audit represent potential risks that can be analyzed for their significance and occurrence that will allow management and others to decide how to manage the risk and what actions should be taken. A readily available source of information on internal control weaknesses and other risks present in the states and other jurisdictions receiving Recovery Act funding is the Single Audit report, prepared to meet the requirements of the Single Audit Act, as amended (Single Audit Act) and OMB's implementing guidance in OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations. The Single Audit Act adopted a single audit concept to help meet the needs of federal agencies for grantee oversight and accountability as well as grantees' needs for single, uniformly structured audits. The Single Audit Act requires states, local governments and nonprofit organizations expending over $500,000 in federal awards in a year to obtain an audit in accordance with

requirements set forth in the Act. [32] A single audit consists of (1) an audit and opinions on the fair presentation of the financial statements and the Schedule of Expenditures of Federal Awards (SEFA); (2) gaining an understanding of and testing internal control over financial reporting and the entity's compliance with laws, regulations, and contract or grant provisions that have a direct and material effect on certain federal programs (i.e., the program requirements),[33] and (3) an audit and an opinion on compliance with applicable program requirements for certain federal programs. The audit report also includes the auditor's schedule of findings and questioned costs, and the auditee's corrective action plans and a summary of prior audit findings that includes planned and completed corrective actions. Auditors are also required to report on significant deficiencies in internal control and on compliance associated with the audit of the financial statements.

For example, in California, the most recent single audit conducted by the State Auditor for fiscal year 2007 identified 81 material weaknesses, 27 of which were associated with programs we reviewed for purposes of this report.[34] The State Auditor plans to use past audit results to target state agencies and programs with a high number and history of problems, including data reliability concerns, and is closely coordinating with us on these efforts. For example, the fiscal year 2007 State Single Audit Report identified 8 material weaknesses pertaining to the ESEA Title I program and the Individuals with Disabilities Education Act programs. The audit findings included a material weakness in the California Department of Education's management of cash because it disbursed funds without assurances from LEAs that the time between the receipt and disbursement of federal funds was minimized, contrary to federal guidelines. Education officials told us that they have addressed some of these material weaknesses and, in other cases, they are still working to correct them. If

[32]If an entity expends federal awards under only one federal program, the entity may elect to have an audit of that program.

[33]The auditor identifies the applicable federal programs, including "major programs," based on risk criteria, including minimum dollar thresholds, set out in the Single Audit Act and OMB Circular No. A-133. Guidance on identifying compliance requirements for most large federal programs is set out in the Compliance Supplement to OMB Circular No. A-133. OMB has 14 requirements that generally are to be tested for each major federal program to opine on compliance and report on significant deficiencies in internal control over compliance with each applicable compliance requirement.

[34]State of California: Internal Control and State and Federal Compliance Audit Report for the Fiscal Year Ended June 30, 2007 (June 2008 Report 2007-002).

these and other material weaknesses are not corrected, they may affect the state's ability to appropriately manage certain Recovery Act funds. The State Auditor's Office told us that it is in the process of finalizing the fiscal year 2007 State Single Audit Report and plans to issue the report within the next 30 days. In addition, the State Auditor's Office is summarizing the results of the single audit to identify those programs that continue to have material weaknesses. Finally, the State Auditor's Office plans to use the results of other audits it has conducted in conjunction with the single audit to develop its approach for determining the state's readiness to receive the large influx of federal funds and comply with the requirement regarding the use of those funds under the Recovery Act.

Arizona's fiscal year 2007 Single Audit report identified a number of material weaknesses related to the state Department of Education. The report identified a material weakness involving IDEA where the state department had not reviewed sub-recipients to ensure that federal awards were used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements. The Audit report also identified one financial reporting material weaknesses related to the state Department of Administration's ability to prepare timely financial statements, including its Comprehensive Annual Financial Report (CAFR). In fiscal year 2007, the CAFR was issued in June 2008, approximately 6 months after the scheduled deadline. According to the Auditor General's Office, the fiscal year 2008 CAFR will also be completed late as the last agency submitted its financial statement on March 9, 2008. According to the Auditor General's Office, this control deficiency affects the timeliness of financial reporting which affects the needs of users. It is especially important that Arizona try to address the timeliness issue with regard to financial statements given the number and strict reporting timelines that are imposed on states under the Recovery Act.

Control Activities

The third element of a comprehensive system of internal controls is that of control activities, which involve taking actions to address identified risk areas and help ensure that management's decisions, directives, and plans are carried out and program objectives met. Various control activities already exist and are also being put in place in the states related to the Recovery Act. Control activities for states and localities consist of the policies, procedures, and guidance that enforce management's directives and achieve effective internal control over specific program activities. Examples of such policies and procedures particularly relevant to the Recovery Act spending are (1) proper execution and accurate and timely recording of transactions and events, (2) controls to help ensure compliance with program requirements, (3) establishment and review of

performance measures and indicators, and (4) appropriate documentation of transactions and internal control.

Documented policies, procedures and guidance that are effectively implemented will be critical tools for states and localities management and staff as well as program recipients for achieving good management of Recovery Act programs. Control activities are also key in helping to achieve accurate, reliable reporting of information and results.

Effective control activities and monitoring are key to achieving this objective. Pennsylvania's Auditor General also found potential weaknesses and vulnerabilities in programs expected to receive Recovery Act funds.[35] For example, a recent Auditor General report found, among other things, weak internal controls, weaknesses in contracting, and inconsistent verification and inspection of subcontractor work in the state's Weatherization Assistance Program. States and localities that receive and administer the Recovery Act funds will be expected to minimize fraud, waste, and abuse in contracting.

According to Florida state officials, the state completed an initiative to strengthen contracting requirements several years ago. For example, the majority of state contracts greater than $1 million are required to be reviewed for certain criteria by the Department of Financial Services' Division of Accounting and Auditing before the first payment is processed. The contract must also be negotiated by a contract manager certified by the Florida Department of Management Services, Division of State Purchasing Training and Certification Program. In another example of efforts to enhancing contracting processes and oversight, officials in New Jersey told us that the controls and reports will be put into place by the state's centralized purchasing department, the Division of Purchase and Property (DPP). The current accounting system will be able to account for and control the use of Recovery Act funds used for procurement because DPP will create special accounting codes for these funds. New Jersey officials stated that their accounting systems had the capability to track funds using special accounting codes and that they were confident no special enhancements were needed to their accounting software, although they would monitor the accounting system to ensure it was functioning

[35]Other audits the office performs include: financial audits of counties, and state aided and owned institutions; performance audits of state agencies, programs and state owned institutions; financial and compliance audits of school districts; special investigations; and audits of the operations of welfare county assistance offices.

properly. DPP will also publicly advertise bids for projects funded with Recovery Act funds, include terms and conditions in each request for proposals and contract for these projects stating detailed reports required by the Act, and will post contract award notices for Recovery Act-funded projects.

Information and Communication

Information should be communicated to management and within the entity to enable accountable officials and others throughout the entity to carry out their responsibilities and determine whether they are meeting their goals of accountability and efficient use of resources. The states have undertaken a variety of information and communication methods. For the Recovery Act, internal state communication is being conducted through newly created task forces or working groups such as those in California and the District, implementation teams such as in Florida and Georgia, and state offices such as in North Carolina. Texas also uses a periodic forum of the internal audit staff of Texas state agencies for another statewide communication method. Various officials are developing guidance related to the Recovery Act and dispensing the information to state agencies.

Monitoring

Monitoring activities include the systemic process of reviewing the effectiveness of the operation of the internal control system. These activities are conducted by management, oversight boards and entities, and internal and external auditors. Monitoring enables stakeholders to determine whether the internal control system continues to operate effectively over time. It also improves the organization's overall effectiveness and efficiency by providing timely evidence of changes that have occurred, or might need to occur, in the way the internal control system addresses evolving or changing risks.

Many of the boards or offices discussed in the control environment above have responsibilities related to monitoring the Recovery Act funds. States have undertaken various other activities to monitor Recovery Act funds, including Arizona's budget director meeting with the heads of programs potentially receiving Recovery Act funds to gauge each programs' preparedness; Arizona's Comptroller conducting a survey to inventory current internal controls at state agencies to help ensure controls are in place to limit the risk of fraud, waste, abuse and mismanagement of Recovery Act funds; California's Governor appointing the state's first Inspector General specifically to oversee Recovery Act funds as they are disbursed in the state; Massachusetts' legislature creating the Joint Committee on federal Recovery Act Oversight with the goals of ensuring compliance with federal regulations and reviewing current state laws, regulations and policies to ensure they allow access to Recovery Act funds

and streamline the processes to quickly stimulate the economy; and Texas State Auditor's Office plans to hire 10 additional staff.

An important aspect of monitoring Recovery Act funding includes sub-recipient monitoring. As noted, significant concerns exist regarding sub-recipient monitoring, as this is an area where limited experience and known vulnerabilities exist. Some state auditors do not have authority to monitor local operations of internal controls. For example, in Pennsylvania, officials from the Auditor General's office have different views about what authority they have to audit federal money that flows directly to localities, such as housing authorities and municipalities.

In Texas, the State Auditor's Office made a recommendation regarding the monitoring of sub-recipients in its most recent audit of the Texas Education Agency.[36] The audit report did not find that sub-recipients were improperly spending federal funds or were not meeting federal requirements, however the report did note that the agency had "a limited number of resources available to monitor fiscal compliance." The audit report recommended that the Texas Education Agency continue to add resources, within its budget constraints, to increase the amount of federal fiscal compliance performed. According to the State Auditor, following the audit in February 2009, the Texas Education Agency created a comprehensive correction plan to address this resource issue, which the agency is implementing.

Current Single Audit Focus May Not Provide Timely Oversight Information for Recovery Act Funds

OMB's Circular No. A-133 sets out implementing guidelines for the single audit and defines roles and responsibilities related to the implementation of the Single Audit Act, including detailed instructions to auditors on how to determine which federal programs are to be audited for compliance with program requirements in a particular year at a given grantee. The Circular No. A-133 Compliance Supplement is issued annually to guide auditors on what program requirements should be tested for programs audited as part of the single audit. OMB has stated that it will use its Circular No. A-133 Compliance Supplement to notify auditors of program requirements that should be tested for Recovery Act programs, and will issue interim updates as necessary.

[36]State Auditor's Office, *State of Texas Federal Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2008*, SAO Report No. 09-330 (Austin, Tex., Feb. 2009). The audit was performed by an independent public auditing firm under contract to the State Auditor's Office.

Both the Single Audit Act and OMB Circular No. A-133 call for a "risk-based" approach to determine which programs will be audited for compliance with program requirements as part of a single audit. In general, the prescribed approach relies heavily on the amount of federal expenditures during a fiscal year and whether findings were reported in the previous period to determine whether detailed compliance testing is required for a given program that year.[37] Under the current approach for risk determination in accordance with Circular No. A-133, certain risks unique to the Recovery Act programs may not receive full consideration. Recovery Act funding carries with it some unique challenges. The most significant of these challenges are associated with (1) new government programs (2), the sudden increase in funds or programs that are new for the recipient entity, and (3) the expectation that some programs and projects will be delivered faster so as to inject funds into the economy. This makes timely and efficient evaluations in response to the Recovery Act's accountability requirements critical. Specifically,

- new programs and recipients participating in a program for the first time may not have the management controls and accounting systems in place to help ensure that funds are distributed and used in accordance with program regulations and objectives;
- Recovery Act funding that applies to programs already in operation may cause total funding to exceed the capacity of management controls and accounting systems that have been effective in past years;
- the more extensive accountability and transparency requirements for Recovery Act funds will require the implementation of new controls and procedures; and
- risk may be increased due to the pressures of spending funds quickly.

In response to the risks associated with Recovery Act funding, the single audit process needs adjustment to put appropriate focus on Recovery Act programs to provide the necessary level of accountability over these funds in a timely manner. The single audit process could be adjusted to require the auditor to perform procedures such as the following as part of the routine single audit:

[37]The Single Audit Act requires that all major programs be audited and specifies minimum dollar amounts and minimum proportions of federal funds expended for programs to be identified by the auditor as major programs. See 31 U.S.C. §§ 7501.

- provide for review of the design and implementation of internal control over compliance and financial reporting for programs under the Recovery Act;
- consider risks related to Recovery Act-related programs in determining which federal programs are major programs; and
- specifically, test Recovery Act programs to determine whether the auditee complied with laws and regulations.[38]

The first two items above should preferably be accomplished during 2009 before significant expenditures of funds in 2010 so that the design of internal control can be strengthened prior to the majority of those expenditures. We further believe that OMB Circular No. A-133 and/or the Circular No. A-133 Compliance Supplement could be adjusted to provide some relief on current audit requirements for low-risk programs to offset additional workload demands associated with Recovery Act funds.

OMB told us that it is developing audit guidance that would address the above audit objectives. OMB also said that it is considering reevaluating potential options for providing relief from certain existing audit requirements in order to provide some balance to the increased requirements for Recovery Act program auditing.

State and Local Capacity to Manage Risks

Officials in several states expressed concerns regarding the lack of funding provided to state oversight entities in the Recovery Act given the additional federal requirements placed on states to provide proper accounting, and ensure transparency. Due to fiscal constraints, many states reported significant declines in the number of management and oversight staff—limiting states' ability to ensure proper implementation and management of Recovery Act funds. To the extent that states' management infrastructures were already strained due to resource issues, risks will be exacerbated by increased workloads and new program implementation. While the majority of states indicated that they lack the necessary resources to conduct additional management and oversight related to the Recovery Act, some states indicated that they are taking

[38]The Single Audit Act sets out minimum federal expenditure amounts and proportions to use as criteria in defining which programs are to be tested for compliance with program requirements during a single audit. OMB will need to consider those statutory criteria when considering revisions to the single audit process.

measures to either hire new staff or reallocate existing staff to ensure adequate oversight of Recovery Act funds.

Officials we interviewed in several states said the lack of funding for state oversight entities in the Recovery Act presents them with a challenge, given the increased need for oversight and accountability. According to state officials, state budget and staffing cuts have limited the ability of state and local oversight entities to ensure adequate management and implementation of the Recovery Act. For example, Colorado's state auditor reported that state oversight capacity is limited, noting that the Department of Health Care Policy and Financing has had 3 controllers in the past 4 years and the state legislature's Joint Budget Committee recently cut field audit staff for the Department of Human Services in half. In addition, the Colorado Department of Transportation's deputy controller position is vacant, as is the Department of Personnel & Administration's internal auditor position. Colorado officials noted that these actions are, in part, due to administrative cuts during a past economic downturn in an attempt to maintain program delivery levels.

In Massachusetts, the task forces the Governor convened in December 2008 concluded that it is critical the Inspector General and State Auditor have resources to audit Recovery Act contracts and management of Recovery Act funds, as well as recommended that the Attorney General's office be provided with the resources to promptly and effectively pursue fraud and abuse. Massachusetts officials explained that the oversight community is facing budget cuts of about 10 percent at a time when increased oversight and accountability is critically needed. To illustrate the impact of the impending budget situation, the Inspector General stated that his department does not have the resources to conduct any additional oversight related to Recovery Act funds. This significantly affects the Inspector General's capacity to conduct oversight since the budget is almost entirely comprised of salaries, and any cuts in funding would result in fewer staff available to conduct oversight. In addition, the Massachusetts State Auditor described how their department has had to resort to staff being furloughed already for 6 days and is anticipating further layoffs before the end of fiscal year 2009. Similarly, 94 percent of their department's budget is labor and any cuts in funding generally result in cuts in staff. Much like Colorado and Massachusetts, Arizona and Florida state officials report significant declines in oversight staff. The Florida Auditor General told us that the office has not been hiring new staff for over a year and has about 10 percent of the office's positions unfilled. In addition, the Office of Policy Analysis and Government Accountability officials also told us their respective staffs have decreased

by 10 percent in the past two years. State officials stated that these staff resource constraints may lead them to reassesses priorities and reallocate staff to ensure adequate oversight of Recovery Act funds.

Officials within Arizona state executive offices that are coordinating oversight activities—such as the Office of Strategic Planning and Budgeting, the Office of Economic Recovery, and the Comptroller's Office—stated that they will need additional people to help ensure compliance with Recovery Act funding requirements, but that the state has a hiring freeze to help address budget deficits. For example, the General Accounting Office within the state Department of Administration has experienced a reduction from 74 to 50 staff, posing challenges to its increased oversight responsibilities, and the state Department of Economic Security that manages workforce investment programs had 8,214 staff on furloughs of five or nine days, depending on pay grade, and has laid off about 800 staff members as well. Similarly, a state Department of Housing official stated that the office currently has a vacancy rate of about 15 percent because of the hiring freeze. Furthermore, the state Auditor General reported that its staffing levels are nearly 25 percent below the authorized staffing level of 229 full time equivalents.

Although most states indicated that they lack the resources needed to provide effective monitoring and oversight, some states indicated they will hire additional staff to help ensure the prudent use of Recovery Act funds. For example, according to officials with North Carolina's Governor's Crime Commission, the current management capacity in place is not sufficient to implement the Recovery Act. Officials explained that the Recovery Act funds for the Edward Byrne Memorial Justice Assistance Grant program have created an increase in workload that the department will have to hire additional staff to handle over the next 3 years. Officials explained that these staff will be hired for the short term since the money will run out in 3 years. Additionally, officials explained that they are able to use 10 percent of the Justice Assistance Grants funding to pay for the administrative positions that are needed.

In addition, officials from Ohio's Office of Budget and Management (OBM) stated that its Office of Internal Audit plans to increase its internal audit staff from 9 (current) to 33 by transferring internal audit personnel from other state agencies and hiring new staff by July 2009. OBM officials say that the increase in Office of Internal Audit staff will provide the needed resources to implement its objectives and ensure that current safeguards are in place and followed as the state manages its Recovery Act funded programs. Additionally, some Georgia state officials that directly

administer programs stated that overseeing the influx of funds could be a challenge, given the state's current budget constraints and hiring freeze. For example, the State Auditor, whose fiscal year 2009 budget was cut by 11 percent, expressed concerns about the lack of additional funds for Recovery Act oversight. The Georgia State Auditor noted that, if state fiscal conditions do not improve or federal funding does not become available for audit purposes, additional budget and staffing cuts may occur within the department. In some cases, state officials told us that they planned to use Recovery Act funds to cover their administrative costs. Meanwhile, other state officials want additional clarity on when they could use program funds to cover such costs.

Hiring Freezes May Limit Some States' Capacity to Provide Effective Management and Oversight

A number of states expressed concerns regarding the ability to track Recovery Act funds due to state hiring freezes, resulting from budget shortfalls. For instance, New Jersey has not increased its number of state auditors or investigators, nor has there been an increase in funding specifically for Recovery Act oversight. In addition, the state hiring freeze has not allowed many state agencies to increase their Recovery Act oversight efforts. For example, despite an increase of $469 million in Recovery Act funds for state highway projects, no additional staff will be hired to help with those tasks or those directly associated with the Recovery Act, such as reporting on the number of jobs created. While the state's Department of Transportation has committed to shift resources to meet any expanded need for internal Recovery Act oversight, one person is currently responsible for reviewing contractor-reported payroll information for disadvantaged business enterprises, ensuring compliance with Davis-Bacon wage requirements, and development of the job creation figures. State education officials in North Carolina also said that greater oversight capacity is needed to manage the increase in federal funding. However, due to the state's hiring freeze, the agency will be unable to use state funds to hire the additional staff needed to oversee Recovery Act funds. The North Carolina Recovery Czar said that his office will work with state agencies to authorize hiring additional staff when directly related to Recovery Act oversight.

Michigan officials reported that the state's hiring freeze may not allow state and local agencies to hire the additional staff needed to increase Recovery Act oversight efforts. For example, an official with the state's Department of Community Health said that because it has been downsizing for several years through attrition and early retirement, it does not have sufficient staff to cover its current responsibilities and that further reductions are planned for fiscal year 2010. However, state officials told us that they will take the actions necessary to ensure that state

departments have the capacity to provide proper oversight and accountability for Recovery Act funds.

In contrast, two states indicated that they have or will have sufficient levels of existing personnel to track funds. Texas state officials noted that state agencies plan on using existing staff to manage the stimulus funds. Agency officials will monitor the situations and, as need arises, will determine whether additional staff should be hired to ensure adequate oversight of the state Recovery Act funds. Additionally, in preparation of the infusion of Recovery Act funds, the Illinois Governor is seeking approximately 350 additional positions state-wide in the fiscal year 2010 budget to help implement Recovery Act programs, according to officials from the Governor's Office of Management and Budget.

Local Oversight Capacity

With respect to oversight of Recovery Act funding at the local level, varying degrees of preparedness were reported by state and local officials. While the California Department of Transportation (Caltrans) officials stated that extensive internal controls exist at the state level, there may be control weaknesses at the local level. Caltrans is collaborating with local entities to identify and address these weaknesses. Likewise, Colorado officials expressed concerns that effective oversight of funds provided to Jefferson County may be limited due to the recent termination of its internal auditor and the elimination of its internal control audit function. Arizona state officials expressed some concerns about the ability of rural, tribal, and some private entities such as; boards, commissions, and nonprofit organizations to manage, especially if the Recovery Act does not provide administrative funding for some programs.

State Plans to Assess Recovery Act Spending Impact

As recipients of Recovery Act funds and as partners with the federal government in achieving Recovery Act goals, states and local units of government are expected to invest Recovery Act funds with a high level of transparency and to be held accountable for results under the Recovery Act. As a means of implementing that goal, guidance has been issued and will continue to be issued to federal agencies, as well as to direct recipients of funding. To date, OMB has issued two broad sets of guidance to the heads of federal departments and agencies for implementing and

managing activities enacted under the Recovery Act.[39] OMB has also issued for public comment detailed proposed standard data elements that federal agencies will require from all (except individuals) recipients of Recovery Act funding.[40] When reporting on the use of funds, recipients must show the total amount of recovery funds received from a federal agency, the amount expended or obligated to the project, project specific information including the name and description of the project, an evaluation of its completion status, the estimated number of jobs created and retained by the project, and information on any subcontracts awarded by the recipient, as specified in the Recovery Act. In addition, the Civilian Acquisition Council and Defense Acquisition Regulations Council have issued an interim rule revising the Federal Acquisition Regulation (FAR) to require a contract clause that implements these reporting requirements for contracts funded with Recovery Act dollars.[41]

State reactions vary widely and often include a mixture of responses to the reporting requirements. Some states will use existing federal program guidance or performance measures to evaluate impact, particularly for on-going programs. Other states are waiting for additional guidance from federal departments or from OMB on how and what to measure to assess impact. While Georgia is waiting on further federal guidance, the state is adapting an existing system (used by the State Auditor to fulfill its Single Audit Act responsibilities) to help the state report on Recovery Act funds. The statewide web-based system will be used to track expenditures, project status, and job creation and retention. The Georgia governor is requiring all state agencies and programs receiving Recovery Act funds to use this system. Some states indicated that they have not yet determined how they will assess impact.

[39]See, OMB memoranda, M-09-10, *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, February 18, 2009, and M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, April 3, 2009.

[40]OMB, *Information Collection Activities: Proposed Collection; Comment Request*, Federal Register – 74 Fed. Reg. 14824 (Apr. 1, 2009).

[41]74 Fed. Reg. 14639 (March 31, 2009).

Preserving existing jobs and stimulating job creation and promoting economic recovery are among the Recovery Act's key objectives.[42] Officials in 9 of the 16 states and the District expressed concern about the definitions of jobs retained and jobs created under the Recovery Act, as well as methodologies that can be used for estimation of each. Officials from several of the states we met with expressed a need for clearer definitions of "jobs retained" and "jobs created." Officials from a few states expressed the need for clarification on how to track indirect jobs,[43] while others expressed concern about how to measure the impact of funding that is not designed to create jobs. Mississippi state officials suggested the need for a clearly defined distinction for time-limited, part-time, full-time, and permanent jobs; since each state may have differing definitions of these two categories. Officials from Massachusetts expressed concern that contractors may overestimate the number of jobs retained and created. Some existing programs, such as highway construction, have methodologies for estimating job creation. But other programs, existing and new, do not have job estimation methodologies.

State officials that we spoke with are pursuing a number of different approaches for measuring the effects of Recovery Act funding. For example, Florida's state workforce agency is encouraging recipients of Recovery Act funds throughout the state to list jobs created with the funds in the state's existing online job bank. The Iowa Department of Transportation tracks the number of worker hours by highway project on the basis of contractor reports and will use these reports to estimate jobs created. In New Jersey, state and local agencies will collect or estimate data on the number of jobs created or retained as a result of Recovery Act funds in different ways. For example, the Newark Housing Authority will use payroll data to keep track of the exact number of union tradesmen and housing authority residents employed to turn damaged vacant units into rentable ones. In contrast, New Jersey Transit is using an academic study that examined job creation from transportation investment to estimate the number of jobs that are created by contractors on its Recovery Act-funded

[42]Recovery Act, § 3(a)(1). Non-federal entities receiving discretionary funds appropriated under the Recovery Act must report on the number of jobs created and retained, among other requirements. Mandatory and entitlement programs are excluded from this requirement. Recovery Act, div. A, title XV. § 1512.

[43]Indirect jobs are jobs created as a result of demand for goods and services generated by direct funding from the Recovery Act.

construction projects.[44] Beyond employment issues, some Michigan state universities and the state's economic development department are expected to participate in analyses of the potential impact of Recovery Act funds.

Some of the questions that states and localities have about Recovery Act implementation may have been answered in part via the guidance provided by OMB for the data elements and in the Federal Acquisition Regulation, as well as by guidance issued by federal departments. For example, OMB provided definitions for employment, as well as for jobs retained and jobs created via Recovery Act funding. However, OMB did not specify methodologies for estimating jobs retained and jobs created, which has been a concern for some states. Data elements were presented in the form of templates with section by section data requirements and instructions. OMB provided a comment period during which it is likely to receive many questions and requests for clarifications from states, localities, and other direct recipients of Recovery Act funding. OMB plans to update this guidance again within 30 to 60 days of its April 3, 2009 issuance. Some federal agencies have also provided guidance to the states. The U.S. Departments of Education, Housing and Urban Development, Justice, Labor, Transportation, the Corporation for National and Community Service, the National Institutes of Health, and the Centers for Medicare & Medicaid Services have provided guidance for program implementation, particularly for established programs. Although guidance is expected, some new programs, such as the Broadband Deployment Grants, are awaiting issuance of implementation instructions.

[44]The study estimated that for every $1 million of transportation infrastructure investment, 11 jobs are created, 70 percent of them are directly related to the investment and 30 percent are indirectly related. (Rutgers University Edward J. Bloustein School of Planning and Public Policy, "Economic Impacts of Planned Transportation Investments in New Jersey" Camden, New Jersey, April 2008.)

Concluding Observations and Recommendations: Moving Forward to Clarify Recovery Act Roles and Responsibilities

It has been a little over two months since enactment of the Recovery Act and OMB has moved out quickly. In this period, OMB has issued two sets of guidance, first on February 18 and next on April 3, with another round to be issued within 60 days. OMB has sought formal public comment on its April 3 guidance update and before this, according to OMB, reached out informally to Congress, federal, state, and local government officials, and grant and contract recipients to get a broad perspective on what is needed to meet the high expectations set by Congress and the Administration. In addition, OMB is standing up two new reporting vehicles, Recovery.gov, which will be turned over to the Recovery Accountability and Transparency Board and is expected to provide unprecedented public disclosure on the use of Recovery Act funds, and a second system to capture centrally information on the number of jobs created or retained. As OMB's initiatives move forward and it continues to guide the implementation of the Recovery Act, OMB has opportunities to build upon its efforts to date by addressing several important issues.

These issues can be characterized broadly in three categories: (1) Accountability and Transparency Requirements, (2) Administrative Support and Oversight, and (3) Communications.

Accountability and Transparency Requirements

Recipients of Recovery Act funding face a number of implementation challenges in this area. The Act includes many programs that are new or new to the recipient and, even for existing programs; the sudden increase in funds is out of normal cycles and processes. Add to this the expectation that many programs and projects will be delivered faster so as to inject funds into the economy and it becomes apparent that timely and efficient evaluations are needed. The following are our recommendations to help strengthen ongoing efforts to ensure accountability and transparency.

Single Audit

The single audit process is a major accountability vehicle but should be adjusted to provide appropriate focus and the necessary level of accountability over Recovery Act funds in a timelier manner than the current schedule. OMB has been reaching out to stakeholders to obtain input and is considering a number of options related to the single audit process and related issues.

We Would Recommend: To provide additional leverage as an oversight tool for Recovery Act programs, the Director of OMB should adjust the current audit process to:

- focus the risk assessment auditors use to select programs to test for compliance with 2009 federal program requirements on Recovery Act funding;
- provide for review of the design of internal controls during 2009 over programs to receive Recovery Act funding, before significant expenditures in 2010; and
- evaluate options for providing relief related to audit requirements for low-risk programs to balance new audit responsibilities associated with the Recovery Act.

Reporting on Impact

Responsibility for reporting on jobs created and retained falls to non-federal recipients of Recovery Act funds. As such, states and localities have a critical role in determining the degree to which Recovery Act goals are achieved. Senior Administration officials and OMB have been soliciting views and developing options for recipient reporting. In its April 3 guidance, OMB took an important step by issuing definitions, standard award terms and conditions, and clarified tracking and documenting Recovery Act expenditures. Furthermore, OMB and the Recovery Accountability and Transparency Board are developing the data architecture for the new federal reporting system that will be used to collect recipient reporting information. According to OMB, state chief information officers commented on an early draft and OMB expects to provide an update for further state review.

We Would Recommend: Given questions raised by many state and local officials about how best to determine both direct and indirect jobs created and retained under the Recovery Act, the Director of OMB should continue OMB's efforts to identify appropriate methodologies that can be used to:

- assess jobs created and retained from projects funded by the Recovery Act;
- determine the impact of Recovery Act spending when job creation is indirect;
- identify those types of programs, projects, or activities that in the past have demonstrated substantial job creation or are considered likely to do so in the future. Consider whether the approaches taken to estimate jobs created and jobs retained in these cases can be replicated or adapted to other programs.

There are a number of ways that the needed methodologies could be developed. One option would be to establish a working group of federal, state and local officials and subject matter experts.

State and Federal Data Collection

Given that governors have certified to the use of funds in their states, state officials are uncertain about their reporting responsibilities when Recovery Act funding goes directly to localities. Additionally, they have concerns about the capacity of reporting systems within their states, specifically, whether these systems will be capable of aggregating data from multiple sources for posting on Recovery.gov. Some state officials are concerned that too many federal requirements will slow distribution and use of funds and others have expressed reservations about the capacity of smaller jurisdictions and non-profits to report data. Even those who are confident about their own systems are uncertain about the cost and speed of making any required modifications for Recovery.gov reporting or further data collection.

Problems also have been identified with federal systems that support the Recovery Act as well. For example, questions have been raised about the reliability of www.USAspending.gov (USAspending.gov) and the ability of Grants.gov to handle the increased volume of grant applications. OMB is taking concerted actions to address these concerns. It plans to reissue USAspending guidance shortly to include changes in operations that are expected to improve data quality. In a memorandum dated March 9, OMB said that it is working closely with federal agencies to identify system risks that could disrupt effective Recovery Act implementation and acknowledged that Grants.gov is one such system. A subsequent memorandum on April 8, offered a short-term solution to the significant increase in Grants.gov usage while longer-term alternative approaches are being explored. GAO has work underway to review differences in agency policies and methods for submitting grant applications using Grants.gov and will issue a report shortly.

OMB addressed earlier questions about reporting coverage in its April 3 guidance. According to OMB there are limited circumstances in which prime and sub recipient reporting will not be sufficient to capture information at the project level. OMB stated that it will expand its current model in future guidance. OMB guidance described recipient reporting requirements under the Recovery Act's section 1512 as the minimum which must be collected, leaving it to federal agencies to determine whether additional information would be required for program oversight.

We Would Recommend: In consultation with the Recovery Accountability and Transparency Board and States, the Director of OMB should evaluate current information and data collection requirements to determine whether sufficient, reliable and timely information is being collected before adding further data collection requirements. As part of this evaluation, OMB should consider the cost and burden of additional reporting on states and localities against expected benefits.

Administrative Support and Oversight

At a time when states are experiencing cutbacks, state officials expect the Recovery Act to incur new regulations, increase accounting and management workloads, change agency operating procedures, require modifications to information systems, and strain staff capacity, particularly for contract management. Although federal program guidelines can include a percentage of grants funding available for administrative or overhead costs, the percentage varies by program. In considering other sources, states have asked whether the portion of the State Fiscal Stabilization Fund that is available for government services could be used for this purpose. Others have suggested a global approach to increase the percentage for all Recovery Act grants funding that can be applied to administrative costs. As noted earlier, state auditors also are concerned with meeting increased audit requirements for Recovery Act funding with a reduced number of staff and without a commensurate reduction in other audit responsibilities or increase in funding. OMB and senior administration officials are aware of the states' concerns and have a number of options under consideration.

We Would Recommend: The Director of OMB should timely clarify what Recovery Act funds can be used to support state efforts to ensure accountability and oversight, especially in light of enhanced oversight and coordination requirements.

Communications

State officials expressed concerns regarding communication on the release of Recovery Act funds and their inability to determine when to expect federal agency program guidance. Once funds are released, there is no consistent procedure for ensuring that the appropriate officials in states and localities are notified. According to OMB, agencies must immediately post guidance to the Recovery Act web site and inform to the "maximum extent practical, a broad array of external stakeholders." In addition, since nearly half of the estimated spending programs in the Recovery Act will be administered by non-federal entities, state officials have suggested opportunities to improve communication in several areas. For example, they wish to be notified when funds are made available to prime recipients that are not state agencies.

Some of the uncertainty can be attributed to evolving reports and timing of these reports at the federal level as well as the recognition that different terms used by federal assistance programs add to the confusion. A reconsideration of how best to publicly report on federal agency plans and actions led to OMB's decision to continue the existing requirement to report on the federal status of funds in the Weekly Financial and Activity Reports and eliminate a planned Monthly Financial Report. The Formula and Block Grant Allocation Report has been replaced and renamed the Funding Notification Report. This expanded report includes all types of awards, not just formula and block grants, and is expected to better capture the point in the federal process when funds are made available.

We Would Recommend: To foster timely and efficient communications, the Director of OMB should develop an approach that provides dependable notification to (1) prime recipients in states and localities when funds are made available for their use, (2) states, where the state is not the primary recipient of funds, but has a state-wide interest in this information, and (3) all non-federal recipients, on planned releases of federal agency guidance and, if known, whether additional guidance or modifications are expected.

Agency Comments and Our Evaluation

We provided the Director of the Office of Management and Budget with a draft of this report for comment on April 20, 2009. OMB staff responded the next day, noting that in its initial review, OMB concurred with the overall objectives of our recommendations. OMB staff also provided some clarifying information, adding that OMB will complete a more thorough review in a few days. We have incorporated OMB's clarifying information as appropriate. In addition, OMB said it plans to work with us to define the best path forward on our recommendations and to further the accountability and transparency of the Recovery Act. The Governors of each of the 16 states and the Mayor of the District were provided drafts for comment on each of their respective appendixes in this report. Those comments are included in the appendixes.

We are sending copies of this report to the Office of Management and Budget and relevant sections to the selected states and the District.

The report will also be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staffs have any questions about this report, please contact me at (202) 512-5500. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix III-XX.

Sincerely,

Gene L. Dodaro
Acting Comptroller General of the United States

List of Congressional Committees

The Honorable Daniel K. Inouye
Chairman
The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate

The Honorable Joseph I. Lieberman
Chairman
The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable David R. Obey
Chairman
The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable Edolphus Towns
Chairman
The Honorable Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The Recovery Act specifies several roles for GAO, including conducting bimonthly reviews of selected states' and localities' use of funds made available under the act. As a result, our objectives for this report were to describe (1) selected states' and localities' uses of and planning for Recovery Act funds, (2) approaches taken by the selected states and localities to ensure accountability for Recovery Act funds, and (3) states' plans to evaluate the impact of the Recovery Act funds they have received to date.

Selection of States

To address our objectives, we selected a core group of 16 states and the District that we will follow over the next few years to provide an ongoing longitudinal analysis of the use of funds provided in conjunction with the Recovery Act. The selected states are Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. We selected these states and the District on the basis of outlay projections, percentage of the U.S. population represented, unemployment rates and changes, and a mix of states' poverty levels, geographic coverage, and representation of both urban and rural areas. These states and D.C. contain about 65 percent of the U.S. population and are estimated to receive about two-thirds of the intergovernmental grant funds available through the Recovery Act. Furthermore, they strike a balance between covering a significant portion of Recovery Act funding and obtaining a mix that reflects the breadth of circumstances facing states and localities throughout the country.

Selection of Programs

To focus our analysis, we examined a set of programs receiving Recovery Act funding that are administered by states and localities. To do this, we reviewed analysis and estimates of Recovery Act funds flowing to states and localities that were done by state and local associations including the National Governors Association, the National Conference of State Legislatures, and the Federal Funds Information for States (FFIS). We also analyzed data from congressional appropriations committees and the Congressional Budget Office (CBO) on the distribution, allocation, and spend out rates of Recovery Act funding.

The programs we selected were streams of Recovery Act funding flowing to states and localities through increased Medicaid Federal Medical Assistance Percentage (FMAP) grant awards, funding for highway infrastructure investment, and the State Fiscal Stabilization Fund (SFSF). Together, they are expected to account for about 91 percent of fiscal year

2009 Recovery Act spending by states and localities. For the FMAP grant awards, we conducted a web-based inquiry, asking the 16 states and D.C. to provide data and information on enrollment, expenditures, and changes to their Medicaid programs and to report their plans to use state funds made available as a result of the increased FMAP. We reviewed states' responses for internal consistency and conducted follow-up with the states as needed. We also spoke with individuals from the U.S. Department of Health and Human Services regarding the changes to the FMAP and the disbursement of increased FMAP funds. In addition, we spoke with individuals from the Centers for Medicare & Medicaid regarding their oversight and guidance to states. For highways infrastructure investment, we reviewed status reports and guidance to the states and discussed these with the U.S. Department of Transportation (DOT) and Federal Highways Administration (FHWA) officials. To understand how the U.S. Department of Education is implementing the SFSF, we reviewed relevant laws, guidance, and communications to the states and interviewed Education officials. Our review of related documents and interviews with federal agency officials focused on determining and clarifying how states, school districts, and public Institutions of Higher Education would be expected to implement various provisions of the SFSF.

We considered programs with large amounts of funding, programs receiving significant increases in funding, new programs, and those with known risks. For example, the Medicaid program is on the GAO high risk list. In addition, we consulted with our internal program experts and outside experts including federal agency inspectors general, state and local auditors, and state and local government associations.

Approach in States and Localities on Uses and Plans for Recovery Act Funds

Our teams visited the 16 selected states, localities within those states, and D.C. during March and April 2009 to collect documentation on the plans, uses, and tracking of Recovery Act funds and to conduct interviews with state and local officials. The teams met with a variety of state and local officials from executive-level offices including Governors and their key staff, Comptrollers' Offices, Treasurers' Offices, State Auditors' Offices, Recovery Czars, Inspectors Generals, senior finance and budget officials, and local officials such as from housing authorities, school districts, police departments, and other key audit community stakeholders to determine how they planned to conduct oversight of Recovery Act funds. The teams also met with state and local agencies administering programs receiving Recovery Act funds, including state Departments of Education, Transportation, and Health and Human Services, and with selected legislative offices in the states. In support of these interviews, we

developed a series of program review and semi-structured interview guides that addressed state plans for management, tracking, and reporting of Recovery Act funds and activities. These guides focused on identification of risk, risk mitigation, contracting, the internal control environment and safeguards against fraud, waste, and abuse. While in the 16 states and D.C., the teams also met with and interviewed a number of local government officials, whose offices are identified in Appendix 2.

Assessing Safeguards and Internal Controls

To determine how states and localities plan to track the receipt of, planning for, and use of Recovery Act funds, the state and D.C. teams asked cognizant officials to describe the accounting systems and conventions that would be used to execute transactions and to monitor and report on expenditures. In addition, to assist in the planning of the audit work and for inclusion in their risk assessment framework, we provided the state and D.C. teams with fiscal year 2007 single audit summary information, which was the most recent single audit information available. Single audit information was obtained from the Federal Audit Clearinghouse (FAC) single audit data collection forms and the single audit reports. The single audit summary information provided included : (1) total federal awards expended; (2) whether there were questioned costs; (3) the financial statement audit opinion, number of material weaknesses, and a brief description of each material weakness; and (4) major federal program audit opinion, number of material weaknesses, and a brief description of each material weakness. We examined the Single Audit reports to identify these issues and used that information when interviewing state officials in order to ascertain how they have addressed or plan to address the weaknesses. We also asked auditors to address how they planned to monitor and oversee the Recovery Act funds and whether or not they felt their offices had sufficient capacity to handle any new or increased responsibilities related to the Recovery Act.

Recovery Act Reporting Requirements

To understand the reporting requirements of the Recovery Act, we reviewed the guidance issued by OMB on February 18 and April 3, 2009 and selective federal agency guidance related to grants and to states and localities. We also reviewed an interim rule amending the Federal Acquisition Regulation containing interim reporting requirements for the Recovery Act, issued March 31, 2009.[1] Additionally we studied the OMB issued Information Collection Requirements: Proposed Collection (April 1,

[1]74 Fed. Reg. 14,639.

2009) that contains the data elements for the quarterly recipient reports specified in Section 1512 of the Recovery Act. Each of the states and D.C. provided information on its plans to provide assessment data required by Section 1512.

We conducted this performance audit from February 17, 2009, through April 20, 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Data on states' and localities' plans, uses, and tracking of Recovery Act funds was provided during interviews and follow-up meetings with state and local officials. Given that much of the Recovery Act funding had not yet reached the states and localities, we could not validate nor test the accuracy of the statements made by these officials regarding their accounting and tracking systems. Overall, we determined that the data were sufficiently reliable for the purposes of providing the background information on Recovery Act funding for this report. Our sample of selected states is not a random selection and therefore cannot be generalized to the total population of state and local governments.

Appendix II: Localities Visited by GAO in Selected States

Table 5: States and Localities Visited by GAO

States and the District of Columbia	Localities (or Associations Representing Localities)
Arizona	Regional Public Transportation Authority, Maricopa Association of Governments, City of Phoenix Public Transit Department, City of Phoenix Housing Department, City of Glendale Housing Department, Tempe School District, Peoira Accelerated High School, Maricopa Workforce Connections, City of Phoenix Workforce Connection Division
California	Sacramento Housing and Redevelopment Agency
Colorado	Denver Mayor's Office, Denver City Auditor, Denver Housing Authority, Denver Office of Economic Development
District of Columbia	District of Columbia Housing Authority, Washington Metropolitan Area Transportation Authority
Florida	Florida Association of Counties, Workforce Plus (a regional workforce board for Leon, Gadsden, and Wakulla Counties), Tallahassee Housing Authority, Florida Association of School District Superintendents
Georgia	Atlanta Housing Authority, Atlanta Regional Workforce Board
Iowa	City of Des Moines
Illinois	Chicago Transit Authority
Massachusetts	City of Boston, Massachusetts Bay Transportation Authority
Michigan	City of Detroit Mayor's Office, City of Lansing Mayor's Office, City of Detroit Office of Auditor General, Detroit Public Schools, Lansing School District
Mississippi	Central Mississippi Planning and Development District, The Housing Authority of the City of Jackson
New Jersey	Newark Mayor's Office, New Jersey Transit in Newark, Newark Housing Authority, Newark Public Schools, Trenton Mayor's Office, Trenton Police Department, Trenton Housing Authority, Trenton Board of Education
New York	New York City's Mayor's Office, New York City Budget Director, New York City Comptroller
North Carolina	City of Raleigh, Wake County, North Carolina Association of County Commissioners, North Carolina League of Municipalities
Ohio	Columbus Metropolitan Housing Authority, Franklin County Government, City of Columbus, Columbus City Schools, Local WIA
Pennsylvania	Harrisburg Housing Authority, South Central Workforce Investment Board
Texas	City of Austin Office of the City Auditor, City of Austin-Financial & Administrative Services Department, The Housing Authority of the City of Austin

Source: GAO.

Appendix III: Arizona

Overview

Use of funds: An estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) have made about $534.6 million in Medicaid FMAP grant awards to Arizona.
  - As of April 1, 2009, the state has drawn down about $286.3 million, or almost 54 percent of its initial increased FMAP grant awards.
  - Officials plan to use a significant portion of funds made available as a result of the increased FMAP to offset statewide general fund shortfalls.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Arizona was apportioned about $522 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $148.1 million for 26 Arizona projects.
  - As of April 20, 2009, the Arizona Department of Transportation (ADOT) had selected 41 highway transportation projects worth almost $350 million and had advertised competitive bids on 27 of these projects totaling about $190 million. The earliest bids will close on April 24, 2009, with projects expected to begin work later this spring.
  - These projects include activities such as preserving pavement, widening lanes and adding shoulders, and repairing bridges and interchanges.
  - Arizona will request reimbursement from the Federal Highway Administration as the state makes payments to contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Arizona was allocated about $681.4 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. The state plans to submit its application by April 24, 2009, once officials review the latest estimates for the state's fiscal year 2010 budget situation.
  - The state expects funds to be used to improve student assessments, obtain more teachers, and meet federal standards, among other things, in compliance with federal requirements.

Arizona is also receiving additional Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act (ESEA), (commonly known as No Child Left Behind); programs under the Individuals with Disabilities Education Act (IDEA); several housing programs such as the Low-Income Housing Tax Credit (LIHTC) Assistance program; and programs under the Workforce Investment Act to help provide employment-related services, among other things. Plans to use these funds are discussed throughout this appendix.

Safeguarding and transparency: The state government created a new Office of Economic Recovery within the Office of the Governor, the purpose of which is to coordinate the use of Recovery Act funds across state agencies and to ensure accountability for and transparency in the use of these funds. In addition, to meet Recovery Act requirements, the state comptroller noted that Arizona intends to add new codes to its central accounting system to track Recovery Act funds separately and work with state agencies that have their own accounting systems to ensure that they can also track funds separately. The state has issued guidance on managing the funds, and has plans to publicly report its Recovery Act spending, although officials have said that the state may not be aware of all funds sent directly by federal agencies to other entities, such as municipalities and independent authorities. The officials also identified other challenges, such as ensuring that recipients can report on their use of funds and that, where applicable, funds are used to supplement and not supplant state funds that support relevant affected programs. State and local officials noted that they expect to use existing internal controls and monitoring techniques to safeguard Recovery Act funds, but are concerned about having enough resources to do so. State departments were in the early stages of addressing some of these challenges, and are awaiting further guidance from the federal government on these issues.

Assessing the effects of spending: Arizona state agencies and select localities that we met with expect to use or enhance existing performance metrics to assess the results achieved through Recovery Act funding, unless the federal government requires new metrics that will need to be developed. State officials were unclear, however, on how to determine the number of jobs created and saved by certain Recovery Act funds and were awaiting further guidance from the federal government.

Arizona Beginning to Use Recovery Act Funds

Arizona has begun to use some of its Recovery Act funds as follows:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, Arizona has drawn down $286.3 million in increased FMAP grant awards, which is almost 54 percent of its total awards of $534.5 million. Officials plan to use a significant portion of funds made available as a result of the increased FMAP to offset shortfalls created by reductions implemented to balance the budget. The state used the initial funds made available as a result of the increased FMAP to meet payroll and to avoid serious cash-flow problems.

[1] See Recovery Act § 5001.

[2] 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.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and to undertake other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Arizona has provided this certification.

As of April 20, 2009, the Arizona Department of Transportation (ADOT) had selected 41 highway transportation projects to be funded with Recovery Act dollars.[3] These projects are worth approximately $350 million of the state's total $521.9 million apportionment. These include projects such as pavement preservation, widening lanes and adding shoulders, and bridge and interchange repair. As of April 20, 2009, the state had advertised 27 projects worth about $190 million with the earliest bids to close on April 24, 2009, and projects expected to begin work this spring. Among the projects that have been advertised for bid are the widening of Interstate 10 in Maricopa County, repaving of state routes, making safety improvements to a state route, and improving intersections. Among the first advertisements to close will be the widening of a shoulder within the Tonto National Forest, on State Route 87. The cost of this project is estimated at approximately $6.8 million, and is estimated to take 150 days to complete. Bids will close on April 24, 2009.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures it will take action

[3]As of April 16, 2009, the U.S. Department of Transportation had obligated $148.1 million for 26 Arizona projects. For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Arizona's initial SFSF allocation is $681.4 million. The state plans to submit its application for funds by May 4, 2009, but according to state education officials, they are waiting for the legislature to propose a 2010 budget for their programs before they can definitely decide how they will spend the funds. Generally, the state expects that recipients, such as local school boards, will use their allocations to improve the tools they use to assess student performance and determine to what extent performance meets federal academic standards, rehire teachers that were let go because of prior budget cuts, retain teachers, and meet the federal requirement that all schools have equal access to highly qualified teachers, among other things. Funds for the state universities will help them maintain services and staff as well as avoid tuition increases.

Recovery Act Funds Supporting Other Programs

In addition to stabilization funding to support education through the state fiscal stabilization fund, a senior official from the Arizona Department of Education noted that, as of April 3, 2009, Arizona had received $97.5 million for programs under Title I, Part A of ESEA. The funds will be used to improve assessments to meet federal standards, enrich teacher qualifications, avoid more teacher layoffs, improve poorer performing schools, and ultimately improve student performance, among other things. The state had also received about $89.2 million for programs under IDEA, Part B, which provides funds for public education to children with disabilities. According to state Department of Education officials, these funds will be used to hire more teachers to serve students with special needs, among other things. se programs, The state education officials said that they had prepared estimated allocations for the No Child Left Behind Recovery Act funds to the local school districts, which in turn will prepare and submit applications before they can use the funds.

Arizona is also eligible to receive Recovery Act funds for several housing programs including the Low-Income Housing Tax Credit (LIHTC) Assistance program. The Arizona Department of Housing received notice that it will receive approximately $32 million to provide gap financing for LIHTC projects which provide funding for development of low income housing. Finally, the state Department of Economic Security had received approximately $43 million in Recovery Act funding anticipated for Workforce Investment Act programs to be used for adult, youth (including a summer youth program), and dislocated worker services.

State Agencies and Select Localities Will Use Recovery Act Funds to Restore Programs That Suffered Past Budget Cuts and Will Track These Funds Separately, but Expect Some Challenges

Faced with deteriorating revenue projections, declining consumer confidence, a depressed real estate market, and a requirement to balance its budget, Arizona officials believe that much of the money the state will receive in Recovery Act funds will relieve some of the state's immediate fiscal pressures. State officials envision that funds made available as a result of the Recovery Act will be used to support program budgets that had been reduced in the state's efforts to balance the budget. Arizona has about $7 billion in its General Fund with a current budget of about $10 billion. State officials are working to close a budget gap of about $1.3 billion for fiscal year 2008, an estimated budget gap of about $2.1 billion for state fiscal year 2009 and about $2.8 billion for fiscal year 2010 through reductions and other strategies. These strategies were limited to some extent, because voter propositions protect major programs from significant cuts, including Medicaid, education, and corrections, meaning other programs must absorb the cuts. The state's budget imbalance has been complicated by lower-than-anticipated revenues. For example, state fiscal year 2009 revenue is significantly lower than estimated and has left the state unable to support previously approved spending levels. Arizona's Budget Office has estimated its future revenues and expenditures for each fiscal year through 2014. It projects an increasing deficit in each fiscal year, from $2.1 billion in 2009 to $4.1 billion in 2014, a situation which most likely would mean continued cuts. The state's Budget Stabilization Fund, known as its "rainy day" fund—a reserve fund built up during more favorable economic conditions to be used during difficult economic times—has been depleted.

As of April 13, 2009, decisions about finalizing the fiscal year 2010 budget were still in flux in part because Governor Brewer—only in office since January after the former Governor, Janet Napolitano, became Secretary of the U.S. Department of Homeland Security—has not issued a formal budget proposal. The Governor recognized that further reductions in government services may be necessary to help close the significant deficit between state revenues and expenditures. Given this, in early March, the Governor certified that the state would accept the funds made available by the Recovery Act and use certain funds to create jobs and promote economic growth within the state. Because of the state's economic and budgetary challenges, some state agency and local officials we met with expected to use the funds as they had been using them under their existing programs and did not expect to use Recovery Act funding on new initiatives. They also were confident recipients had sufficient critical uses for the funds and could use them immediately.

However, state officials expressed concerns that using Recovery Act funds to make longer term operational and program commitments would mean higher future state spending that would not be sustainable once Recovery Act funds were no longer available, given the state of the economy. As a result, officials from one state agency explained that they are advising subrecipients to spend their funds on shorter term projects. Furthermore, with program budgets being cut to help relieve fiscal pressures, some state officials have said it may be challenging to ensure compliance with provisions requiring certain Recovery Act funds to be used to supplement and not supplant FY 2010 program funds. Officials with the state Department of Education, however, had one concern about passing the supplanting test. They said that it was unclear whether states could treat Recovery Act funds provided under the fiscal stabilization program as "state" funds versus "federal" funds. If they could use the funds as state resources, they would be able to meet the supplanting restrictions, but if not, they would have serious challenges in complying, jeopardizing the use of the funds. On the other hand, some state officials and program managers did not think it would be difficult to demonstrate they were not supplanting state funds in part because state funding for the programs had already been cut so significantly—in other words, there were few state funds to supplant. For example, they did not think it would be difficult to show that activities supported with Recovery Act resources, such as keeping teachers, could only be accomplished with federal support.

One issue raised by officials in the Office of the Governor and within some state and local program offices was covering the costs to oversee and track the use of the Recovery Act funds, given past budget cuts, staff reductions, and increasing workloads—for example, increasing numbers of unemployed individuals who want services. These officials noted that their service delivery capacity will be challenged to administer funds flowing into eligible programs. Some of the officials wondered what flexibility they had to use some of the Recovery Act funds to cover administrative costs. On the other hand, some state agency officials said that they expected to be able to oversee and track Recovery Act funds with existing resources because funding to current programs that had administrative processes in place would be increased. In still other cases, Recovery Act funds will be disbursed through existing grant programs that may provide for a certain percentage of funds to be used for administration.

The State Has a System to Track How It Is Using Recovery Act Funds but Cannot Ensure Localities Will Be Able to Meet the Act's Reporting Requirements

The state comptroller told us that the state's existing accounting system will have new accounting codes added in order to segregate and track the Recovery Act funds separately from other funds that will flow through the state government. Because some larger agencies and program offices maintain their own accounting systems, the Arizona General Accounting Office has issued guidance to state agencies on their responsibilities, including how they are to receive, disburse, tag, or code funds in their accounting systems; track funds separately; and, to some extent, report on these federal resources. State officials we spoke with noted that they do not foresee that it will be difficult to track Recovery Act funds separately from other funds. However, an official in the state Department of Economic Security noted that the Recovery Act funds will stress the tracking and reporting capacity of the financial management systems they use because the systems are old, are not very flexible, and were not designed for these purposes. The official said that the systems must be enhanced to provide the capacity needed for Recovery Act funds and that they are working to design a solution for this problem.

Department heads and program officials generally expect that they will require subrecipients, through agreements, grant applications, and revised contract provisions, to track and report Recovery Act funding separately. For example, unemployment program managers said they were issuing new intergovernmental agreements with localities to cover new reporting requirements. However, several of the state officials raised questions about the tracking and reporting abilities of some local organizations, such as small, rural entities, boards or commissions, or private entities not used to doing business with the federal government. Furthermore, several of the state department officials acknowledged that either some state agency information systems have data reliability problems that will have to be resolved, or they had subrecipients that in the past had problems providing timely and accurate reporting, but said that they would work with these entities to comply, and also had sanctions to use as a last resort. Furthermore, state officials expressed some concern that the new requirement to provide financial reports on subrecipients' use of funds within 10 days after a quarter ends may be challenging to meet by both state and local entities, because they may not have actual data in time to meet this reporting time frame.

Finally, the state may lack the ability to track the portion of Recovery Act funds going directly to recipients other than Arizona government agencies, such as independent state authorities, local governments, or other entities. State officials expressed concern that they may not be able to track and

report Recovery Act funds when these entities receive the monies directly from federal agencies rather than through state agencies.

State Agencies and Localities Are Expecting to Use Existing Internal Controls to Safeguard Recovery Act Funds, Although in Some Cases, Resource Constraints Could Affect Oversight

Overall, the state agency and local officials that we spoke with expect that their existing internal controls and techniques to manage any potential risks posed to Recovery Act funding will be sufficient and effective to safeguard Recovery Act funds, unless additional requirements are mandated by the federal government that generate the need to change business processes. These controls and techniques include submitting financial and performance reports for review, as well as conducting supervisory and compliance reviews, on-site inspections, external audits, and audits by the state Auditor General. Although Arizona is largely decentralized—state agencies and localities have responsibility for monitoring and are accountable for their respective Recovery Act funds—the state executives are reaching out to the state agencies to help ensure they are ready. For example, the state budget director met with the heads of the programs potentially receiving Recovery Act funds to gauge each program's preparedness. In addition, a number of state agencies were conducting or had plans to conduct meetings, training, and outreach to funding recipients to help them understand the goals and objectives of the act and their responsibilities for managing the funding it would provide. Similarly, in early April 2009, the state's General Accounting Office released a technical bulletin, the purpose of which was to establish consistent policies and procedures that all state agencies receiving Recovery Act funds must "immediately implement in order to effectively manage activities under the act." A senior official in the state comptroller's office said that office plans to conduct a survey to inventory current internal controls at state agencies to help ensure controls are in place to limit the risk of fraud, waste, abuse, and mismanagement of Recovery Act funds.

Several risks still to be addressed have been identified as a result of using audits as an internal control. For example, Arizona's fiscal year 2007 Single Audit report[4] identified a number of material weaknesses related to the state Department of Education. The report identified a material weakness involving IDEA in which the state department had not reviewed subrecipients to ensure that federal awards were used for authorized purposes in compliance with laws, regulations, and the provisions of

[4]Arizona's fiscal year 2007 Single Audit report is the most recent report available.

contracts or grant agreements. The audit report also identified one financial reporting material weakness related to the state Department of Administration's ability to prepare timely financial statements, including its Comprehensive Annual Financial Report (CAFR). This is mostly because many of the larger state agencies maintain separate accounting systems and submit financial data to the Department of Administration for inclusion in its consolidated financial statements. In fiscal year 2007, the CAFR was issued in June 2008, approximately 6 months after the scheduled deadline. According to the Auditor General's Office, the fiscal year 2008 CAFR will also be completed late, as the last agency submitted its financial statement on March 9, 2008. According to the Auditor General's Office, this control deficiency affects the timeliness of financial reporting, which affects the needs of users. It is especially important that Arizona try to address the timeliness issue with regard to financial statements given the number and strict reporting timelines that are imposed on the state under the Recovery Act. For most of the other programs, managers stated that they had no outstanding material weaknesses and that any past weaknesses had been brought into compliance.

According to state officials, another area of risk that the state agency is trying to manage is that some Recovery Act funds, particularly in the transportation area, are reimbursable, meaning that either ADOT or localities will have to spend funds from their own budgets until they are reimbursed by Recovery Act funds. Because of the state's challenging financial situation, it may be a challenge for some state and local government entities to spend the funds up front with the limited cash they have on hand. This is particularly true for rural transit projects. According to an ADOT official, to address this risk, they are vetting applications for rural transit funds closely, with an eye toward granting funds only to those localities that have shown they have the cash on hand to pay up front for the costs of the rural transit projects.

State Agencies and Localities Will Continue or Enhance Current Monitoring Techniques to Oversee Recovery Act Funds, but in Some Cases, Reduced Resources Could Pose Challenges

Representatives of a number of state executive offices, state agencies, and select localities reported that they would at a minimum continue to monitor Recovery Act funding as they had monitored federal funding provided to these same programs in the past. They expected to meet the financial monitoring, performance measurement, and accountability requirements using existing systems and reports, unless the federal government institutes any new requirements that would require changes to their systems and processes. The entities were still waiting for further guidance from the federal government to determine any needed changes. In some cases, agencies had plans to increase monitoring. For example, according to officials for the Arizona Division of the Federal Highway Administration (FHWA), they plan on increasing the number of site visits on projects that use Recovery Act funds. Similarly, state transportation officials will require that contractors report the Recovery Act dollars spent and the jobs they created as part of their regular reports to the state.

To some extent, Arizona is providing the public an opportunity to monitor how the state is using Recovery Act funding and what it is achieving with these funds through a Web site, azrecovery.gov, where the state has posted links to program funding levels, guidance, and intended uses of Recovery Act money, and intends to post reports on the use of funds, among other things.

However, several state officials expressed concern that the Recovery Act did not provide funding specifically for state oversight activities, despite their importance in ensuring that the Recovery Act funds are used appropriately and effectively. Officials within state executive offices that are coordinating oversight activities—such as the Office of Economic Recovery and the Comptroller's Office—stated that they will be challenged to oversee compliance with Recovery Act funding requirements within their existing staffing levels, given that the state currently has a hiring freeze to help relieve its budget deficits. For example, the Arizona General Accounting Office within the state Department of Administration has experienced a reduction of staff from 74 to 50, posing challenges to its increased oversight responsibilities. The Department of Economic Security, which manages workforce investment programs and human services programs, among other responsibilities, has an estimated 8,214 staff on furloughs and has laid off about 800 staff members as well. Similarly, a Department of Housing official stated that the office currently has a vacancy rate of about 15 percent because of the hiring freeze. Furthermore, the state Auditor General reported that its staffing levels are nearly 25 percent below the authorized staffing level of 229 full time equivalents.

State Agencies and Localities Will Use Existing Performance Measures to Gauge the Impacts of Recovery Act Funding and Are Waiting for Federal Guidance on How to Implement New Measures the Act Requires, Especially on Jobs Created and Saved

State agencies and the select localities that we spoke with expected to use existing performance metrics to assess results achieved through Recovery Act funding, but were also looking for more guidance from the federal government on how to comply with new assessment requirements under the act. Agency officials generally stated that because the Recovery Act funds are for pre-existing programs, they will continue to use their existing performance metrics to assess impacts. For example, the Arizona Criminal Justice Commission, which oversees among other things the Edward Byrne Memorial Justice Assistance Grants, tracks a wide list of both short-term and long-term performance measures that assess the effectiveness of law enforcement projects funded by the grants. Short-term measures include increasing the number of units that report high program quality, while long-term measures include changing crime rate percentages in communities. Commission officials stated that they will continue to track these measures for Recovery Act funding, in addition to any new measures required under the act. Likewise, administrators at a local school district we visited stated that they have a department that uses a system to track the performance for every school and every student in the school district. The officials stated that they will use the same measures to track school and student performance improvements using Recovery Act funds.

However, officials were unclear as to how to determine the number of jobs created and saved by certain Recovery Act funds, new measures required by the act. State education officials noted that the act is vague about determining the number of teachers who would have been laid off in the absence of Recovery Act funding. Although a state housing official expected that her office would have the capabilities to assess results, such as job creation and economic output, local housing officials stated they may have difficulty doing so. State and local officials were waiting for additional guidance from the federal government on how to implement measures for jobs created and saved, as well as any new measures required under the act.

Arizona's Comments on This Summary

We provided the Governor of Arizona with a draft of this appendix on April 17, 2009. The Director of the Office of Economic Recovery responded for the Governor on April 20, 2009. In general, the state agreed with our draft and provided some clarifying information which we incorporated. The state also provided technical suggestions that were incorporated, as appropriate.

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Staff Acknowledgments

In addition to the contacts named above, Kirk Kiester, Assistant Director; Joseph Dewechter, analyst-in-charge; Lisa Brownson; Aisha Cabrer; Alberto Leff; Jeff Schmerling; and Margaret Vo made major contributions to this report.

Appendix IV: California

Overview

Use of funds: An estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, Centers for Medicare & Medicaid Services (CMS) had made about $3.331 billion in increased Federal Medical Assistance Percentage (FMAP) grant awards to California.
  - As of April 1, 2009, the state has drawn down about $1.5 billion, or 45.4 percent of its initial increased FMAP grant awards.
  - Funds made available as a result of increased FMAP will help offset the state's general fund budget deficit, according to California officials.
- ✓ **Transportation—Highway Infrastructure Investment**
  - California was apportioned about $2.570 billion for highway infrastructure investment on March 2, 2009 by the U.S. Department of Transportation.
  - Under a state law enacted in late March 2009, 62.5 percent of funds ($1.606 billion) will go to local governments for projects of their selection.
  - Of the remaining 37.5 percent ($964 million), $625 million will go to State Highway Operation and Protection Program (SHOPP) projects for highway rehabilitation, eligible maintenance and repair; $29 million will fund Transportation Enhancement projects; and $310 million will be loaned to fund stalled capacity expansion projects.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $261.4 million for 20 California projects.
  - California will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - California was allocated about $3.993 billion from the initial release of these funds on April 2, 2009 by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and they will implement strategies to meet certain educational requirements, including teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. California's application was approved by the U.S. Department of Education on April 17, 2009 and the state is now eligible to draw funds for local school districts and universities.
  - Approximately $3.266 billion of the $3.993 billion (81.8 percent) must be spent on education. The remaining $727 million (18.2 percent) can be spent at the Governor's discretion and is expected to be directed to public safety. Of the funds devoted to education, the majority will be spent on primary and secondary education.

California is receiving additional Recovery Act funds under other programs, such as Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), (commonly known as No Child Left Behind); the Individuals with Disabilities Education Act, Part B, and workforce training programs under the Workforce Investment Act (WIA).

Safeguarding and transparency: The Governor established the California Federal Economic Stimulus Task Force to ensure both accountability and transparency in how funds are spent, consistent with the Recovery Act and the state's own goals. The Task Force will also manage California's recovery Web site (www.recovery.ca.gov), the state's principal vehicle for reporting on the use and status of Recovery Act funds. In addition, on April 3, 2009, California appointed a Recovery Act Inspector General to make sure Recovery Act funds are used as intended and to identify instances of waste, fraud, and abuse. California intends to use its existing accounting system to track funds flowing through the state government. Although California will publicly report its Recovery Act spending, officials have said that the state may not be aware of all federal funds sent directly to other entities, such as municipalities and independent authorities. The California State Auditor has raised concerns about internal controls at various state agencies that could affect accountability for Recovery Act funds, and will take this into account when assessing risk during her current audit planning efforts.

Assessing the effects of spending: According to state officials, California has begun to develop plans to assess the effects of Recovery Act spending. However, they are waiting for further guidance from the federal government, particularly related to measuring job creation.

California Beginning to Use Recovery Act Funds

California has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible

states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

Under the Recovery Act, California will receive increased FMAP grant awards of at least 61.6 percent, up from 50 percent. As of April 1, 2009, California has drawn down $1.5 billion, or 45.4 percent of its initial FMAP grant awards. Initially, the state could not obtain increased FMAP funds because the state reduced its eligibility period for children from 12 months of continuous eligibility to 6 months, effective January 1, 2009. However, because this change was suspended on March 27, 2009 and eligibility was restored to any children affected, the state has been able to draw down increased FMAP funds. Officials plan to use funds made available as a result of the increased FMAP to offset the state's general fund budget deficit.

Transportation—Highway Infrastructure Investment: The Recovery Act provides funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief

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

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

executive must certify that the state or local government to which the funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. California provided these certifications but noted that the state's level of funding was based on the best information available at the time of the state's certification.[3]

According to state sources, under a state law enacted in late March 2009, 62.5 percent of funds ($1.606 billion) will go to local governments for projects of their selection. Of the remaining 37.5 percent ($964 million), $625 million will go to State Highway Operation and Protection Program (SHOPP) projects for highway rehabilitation, eligible maintenance and repair; $29 million will fund transportation enhancement projects; and $310 million will be loaned to fund stalled capacity expansion projects.[4] As of April 16, 2009, the U.S. Department of Transportation had obligated $261.4 million for 20 California projects.[5] These projects consist of rehabilitating roadways, pavement, and rest areas as well as upgrading median barriers and guardrails. For example, a $33 million project is being funded to rehabilitate a road in San Jose.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures it will take action to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

[3]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[4]The state is using the $310 million to jump-start stalled highway projects, which will then be repaid to fund other SHOPP projects once bonds can be issued.

[5]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

California's initial SFSF allocation is $3.993 billion. Approximately $3.266 billion of this money (81.8 percent) must be spent on education. The remaining $727 million (18.2 percent) can be spent on public safety and other government services (including education). California officials told us that the Governor plans to recommend to the State Legislature that the funds be spent on the Department of Corrections.[6] Like other states, California will receive its SFSF funds in two phases. California's application was approved by the U.S. Department of Education on April 17, 2009, and the state is now eligible to draw funds for local school districts and universities. Of the $3.266 billion for education, the state plans to spend the maximum amount possible under Recovery Act formulas–approximately $2.57 billion on primary and secondary education and $537 million on higher education, for the purpose of restoring funding to 2008-2009 levels. The remaining $164 million will be used to restore education funding in future years. These funds will help ensure that primary and secondary schools and institutions of higher education have the resources they need to avert cuts and retain teachers and professors.

Overall Management and Reporting of Recovery Act Funds Are Being Centrally Coordinated

The Governor and his administration are setting the overall policy for coordination of and accountability for Recovery Act funds. Prior to the enactment of the Recovery Act, the Governor's office formed nine working groups organized around broad program areas (e.g., transportation, environment, etc.) and comprising representatives of the Department of Finance, program departments, the legislative branch, and California's Washington, D.C. office. The working groups worked with the California congressional delegation to estimate the effects of the Recovery Act and to lobby for changes helpful to the state. The Recovery Act was enacted on February 17, 2009, and California signed a state certification letter on March 5 stating that the state would request and use certain Recovery Act funds to create jobs and promote economic growth (California was the first state to do so).

Initially, the Department of Finance, the Director of which is appointed by the Governor, was the focal point for working with state agencies to prepare to meet Recovery Act accountability and reporting requirements. In late March 2009, the Governor's office established the California Federal Economic Stimulus Task Force, which is responsible both for

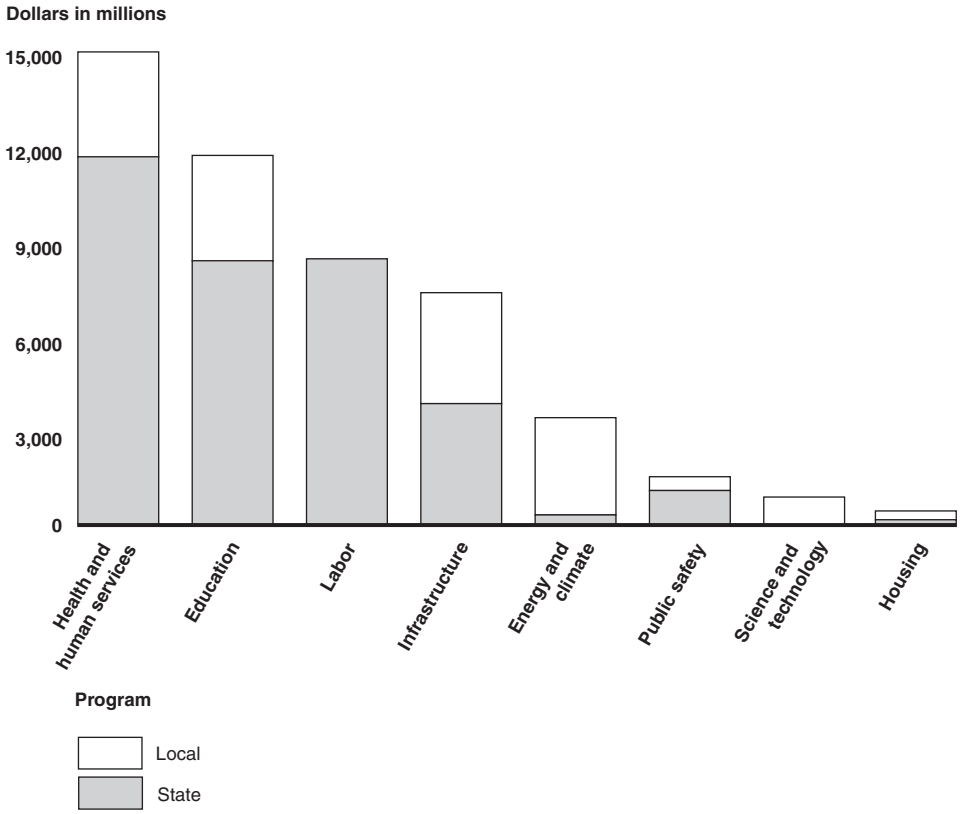
[6]As required by California's constitution, all money drawn from the state's treasury must be appropriated by the State Legislature.

tracking Recovery Act funds that come into the state and ensuring that those funds are spent efficiently and effectively. The task force is chaired by the Deputy Chief of Staff to the Governor and Director of the Governor's Office of Planning and Research, and will include one representative from the administration for each of the main program areas that will receive funds. The Chief Deputy Director of Finance will serve as deputy coordinator of the task force and will be responsible for, among other things, tracking the funds coming into the state. The Chief Operating Officer of the Department of Finance will oversee the accountability and auditing functions of the task force.

State Agencies and Localities Are Developing Spending Plans, but in Some Cases Are Awaiting Further Guidance and Final Determination of Amounts to Be Received

In total, as of March 27, 2009, the state of California estimates that the state and its localities will receive approximately $48.3 billion for various programs, including health, education, and infrastructure. (see figure 4.) Of this, about $14 billion will go directly to local governments and the other $34 billion will go to the state.

Figure 4: California State and Local Recovery Act Funding



Source: Department of Finance @ www.recovery.ca.gov (March 27, 2009).

The extent to which spending decisions have been made varies by program in California, with some uses determined while others are still unknown. For example, for some funding, like the $10 billion made available as a result of the increased FMAP, all or most is formula driven, and the application of funds is already determined. Likewise, for public transit investment grants and fixed-guideway infrastructure programs (due to receive approximately $1.019 billion in Recovery Act funds, according to Federal Transit Administration officials), all or most of the funding is formula driven, but local priority-setting processes will determine which projects will be funded. For education (receiving about $11.8 billion in Recovery Act funds), while the majority of allocations to school districts are based on formulas, education officials told us that spending decisions

will largely be made at the local level.[7] Officials from the Sacramento Housing and Redevelopment Agency (SHRA)—one of the state's 55 public housing authorities hoping to receive a portion of Recovery Act funding from the formula-based Public Housing Capital Fund—stated that they have begun to prioritize how funds will be used. Contracts will be awarded by SHRA for bids received within 120 days on projects listed in its 5-year Capital Fund Plan. State officials from the Department of Housing and Community Development are not sure how much funding another program, the Neighborhood Stabilization Program, will receive. Officials told us that their plans for spending the money will be determined by the amount received.

In some instances, state officials have sought federal guidance on the use of certain funds. For example, California Employment Development Department (EDD) officials told us that they hoped to receive additional federal guidance clarifying whether California, through its legislative budget process, can use all discretionary Workforce Investment Act funding through Recovery Act funds to offset employment and training program general fund costs in either the California Department of Corrections and Rehabilitation or the California Conservation Corps. EDD officials noted that using the discretionary funds in this way might contradict recent U.S. Department of Labor guidance, which only allows funds to be used for new programs and not to replace state or local funding for existing programs. State officials are also seeking guidance from CMS regarding policies on payments for in home support services funded by Medicaid. State officials are also uncertain whether Recovery Act funds can help pay for the increased costs of administering, overseeing, and auditing Recovery Act program funds and stated that federal guidance, thus far, has not addressed these questions.

In some cases, state agencies face deadlines for using their funds. Caltrans must obligate at least half of certain Recovery Act funds within 120 days of when the funds were apportioned by the Department of Transportation or the funds will be redistributed to other states.[8] Caltrans did not foresee

[7]State education officials have provided some guidance to local education agencies on appropriate uses for Recovery Act money, and plan to provide more, both formally and informally, as it becomes available from the federal government.

[8]These provisions are applicable only to those funds apportioned to the state and not to those funds required by the Recovery Act to be suballocated to metropolitan, regional and local organizations.

problems meeting this deadline. Caltrans officials further stated that most projects could be completed within 1 year; however, project completion time lines and specific project funding outlays by year have not been finalized. Caltrans officials stated that some project construction may begin by early-May 2009. In another case, the Tax Credit Allocation Committee (TCAC) must commit at least 75 percent of the $325.9 million in Recovery Act's Tax Credit Assistance Program funds by February 17, 2010. TCAC did not foresee problems meeting this deadline. TCAC officials told us that they have a system in place to quickly identify recipients and that they are planning to make sure to comply with the timeline as reflected in regulations.

Recovery Act Funds Will Help but Not Resolve California State Budgetary Pressures

The state's economy and California state revenues have been severely affected by the national recession and financial market credit crunch. In March 2009, California's unemployment rate rose to 11.2 percent, 2.7 percentage points higher than the national average. In February, according to RealtyTrac, California posted the nation's third highest state foreclosure rate, behind Nevada and Arizona, with 1 in every 165 housing units in foreclosure. On March 19, Fitch Investor Services downgraded California General Obligation bonds to an "A" rating, the lowest current rating of any state.

State general fund revenues are projected to fall in state fiscal year 2008-2009 by $15.1 billion, or 14.7 percent, from fiscal year 2007-2008.[9] In January 2009, the fiscal year 2009-2010 Governor's Budget projected that the state would end the state fiscal year with a $41.6 billion deficit if no corrective actions were taken. In response, the State Legislature and the Governor agreed to a $42 billion package of solutions. As described by state sources, this package includes reducing spending, temporarily increasing taxes, using funds made available as a result of the Recovery Act, and borrowing from future lottery profits.[10] The budget package depends, in part, on voter approval of six different propositions at a May

[9]The California state government fiscal year is July 1 to June 30.

[10] As part of the budget agreement, the Treasurer and the Director of the Department of Finance had to determine by April 1, 2009, if by June 30, 2010, the state would use more than $10 billion in funds made available as a result of the Recovery Act to offset its general fund budget deficit. If so, the state would rescind $948 million in spending cuts and about $1.8 billion in tax increases under the budget agreement. On March 27, 2009, the two state officials estimated that only $8.2 billion would be applied as a general fund budget offset, and therefore the spending cuts and tax increase were retained.

19, 2009, special election. If three of these propositions are approved, the state Legislative Analyst's Office (LAO) estimates the package will reduce the state's budget deficit by $6 billion.

Unfortunately, the state's economic condition since the release of the Governor's budget in January 2009 has continued to deteriorate. Even if the May 19, 2009, propositions pass, and the state uses $8.2 billion in funds made available as a result of the Recovery Act, the LAO estimates an $8 billion deficit in 2009-2010. Consequently, the State Legislature and the Governor may need to work on additional budgetary solutions to rebalance the 2009-2010 budget following the May 2009 budget update. On February 3, 2009, the California State Auditor added the state's budget condition to its list of high-risk issues facing the state.

Plans for Oversight and Control of Recovery Funds Are Still Evolving

State officials are working to get the necessary guidance and systems up and running that will allow for a comprehensive and accurate accounting of California Recovery Act funds. As previously mentioned, the California Federal Economic Stimulus Task Force is responsible for tracking Recovery Act funds and ensuring that they are spent efficiently and effectively. The state's new recovery Web site (www.recovery.ca.gov) will serve as the primary tool to fulfill federal reporting and accountability requirements consistently throughout the state. A representative from each state agency is tasked with ensuring that data required by federal Recovery Act reporting requirements are available on the state Web site. Development of the related processes and procedures to accumulate and consolidate the spending data is underway. State officials also plan to use the Web site to provide the public with up-to-date information about federal funds received by the state, how those dollars are being spent, and, through the use of digital mapping, the geographic distribution of expenditures.

Internal Control and Tracking Is Expected to Be Achievable for State-Level Funds, but Concerns Exist Over Funds Provided to Localities

The state intends to rely heavily on existing systems to track and account for Recovery Act funds. State agency officials generally told us that their existing accounting systems, enhanced with newly created codes for Recovery Act funds, will enable them to separately track and monitor how state and local agencies spend Recovery Act funds that pass through the state. For example, California Department of Education officials told us that the department already has a consistent accounting structure in place for tracking and reporting on how federal funds are used. The department plans to create separate accounting codes within that structure to track and report how the different programmatic funds received through the

Recovery Act are used. According to the officials, the department will provide those codes to the local education agencies (LEA), as well as instruct them on what the codes mean. However, some officials still expressed concerns about the ability of LEAs to consistently maintain accountability for funds. For example, a Department of Finance official with responsibility for education program budgets stated that there are over 1,000 school districts in California, and they possess varying levels of sophistication in their accounting systems. While the state will be providing guidance to help ensure proper accountability, this official expects some districts may face challenges complying.

Most state program officials told us that they will apply the same controls and oversight processes that they currently apply to other program funds. For example, the California Employment and Development Department has an independent division that conducts monitoring, audits, and evaluations to guard against mismanagement, waste, fraud, and abuse. The effectiveness of internal controls at the local level, however, is unknown for some programs. Caltrans officials, for example, stated that while extensive internal controls exist at the state level, there may be control weaknesses at the local level.[11] Caltrans is collaborating with local entities to identify and address these weaknesses. Additionally, Caltrans has conducted workshops and other outreach activities to ensure that regions and localities are fully informed regarding requirements for the tracking and expenditure of Recovery Act funds, and would like to increase its capacity to provide oversight, particularly at the local level.

Various Audit Functions Will Provide Oversight

California intends to use existing internal and independent audit functions and a new inspector general to oversee Recovery Act funds received by the state. The Office of State Audits and Evaluations (OSAE) is an internal audit function within the Department of Finance which performs audits of various state funds and programs, including those receiving Recovery Act funds. According to state officials, OSAE is also responsible for ensuring compliance with the state's Financial Integrity and State Manager's Accountability Act of 1983 (FISMA) and oversees the activities of internal audit functions within most state agencies. According to state sources, FISMA requires each state agency to maintain effective systems of internal

[11]In the past, the Federal Highway Administration has reported that there are risks associated with local implementation of federal regulations, including difficulty maintaining compliance with these federal requirements.

accounting and administrative control, to evaluate the effectiveness of these controls on an ongoing basis, and to review and report biennially on the adequacy of the agency's systems of internal accounting and administrative control. OSAE has not yet determined the scope or approach for its review of Recovery Act funds or the extent to which it can utilize FISMA in assessing compliance with Recovery Act requirements. In addition, the State Controller audits claims for payment submitted by state agencies and provides internal audit services to some state agencies, such as Caltrans, for Recovery Act funds.

The State Auditor, California's independent audit and evaluation office, conducts financial and performance audits as authorized or required by law and requested by the State Legislature. The State Auditor is also annually responsible for conducting California's statewide single audit of numerous federal programs administered in California.[12] Based on the State Auditor's initial analysis of Recovery Act funds the state expects to receive and the formula for determining which programs require an audit, the State Auditor anticipates it will likely need to expand single audit coverage to capture additional programs receiving Recovery Act funds. Finally, on April 3, 2009, the Governor appointed the nation's first Recovery Act Inspector General, whose role is to make sure Recovery Act funds are used as intended and to identify instances of waste, fraud, and abuse.

Prior Work of State Auditor Indicates Areas Requiring Additional Oversight

The most recent single audit, conducted by the State Auditor for fiscal year 2007, identified 81 material weaknesses, 27 of which were associated with programs we reviewed for purposes of this report.[13] The State Auditor plans to use past audit results to target state agencies and programs with a high number and history of problems, including data reliability concerns, and is closely coordinating with us on these efforts. For example, the fiscal year 2007 State Single Audit Report identified eight material weaknesses pertaining to the ESEA Title I program and the Individuals with

[12]The Single Audit Act of 1984 (Pub. L. No. 98-502) and its 1996 amendments (Pub. L. No. 104-156) require that nonfederal entities that expend a threshold amount each year in federal awards have a single or program-specific audit in accordance with the provisions of the act's audit requirements. OMB Circular A-133 set the threshold amount at $500,000 or more a year for fiscal years ending after December 31, 2003, and specifies guidance for entities that conduct these single audits.

[13]State of California, *Internal Control and State and Federal Compliance Audit Report for the Fiscal Year Ended June 30, 2007* (June 2008 Report 2007-002).

Disabilities Education Act programs. The audit findings included a material weakness in the California Department of Education's management of cash because it disbursed funds without assurances from LEAs that the time between the receipt and disbursement of federal funds was minimized, contrary to federal guidelines. Education officials told us that they have addressed some of these material weaknesses and, in other cases, they are still working to correct them. If these and other material weaknesses are not corrected, they may affect the state's ability to appropriately manage certain Recovery Act funds. The State Auditor's Office told us that it is in the process of finalizing the fiscal year 2008 State Single Audit Report and plans to issue the report within the next 30 days. In addition, the State Auditor's Office is summarizing the results of the single audit to identify those programs that continue to have material weaknesses. Finally, the State Auditor's Office plans to use the results of other audits it has conducted in conjunction with the single audit to assess risk and develop its approach for determining the state's readiness to receive the large influx of federal funds and comply with the requirement regarding the use of those funds under the Recovery Act.

State Officials Expressed Concerns about Lack of Guidance and Ability to Measure the Impacts of Recovery Act Funds

State officials with whom we spoke have not yet established plans or processes for assessing the impacts of Recovery Act funds. According to Department of Finance officials, the newly created California Federal Economic Stimulus Task Force will assume this responsibility. Several state agency officials and a local public housing authority believe that additional guidance is needed from the U.S. Office of Management and Budget (OMB) before they can fully address the issue of impact assessments. State officials told us that assessing the impact of Recovery Act funds on job creation in particular will be difficult. That is, while they believe that tracking the impact for contracts, grants, or discrete projects is possible, it is extremely difficult to separate out the specific impact of Recovery Act funds when they are combined with other federal, state, or local funds, as they will be in many situations.

The state program officials with whom we spoke raised a number of specific concerns about their ability to measure the impact of Recovery Act funds. For example,

- California education officials told us they did not yet know how the state will measure the impact of the Recovery Act funds spent on education. The officials said that, although it should be possible to track Recovery Act education spending separately from non-Recovery Act money, this does not mean that they will be able to report on

specific outcomes that result from this spending. One concern mentioned by several officials is that it may not be possible to link the spending categories used in the accounting system to specific outcomes. Furthermore, even if such links could be made, another difficulty would be determining the extent to which an outcome was the result of the Recovery Act funds received in April 2009 versus the non-Recovery Act funds received earlier in the year for the same program. Finally, officials expressed concern about the incompatibility between desired Recovery Act outcomes and Recovery Act funding. One of the Recovery Act's desired outcomes is job creation and preservation, which requires ongoing funds, but the Recovery Act provides only temporary funds.

- According to Caltrans officials, measuring the full economic impact of highway funds presents challenges. Caltrans officials told us that since Recovery Act funds may be combined with other funds to complete projects, isolating the number of jobs created using just the Recovery Act funds may be difficult. In addition, Caltrans officials told us that guidance on measuring and reporting the effect of Recovery Act funds for transit and fixed-guideway investments has not yet been issued, however they anticipate it will be difficult to report on jobs preserved or created.

- California Employment Development Department officials told us that its existing accounting system can report output, such as how many more participants are registered and enrolled in Workforce Investment Act programs and the level of program services increased due to the Recovery Act. They also said that the existing system can track certain performance indicators for program participants, such as successful employment, wage increases, and job retention. However, these officials noted that they anticipate challenges determining whether such outcomes are specifically due to services supported by the additional Recovery Act funds versus services previously or currently provided to program participants through existing Workforce Investment Act funds.

California's Comments on This Summary

We provided the Governor of California with a draft of this appendix on April 17, 2009. Members of the California Federal Economic Stimulus Task Force responded for the Governor on April 20, 2009. These officials provided clarifying and technical comments that we incorporated where appropriate.

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Staff Acknowledgments

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Appendix V: Colorado

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services had made about $227 million in increased FMAP grant awards to Colorado.
  - As of April 16, 2009, the state had not drawn down any of its increased FMAP grant awards.
  - State officials noted they are working to ensure that the state is in compliance with Recovery Act provisions governing eligibility for the increased FMAP.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Colorado was apportioned about $404 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $118.4 million for 19 projects; the Colorado Department of Transportation had advertised 17 of these projects, and 5 of the 17 had been awarded.
  - Colorado's Recovery Act transportation funds are being directed to projects that can be advertised within 90 to 180 days of the passage of the act, can be completed within 3 years, and will result in job creation.
  - Projects include resurfacing roads and replacing highway bridges in the Denver metropolitan area, as well as improvements to mountain highways.
  - Colorado will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Colorado was allocated about $509 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the U.S. Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments.
  - The Governor is working with the state legislature on a plan for spending the fiscal stabilization funds Colorado will receive to support education. Once legislative concurrence is obtained, the plan will be submitted to the U.S. Department of Education. A state official estimated that could happen as early as the week of April 20, 2009.

Colorado is also receiving additional Recovery Act funds under other programs, such as those under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (commonly known as No Child Left Behind); programs under the Individuals with Disabilities Education Act (IDEA), Part B; programs under the Workforce Investment Act; and Edward Byrne Memorial Justice Assistance Grants. These are described throughout this appendix.

Safeguarding and transparency: As the state makes its plans, some officials raised concerns about how well the state is positioned to track and oversee Recovery Act expenditures and identified general areas of vulnerability in spending Recovery Act funds. For example, Colorado's accounting system is 18 years old, which will make it challenging for the state to tag and track Recovery Act funds, according to state officials. State officials are determining what approach they will use in tracking funds and told us they currently plan to create an accounting fund to track state agencies' use of Recovery Act funds, employing a centrally defined budget-coding structure to distinguish between Recovery Act and non-Recovery Act federal funds. State officials were also concerned about tracking funds that bypass the state and flow directly to local entities.

Assessing the effects of spending: The state is making plans to assess the effects of Recovery Act spending on Colorado's economy. Some agencies plan to use their existing performance indicators to assess the effects of recovery, while others have received guidance including new indicators. Some officials identified concerns with recipients' ability to submit reports more quickly or more frequently than normal, while some questioned how precisely economic effects can be measured.

Colorado Beginning to Use Recovery Act Funds

Colorado has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible

states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 3, 2009, CMS had made about $227 million in increased FMAP grant awards to Colorado. As of April 16, 2009, state officials had not drawn down any of the state's increased FMAP grant awards. State officials noted they are working to ensure that the state is in compliance with Recovery Act provisions governing eligibility for the increased FMAP. Officials also indicated that, in order to account for the increased FMAP funds available through the Recovery Act, the state has created unique codes that will calculate the additional federal reimbursement. The state will use these codes to assist with the proper drawing down and reporting of these expenditures on quarterly Medicaid reports.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and to undertake other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the Governor must certify that the state will maintain its current level of transportation spending, and the Governor or other appropriate chief executive must certify that the state

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

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

or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Colorado provided this certification but noted that the state's level of funding was based on "planned nonbond state expenditures" and represented the best information available at the time of the state's certification.[3]

Colorado was apportioned about $404 million in Highway Infrastructure Investment Recovery Act funds by the U.S. Department of Transportation on March 2, 2009. As of April 16, 2009, the U.S. Department of Transportation had obligated $118.4 million for 19 Colorado projects.[4] Seventeen of these projects, which include resurfacing roads and replacing highway bridges in the Denver metropolitan area and improvements to mountain highways, had been advertised for bid, and 5 of the 17 projects had been awarded. According to Colorado Department of Transportation officials, the department has a well-established process for distributing funds and contracting projects and has already begun to use this process in applying for Recovery Act funds. In order to spend funds quickly and create jobs, Colorado is directing Recovery Act transportation funds to projects that can be advertised within 90 to 180 days of the passage of the Recovery Act, can be completed within 3 years, and will result in job creation. Department officials told us they are emphasizing construction projects rather than projects in planning or design phases, in order to maximize job creation.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures it will take action to meet certain educational requirements such as increasing teacher

[3]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[4]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

effectiveness and addressing inequities in the distribution of highly qualified teachers.

The Governor has proposed a plan for spending the majority of the $760 million in stabilization funds Colorado will receive to support education, focusing on offsetting current and planned reductions in state funding for higher education. Officials told us that funding cuts were directed primarily toward higher education rather than kindergarten through 12th grade education because of a state constitutional provision requiring guaranteed annual increases in state funding of kindergarten through 12th grade education[5]—and as a result, SFSF funds are more urgently needed in higher education. The state will receive its first allocation of funds—$509 million or 67 percent of the total—after it has applied to Education, which it plans to do once the Governor's office and legislature agree on the plan and the state's budget. As of April 20, 2009, the state's General Assembly was negotiating the final budget and a school finance bill that could affect the specific use of the SFSF funds. A Colorado official said that if the state approves a budget the week of April 20, 2009, the proposal could go to Education soon after that date. The Governor is also developing a plan for the Government Services Fund, a component of the SFSF, which will provide $138 million of SFSF funds that may be used for public safety and other government services.

Colorado Will Manage Recovery Act Funds through an Oversight Board and State Executive Departments

Following passage of the Recovery Act, Colorado's Governor established an oversight board, the Colorado Economic Recovery Accountability Board, to oversee Colorado's Recovery Act funding and ensure funds are spent effectively and transparently. The board is chaired by the Director of the Colorado Office of Economic Development, who has also been charged with being Colorado's recovery coordinator. The board is composed of 12 public- and private-sector leaders from across the state, including the state treasurer, a state senator and a state representative, and a number of business leaders. To date, the board has held three public meetings during which members discussed the short time frames for disbursing Recovery Act funds and a lack of federal guidance, among

[5]According to a Colorado state legislative study, in 2000, Colorado voters approved a measure to increase education spending in the state; this amendment directed a portion of state tax revenues to the State Education Fund through fiscal year 2011. The amendment requires an annual increase in per pupil funding and requires the state general fund appropriation for state aid to schools to increase by 5 percent per year, unless state personal income increased by less than 4.5 percent during the previous year.

other issues. The board has also developed a Web site to publicize information about the Recovery Act.[6]

Management of and decisions about Recovery Act funds are the responsibility of the Governor, according to state officials. The Governor's office is directly responsible for exercising discretion with regard to certain funds such as portions of the SFSF. The Governor is working in consultation with the executive directors of Colorado's state departments and agencies to develop plans for spending Recovery Act funds, which are to be publicly available on the state's Web site. Officials told us the Governor has directed that all departmental decisions on spending Recovery Act funds are to be made in line with the original charge of the Recovery Act to promote job creation or preservation and economic development, as well as the Governor's agenda. The decision process for using Recovery Act funds depends on the program, consistent with federal and state statutes and guidance. Officials from several departments, such as the Departments of Public Safety, Labor and Employment, and Local Affairs, told us they have made initial programmatic decisions for Recovery Act funds. Other programs have not made such decisions; for example, Colorado Department of Education officials told us the department will distribute funds such as those under the ESEA and IDEA programs directly to local school districts to make programmatic decisions about the funds.

Many Colorado officials said the Recovery Act would increase their departments' workloads and said they would like to add personnel and perhaps systems to manage the funds, but the overall extent to which Recovery Act funds are permitted to be used for those costs is uncertain. While some officials we interviewed said their departments had received or would receive Recovery Act funds to cover administrative or management activities, officials in other departments did not know whether they would receive funds for that purpose. Officials at the Colorado Department of Labor and Employment, for example, said they can spend about $1.5 million in Recovery Act funding to cover

[6]Colorado's Recovery Act Web site is http://www.colorado.gov/recovery/. To help inform the public about the results of Recovery Act spending in Colorado, the state also plans to create a Web-based map of projects receiving Recovery Act funds and plans to "brand" projects funded by the Recovery Act, where possible. For example, the Colorado Department of Transportation has already developed a sign template for road projects funded by the Recovery Act.

administrative costs associated with Workforce Investment Act programs,[7] consistent with their normal procedures for administration of the programs, while officials from the Colorado Department of Education said they were uncertain what, if any, funds they were going to receive to administer and manage recovery programs. State officials told us they believe the government services portion of the SFSF can be used by the Colorado Department of Education and other state departments to cover administrative costs.[8]

Colorado Officials Expressed Concerns Related to Tracking of, Internal Controls over, and Safeguards for Recovery Act Funds

Colorado officials identified general areas of vulnerability in spending Recovery Act funds, as well as specific concerns about their ability to oversee Recovery Act funds coming into the state. Areas of vulnerability include new programs and localities that may be ill-equipped to manage the influx of new funds. In addition, state officials are concerned about their ability to oversee Recovery Act funds because of three primary challenges: (1) the state's accounting system is 18 years old, which may make it challenging to tag and track Recovery Act funds; (2) adequate resources to administer and audit expenditures of Recovery Act funds may not be available; and (3) state officials are still determining what they will be required to track and report on and are particularly concerned about tracking funds that bypass the state and flow directly to local entities.

Colorado Officials Identified Potential Areas of Vulnerability in Spending Recovery Act Funds

The state's departments have begun to identify potential areas of vulnerability in spending Recovery Act funds, according to officials. One area that officials identified is the influx of new Recovery Act funds that must be adequately managed as they are spent quickly. For example, some programs, such as Medicaid, already have known weaknesses in managing existing funds (identified, for example, in audits conducted by the Colorado state auditor) and may be challenged in managing large amounts of additional funds. A second vulnerable area, according to officials, involves new programs that do not have well-established processes, or programs that will need to establish additional processes, to accommodate

[7]In addition, an official from the department said that regions within the state that receive Recovery Act funds for Workforce Investment Act programs can also use 10 percent of their regional allocations for administration.

[8]In April 2009, the U.S. Department of Education issued guidance on the SFSF, stating that administrative costs associated with implementing the Recovery Act are allowable expenditures under the SFSF.

significant funding increases, such as the state's energy program, which will receive funds for weatherization and other energy projects. Funds that go directly to localities are a third area that may be vulnerable because, according to officials, the state does not currently oversee these funds and cannot provide assistance to local entities, some of which may not be well-equipped to manage the increased funds.

Colorado's Accounting System Is Outdated

State officials were concerned that Colorado's accounting system—the Colorado Financial Reporting System (COFRS)—is 18 years old, which may make it difficult for the state to use and track Recovery Act funds. For example, state officials are concerned about Colorado's ability to report quickly on Recovery Act expenditures. Because of limitations associated with COFRS, officials told us the state will have difficulties meeting reporting requirements established for certain Recovery Act expenditures, such as the requirement in section 1512 of Title I, Division A of the Recovery Act calling for recipient reports within 10 days of the end of the calendar quarter. In addition, some individual state departments do not use the COFRS grant module and therefore must manually post aggregate revenue and expenditure data to COFRS. Consequently, given the state's current capabilities, data on total Recovery Act funding received by the state may not be able to be drawn from COFRS and may have to be compiled through a manual exercise outside of the central financial management system, raising internal control concerns among some officials we talked with. These concerns include inadequate audit documentation on how the information is compiled, potential human error in inputting and aggregating information, and potentially inconsistent or duplicative reporting from various agencies on the extent and nature of Recovery Act funding received and used. Finally, state officials also voiced concerns that COFRS uses Catalog of Federal Domestic Assistance numbers to track grants from each federal agency, but some federal departments are not establishing unique Catalog of Federal Domestic Assistance numbers for some Recovery Act funds, which will make automated reporting difficult.

Procurement and Audit Resources May Be Inadequate

Officials with the Colorado Department of Personnel & Administration were concerned that vacancies in procurement positions posed an impediment to effective tracking and control over the state's Recovery Act funds. Many Colorado state agencies have vacancies for procurement officers, which have been left unfilled due to the state budget shortfall and a consequent hiring freeze. For example, the Department of Personnel & Administration, which administers statewide contracts and supports

several state agencies that have little or no purchasing authority, currently has three vacancies in its purchasing agent and contracting positions. Filling these vacancies would enable this department to better assist state agencies receiving Recovery Act funds, according to department officials. Similar purchasing agent vacancies exist, according to these officials, in the Colorado Departments of Corrections, Education, Human Services, Labor and Employment, and Local Affairs. Colorado Department of Personnel & Administration officials hope to hire former or retired state employees with procurement experience on a 6-month basis to alleviate this problem, but additional funding—and possibly legislative and budgetary approval—may be needed in order to hire temporary procurement personnel, which could potentially delay hiring if the state needs to await legislative action.

State officials were also concerned with the amount of audit coverage throughout the state. For example, officials with the Colorado state auditor's office told us their office would have difficulty absorbing additional work associated with the Recovery Act, and believed that state oversight capacity was limited. For example, according to these officials, the Department of Health Care Policy and Financing (the state's Medicaid agency) has had three controllers in the past 4 years; these officials also told us the state legislature's Joint Budget Committee recently cut field audit staff levels for the state Department of Human Services in half. Officials with the Department of Personnel & Administration told us their department's internal auditor position is vacant, while officials with the Colorado Department of Transportation told us that two of their department's financial management positions, including the deputy controller position, are vacant. At the county level, Jefferson County recently terminated its internal auditor and eliminated its internal control audit office.

The reduced number of staff in oversight positions resulted in part from budget cuts and staffing decisions during the state's last economic downturn, and state officials told us certain positions would be difficult to fill because of the state's current hiring freeze. Officials said because the "ratchet effect" of Colorado's constitutional and legislative requirements limits the growth of spending, it can be difficult to re-establish and fill

positions that are eliminated during economic downturns.[9] Officials told us, for example, that some state agencies have not refilled all of the staff positions they lost to budget cuts during Colorado's 2001-2003 downturn.

Colorado Officials Are Still Determining State Reporting Requirements

Colorado officials said they have not received state-specific guidance on Recovery Act reporting from the federal Office of Management and Budget. They said the guidance provided in February and April 2009 was addressed to federal departments and agencies, and it was necessary to determine whether and how this guidance applied to state governments. Officials wondered, for example, whether the state would be required to report centrally on all funds coming through the state or whether state agencies will report as normal through federal departments, or both; what the frequency and form of reports will be; and the level to which funds will need to be tracked and reported (e.g., at the recipient level, subrecipient level, etc.). Officials were especially concerned that a substantial portion of funds provided to Colorado will go directly to local entities, making it difficult for state officials to be aware of and track all funds within the state.

In the absence of state-specific guidance, state officials were taking some steps on their own to track the use of Recovery Act funds. Department of Personnel & Administration officials said they anticipated that statewide reporting on the use of Recovery Act funds will be necessary, in addition to having individual state departments and agencies reporting directly to their respective federal granting agencies. The department discussed various tracking and reporting methodologies with state department controllers to determine what tracking method would be the most effective and least disruptive; the department determined that the state would create an accounting fund through which it could track state agencies' use of Recovery Act funds and would employ a centrally defined budget-coding structure for Recovery Act funds, which should be able to distinguish between Recovery Act funds and other federal non-Recovery

[9]The provisions include the Taxpayer Bill of Rights, or TABOR, which the voters passed in 1992. These provisions, as described by state officials and documents, limit annual growth in state revenues to the amount of population growth plus inflation over the previous year, and also require any tax increase to be voted on by taxpayers. The amendment is also considered to have "locked in" a separate 6-percent limit on state spending increases passed by the legislature in 1991. During an economic downturn, reduced government revenues may lead to reduced government services and expenditures. The "ratchet effect" comes into play during subsequent recovery periods, when constitutional revenue and spending limitations restrict the growth of these services.

Act funds. This accounting process would capture only those funds flowing through state agencies. State officials said they are still determining how they will capture funds that do not flow through the state and said that guidance will be important in order to prevent duplicate reporting of Recovery Act funds by state and federal agencies. Although they are moving forward, state officials are hesitant to establish statewide reporting requirements for fear they could waste state resources developing and implementing an approach that is not consistent with the federal guidance ultimately established.

Colorado Is Developing Plans to Assess the Effects of Recovery Act Funds

Colorado's state departments with responsibility for the funds we examined described a range of approaches to assess and report on the effects of recovery spending in the state. Some agencies plan to use their existing performance indicators to assess the effects of Recovery Act funding, as they have not yet received reporting guidance from the federal departments involved. For example, Colorado Housing and Finance Authority officials said they plan to use existing indicators, such as the number of affordable housing units created and the relative income levels of populations served by those units, to assess the effects of Recovery Act funding for the Low-Income Housing Tax Credit. Other agencies, such as the Colorado Department of Transportation, have received guidance to report on existing and new indicators, such as direct jobs associated with Recovery Act projects; the indicators will involve a significant increase in data collection and reporting by the department, including gathering data from more entities and reporting more frequently than the department has reported in the past, according to department officials. In another example, the Colorado Department of Public Safety, which did not report on jobs in the past, will report on the jobs created or retained with the spending of justice assistance grants. In addition, it will report on a set of new performance measures being developed by the federal Department of Justice Bureau of Justice Assistance. Department of Public Safety officials are concerned about the timing of reporting job creation and retention data, however, because the Recovery Act requires states to report 10 calendar days after the end of each quarter, which is faster than the normal reporting time frames and, according to officials, will necessitate that recipients report to the department within 5 calendar days of the end of the quarter. Some grantees will have difficulty reporting within such short time frames, according to one department official, because they still mail or hand deliver their reports.

State and local officials raised other concerns about tracking the economic effects of Recovery Act funds. Officials with the state auditor's office, for example, said that tying specific funding to the creation of particular jobs is problematic. One state official pointed out that increased FMAP available under the Recovery Act would reduce the amount of funds that Colorado will need to spend on its Medicaid program, allowing the state to use these funds for other purposes and avoid cutting other programs to balance the state budget. However, because specific program cuts were not determined, identifying the preserved programs and their economic effects is impossible. While some state departments have received guidance on counting jobs created or retained, officials from at least one local department said they needed more guidance about how to measure the number of new jobs created. Another official said that her department will report jobs created or retained but questioned how indirect jobs would be counted. According to this official, spending Recovery Act funds to purchase items such as equipment or vehicles will have substantial economic effects, particularly the creation of indirect jobs, but she was not certain how these jobs would be counted and asked whether clarification would come through Office of Management and Budget or other guidance. To measure such impacts for the state, an economic impact assessment would need to be conducted, according to a member of the Colorado Economic Recovery Accountability Board. The board is considering contracting for such an assessment, according to the member, but has not yet decided on whether or when to do it.

Colorado's Comments on This Summary

We provided the Governor of Colorado with a draft of this appendix on April 17, 2009. State officials from the Governor's office responded for the Governor on April 20, 2009. In general, they agreed with this summary of Colorado's recovery efforts to date. The officials also provided technical comments that were incorporated, as appropriate.

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Appendix VI: Florida

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $1.4 billion in increased FMAP grant awards to Florida.
  - As of April 1, 2009, Florida has drawn $817 million, or 58.6 percent of its increased FMAP grant awards to date.
  - From January 2008 to January 2009, the state's Medicaid enrollment increased from 2,151,917 to 2,391,569, with most enrollment changes attributable to two population groups: (1) children and families and (2) other individuals, including those with disabilities.
  - While funds are made available as a result of the increased FMAP, the state legislature is still determining how to make use of these funds.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Florida was apportioned about $1.3 billion for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had not obligated any Recovery Act funds for Florida projects.
  - On April 1, 2009, the Florida Department of Transportation (FDOT) prepared a final listing of potential Recovery Act funded projects and on April 15, 2009, the Florida Legislative Budget Commission approved the list of projects. The U.S. Department of Transportation, Federal Highway Administration must also approve the final listing of projects before the state can advertise bids for contracts.
  - These projects include activities such as resurfacing roads, expanding existing highways, repairing bridges and installing sidewalks.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Florida was allocated about $1.8 billion from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance-of-effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. According to Florida officials, Florida plans to apply for a waiver to obtain these funds after the Department of Education issues final instructions for waiver applications.

Florida is also receiving Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (commonly known as No Child Left Behind); programs under the Individuals with Disabilities Education Act (IDEA); and Workforce Investment Act employment and training programs. The status of plans for using these funds is described throughout this appendix.

Safeguarding and transparency: The Governor has created the Florida Office of Economic Recovery to oversee, track and provide transparency in how Recovery Act funds are spent. In addition, according to Florida officials, Florida's accounting system will be able to separately track the Recovery Act funds flowing through the state government. Florida plans to publicly report its Recovery Act spending on a state Web site. Florida state accountability organizations have identified areas where Recovery Act funds may be at greater risk of fraud, waste, and abuse, such as Medicaid, and have begun to collaborate in developing plans for oversight.

Assessing the effects of spending: Florida state officials are in the early stages of developing plans to assess the effects of Recovery Act spending and told us that guidance from the federal government would be instrumental in developing their plans. On April 3, 2009, the U.S. Office of Management and Budget (OMB) issued guidance indicating that it will be developing a comprehensive system to collect information, including jobs retained and created, on Recovery Act funds sent to all recipients. Florida state officials told us that they will ask OMB to allow the state to obtain data from this system on local entities in Florida that receive Recovery Act funds directly from federal agencies.

Florida Beginning to Use Recovery Act Funds

Florida has begun to use some of its funds made available as a result of the Recovery Act, as follows:

Increased Federal Medicaid Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal

matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008 and December 31, 2010.[1] 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.[2] 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, provide for: (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that the state must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, Florida has drawn down $817 million in increased FMAP grant awards, which is about 58.6 percent of its awards to date.[3] The state is determining how to make use of the state funds made available as a result of the increased FMAP grant awards. Officials told us that each state agency with a budget impact resulting from Recovery Act funding has prepared budget amendments for the current state fiscal year (July 1, 2008, to June 30, 2009) for consideration by the Executive Office of the Governor and the Legislative Budget Commission (LBC). On April 15, 2009, the LBC approved 17 amendments to the 2008-2009 state appropriation to authorize the use of Recovery Act funds. The state has drawn down funds that are for Medicaid expenditures retroactive to October 1, 2008. Florida officials told us they require additional guidance from CMS on the prompt payment requirements, and for CMS to provide

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

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

[3]Florida received increased FMAP grant awards of $1.4 billion for the first three quarters of federal fiscal year 2009.

the state guidance, if applicable, on any additional reporting requirements.[4]

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Florida provided this certification, but conditioned it, noting that state funding for the transportation programs is provided from dedicated funding sources that are subject to fluctuations resulting from economic conditions.[5]

On April 15, 2009, the Florida LBC approved the Recovery Act funded projects that the FDOT had submitted. As of April 16, 2009, the U.S. Department of Transportation had not obligated any Recovery Act funds for Florida projects.[6] The Federal Highway Administration must approve this final listing of projects before the FDOT can advertise bids or request reimbursement from the Federal Highway Administration. The state's projects include activities such as resurfacing roads, expanding existing highways, repairing bridges, and installing sidewalks.

[4]Under the Recovery Act, to be eligible for the increased FMAP grant awards, states must comply with prompt payment requirements that require states to pay 90 percent of clean claims from health care practitioners within 30 days of receipt and 99 percent of these claims within 90 days of receipt.

[5]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[6]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers. Florida's initial SFSF allocation is about $1.8 billion. However, according to Florida officials, the state will not be able to meet the maintenance-of-effort requirement to readily qualify for these funds because revenue declines led to cuts in the state's education budget in recent years. The state will apply to Education for a waiver from this requirement; however, they are awaiting final instructions from Education on submission of the waiver. Florida plans to use SFSF funds to reduce the impact of any further cuts that may be needed in the state's education budget.

Florida's Planning Process Has Set the Stage for Decisions on Spending of Recovery Act Funds

Florida state officials began preparing for the use of Recovery Act funds prior to the receipt of the funds. Florida officials believe that Recovery Act funds are critical to addressing the state's budgetary crisis and maintain necessary services to its citizens. According to state officials, the state plans to use about $3 billion of Recovery Act funds to reduce the state's $6 billion budget shortfall for state fiscal year 2009-2010. One reason for this shortfall is the significant declines in revenue Florida has faced in recent years—23 percent since state fiscal year 2005-2006, from about $27.1 billion to $20.9 billion in state fiscal year 2008-2009—due to such factors as the recession and housing crisis. State officials estimate that Florida will receive about $15 billion in Recovery Act funds over 3 state fiscal years. Florida estimates that approximately $14.1 billion of this amount will flow through state agencies, with at least $4.7 billion of this amount allocated to local entities. In addition, approximately $1.2 billion in funding will be directly allocated to local entities from federal agencies.

On March 3, 2009, the Governor established the Florida Office of Economic Recovery that is responsible for overseeing, tracking and providing transparency of Florida's Recovery Act funds. The office is headed by the Special Advisor to the Governor for the Implementation of the American Recovery and Reinvestment Act (Recovery Czar) and includes three other staff members on loan from state agencies. The Florida Office of Economic Recovery also established an implementation team that meets twice a week and includes representatives from each of

the state's program agencies and administrative offices, such as the Office of Policy and Budget, the Chief Inspector General, the State Auditor General, the Department of Financial Services, as well as representatives from the Florida Association of Counties and the Florida League of Cities. On March 17, 2009, pursuant to Section 1607 of division A, title XVI of the Recovery Act, the Governor certified that the state would request and use funds provided by the act. Additional certifications for transportation, energy, and unemployment compensation have also been submitted.

According to state officials, before Florida agencies can use the Recovery Act funds, the Florida legislature must authorize the use of all funds received by state agencies, including those passed-through to local governments. On April 15, 2009, the joint Legislative Budget Commission met and approved 17 amendments to the 2008-2009 state budget authorizing appropriations totaling almost $4 billion in Recovery Act funds. The Florida state legislature is still in session and developing the state's fiscal year 2009-2010 budget. As explained by state officials, if the legislature does not pass the authorization for the Recovery Act funds before the end of the session (May 1, 2009), a joint legislative budget committee can later amend the Appropriation Act and authorize the use of the Recovery Act funds or the legislature can reconvene.

To promote transparency, the Florida Office of Economic Recovery implemented a state Recovery Act Web site that became operational on March 19, 2009.[7] The Web site is intended to provide information to the public on the amount and uses of Recovery Act funds the state receives and on resources being made available to citizens, such as unemployment compensation and workforce training.

Florida Has a System to Track Recovery Act Funds but Anticipates Challenges in Obtaining Timely Data from Localities

Officials from Florida's Department of Financial Services said that the state's accounting system—Florida Accounting Information Resource (FLAIR)—will be used to track Recovery Act funds that will flow through the state government. The state agencies will record the Recovery Act funds separately from other state and federal funds using selected identifiers in FLAIR such as grant number or project number. Officials in some Florida state program agencies raised concerns that local areas will not be able to provide timely data to enable state agencies to meet financial reporting deadlines for the quarterly reports required by the

[7]www.flarecovery.com

Recovery Act. These reports on the uses of Recovery Act funds are due 10 days after the end of each quarter.[8] In addition, Florida officials and a group representing local school superintendents were particularly concerned about the ability of school districts to meet these deadlines after having experienced reductions in administrative staff due to recent budget cuts.

Florida officials submitted feedback to OMB suggesting that OMB consider providing guidance on reconciling the information provided in the Recovery Act quarterly reports with other federal reporting requirements to avoid confusion. According to Florida officials, quarterly reports on many federal grants are due 45 days after the end of the quarter and reporting systems are currently oriented towards these requirements. Florida officials added that it is likely that meeting the Recovery Act quarterly reporting requirement will necessitate the submission of preliminary reports.

State Agencies Are Providing Guidance to Localities on Use of Funds

Some state agencies have issued or are developing guidance to assist local areas in planning for the use of Recovery Act funds that will be passed through the state to local areas. For example, on April 1, 2009, Florida received about $580 million for Title I, Part A of ESEA and for IDEA, which will be passed through to local school districts. In anticipation of these funds, the Florida Department of Education provided guidance to school districts on strategies for using education funds, such as assigning high-performing teachers to low-performing schools, providing reading coaches to schools, and investing in intensive professional development for teachers.

On March 19, 2009, Florida received almost $143 million for the Workforce Investment Act Adult, Youth, and Dislocated Worker employment and training programs and made $121 million available to regional workforce areas the next day. As of April 13, 2009, regional workforce areas had drawn down about $744,000 of these funds, according to a Florida official. Florida's Agency for Workforce Innovation had previously established various task teams, composed of state and regional workforce officials that created action plans for implementing these funds. For example, to facilitate the rapid expansion of summer youth employment programs, the

[8]Recovery Act, div. A, title XV, § 1512(c).

state plans to develop a local implementation checklist and a toolkit of summer youth materials.

Plans for Safeguards and Controls Being Developed at State Level

Florida has various oversight entities responsible for monitoring, tracking, and overseeing financial expenditures, assessing internal controls and ensuring compliance with state and federal laws and regulations: the Office of the Chief Inspector General, Auditor General, Office of Program Policy Analysis and Government Accountability (OPPAGA), and the Department of Financial Services. Each state agency has an Office of Inspector General (OIG) that is responsible for conducting audits, investigations, and technical assistance, and promoting accountability, integrity and efficiency in the state government. The Auditor General has broad audit authority with respect to audits of government agencies in Florida and routinely conducts Single Audits of the State of Florida reporting entities and of the state's district school boards. The single audits include determining if federal and state expenditures are in compliance with applicable laws and regulations and assessing the effectiveness of key internal controls. Florida's OPPAGA—the research unit of the state's legislature—is responsible for conducting studies on the performance of state agencies and programs to identify ways to improve services and cut costs. In addition, the Florida Department of Financial Services is responsible for overseeing state expenditures and financial reporting. Independent certified public accountants also conduct annual financial audits of local governmental entities, such as counties and municipalities. According to state officials, Florida law requires that the scope of such audits encompass federal and state Single Audit requirements, as applicable.

Potential Areas of Vulnerability with Florida Recovery Act Funds

Past experience has highlighted financial management vulnerabilities in agencies that will receive Recovery Act funds. Auditor General and state OIG reports identified several high-risk areas that are vulnerable to fraud, waste, and abuse. For example, in 2008:

- State officials identified Medicaid as the highest risk program. The Auditor General reported breakdowns in internal controls over the Medicaid program because state Medicaid program officials failed to properly document and verify recipients' income, which increased the risk of ineligible individuals receiving program benefits.

- The Auditor General reported that, for some federal programs, the Florida Department of Education failed to provide monitoring that reasonably ensured sub-recipient adherence to program requirements.
- The Auditor General reported that the Florida Department of Community Affairs failed to provide information that was needed to assess the success or progress of its federal low-income housing community development block grant program.
- The agency OIGs continue to provide oversight through audits and investigations of contracting and grant activities associated with federal funds. For instance, FDOT and Florida's Department of Education OIG reported on contractors' inaccurate reporting of expenditures and inadequate oversight of sub-contractors. Moreover, in July 2008, the FDOT OIG reported their review of contract files disclosed that differences between the state's accounting system payments and the recipient expenditures were not adequately explained.

State officials also expressed some broader concerns about other potential risks. For example, state officials identified new programs in the Recovery Act as potentially risky and noted that the state's fiscal year 2009 Single Audit report that will cover such new programs will not be completed until spring 2010. State officials also expressed concern about potential risk in programs receiving large funding increases under the Recovery Act. For example, Florida Department of Law Enforcement officials stated that the amount of Recovery Act funds received for the Edward Byrne Memorial Justice Assistance Grant Program, which is designed to help prevent and control crime and improve the operations of the criminal justice system will be four to five times the amounts received in prior years. For these programs, they estimate that about $52 million will be passed through to 67 local Florida counties, which have had grants collectively totaling only $12 million to $15 million in past years.

Plans for Oversight of Florida Recovery Act Funds

In response to the Recovery Act, Florida's Chief Inspector General established an enterprisewide working group of agency OIG's to evaluate risk assessments, and promote fraud prevention, awareness, and training. The group members are updating their annual work plans by including the Recovery Act funds in their risk assessments and will leave flexibility in their plans to address issues related to these funds. In preparing to conduct the Single Audits for 2008-2009 and subsequent fiscal years, the Auditor General is monitoring the state's plans for accounting for and

expending Recovery Act funds, tracking the expected changes in OMB's Single Audit requirements, and participating in the National State Auditors Association's efforts to provide input on Recovery Act accounting, reporting, and auditing issues. The Auditor General expects the number of major federal programs to increase as a result of the large infusion of Recovery Act funds into the state, thus increasing the number of federal programs that the Auditor General must audit as part of the state's annual Single Audit. Officials from Florida's OPPAGA expect an increase in the number of legislative requests for their studies—particularly those focused on education programs—as Recovery Act funds are disbursed to recipients.

The OIGs are developing and refining strategies to ensure oversight of Recovery Act funds. For example, the FDOT OIG is developing plans to increase its up-front monitoring activities for transportation funds to mitigate the potential risk of fraud, waste, and abuse. Some of these activities include:

- Designating a team of seven auditors to monitor Recovery Act expenditures and other related activities;
- Developing fraud awareness training specifically for Recovery Act projects;
- Conducting risk assessments of Recovery Act transportation projects; and
- Monitoring and providing oversight for the pre-construction, advertisement, bid, award, and contract-letting activities for Recovery Act projects.

Florida officials told us that separate accounts have been established for receipt of increased FMAP grant awards. The OIG in the Agency for Health Care Administration will follow established recovery protocol and processes to prevent and detect Medicaid overpayments by conducting detection analyses and audits, imposing sanctions, and making referrals to the Medicaid Fraud Control Unit and other regulatory and investigative agencies as appropriate.

According to Florida state officials, the state completed an initiative to strengthen contracting requirements several years ago. For example, the majority of state contracts greater than $1 million are required to be reviewed for certain criteria by the Department of Financial Services'

Division of Accounting and Auditing before the first payment is processed. The contract must also be negotiated by a contract manager certified by the Florida Department of Management Services, Division of State Purchasing Training and Certification Program.

Availability of Resources for Oversight

In light of decreased state budgets that have resulted in prior staff reductions, Florida state auditing officials expressed concern about the adequacy of staff resources to provide oversight of Recovery Act funds beyond that required under existing federal Single Audit Act requirements. For example, the Auditor General told us that the office has not hired new staff for over a year and about 10 percent of the office's positions remain unfilled. In addition, OPPAGA officials told us their staff has decreased by 10 percent in the past 2 years. State officials told us that the efficient use of existing and projected resource levels will require an ongoing assessment of risks and priorities and the allocation of staff resources to ensure the required oversight of state and federal funds, including Recovery Act funds.

Plans to Assess Impact of Recovery Act Funds Are in Initial Stages

Florida state agencies were in the early stages of developing plans to assess the effects of the Recovery Act spending because they were waiting for guidance from OMB on how to measure jobs retained and created with Recovery Act funds. For example, Florida Department of Law Enforcement (FDLE) officials said that they could count the number of staff hired to implement a new program, but they did not know how to count the number of jobs retained or created if Recovery Act funds are used for purchases of goods such as new police cruisers. In addition, FDLE and other state officials said they needed clear OMB guidance in order to build this information upfront into the data reporting requirements. Florida's Department of Education has created a new form that school districts will use to report quarterly Recovery Act expenditures and the number of jobs retained and created, but they need additional guidance from OMB to develop instructions for school districts on how to count these jobs.

Florida's Agency for Workforce Innovation is encouraging recipients of Recovery Act funds throughout the state to list jobs created with the funds in the state's existing online job bank. By including tags in the system to identify the jobs linked to Recovery Act funds, the agency expects to be able to count specific jobs created with the funds. A local workforce investment board official told us that the board is publicizing the use of

the job bank for Recovery Act jobs through radio and town hall appearances and mailings to potential recipients of Recovery Act funds.

Because Florida is only required to collect data on jobs created with Recovery Act funds for which Florida is the recipient, Florida officials plan to include data on the state Recovery Act Web site on all jobs created with Recovery Act funds in Florida. On April 3, 2009, OMB issued guidance indicating that it will be developing a comprehensive system to collect information, including jobs retained and created, from all recipients of Recovery Act funds. The state plans to ask OMB if they can obtain data relevant to Florida collected by the national reporting system on jobs retained and created with Recovery Act funds. According to Florida officials, this will reduce duplication and increase the efficiency of their reporting.

Florida's Comments on This Summary

We provided the Governor of Florida with a draft of this appendix on April 17, 2009. The Special Advisor to Governor Charlie Christ, Florida Office of Economic Recovery, responded for the Governor on April 20, 2009. In general, the Florida official concurred with the information in the appendix. The official also provided technical suggestions that were incorporated, as appropriate.

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Staff Acknowledgments

In addition to the contacts named above, Fannie Bivins, Carmen Harris, Kathy Peyman, Robyn Trotter, and Cherie' Starck made major contributions to this report.

Appendix VII: Georgia

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $521 million in increased FMAP grant awards to Georgia.
  - As of April 1, 2009, Georgia had drawn down about $312 million, or 60 percent of its initial increased FMAP grant awards.
  - State officials plan to use funds made available as a result of the increased FMAP to address increased caseloads, offset general fund needs, and maintain current benefit levels and provider reimbursement rates in the state's Medicaid program.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Georgia was apportioned about $932 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had not obligated any Recovery Act funds for Georgia projects.
  - On April 7, 2009, the Governor certified that the Georgia Department of Transportation plans to spend $208 million on 67 projects throughout the state. The department plans to award contracts for most of these projects by May 22, 2009.
  - These projects include maintenance, bridge work, and other activities.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Georgia was allocated about $1 billion from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. Georgia plans to submit its application in late April or early May.
  - The state's fiscal year 2010 budget, which passed on April 3, 2009, included $521 million in state fiscal stabilization funds for education.

Georgia also is receiving Recovery Act funds under other programs, such as Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (commonly known as No Child Left Behind); the Individuals with Disabilities Education Act, Part B; and the Tax Credit Assistance Program. The status of plans for using these funds is discussed throughout this appendix.

Safeguarding and transparency: A small core team consisting of representatives from the Office of Planning and Budget, State Accounting Office, and Department of Administrative Services (the department responsible for procurement) is taking steps to establish safeguards for Recovery Act funds and mitigate identified areas of risk. For example, the State Accounting Office has issued guidance on tracking Recovery Act funds separately, and the Office of Planning and Budget is developing a state-level strategy to monitor high-risk agencies. The State Auditor and Inspector General will monitor the use of Recovery Act funds.

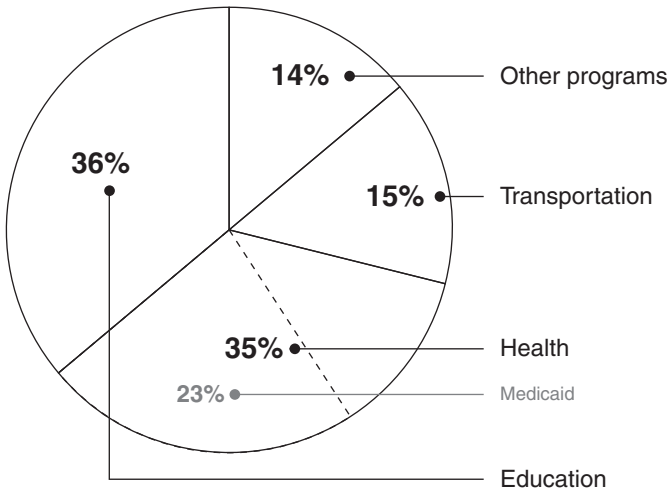
Assessing the effects of spending: While waiting for additional federal guidance, the state has taken some steps to assess the impact of Recovery Act funds on the state, including adapting an automated system currently used for financial management to meet Recovery Act reporting requirements.

Georgia Beginning to Use Recovery Act Funds

Although Georgia is still awaiting final information from the federal government, the state estimates it will receive about $7.3 billion in funding under the Recovery Act. Of that amount, about $467 million (or 6 percent) will be awarded by federal agencies directly to localities and other nonstate entities. As shown in figure 5, the majority of Recovery Act funds will support education (36 percent), health programs (35 percent, of which 23 percent will go toward Medicaid), and transportation (15 percent). The Governor completed the blanket certification for Recovery Act funds on March 25, 2009, confirming that the state will use the funds to create jobs and promote economic growth.[1]

[1]As of April 17, 2009, the Governor had also completed certifications for an arts program, energy efficiency, transportation, and unemployment insurance.

Figure 5: Georgia's Estimated Recovery Act Funding, by Major Programs, as of April 17, 2009



Source: Georgia Office of Planning and Budget.
Note: Other programs include those for housing, energy, and employment and training. The Office of Planning and Budget estimates are based on federal announcements and estimates from Federal Funds Information for States. The primary mission of Federal Funds Information for States is to track and report on the fiscal impact of federal budget and policy decisions on state budgets and programs.

The state has begun to use or plans to use funds for the following purposes:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[2] On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states,

[2]Recovery Act, § 5001.

and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act.[3] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, Georgia had drawn down $311.5 million in increased FMAP grant awards, which is about 59.8 percent of its awards to date.[4] Officials noted that these funds were drawn down retroactively for the period October 1, 2008, through February 25, 2009, but funds can now be drawn down on a more frequent basis. Georgia officials reported they plan to use funds made available as a result of the increased FMAP to address increased caseloads, offset general fund deficits, and maintain current eligibility and benefit levels in the state Medicaid program.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Georgia provided these certifications, but qualified its maintenance of effort certification, noting that the Georgia General

[3]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.

[4]Georgia received increased FMAP grant awards of $521.3 million for the first three quarters of federal fiscal year 2009.

Assembly still was considering the Georgia Department of Transportation's (GDOT) fiscal year 2010 budget, which could impact the state's highway spending plans for that year.[5]

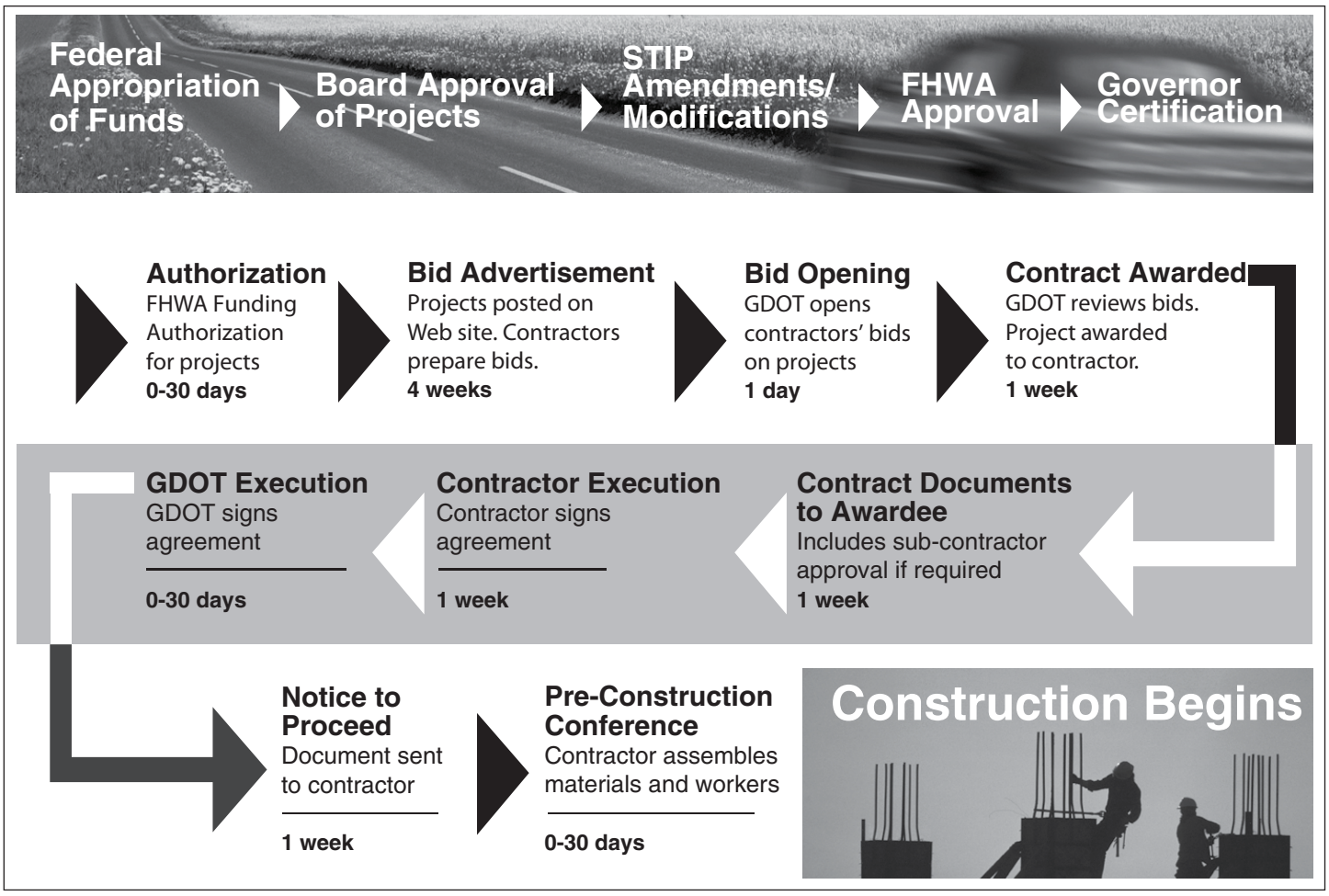
Georgia has been apportioned $932 million for highway infrastructure. On April 7, 2009, the Governor certified the first round of projects to be funded with Recovery Act funds. As of April 16, 2009, the U.S. Department of Transportation had not obligated any Recovery Act funds for Georgia projects.[6] Georgia plans to spend $208 million on 67 projects throughout the state. Of that amount, $97 million will be spent in economically distressed areas. The funds will be spent on maintenance (53 percent), bridges (23 percent), capacity projects (17 percent), safety projects (6 percent), and enhancements (1 percent). The Georgia Department of Transportation plans to award contracts for the majority of these projects (73 percent) by May 22, 2009.[7] Figure 6 illustrates the implementation time line for Recovery Act highway projects.

[5]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the Department of Transportation and has not been reviewed by GAO.

[6]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

[7]The department will award most of the remaining contracts in June and July 2009.

Figure 6: Georgia Department of Transportation's Project Implementation Schedule



Source: Georgia Department of Transportation.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Georgia's initial SFSF allocation was about $1 billion. According to state officials, the state's fiscal year 2010 budget passed on April 3, 2009, and included $521 million in state fiscal stabilization funds for education and $140 million in state fiscal stabilization funds for public safety.[8] Georgia plans to use the education funds for elementary, secondary, and public higher education. For instance, Georgia intends to use three established formulas to allocate funds to local education agencies, universities, and technical colleges. Georgia plans to use the public safety funds to help maintain safe staffing levels at state prisons, appropriately staff the state's forensic laboratory system, and avoid cuts in the number of state troopers. Georgia plans to submit its application for fiscal stabilization funds in late April or early May.

In addition to the major programs we discussed earlier, table 6 shows how Georgia and two local entities plan to use Recovery Act funds for other selected programs.[9]

[8]The state's fiscal year runs from July 1 through June 30.

[9]The two local entities we visited were the Atlanta Housing Authority and the Atlanta Regional Workforce Board.

Table 6: Planned Uses of Selected Recovery Act Funds

Selected programs	Anticipated funds (in millions of dollars)[a]	Examples of planned uses
Transportation		
Transit Capital Assistance Grants	144	Funds will be used to help with needs that were deferred as a result of budget cuts, such as bus replacement and the purchase of cleaner fuel vehicles.
Fixed-Guideway Infrastructure	7	Funds will go to the Metropolitan Atlanta Rapid Transit Authority.
Education		
Title I of the Elementary and Secondary Education Act of 1965 (commonly known as No Child Left Behind)	351 (grants to local education agencies); 104 (school improvement)	State will encourage local education agencies to focus on professional learning opportunities for staff and intervention programs for students who need help with math and writing.
Individuals With Disabilities Education Act, Parts B and C	339	Among other things, the state plans to encourage local education agencies to (1) provide professional development for special education teachers, (2) expand the availability and range of inclusive placement options for preschoolers, and (3) obtain state-of-the-art assistive technology devices and provide training in their use to enhance access to the general curriculum for students with disabilities.
Other programs		
Workforce Investment Act programs	88	State plans to use a portion for administration, oversight of local workforce agencies, as well as rapid response during major layoffs; the majority of the funds will be allocated to the 20 local areas within the state for adult, youth, and dislocated worker programs. The Atlanta Regional Workforce Board—the local workforce board for seven counties in the Atlanta metropolitan area—is concentrating on plans for using the $3.1 million it will receive for summer youth programs.[b]
Tax Credit Assistance Program	54	State will focus on fiscal year 2008 projects that received tax credits and those on the waiting list; for projects that received tax credits but are having difficulty using them, the state will either provide gap financing or exchange the tax credits for grants.
Public Housing Capital Fund	112[c]	The Atlanta Housing Authority will use $18.6 million to rehabilitate 13 public housing developments and an additional $8 million to complete the demolition of 3 public housing developments.
Neighborhood Stabilization Program	To be determined	State plans to apply, but the competition criteria have not yet been published.
Edward Byrne Memorial Justice Assistance Grants	36	State is currently developing a strategy to allocate the funds that must be passed through to local governments.

Source: GAO.

[a]The anticipated funds are based on federal agency announcements as of April 17, 2009.

[b]The Atlanta Regional Workforce Board is administered by the Atlanta Regional Commission.

[c]These funds go directly to local public housing authorities.

In Addition to Addressing Specific Program Areas, Recovery Act Funding Also Will Help Mitigate Ongoing Fiscal Challenges

The recent economic downturn adversely affected Georgia in a number of ways:

- Higher unemployment rate—as of February 2009, the state's unemployment rate was 9.3 percent. This rate surpassed the national unemployment rate (8.1 percent) and was almost double the state unemployment rate from a year earlier (5.4 percent).

- Increases in Medicaid enrollment—from January 2008 to January 2009, the state's Medicaid enrollment increased from 1,265,136 to 1,314,689, with increased enrollment attributable to three population groups: (1) children and families, (2) disabled individuals, and (3) other populations, which includes refugees and women with breast and/or cervical cancer.

- Declining revenue—through March 2009, the state's net revenue collections for fiscal year 2009 were 8 percent less than they were for the same time period in fiscal year 2008, representing a decrease of approximately $1 billion in total taxes and other revenues collected.[10]

- Use of reserves—to offset shortages in revenue, the state used $200 million from its Revenue Shortfall Reserve, or "rainy day" fund, in fiscal year 2009 and will use an additional $259 million in fiscal year 2010.

- Recent budget cuts—overall, the state's budget was cut by 8 percent from fiscal year 2008 to fiscal year 2009.[11] As shown in table 2, some individual agencies were cut more significantly than others. Georgia officials plan to use Recovery Act funds to limit additional budget cuts.

[10]Net revenue collections for the month of March 2009 totaled $988 million—compared with $1.2 billion for March 2008, a decrease of 14.5 percent.

[11]This percentage represents the difference between the amended fiscal year 2008 budget and the amended fiscal year 2009 budget.

Table 7: Budget for Selected State Agencies in Georgia, Fiscal Years 2008 and 2009

Selected state agencies	Amended fiscal year 2008 budget[a]	Amended fiscal year 2009 budget[a]	Percentage change from fiscal years 2008 to 2009
Department of Community Affairs	$35,718,525	$17,011,787	-52.4
Criminal Justice Coordinating Council	898,061	472,465	-47.4
State Accounting Office	7,205,916	4,089,053	-43.3
Department of Administrative Services	9,707,880	7,767,003[b]	-20.0
Department of Community Health	2,347,794,015	1,879,185,744	-20.0
State Inspector General	833,534	679,410	-18.5
State Housing Finance Agency	3,287,829	2,700,020	-17.9
Department of Human Resources	1,631,068,194	1,394,208,017	-14.5
Department of Labor	55,081,172	47,934,616	-13.0
Office of Planning and Budget	9,474,735	8,419,050	-11.1
Department of Audits and Accounts	34,429,800	30,654,383	-11.0
Office of the Governor	7,653,328	7,113,270	-7.1
Department of Education	7,973,900,641	7,506,343,096	-5.9
Department of Transportation	832,725,819	865,193,794	3.9

Source: GAO analysis of Georgia Office of Planning and Budget data.

Notes: The state agencies in the table are those we interviewed or surveyed during this first reporting period. The Department of Administrative Services serves as the state's procurement office. The State Accounting Office serves as the state's controller. The Office of Planning and Budget is the state's budget office. The Department of Audits and Accounts is the state auditor.

[a]The amended budgets for fiscal years 2008 and 2009 represent state funds only.

[b]The fiscal year 2009 amount for the Department of Administrative Services includes $5,424,149 in agency reserves used to supplement appropriations.

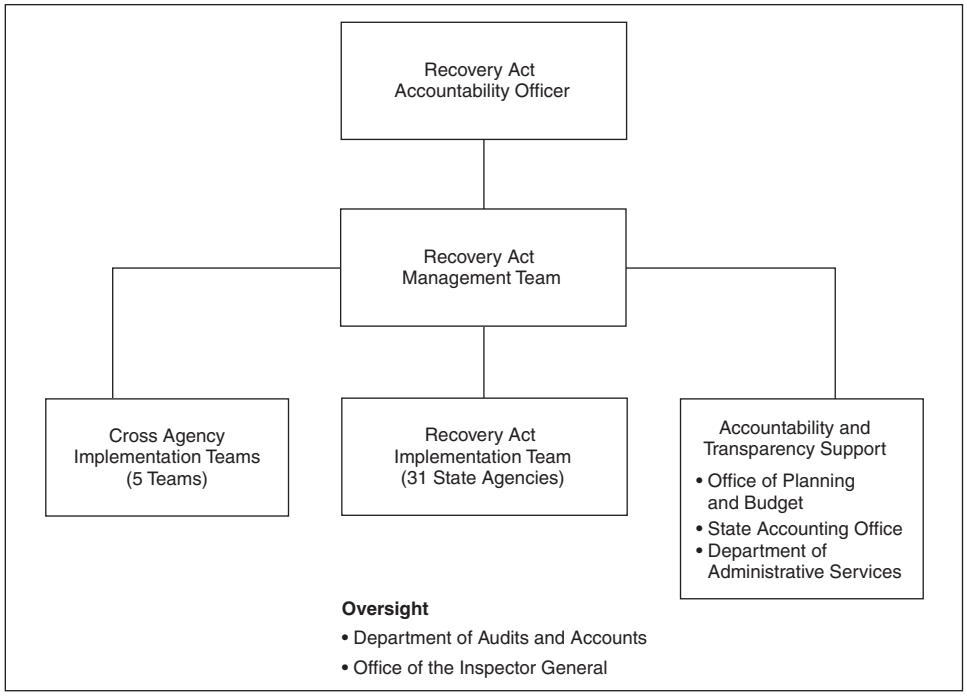
Georgia Has Adapted Existing Processes to Approve Uses of Recovery Act Funding

Georgia moved quickly to implement an infrastructure to manage Recovery Act funds. A small core team was in place as of December 2008 to begin planning for implementation. Within 1 day of enactment, the Governor had appointed a Recovery Act Accountability Officer, and she formed a Recovery Act implementation team shortly thereafter. The implementation team includes a senior management team, officials from 31 state agencies, a group to support accountability and transparency, and cross-agency teams (see fig. 7).[12] The Recovery Act Accountability Officer and senior management team are responsible for analyzing and

[12]The cross-agency teams work on initiatives such as energy, broadband, and competitive grants.

disseminating federal and state guidance to the state agencies receiving Recovery Act funds. The accountability and transparency support group comprises representatives from the Office of Planning and Budget, State Accounting Office, and Department of Administrative Services. The State Auditor will serve as the primary auditor of the funds, and the Inspector General will provide investigative support and respond to complaints of fraud. The first implementation team meeting was held on February 24, 2009. Since then, the implementation team has met almost every week.

Figure 7: Organizational Chart of Georgia's Recovery Act Implementation Team



Source: Georgia Recovery Act Accountability Officer.

According to state officials, each year the Governor is required to present to the General Assembly a recommended state budget for the upcoming fiscal year and an amended budget for the current fiscal year. Prior to submitting the budget for the upcoming year, the Governor sets the state's revenue estimate, which when added to surplus and reserve funds, determines the size of the forthcoming appropriations bill. Furthermore, state officials told us that the Governor has the authority to approve the

appropriations bill in its entirety or choose individual expenditure items to veto.[13]

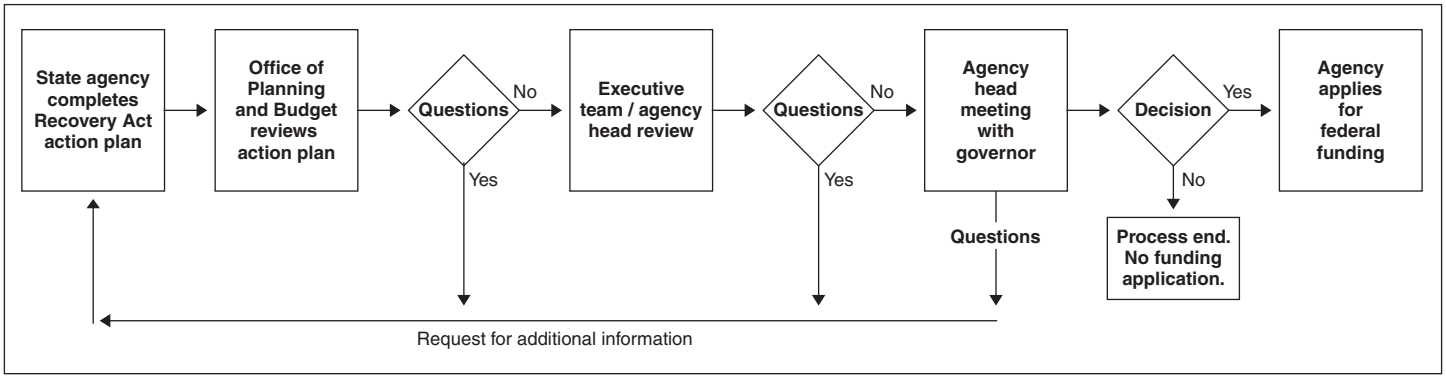
To approve the use of Recovery Act funds, Georgia has enhanced its existing budget process. The majority of Recovery Act funds will be added into state budgets via an amendment process through the Governor's Office of Planning and Budget. A monthly Recovery Act budgeting and amendment process has been established to account for federal dollars. The Recovery Act approval process requires that each state agency submit an action plan to the Office of Planning and Budget that includes information on the agency, funding sources, accountability measures, and details on individual projects funded (see fig. 8).[14] For Recovery Act funds the state government receives, the budget office also is requiring state agencies to complete a tool that assesses risk. The budget office then reviews the plans submitted by the agency, provides feedback to the agency, and, in conjunction with the agency, finalizes the plans and risk assessment tool. The Governor, the Recovery Act Accountability Officer, budget office staff, and agency officials meet to vet the action plan and make a final decision on applying for funding. As of April 17, 2009, all state agencies had submitted action plans, and the budget office had begun its review of these plans.[15]

[13]However, state officials noted that the legislature can override a gubernatorial veto with a two-thirds majority in each chamber.

[14]The actions plans were initially required to be submitted on February 12, 2009; however, due to delays in federal guidance, some state agencies were granted an extension until early March.

[15]The Department of Education was given an exemption, and weekly meetings were held with the Office of Planning and Budget to gather information in lieu of action plans.

Figure 8: State of Georgia Review Process for Recovery Act Funds



Source: Georgia Office of Planning and Budget.

Note: The executive team for the action plan process includes the Recovery Act Accountability Officer, the Chief Financial Officer, the Chief Operating Officer, the Governor's policy staff, Office of Planning and Budget staff, and agency officials.

Georgia Has Been Establishing Internal Controls for Recovery Act Funds

Georgia's most recent Single Audit Act report identified a number of material weaknesses. Recognizing the risks associated with the influx of Recovery Act funds, the state has taken a number of steps to establish internal controls and safeguards for these funds.

Georgia's Most Recent Single Audit Report Identified Material Weaknesses

Georgia's most recent Single Audit Act findings indicate that the state may have difficulty accounting for the use of some Recovery Act funds. In its fiscal year 2008 Single Audit report, the State Auditor identified 28 financial material weaknesses and 7 compliance material weaknesses. Three state agencies that expect to receive a substantial amount of Recovery Act funds were cited for most of the financial material weaknesses—the Department of Transportation (10), Department of Labor (4), and Department of Human Resources (2). For example, the Department of Transportation's financial accounting system was deemed unsuitable for day-to-day management. It also did not have a system in place to correctly identify fund sources, and as a result, auditors found that $138 million of federal funds were misclassified.

In addition, auditors found that the Department of Labor was unable to provide detailed account balances for the Unemployment Insurance

Program because it maintained an inadequate general ledger that consisted of manually updated spreadsheets.[16] The auditors also found that the Department of Human Resources' process of allocating indirect costs to programs had multiple deficiencies. They noted that inadequate internal controls and failure to follow established policies increases the risk of material misstatement in the financial statements, including misstatements due to fraud and noncompliance with federal regulation. In addition, the Department of Human Resources was cited for four compliance material weaknesses, such as requesting federal funds in excess of program expenditures.

To ensure that the affected state agencies will address these material weaknesses, the State Accounting Office will be monitoring corrective action plans developed in response to the Single Audit report. The office plans to issue guidance on the monitoring process by the end of April 2009 and has asked agencies to start tracking actions taken to address material weaknesses.

State Agencies Are Taking Steps to Safeguard and Oversee Recovery Act Funds

Georgia recognizes the importance of accounting for and monitoring Recovery Act funds and, despite recent budget cuts, has directed state agencies to safeguard Recovery Act funds and mitigate identified risks. At one of the first implementation team meetings, the Recovery Act Accountability Officer disseminated an implementation manual to agencies, which included multiple types of guidance on how to use and account for Recovery Act funds. For example, the Office of Planning and Budget provided details on the budgeting process for Recovery Act funds. New and updated guidance is disseminated at the weekly implementation team meetings. At the direction of the Recovery Act Accountability Officer, the three agencies tasked with accountability support—the Office of Planning and Budget, State Accounting Office, and Department of Administrative Services—and other state agencies have instituted the following safeguards:

- The Office of Planning and Budget, in collaboration with the State Accounting Office and others, is developing a state-level strategy to

[16]The state expects to receive about $236 million in Recovery Act funds for unemployment insurance ($220 million for unemployment insurance benefits and $16 million for administration).

monitor high-risk agencies.[17] Additional risk-mitigation strategies will be developed and implemented for these agencies.

- The State Accounting Office issued two accounting directives to all state agencies. The first provides guidance on accounting for Recovery Act funds separately from other funds. The state plans to use Catalog of Federal Domestic Assistance numbers to track Recovery Act funds separately. Funds will also be segregated through a set of unique Recovery Act fund sources in the state's financial accounting system. For example, the state is tracking increased FMAP funds for Medicaid through the development of a unique identifier for each grant award. The second accounting directive supplies language that should be included in all contracts issued under the Recovery Act. In addition, the office is reviewing the current accounting internal controls and assessing how they can be enhanced for Recovery Act funds.[18]

- The Georgia Department of Administrative Services plans to issue a communication alert stating that any state agency planning to award contracts with Recovery Act funds should contact the department for guidance. The department has developed standard contract language that should be included in all Recovery Act contracts and plans to publicize and offer training for state agency contracting staff. Further, the department plans to continue its compliance reviews of agencies with delegated purchasing authority to ensure they are following proper policies and procedures.[19]

- All of the agencies we met with that directly administer programs had monitoring processes in place that they plan to adapt or enhance for Recovery Act oversight. For example, the Georgia Department of Community Affairs' plans for monitoring the Tax Credit Assistance

[17]Certain state agencies have been identified as high risk due to their size, the potential for reorganization, and outdated financial reporting systems.

[18]The majority of state agencies use PeopleSoft, the state's current financial reporting system, to track their expenditures. However, there are some agencies that do not use this system and others that have greatly customized the software for their agency's individual use.

[19]A state official reported that the Georgia Department of Community Health is developing a separate contracting and vendor management process for any contracts that are needed or awarded to carry out the functions of grants that may be awarded to vendors as a result of the Recovery Act. Existing performance outcomes will be applied to the new contracting mechanism and are expected to provide early indicators regarding the need to apply additional audits or controls.

Program include a front-end analysis of costs, third-party inspections prior to the release of funds, and an audit of the general contractor by a certified public accountant. The last requirement is unique to projects funded with Recovery Act tax credits.

In addition, the State Auditor, Inspector General, and internal audit divisions within state agencies have taken or plan to take the following steps to mitigate risk and oversee the use of Recovery Act funds:

- The State Auditor issued two audit risk alerts. One urged all agency officials to include appropriate contractual provisions in Recovery Act contracts and to not rush the distribution of Recovery Act funds before adhering to proper internal control processes and understanding federal guidelines. The other alert discussed limits on the use of funds. The State Auditor also plans to provide internal control training to state agency personnel in late April. The training will discuss basic internal controls, designing and implementing internal controls for Recovery Act programs, best practices in contract monitoring, and reporting on Recovery Act funds.

- Currently, the State Auditor conducts routine statewide risk assessments as a means of identifying high-risk agencies and determining where to best focus audit resources.[20] Officials plan to target future risk assessments on programs receiving Recovery Act funding and are awaiting additional audit guidance from the Office of Management and Budget (OMB).

- The Inspector General issued a directive requiring all state agencies to insert new contractual language in any contracts, subcontracts, grants, and bid solicitations financed with Recovery Act funds.[21] The new language specifically gives her the right to inspect all records of outside vendors, subcontractors, and consultants.

- In conjunction with the State Accounting Office, the Inspector General plans to conduct unannounced visits to state agencies receiving Recovery Act funding.

[20]The risk assessments evaluate a program's previous audit findings, internal controls, and material weaknesses based on pre-established criteria.

[21]The Inspector General is part of the executive branch.

- The Inspector General also developed a database to specifically track Recovery Act complaints and a public service announcement to alert the public of how to report fraud, waste, and abuse.

- Some state agencies, such as the Departments of Human Resources and Transportation, have internal audit divisions that plan to monitor the use of Recovery Act funds. For instance, the Department of Human Resources' internal auditor has developed a plan to assess the risk of each program prior to receiving Recovery Act funding.

Resources Available for Oversight May Be Limited

As these actions and plans indicate, Georgia recognizes the importance of instituting safeguards for Recovery Act funds. However, state officials also stressed the costs of such efforts. Both the Governor's Office and the State Auditor noted that they had not received additional funding for Recovery Act oversight. As shown in table 2, several agencies with oversight responsibilities experienced significant budget reductions in fiscal year 2009, including the State Accounting Office (43 percent), Inspector General (19 percent), Office of Planning and Budget (11 percent), and State Auditor (11 percent).

The State Auditor noted that, if state fiscal conditions do not improve or federal funding does not become available for audit purposes, additional budget and staffing cuts may occur within the department. Directives from OMB, due by May 1, will provide guidance on the audit requirements for Recovery Act programs. Officials noted that the scope of pending audit requirements may greatly impact the State Auditor's ability to audit Recovery Act programs on top of existing audit requirements. In addition, some state officials that directly administer programs told us that overseeing the influx of funds could be a challenge, given the state's current budget constraints and hiring freeze. In some cases, state agencies told us that they planned to use Recovery Act funds to cover their administrative costs. Other state agencies wanted additional clarity on when they could use program funds to cover such costs.

Plans to Assess Impact of Recovery Act Funds Are in Initial Stages

In general, Georgia is awaiting additional federal guidance on reporting requirements before making detailed plans to assess impact. However, the State Auditor is adapting an existing system (used to fulfill its Single Audit Act responsibilities) to help the state report on Recovery Act funds. The statewide Web-based system will be used to track expenditures, project status, and job creation and retention. The state will make data from this system available on its Recovery Web site. The Governor is requiring all state agencies and programs receiving Recovery Act funds to use this

system. State officials do not expect to track and report on funds going directly to localities, but some said they would like to be informed of these funds so that the state can coordinate with localities. They cited broadband initiatives and health funding to nonprofit hospitals as areas where a lack of coordination could result in a duplication of services or missed opportunities to leverage resources.

In addition, some state agencies appear to have more experience tracking jobs than others. For example, the Georgia Department of Community Affairs has experience tracking jobs for the Community Development Block Grant program; therefore, agency officials do not expect to have difficulty tracking jobs for the Neighborhood Stabilization Program. For another program it will administer, the Tax Credit Assistance Program, Community Affairs surveyed potential applicants in March 2009 to gain a better understanding of performance measures that could be tracked as a part of its monitoring efforts, including job creation. In contrast, officials from other programs, such as the Edward Byrne Memorial Justice Assistance Grant program and the Transit Capital Assistance Grant program expressed concerns about identifying appropriate measures of job creation and retention within the purpose of their programs and were waiting for more guidance from federal agencies and OMB.

Georgia's Comments on This Summary

We provided the Governor of Georgia with a draft of this appendix on April 17, 2009. The Recovery Act Accountability Officer responded for the Governor on April 19, 2009. In general, she noted that the report accurately and succinctly captures the implementation status of the Recovery Act process in Georgia.

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Staff Acknowledgments

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Appendix VIII: Illinois

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, highways, and the State Fiscal Stabilization Fund.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $992 million in increased FMAP grant awards to Illinois.
  - As of April 1, 2009, Illinois has drawn down about $117.1 million, or about 12 percent of its initial increased FMAP grant awards.
  - Illinois plans to use funds made available as a result of the increased FMAP in fiscal years 2009 and 2010 to fill a Medicaid budget gap, permitting the state to move from an average 90-day payment cycle to a cycle of no more than 30 days for all of its providers, including payments hospitals and nursing homes.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Illinois was apportioned about $936 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $606.3 million for 214 Illinois projects. Illinois Department of Transportation officials stated that they will award most contracts based on a competitive bidding process, but they will use a quality based selection process for approximately $27 million in engineering services contracts.
  - These projects include activities such as resurfacing highways and repairing bridge decks.
  - Illinois will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Illinois was allocated about $1.4 billion from the initial release of these funds on April 2, 2009 by the U.S. Department of Education. On April 20, 2009, these funds became available to the state. Illinois is expecting to receive an additional $678 million by September 30, 2009.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. The state submitted its application on April 10, 2009.
  - Illinois plans to use all of its $2 billion in State Fiscal Stabilization funds for K-12 and higher education activities to address the layoffs and other cutbacks many district and public colleges and universities are facing in their fiscal year 2009 and 2010 budgets.

Illinois is also receiving additional Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (commonly known as No Child Left Behind); programs under the Individuals with Disabilities Education Act (IDEA); and two programs of the U.S. Department of Agriculture—one for administration of the Temporary Food Assistance Program and one for competitive equipment grants targeted to low income districts from the National School Lunch Program.

Safeguarding and transparency: To provide accountability and transparency in how these funds are being spent, the state has established a high level Executive Committee and a separate working group to oversee Recovery Act compliance across agencies and departments. It has also developed a Web site (www.recovery.illinois.gov) that contains information about the use of Recovery Act funds. The state is in the process of performing a risk assessment of all state programs receiving Recovery Act funds to identify potential vulnerabilities. It will use the state's Single Audit—a state-level audit of the largest programs receiving federal money—as a tool in identifying these risks. State agencies also reported that they are capable of tracking their Recovery Act funds separately from other program funds by tagging them with a special accounting or funding code. For the most part, these codes will permit agencies to then rely on existing processes to monitor and report on how these funds are being spent.

Assessing the effects of spending: Officials at several state agencies indicated that they can track various performance measures for projects funded through the Recovery Act by utilizing existing systems. However, according to officials in the Governor's office and other state agencies, more guidance is needed on definitions for job creation and retention measures to adequately measure their impact.

Illinois Beginning to Use Recovery Act Funds

Illinois has started to use some of its Recovery Act funds, and high level state officials we spoke with described several overarching priorities and goals that the state plans to achieve through use of these funds. These include averting layoffs and creating new jobs, concentrating resources on economically distressed areas, and funding infrastructure improvements, as described below.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

From January 2008 to January 2009, Illinois's Medicaid enrollment increased slightly from 2,184,963 to 2,298,802, with the highest share of the enrollment increase attributable to two population groups: (1) children and families and (2) non-disabled non-elderly adults. Illinois is estimated to receive a total of $2.9 billion in increased FMAP funding, of which $992 million has already been awarded to the state for the first three quarters of federal fiscal year 2009. For the second quarter of federal fiscal year 2009, Illinois received an FMAP of 60.48 percent—an increase of 10.48 percentage points over its fiscal year 2008 FMAP. As of April 1, 2009, Illinois has drawn down $117.1 million in Recovery Act funds, which is almost 12 percent of the amount awarded to Illinois to date. Illinois state officials indicated that the main focus in using funds made available as a

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

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

result of the Recovery Act will be to meet financial obligations and to ensure compliance with the prompt payment provisions of the Recovery Act.[3] Specifically, Illinois is using funds made available as a result of the Recovery Act to fill a Medicaid budget gap, permitting the state to move from a 90-day payment cycle to a 30-day cycle for all of its providers, including payments to hospitals and nursing homes. The state has also decided to include pharmacists in its prompt payment initiative. These actions will also help avoid potential layoffs in provider organizations.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending. The governor or other appropriate chief executive must also certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Illinois provided the first of these certifications but noted that the state's level of funding was based on the best information available at the time of the state's certification.[4]

The Illinois Department of Transportation (IDOT) is planning to spend a large share of its estimated $655 million in Recovery Act funds[5] for highway and bridge construction and maintenance projects in

[3]Under the Recovery Act, to be eligible for the increased FMAP, states must comply with prompt payment requirements, which require states to pay 90 percent of clean claims from health care practitioners within 30 days of receipt and 99 percent of these claims within 90 days of receipt.

[4]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[5]According to the Federal Highway Administration, Illinois' share of Recovery Act funds for highway infrastructure investment is approximately $936 million. This total consists of $655 million for IDOT projects and $281 million in suballocations for local government highway projects. The $655 million to IDOT includes $627 million for IDOT to use statewide and $28 million for mandatory transportation enhancements. Transportation enhancements include activities such as provision of facilities for pedestrians and bicyclists, preservation of abandoned railway corridors, acquisition of scenic easements, and historic preservation projects.

economically distressed areas. Equally important criteria are that projects must be shovel-ready and can be completed by February 2012. These funds will expand the amount of money the state can invest in highway projects beyond the amounts the state had listed in its State Transportation Improvement Program. The projects will include resurfacing roads across the state, repairing bridge decks, replacing guardrail sections, and improving pavement markings. As of April 16, 2009, the U.S. Department of Transportation had obligated $606.3 million for 214 Illinois projects.[6] IDOT officials stated that they will award most contracts based on a competitive bidding process, but they will use a quality based selection process for approximately $27 million in engineering services contracts.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers. The Illinois Office of the Governor submitted the state's application for these funds to Education on April 10, 2009. On April 20, 2009, these funds became available to the state. Illinois is expecting to receive an additional $678 million by September 30, 2009.

The U.S. Department of Education has allocated a total of about $2 billion in SFSF monies to Illinois. Approximately $1.4 billion of this amount was allocated in an initial release on April 2, 2009. Illinois plans to use all of the $2 billion from the SFSF for K-12 and higher education activities and hopes to avert layoffs and other cutbacks many districts and public colleges and universities are facing in their fiscal year 2009 and 2010 budgets. State Board of Education officials also noted that U.S. Department of Education guidance allows school districts to use stabilization funds for education reforms, such as prolonging school days

[6]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed. Illinois will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.

and school years, where possible. However, officials said that Illinois districts will focus these funds on filling budget gaps rather than implementing projects that will require long-term resource commitments.

Additional Plans for Use of Funds Made Available as a Result of the Recovery Act Include Offsetting State's Budget Deficit and Implementing New Capital Plan

The State of Illinois has been in a recession since December 2007 and continues to face financial difficulties. The state's unemployment rate surged by 46 percent from 5.9 percent in February 2008 to 8.6 percent in February 2009. Major job losses are expected to continue in manufacturing, construction, and retail. On the housing front, foreclosure filings in February 2009 were up 62 percent over 2008. While state general fund revenue grew 4.5 and 5.7 percent in fiscal years 2007 and 2008, respectively, revenues declined by 0.5 percent in fiscal year 2009. The state estimates that it faces a projected $11.6 billion operating budget deficit for fiscal years 2009 and 2010. To address this deficit, the Governor has proposed a number of measures in the state's 2010 budget proposal, including the following:

- Spending cuts, including 4 furlough days for state employees and a 2-percent spending reduction in grant programs;[7]
- State employee pension reform, including provisions that would align the state's eligible age for full benefits with that of Social Security, adjust benefit formulas, and increase contribution rates for current employees;
- Creation of a taxpayer board to improve accountability and efficiency across state programs; and
- Revenue increases, including income tax increases that would raise an estimated $2.8 billion from individuals and $350 million from corporations in fiscal year 2010; higher health care contributions from current and retired state employees; and higher vehicle registration, title, and license fees.

Illinois officials expect that the state will receive at least $9 billion in direct Recovery Act funds to the state, and those local entities—such as public housing and transit authorities—will receive additional Recovery

[7]According to the proposed Illinois fiscal year 2010 budget, the 2 percent reductions in grant programs will exclude healthcare and education programs.

Act funds. State officials said they have identified about $4.3 billion of Recovery Act funds, including use of the previously mentioned SFSF, that could be utilized to address the operating budget shortfall for fiscal years 2009 and 2010.[8] They noted that these funds would potentially reduce pressure on the state for further tax increases and spending cuts. In addition, the state plans to use some of the remaining Recovery Act funds to help launch the Governor's proposed infrastructure building program—a $26.5 billion proposal to fund schools, roads and bridges, public transit, and energy and environmental capital projects during Illinois fiscal years 2010 through 2015. The $26.5 billion plan would be paid for with funds from the state ($10.6 billion), federal sources ($11.6 billion), local sources ($2.4 billion), and the Recovery Act ($2.0 billion).[9]

In addition to funds administered by state agencies, local entities will also receive funds through the Recovery Act for programs administered at the local level. We met with one local agency that will receive Recovery Act funds and will use its funds to address overdue capital improvements. The Chicago Transit Authority (CTA), an independent governmental agency that provides rail and bus service in the greater Chicago area, has already put plans in place to spend its $240 million. CTA has a backlog of $6.8 billion in unfunded capital projects necessary to update its infrastructure and fleet. The agency has begun work on an $87.8 million project that will replace rails, ties, and fasteners for one subway line. The agency also expects to complete hybrid bus purchases, a bus and rail car fleet overhaul, and numerous facility improvements by the end of 2009. Finally, reconstruction of at least one rail station is expected to be completed by late 2010.

While we found examples of programs that have received Recovery Act funds and have projects that are already underway, we spoke with state officials who said they needed more guidance about how they should use, track, and report on these funds at their agencies. State Board of Education officials said that understanding the reporting requirements and

[8]State officials told us Governor Pat Quinn recently signed a supplemental appropriations bill to give the state spending authority for Recovery Act funds during the remainder of fiscal year 2009. To allow for the use of Recovery Act funds in fiscal year 2010, the General Assembly must approve the fiscal year 2010 budget bill. The presentation of the fiscal year 2010 budget did not occur until March 18, 2009, due to the impeachment and removal of the prior Governor in January 2009. State officials were not certain as to when the General Assembly will pass the fiscal year 2010 budget.

[9]Individual amounts do not sum to $26.5 billion due to rounding.

eligible uses for Recovery Act funds is the biggest challenge they face as they prepare to disseminate funds to the local school districts. They also expressed concern with the Recovery Act's dual emphases on accountability and quick expenditure of funds. The Illinois Criminal Justice Information Authority expressed similar concerns about the need for federal guidance in regard to reporting time frames that may not completely align with previous reporting procedures.

Illinois Is Taking Steps to Assess Risk and Develop Plans for Safeguards Related to Recovery Act Funds

During our meetings with high-level state officials, they said that efforts are underway to ensure accountability and transparency in the use of Recovery Act funds. The Governor's office has established an Executive Committee and working group to identify concerns across state agencies and help them implement Recovery Act provisions. Also, state internal audit officials are developing a variety of internal control techniques to assure compliance with the Recovery Act's requirements. To properly track funds, state agency officials explained that they plan to use unique identifiers or codes so that these funds can be separately tracked in their existing financial or grants management systems.

Illinois Has Established a Recovery Act Executive Committee and Working Group

To ensure accountability and transparency in the use of Recovery Act funds, the state has established an Executive Committee, a Recovery Act Working Group, and an Illinois Recovery Web site. The Executive Committee is comprised of state executives, including the Deputy Chief of Staff for Economic Recovery, the Chief Internal Auditor, the Budget Director, and the Chief Information Officer. According to state officials we spoke with, the Executive Committee is working to identify common risks to all state agencies in the use of Recovery Act funds. To address crosscutting Recovery Act issues, such as legal matters and procurement, the committee is also establishing subcommittees with agency subject matter experts to review critical information and develop policies on these subject matters.[10] The Recovery Act Working Group consists of a contact point for each state agency for Recovery Act related matters and, according to state officials, meets to communicate requirements, guidance, and implementation related to the act.

The Governor's Office has also established an Illinois Recovery Web site at www.recovery.illinois.gov, which contains information on the programs

[10]At the time of our meetings, these subcommittees were still being formed.

receiving Recovery Act funds, amounts available through the act, and certifications signed by the Governor.[11] The Web site will also include reports on Recovery Act program expenditures, and eventually users will have the ability to download raw data on project or program descriptions, budgets, spending, and job creation. Another feature of Illinois's Web site is that it allows the public to submit suggestions for projects that the state could fund through the Recovery Act.

State Audit Officials Are Developing Internal Control Measures

Every state is required to have an annual Single Audit in accordance with U.S. Office of Management and Budget (OMB) requirements. This audit is required when $500,000 or more in federal funds is expended in any fiscal year. Officials from the Illinois Office of Internal Audit (OIA) stated that they will utilize the Office of the Auditor General's (OAG) single audits to identify programs that may require additional scrutiny. In Illinois's fiscal year 2007 Single Audit, the OAG identified four material weaknesses in internal controls over financial reporting and classified 46 findings as significant deficiencies and material weaknesses in internal controls related to compliance. Significant agency findings classified as a material weakness that are relevant to the Recovery Act and recipients of Recovery Act funds included

- The State Board of Education not sanctioning a Local Education Agency that did not meet the comparability of services requirement under the Title I Grants to Local Educational Agencies Program;
- IDOT not obtaining certifications from subrecipients for not having been suspended or debarred from participation for the Airport Improvement Program;
- Multiple agencies inadequately conducting or failing to conduct on-site monitoring of subrecipient awards for federal programs; and
- Multiple agencies inadequately monitoring subrecipient audit reports for federal programs.

[11]To receive certain Recovery Act funds, among other requirements, the state's governor must certify that: (1) the state will request and use funds provided by the act; and, (2) the funds will be used to create jobs and promote economic growth. Recovery Act, div. A, title XVI, § 1607.

The OAG explained that to the extent that federal programs receiving Recovery Act funds are addressed in the OMB compliance supplement, it will be performing its required audit procedures. The OAG stated that OMB guidance will be critical for planning future audits of federal funds. Furthermore, the OAG conducted an analysis of programs receiving Recovery Act funds, and found that a few additional programs will likely be included in future single audits. OIA officials told us that they are using the Single Audit results to assist in conducting a risk assessment of all state-administered programs receiving Recovery Act funds. OIA officials said that they will use the results of this risk assessment to target their audit efforts to programs that demonstrate a high level of risk. OIA and OAG officials said that they plan to follow up on their respective prior audit findings to make sure that state agencies have taken appropriate corrective action. OIA officials said that in addition to large programs, they plan to follow up on prior internal audit findings on federal Recovery Act programs under $30 million that are not covered by the statewide single audit.

State Agencies Plan to Use Unique Identifiers or Codes to Track Recovery Act Funds

Most agency officials we spoke with stated that their systems are capable of tracking Recovery Act funds separately from other funds for the same programs. For example, IDOT officials stated that Recovery Act projects are being noted in different systems, typically with special funding codes. In addition, when IDOT officials access Recovery Act funds, those transactions will have special codes and notations. Similarly, officials at the Illinois Department of Human Services told us that any funds the agency receives through the Recovery Act for the Neighborhood Stabilization Program will have accounting codes separate from any previous funds received through the program. In order to track increased FMAP funds, Illinois officials said they will use the state's existing accounting systems and will use existing processes to review and reconcile expenditures. For example, state officials will record draw downs of increased FMAP funds separately from other Medicaid funds. State officials will also use special receipt, expenditure, and contract codes for all increased FMAP funds and related Medicaid expenditures. A CTA official we spoke with stated that his agency will use its existing financial system to track Recovery Act funds by unique project numbers or descriptions. Finally, officials from the State Comptroller's Office told us that separate appropriation codes will likely be used to track Recovery Act expenditures statewide. One agency official indicated that while funds can easily be tagged at the state level, he was concerned that this might not be the case once funds are distributed to subrecipients.

Agencies Are Considering Ways to Assess Impacts, but Additional Guidance Is Needed

Officials at several state agencies we spoke with indicated that they can use various performance measures for projects funded through the Recovery Act by utilizing existing systems. For example, IDOT officials stated that they will track and monitor data for Recovery Act projects in the same manner as they do for regular program reporting, and should be able to report on and provide evidence regarding the status of project goals and objectives. Officials with the Illinois Housing Development Authority stated that they also track performance and goals for each project through current systems and should be able to build on these systems to customize reports as necessary for the Recovery Act.

On the other hand, several state officials said that additional guidance is needed for measuring the potential impact of Recovery Act funds. According to officials from the Governor's office and state agencies we spoke with, additional guidance is needed on definitions of "jobs saved," "jobs created," "jobs sustained," and other similar terms included in the Recovery Act. Illinois Department of Commerce and Economic Opportunity officials stated that they had concerns regarding the evaluation of job retention as it relates to the Workforce Investment Act program. Specifically, they said OMB Recovery Act guidance focuses on quick job placement, but jobs created through the act may have lower retention than those under past program grants. Furthermore, while officials at most agencies we visited stated that they are considering plans to track the impact of Recovery Act funds, none of these plans have been finalized. Officials at two state agencies said that their systems do not track such specific performance measures, and they may need to develop additional mechanisms to link Recovery Act funds with their performance results.

Illinois's Comments on This Summary

We provided the Governor of Illinois with a draft of this appendix on April 17, 2009. The Deputy Chief Of Staff responded for the Governor on April 20, 2009. In general, the state concurred with our statements and observations. The official also provided technical suggestions that were incorporated, as appropriate.

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Appendix IX: Iowa

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation, and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage Funds**
  - As of April 3, 2009, Centers for Medicare and Medicaid Services (CMS) had made about $84 million in increased FMAP grant awards to Iowa.
  - From January 2008 to January 2009, Iowa's Medicaid enrollment increased from 358,112 to 392,813, with the highest enrollment increase attributable to two population groups: (1) children and families and (2) nondisabled nonelderly individuals.
  - As of April 15, 2009, Iowa had drawn down about $86 million, or 63 percent of its increased FMAP grant awards.
  - Officials plan to use funds made available as a result of the increased FMAP to cover increased caseloads, maintain existing populations of recipients, and avoid reductions to benefits for Medicaid recipients.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Iowa was apportioned about $358 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $221.2 million for 107 Iowa projects.
  - As of April 15, 2009, the Iowa Department of Transportation had competitively awarded 25 contracts valued at $168 million, or 47 percent of the Recovery Act funds apportioned.
  - Contracts were awarded for projects such as bridge replacements and highway resurfacing—"shovel ready" projects that could be initiated and completed quickly.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Iowa was allocated about $316 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments.
  - Iowa plans to submit its application as soon as it can be accurately completed.
  - Iowa's Department of Education plans to use these funds to maintain spending for grades K-12 and postsecondary education at fiscal year 2009 levels for fiscal years 2010 and 2011.

In addition, Iowa estimates that other funding will be provided to the state under the Recovery Act for the following program areas:

- Education—$214 million (includes programs such as those to provide grants to local education agencies and assist individuals with disabilities).
- Housing and infrastructure—$252 million (includes programs such as the Weatherization Assistance Program).
- Agriculture/natural resources—$152 million (includes programs such as the clean water state revolving fund).
- Economic development—$94 million (includes programs such as the unemployment insurance program).

The status of plans for using these funds is discussed throughout this appendix.

Safeguarding and transparency: Iowa has a foundation of safeguards and controls that could help assure proper spending of Recovery Act funds. For example, the State Auditor is responsible for audits of state and local entities, such as counties, cities, and school districts, and must provide guidelines to public accounting firms that perform such audits. In addition, many state agencies have internal audit groups that focus on programmatic and financial issues. Furthermore, according to state officials, administrative and statutory mechanisms are in place that could oversee Recovery Act funds and provide information to the public on how these funds are being spent. For example, while previous audits have shown few financial weaknesses, the State Auditor is updating its 2009 audit plan risk assessment to reflect the increased risk associated with Recovery Act funding. Iowa is also enhancing its accounting systems to track all Recovery Act funds that will flow through the state government to ensure that the state can adjust its spending plans as needed. Furthermore, Iowa is developing or planning systems to track funds provided to cities, counties, local governments, and other entities. Finally, Iowa is working to establish a framework that will provide transparency on the use of Recovery Act funds. This framework includes the state's Recovery Act Web site, which is designed to provide up-to-date information on the use of Recovery Act funds by program, a state board to recommend improvements to existing practices to prevent fraud, waste, and abuse and oversee the spending of Recovery Act funds, and mechanisms provided through the state's Accountable Government Act.

Assessing the effects of spending: State agencies have begun to consider how to measure outcomes and assess the effect of the Recovery Act. Some agencies have mechanisms in place to collect data in order to calculate outcomes. Other state agencies are awaiting guidance such as a consistent approach to quantifying the number of jobs created and sustained. In the meantime, Iowa's Legislative Services Agency plans to work closely with the Iowa Department of Management to create outcome measures for the Recovery Act and report results.

Iowa Beginning to Use Recovery Act Funds

Most Iowa state officials said they plan to follow established allocation formulas while waiting for federal guidance on the use and tracking of Recovery Act funds. For example, the Iowa Department of Economic Development, which manages the state's Community Development Block Grants and Neighborhood Stabilization Program, intends to follow the state-established allocation formula for the Community Development Block Grants program. This formula allocates funding in thirds: one-third to affordable housing, one-third to economic development, and one-third to infrastructure.

Some agencies have gone even further in their spending of Recovery Act funds. For example, the Iowa Department of Transportation has funded some "shovel ready" projects within 3 days of the enactment of the Recovery Act. Additionally, the Iowa Department of Economic Development has already established guidance for allocating Neighborhood Stabilization Program funding to eligible entities, should the state be awarded competitive grant funds.

As of April 15, 2009, Iowa had drawn down about $86 million of its increased FMAP grant awards for the Medicaid program, which is 63 percent of its awards to date. The state plans to use funds made available as a result of the increased FMAP to cover increased caseloads and maintain current levels of benefits, noting that without these funds, the program would have faced budget shortfalls. Additionally, the state plans to use $110 million of funds made available as a result of the increased FMAP to fully fund Medicaid in the current fiscal year and $145 million of these funds to fully fund Medicaid in fiscal year 2010.

Iowa has begun to use some of its Recovery Act funds, as follows.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] On February 25, 2009, 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.[2] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

For the first two quarters of 2009, Iowa's FMAP rate was 68.82 percent, a 7.09 percentage point increase over fiscal year 2008. Iowa has received increased FMAP grant awards of $136 million for fiscal year 2009, and, as of April 15, 2009, Iowa had drawn down $86 million in increased FMAP grant awards, which is about 63 percent of its awards to date. Iowa officials indicated they will use funds made available as a result of the increased FMAP to cover increased caseloads, maintain existing populations of recipients, avoid cuts to eligibility, and maintain current levels of benefits. In addition, such funds will provide Iowa officials with the means to offset budget shortfalls, including shortfalls for the state's Medicaid program. Iowa officials indicated that they expect the recession to continue longer for the state than for the nation as a whole, and if the increased FMAP funds are not available for all of federal fiscal year 2011,

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

[2]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.

the resulting deficit will likely be addressed through the use of reserve funds or cuts in program funding. According to state officials, the use of FMAP funds requires an appropriation from the state legislature.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for existing programs, and in addition, the Governor must certify that the state will maintain its current level of transportation spending, and the Governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Iowa's Governor certified that the state would "maintain its efforts" for Department of Transportation programs funded under the Recovery Act. However, Iowa noted in its certification that transportation spending would be influenced by the difference in the definition of the word "expend" for different covered programs; the uncertainty of the amount collected from state user fees to fund the programs; and variables (such as weather) that may affect the state's timeline for spending Recovery Act transportation funds.[3]

Within 3 days of the enactment of the Recovery Act, the Iowa Department of Transportation competitively awarded contracts for 19 highway and bridge projects valued at about $56 million. Contracts were awarded for projects such as bridge replacements and highway resurfacing—shovel-ready projects that could be initiated and completed quickly. As of April 15, 2009, Iowa had competitively awarded a total of 25 contracts valued at $168 million, or 47 percent of the Recovery Act funds apportioned. As of April 16, 2009, the U.S. Department of Transportation had obligated $221.2 million for 107 Iowa projects.[4] According to Iowa transportation officials,

[3]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[4]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

the agency could begin spending Recovery Act funds quickly because it maintained an inventory of shovel-ready projects and its accounting system needed few changes to track the projects.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF), to be administered by the U.S. Department of Education. The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each state to submit an application to the U.S. Department of Education that assures, among other things, that it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

On April 2, Iowa was allocated $316 million for the education portion of the SFSF. Overall, Iowa expects that the state's total SFSF allocation will be $472 million. In April, the Governor proposed using almost 82 percent of this amount, or $386 million, to support elementary, secondary, and higher education, as required. These funds will be used for activities such as updating standards and implementing a new data system. For the remaining 18 percent of the SFSF allocation, or $86 million, the Governor proposes to fund universities and community colleges, law enforcement, and corrections in fiscal year 2010. The Governor also proposed using $600,000 of the $86 million to oversee Recovery Act funds. Iowa plans to submit its application as soon as the application can be accurately completed.

Iowa Has Established a Strategy for Spending Recovery Act Funds

Beginning in April 2008, unemployment began to rise and in October 2008, state revenues began to slow. As of February 2009, Iowa's unemployment rate was 4.9 percent, up from 3.9 percent in February 2008. According to a March 27, 2009, report by the Rural Policy Research Institute, the nation's rural economy is losing jobs at a rate faster than the rest of the United States. Iowa state budget officials estimated that the state's unemployment rate could increase to 7 percent by December 2009.

Regardless of this economic downturn, Iowa's Governor and General Assembly have statutory responsibility to balance the budget and meet expenditure limitations and are required to use the revenue estimates agreed to by Iowa's Revenue Estimating Conference, which convenes quarterly, as the basis for determining the budget for the general fund, according to state officials. If revenue estimates are revised downward for the current fiscal year, state officials explained that the law still requires

the budget to be balanced. In the current fiscal year, and for the first time since fiscal year 2003, Iowa's general fund revenues of almost $6 billion are expected to be lower than in the previous fiscal year, a decrease of 1.9 percent from fiscal year 2008 to fiscal year 2009.[5] In response to this downturn, in December 2008, the Governor directed an across-the-board 1.5 percent reduction in the state's general fund appropriations, effective December 22, 2008. On April 3, 2009, the Governor released a revised budget for fiscal year 2010 of $5.9 billion for the state's general fund, representing a 7.9 percent reduction for many state programs, even with the addition of more than $535 million in Recovery Act funds. According to state officials, decisions regarding the use of Recovery Act funds require approval by the General Assembly. Since the Iowa General Assembly is scheduled to adjourn on or around May 1, 2009, it may have to develop strategies if funding decisions are necessary after adjournment. For example, the Governor may request that the General Assembly return for a special session.

In March 2009, the Governor established a Recovery Act implementation working group to provide a coordinated process for (1) reporting on Recovery Act funds available to Iowa through various federal grants and (2) tracking the federal requirements and deadlines associated with those grants. The implementation working group comprises representatives from nearly two dozen state agencies, led by an executive-level working group, and assisted by groups that will focus on implementation issues such as budget and tracking, intergovernmental coordination, and communications. The implementation working group includes several issue-specific small groups focusing on key program areas: education, energy, environment, health care, housing, information technology, public safety, transportation and infrastructure, and workforce. On April 14, 2009, the working group issued a progress report on Recovery Act funds in Iowa. For example, the working group reported on the planned and spent funding of the state's energy program to reduce per capita energy consumption, loans for wastewater infrastructure projects, and neighborhood stabilization programs to provide emergency assistance to acquire and redevelop foreclosed properties.

[5]Iowa's fiscal year begins July 1 and ends June 30.

In addition to FMAP, Transportation, and the State Fiscal Stabilization Fund programs, the Governor's office estimates that the state will receive Recovery Act funding as follows:

- Education: Of $214 million, a large majority involves two formula grant programs—grants to local education agencies ($52 million) and special education grants to assist individuals with disabilities ($122 million).
- Housing and infrastructure: Of $252 million, 32 percent ($81 million) is for the Weatherization Assistance Program to provide energy-related improvements to homes and educate residents about energy conservation.
- Agriculture/natural resources: Of $152 million, more than one-third (36 percent or $54 million) is for the clean water state revolving fund.
- Economic development: Of $94 million, more than three-quarters (76 percent or $71 million) is to modernize the unemployment insurance program.

To supplement Recovery Act funds, Iowa is considering other stimulus proposals, such as the Iowa Infrastructure Investment Initiative, or I-JOBS, and another bonding initiative. I-JOBS is designed to create jobs, strengthen the state's economy, and rebuild the state's infrastructure over 3 years. If approved by the General Assembly, I-JOBS, as described by state officials, is expected to provide funding for various infrastructure projects, such as transportation, public buildings, and wastewater improvements, and will be funded through 20-year tax-exempt bonds paid for by gaming revenue, current tax revenue, or both. The General Assembly is also considering another bonding initiative to provide economic stimulus. As of April 17, 2009, the Iowa General Assembly had not authorized the issuance of bonds for either of these initiatives.

In the absence of OMB and program-specific guidance, associations and organizations have provided guidance and assistance to Iowa on the use and reporting of Recovery Act funds. Among these associations are the National Association of Crime Victim Compensation Boards, the National Association of Victims of Crime Act Assistance Administrators, and the Association for Stop Violence Against Women Administrators. For example, justice associations have helped the Iowa Attorney General's Office complete grant applications.

Iowa Is Developing Systems to Track Recovery Act Funds

Many Iowa agencies expect that they will be able to track the Recovery Act funds they use through the state's central accounting system. The state is also evaluating options for reporting Recovery Act funds provided to cities, counties, local governments, and other entities that will help satisfy reporting requirements for these funds. Specifically, state accounting officials are developing special codes to track Recovery Act funds and have begun to train state agencies' accounting officials in the use of these new codes. However, Iowa's central accounting system does not track Recovery Act funds provided directly to some agencies because they are not part of the system. For example, the central accounting system does not track Recovery Act funding provided to the Iowa Department of Transportation. In this case, Iowa transportation officials said the agency is establishing separate accounting codes to track Recovery Act funds by project. Similarly, the central accounting system does not track Recovery Act funds provided to state-funded universities. The state and Board of Regents are discussing how to track these funds. While local governing authorities are not required to report through the state, the Iowa Department of Management is in discussions with these entities to report Recovery Act spending on the state's Web site. At the local level, some agencies can track these funds, while others are developing guidance to require such tracking, according to state officials.

In order to track increased FMAP funds, Iowa is adapting its existing systems. In addition, Iowa's state Medicaid agency uses a data warehouse for Medicaid payments made to counties, subcontractors, and medical facilities, and U.S. Health and Human Services' Office of Inspector General has audited the state's data warehouse.

The General Assembly may also track Recovery Act spending. In particular, the assembly's Legislative Services Agency—a nonpartisan analysis and research agency serving the Iowa General Assembly—assisted members in interpreting the Recovery Act and provided preliminary estimates of funds provided to the state. Furthermore, the Legislative Services Agency will be able to access Iowa's central accounting system to monitor agencies' spending in real time.

Even as Iowa plans for tracking Recovery Act funds, state officials said that they continue to have some questions about how to report Recovery Act funds. For example, Iowa officials noted that they need additional guidance on reporting increased FMAP funds to CMS. Specifically, Iowa officials said that they need guidance on the timing for drawing down increased FMAP grant awards, reporting receipts and expenditures, and submitting claims for expenditures made retroactively to October 2008.

Iowa Has a Foundation of Safeguards and Controls That Could Help Assure Proper Spending of Recovery Act Funds

There are various entities in Iowa that are responsible for monitoring, tracking, and overseeing financial expenditures, including the Iowa State Accounting Enterprise (collects and reports state financial information and processes financial transactions); the State Auditor (audits state and local entities, such as counties, cities, and school districts, and provides guidelines to public accounting firms that perform such audits); and the Attorney General (prevents and prosecutes fraud). Finally, many state agencies have internal audit groups that focus on programmatic and financial issues.

While Prior Audits Indicate Few Financial Weaknesses, State Auditor Is Identifying Potential Areas Needing Oversight

Prior years' audits indicate few weaknesses in Iowa's financial management systems and controls. Iowa's fiscal year 2007 single audit found one material weakness in internal controls related to a public assistance grant provided to the Iowa Department of Transportation: a computer program error resulted in a $3.6 million overpayment to the agency by the Federal Emergency Management Agency for materials related to disaster recovery. In 2009, Iowa refunded the $3.6 million. Iowa's fiscal year 2008 single audit did not identify any material weaknesses.

While prior audits indicate few financial weaknesses, the Office of the State Auditor is updating its 2009 audit plan risk assessment to reflect the increased risk associated with Recovery Act funding. Of great concern to officials of the State Auditor's office are possible limits on the ability to charge fees for audit services. According to state officials, these limits would significantly reduce the effectiveness of the State Auditor to audit federal funds received, including those under the Recovery Act, as required by the Single Audit Act. If limits on audit fees were enacted, officials said that the state's comprehensive annual financial report and the single audit report are likely to result in qualified opinions.

Iowa Has Administrative and Statutory Mechanisms in Place That Could Help Oversee Iowa's Recovery Act Funds

The Iowa state government is working to establish a framework to provide transparency on the use of Recovery Act funds. In March 2009, the Governor's office launched an economic Recovery Act Web site—recovery.iowa.gov—to provide information on Recovery Act funding by program. Iowa plans to add a "dashboard" feature to the Web site—a user-friendly search capability that will provide detailed information on how and where Recovery Act funds are spent. The Governor's office expects OMB to provide guidance on how to report information on Iowa's Recovery Act Web site, including the dashboard feature, and how to

forward that information to the national Recovery Act Web site. In addition, the state is developing a system that will allow information on Recovery Act funding that does not come through the state government, such as grants federal agencies provide directly to localities, to be available on the state's Web site.

On April 14, the Governor created the Iowa Accountability and Transparency Board—which has similarities to the federal Recovery Accountability and Transparency Board—to, among other duties, assess existing practices to prevent fraud, waste, and abuse; recommend opportunities for improvement in these areas; and oversee real-time audits and reporting. The board will be made up of 14 members. Voting members include the Governor or his designee, the State Auditor or his designee, the State Treasurer or his designee, three local government members, and three citizens. Nonvoting members of the board include the Director of Iowa's Department of Management or his designee and four members of the state's General Assembly. The Iowa Accountability and Transparency Board will recommend improvements and oversee the spending of Recovery Act funds.

Iowa's Accountable Government Act could serve as a mechanism to safeguard Recovery Act funding. Under this act, Iowa is required to provide for the efficient and effective use of state funds. Among other things, Iowa's Accountable Government Act requires grant recipients to certify that information on internal controls relating to processes are available for inspection by the state agency, and the Legislative Services Agency if the recipients provide a service of more than $500,000 that is paid for with local, state, or federal funds. In addition, recipients must report on financial information, reportable conditions in internal control or material noncompliance, and corrective actions taken or planned in response to these reportable conditions. State agencies can enforce this monitoring by terminating payments and recovering any expended government funds. Furthermore, the Legislative Services Agency tracks personnel services contracts—that is, contracts for consulting services or temporary hires—within all state agencies (except the Iowa Department of Transportation and the Iowa Board of Regents) regardless of the value of the contract. State officials could require a similar certification and monitoring of Recovery Act funds.

Iowa officials said that they recognize the need for greater oversight and proper management of programs in light of the infusion of significant funds under the Recovery Act. According to state officials, the Recovery Act did not provide funds for oversight. For example, one state agency

official in the Iowa Department of Education expressed concern about the adequacy of resources available for ensuring the appropriate use of the Recovery Act funds—an estimated $386 million from the state fiscal stabilization program for education—particularly because the agency anticipates further state-imposed staff reductions. Recognizing that the Recovery Act did not specifically provide funds for state oversight, the Governor proposed using $600,000 of the $86 million in fiscal stabilization funds in his 2010 budget to be made available for general government services to oversee Recovery Act funds.

Iowa officials indicated that they are identifying ways to use the state's internal audit functions to address Recovery Act-related issues. Iowa state audit officials indicated that state programs that receive significant Recovery Act funds while maintaining a high level of discretion over use of those funds—such as the state's Medicaid program—present an increased risk to the state and will receive greater scrutiny during internal state audits.

State Agencies Are Considering How to Assess the Effects of Recovery Act Funds

Iowa has just begun to consider how to measure outcomes and assess the effect of Recovery Act funding while it awaits federal guidance on a consistent approach to measuring the number of jobs created and sustained. State officials identified Iowa's Accountable Government Act as a mechanism that has familiarized state agencies with results-oriented management and could help them assess the impact of Recovery Act funds. The Iowa Accountable Government Act requires each state agency to measure and monitor progress toward achieving program goals and report the progress toward those goals. In addition, the Iowa Department of Management, in consultation with the Legislative Services Agency, the State Auditor, and agencies, must periodically conduct performance reviews to assess the effectiveness of programs and make recommendations to improve agency performance.

State agency officials said that they expect to be able to track information on the number of jobs created while others said they need further guidance. For example, the Iowa Department of Transportation tracks the number of worker hours by highway project on the basis of contractor reports. An Iowa Transportation official said that this information may be used to calculate the number of jobs created. Iowa education officials, in contrast, may need more guidance. Iowa teachers are notified by school districts in mid-March whether their jobs are guaranteed for the next school year, pending passage of school budgets. Once the budgets are passed, teachers are asked to return for the following school year.

Officials said that they believed that federal guidance would help them determine how to characterize whether these jobs would be created or sustained.

According to Iowa's Department of Management, once it receives federal guidance on how to assess the impact of Recovery Act funding, it plans to disseminate the information across state agencies. It intends to measure the impact of Recovery Act funds through the state's Recovery Act Web site and current tracking software. The Legislative Services Agency plans to work closely with the Department of Management to create outcome measures for the Recovery Act and report the results. Additionally, the Iowa Department of Economic Development has already established output and outcome measures for the Neighborhood Stabilization Program.

Although most state agencies are waiting for federal guidance on how to assess results from Recovery Act funding, officials from some state agencies told us that they have accounting systems in place to measure programmatic outcomes. For example, the Iowa Department of Economic Development will monitor its Recovery Act funds by using systems adopted for tracking federal disaster recovery funds, including systems that the federal Department of Housing and Urban Development uses to monitor and report on funding spent to recover from natural disasters. The Iowa Department of Economic Development plans to put in place procedures for working with the State Auditor to leverage oversight of stimulus funds. Similar procedures have been established to oversee funding the state expects to receive to recover from disastrous floods in 2008. The Department of Economic Development expects a 20-fold increase in Community Development Block Grants in 2009 to help the recovery effort from these floods.

Officials noted the potential difficulty of measuring Recovery Act outcomes separately from other recovery initiatives, such as Iowa's proposed I-JOBS program. While state officials said that they believe there are benefits to supplementing federal efforts, the state may find it difficult to separate outcomes among the recovery programs.

Iowa's Comments on This Summary

We provided the Governor of Iowa with a draft of this appendix on April 17, 2009. The Director, Iowa Office of State-Federal Relations and the Director for Performance Results, Department of Management responded for the Governor on April 20, 2009. In general, officials agreed with our findings and conclusions. The officials also offered several technical suggestions that we have incorporated, as appropriate.

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Appendix X: Massachusetts

Overview

Use of funds: An estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities will be for health, transportation, and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage Funds**
  - As of April 1, 2009, Centers for Medicare & Medicaid Services (CMS) had made about $1.2 billion in increased FMAP grant awards to Massachusetts.
  - As of April 1, 2009, the state had drawn down about $273 million, or 23 percent, of its initial increased FMAP grant awards.
  - Officials plan to use funds made available as a result of the increased FMAP to avoid additional cuts in health care and social service programs, restore certain provider rates, and provide caseload mitigation for Medicaid and Commonwealth Care (an expansion of its Medicaid program).
- ✓ **Transportation—Highway Infrastructure Investment**
  - Massachusetts was apportioned about $425 million for highway infrastructure investment as of April 16, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated about $63.9 million for 19 projects in Massachusetts.
  - As of April 4, 2009, the Massachusetts Executive Office of Transportation had advertised 19 projects for competitive bids totaling more than $62 million; the earliest announcements were scheduled to close on April 14, 2009, and work on the projects is expected to begin this spring.
  - These projects include activities such as road repaving and sign replacement.
  - Massachusetts will request reimbursement from the U.S. Department of Transportation as project phases are completed by contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Massachusetts was allocated about $666 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. In early April 2009, state officials reported that the commonwealth will file its application for this money around April 15, 2009, when it would better understand the state fiscal year 2010 budget situation.
  - The Governor has announced that he intends to provide funds to 166 school districts to help them increase spending to prior levels and avoid program cuts and teacher layoffs in fiscal year 2010. He also intends to use some of these funds at public colleges and universities to reduce layoffs, program cuts, and student fee hikes.

The commonwealth of Massachusetts is also receiving additional Recovery Act funds under programs, such as Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA, commonly known as No Child Left Behind); the Individuals with Disabilities Education Act, Part B (IDEA); and two programs of the U.S. Department of Agriculture—one for administration of the Temporary Food Assistance Program and one for competitive equipment grants targeted to low-income districts from the National School Lunch Program. The status of plans for using Recovery Act funds is discussed throughout this appendix.

Safeguarding and transparency: Task forces, established by the Governor, encouraged the state to adopt accountability and transparency measures. Further, Massachusetts is expanding its accounting system to track funds flowing through the state government. Although Massachusetts has plans to publicly report its Recovery Act spending, officials have said that the state may not be aware of all funds sent directly to other entities, such as municipalities and independent authorities. The commonwealth's oversight community has identified situations that raise concerns about the adequacy of safeguards, such as funding for larger projects and new programs, but is waiting for further information on what specific programs will receive funding before developing plans to address those concerns.

Assessing the effects of spending: Massachusetts agencies are in the early stages of developing plans to assess the effects of Recovery Act spending. According to state officials, they are awaiting further guidance from the federal government, particularly related to measuring job creation.

Massachusetts Beginning to Use Recovery Funds

Massachusetts has begun to use some of its Recovery Act funds, as follows.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal

matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act are for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

Under the Recovery Act, the commonwealth's FMAP will increase to at least 56.2 percent, up from 50 percent. As of April 1, 2009, Massachusetts had drawn down $272.6 million, or 23 percent, of its increased FMAP grant awards. In fiscal years 2009 and 2010, officials plan to use a significant portion of funds made available as a result of the increased FMAP funds to avoid additional cuts in health care and social service programs, restore certain provider rates, and provide caseload mitigation for Medicaid and Commonwealth Care.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways, and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary

[1]Recovery Act, §5001.

[2]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.

legal reviews and determined that the projects are an appropriate use of taxpayer funds. Massachusetts provided these certifications, but conditioned the state's level of funding for these programs, noting that this spending will be financed through issuing bonds and may need to be decreased, depending on the state of the economy. The commonwealth's debt affordability policy will determine the amount of debt that can be issued.[3]

As of April 4, 2009, the Massachusetts Executive Office of Transportation had advertised 19 projects for competitive bid totaling more than $62 million. These projects included, for example, replacing traffic and guide signs along sections of Route I-95 and paving Route 6 in southeastern Massachusetts. As of April 16, 2009, the U.S. Department of Transportation had obligated about $63.9 million for 19 projects in Massachusetts.[4] Massachusetts will request reimbursement from the U.S. Department of Transportation as project phases are completed by contractors.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The SFSF is intended to help states 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 assures, among other things, it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Massachusetts' initial SFSF allocation is $666,152,997. In early April 2009, state officials reported that the state would file its application for this money around April 15, 2009, when it would better understand the state's revenue projections and after the Massachusetts House issues its fiscal year 2010 budget proposal. In March 2009, the Governor of Massachusetts had announced he intended to fund $168 million in SFSF to 166 school

[3]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[4]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

districts to help them increase funding and avoid program cuts and teacher layoffs in fiscal year 2010. He also announced he intended to provide $162 million in SFSF to public university and college campus budgets to reduce layoffs, program cuts, and student fee hikes.

Massachusetts' Planning Process Has Set the Stage for Decisions on Spending of Recovery Act Funds

Massachusetts officials began preparing for receipt of federal Recovery Act funds prior to enactment of the act. Faced with deteriorating revenue projections, the potential for expanding caseloads in some safety net programs, such as Medicaid, and a requirement to balance the budget, Massachusetts officials believe that funds made available as a result of the Recovery Act are critical to addressing the commonwealth's immediate fiscal pressures. State officials envision a sizable portion of the state-projected $8.7 billion in Recovery Act funds (over 2 years) going directly toward budget stabilization. According to state officials, as of April 2009, the state is addressing a budget gap of approximately $3.0 billion. This gap is driven largely by lower-than-anticipated revenues. State fiscal year 2009 revenue is significantly lower than budgeted and has left the state unable to support previously approved spending levels, and revenues are expected to fall short of planned expenditures for 2010, as well.

In December 2008, anticipating a major infusion of federal funding, especially for infrastructure projects, the Governor established task forces to identify "shovel-ready" projects and address obstacles to project implementation. Ten task forces were created—seven focused on specific types of infrastructure investment, such as transportation, energy, and information technology, and three focused on crosscutting issues like workforce mobilization and procurement. In conducting their work, the task forces were guided by several principles, including investing for the long term and limiting investments to those that would not add to the state's operating budget.

Although other program areas, such as Medicaid and education, likely will receive more funding than will infrastructure, the work of the task forces was influential. The task forces developed work plans for projects that could be implemented using the anticipated funding and were instrumental in the appointment of a director of infrastructure investment (a "recovery czar") to coordinate and monitor state agencies' and municipalities' implementation of projects. The task forces also encouraged the creation of a central Web site to enhance transparency, called for the involvement of the oversight community in contract oversight to ensure accountability, and prompted the introduction of legislation (now being considered by the legislature) intended to ease

some of the procurement and contracting processes that might delay quick implementation of construction projects. The task force efforts helped prepare the state to submit several certifications required under the Recovery Act to the federal government. In late February, the Governor certified that the state would request and use all funds provided by the act. Additional certifications for transportation and energy have also been submitted.

Revenue from the state's "rainy-day" fund,[5] a reserve fund built up during more favorable economic conditions to be used during difficult economic times, will give the commonwealth additional flexibility to avoid some cuts in fiscal year 2010. The commonwealth's budget already calls for using about $925 million from the rainy-day fund in fiscal year 2009, and the Governor's proposed 2010 budget calls for using about $489 million of the rainy-day funds. According to budget documents, the combination of funds made available as a result of the increased FMAP and rainy-day funds will help the state avoid cuts in several areas, including health care, education, and public safety.

State documents suggest that officials are concerned about using one-time federal and rainy-day funds to make longer-term operational and program commitments that could require additional revenue in the future to avoid job and service cuts.[6] State officials note that using temporary funds, such as Recovery Act and rainy-day funds, make budgeting uncertain and require strategic fiscal management.

[5]Massachusetts officials refer to rainy-day funds as stabilization funds. However, to avoid confusion with the Recovery Act's State Fiscal Stabilization Fund, we will use rainy-day funds.

[6]The Governor's budget proposal for fiscal year 2010 includes several revenue enhancement proposals, including increased meals and hotel taxes and eliminating a sales tax exemption on alcohol, candy, and sweetened beverages.

Massachusetts Has a System to Track Recovery Act Funds but Cannot Ensure Local Entities' Ability to Meet Recovery Act Reporting Requirements

The commonwealth is expanding the use of its existing accounting system to track all Recovery Act funds that will flow through the state government. New codes are being added to the existing system in order to segregate and track the Recovery Act funds. The Office of the Comptroller has issued guidance on the required use of these newly created account codes for all Recovery Act transactions and has stipulated that all the Recovery Act-funded contracts include provisions to segregate Recovery Act money. While these changes have been made, officials were still testing the system and developing reporting capabilities as of April 13, 2009.

The portion of Recovery Act funds going directly to recipients other than Massachusetts government agencies, such as independent state authorities, local governments, or other entities, will not be tracked through the state comptroller's office. While state officials acknowledged that the commonwealth lacks authority to ensure adequate tracking of these funds, they are concerned about the ability of smaller entities to manage Recovery Act funds—particularly municipalities that traditionally do not receive federal funds and that are not familiar with Massachusetts' tracking and procurement procedures, as well as recipients receiving significant increases in federal funds. In order to address this weakness, the administration introduced emergency legislation that, according to state officials, includes a provision requiring all entities within Massachusetts that receive Recovery Act money to provide information to the state on their use of Recovery Act funds. Alternatively, the two large nonstate government entities we spoke with to date—the city of Boston and the Massachusetts Bay Transportation Authority (MBTA, a quasi-independent authority responsible for metropolitan Boston's transit system)—believe that their current systems, with some modifications, will allow them to meet Recovery Act requirements. For example, the city of Boston hosted the Democratic National Convention in 2004, and city officials said that their system was then capable of segregating and tracking a sudden influx of one-time funds.

State Agencies Have Made Some Spending Decisions

Some state programs have received actual allocations of federal Recovery Act funds, while for other state programs, officials have developed spending plans based on preliminary figures provided by federal departments. The U.S. Department of Transportation, through the Federal Transit Administration, published apportionment amounts for the Transit

Capital Assistance and the Fixed Guidance Infrastructure Investment Programs on March 5, 2009.[7] The Massachusetts Executive Office of Transportation (EOT) and the MBTA have been able to develop spending plans with a degree of certainty and EOT has advertised requests for bids on 19 projects totaling about $62 million. Other program officials have had to develop plans with preliminary estimates. For example, as of mid-March 2009, state officials from the Department of Elementary and Secondary Education said that local education officials reported that one of their biggest challenges was a lack of reliable information on federal Recovery Act allocations that they could use to plan their budgets. However, on April 1, 2009, Education announced the release of state allocations of ESEA Title I and IDEA funds, along with more detailed guidance for these programs.

Some state and local officials said that while clear, specific guidance takes time to develop, the lack of guidance from federal agencies had limited their ability to make spending decisions. Officials from some of the entities we spoke with, including the state Department of Elementary and Secondary Education, the Department of Housing and Community Development, and the city of Boston, said they are comfortable making spending decisions with money slated to flow through pre-existing grant programs. However, the lack of specific guidance for federal Recovery Act funds for some programs has presented challenges, according to some state officials. An area of significant challenge for education officials concerns how to use federal Recovery Act funding to supplement state and local revenues for existing educational programs, rather than use these funds to supplant state and local revenue. State education officials said they anticipated that to prove funds have not been supplanted will be very challenging for local school districts and have requested additional guidance from the U.S. Department of Education to help them make better decisions about spending priorities. For example, state housing officials are seeking clarification from the U.S. Department of Housing and Urban Development (HUD) on whether the Tax Credit Assistance Program can be used to provide loans rather than grants to subrecipients, and state transportation officials are waiting for guidance on whether competitive grants can be used for "signature projects."

Some state agencies told us they anticipate they will be able to manage additional Recovery Act funding coming through well-established grant

[7] *Federal Register* / Vol. 74, No. 42 / Thursday, March 5, 2009 / Notices.

programs with existing agency resources but, in some cases, will hire additional staff to manage Recovery Act programs. For example, the state's Department of Housing and Community Development (DHCD) reported it is expecting to receive significant Recovery Act funds and has plans to hire staff to help manage the programs. DHCD has well-established methods for managing expenditures and accomplishments, so agency officials believe they can effectively administer Recovery Act funds using existing structures. MBTA officials told us that given the enhanced transparency and reporting requirements associated with an additional $230 million in project spending, they anticipate that managing these Recovery Act projects will present some new challenges and will require that they hire a project management firm. Finally, a Department of Elementary and Secondary Education official told us they anticipate a need to hire additional staff, for a limited term, to manage competitive grant programs funded under the Recovery Act.

Plans for Safeguards and Controls Being Developed at State Level

The commonwealth has entities responsible for monitoring, tracking, and overseeing financial expenditures. The comptroller, who is responsible for implementing accounting policies and practices, oversees fiscal management functions, including internal controls. The State Auditor audits the administration and expenditure of state funds, ands partners with an accounting firm to perform the state's annual Single Audit—a comprehensive review of all state agencies' accounts and activities. The state Inspector General, with a broad mandate to prevent fraud, waste, and abuse, conducts operational and management reviews and has authority to examine independent authorities and municipalities. The Attorney General also plays a role, including preventing and prosecuting fraud. Further, according to state officials, some state departments have internal audit groups that focus on programmatic issues. In addition to these entities, the commonwealth has laws that provide further safeguards.

Potential Areas of Vulnerability with Massachusetts Recovery Act Funds

Past experience has shown financial management vulnerability involving organizations that will receive funds under the Recovery Act. The Office of the Attorney General has documented improper Medicaid payments and has concerns regarding the funds from the Recovery Act going to the Medicaid program. They plan to take a risk-based approach, but are waiting for firm information on which programs and recipients will receive Recovery Act funds. The Inspector General stated that his office will need to emphasize oversight of larger procurement projects, which may be vulnerable. In addition, officials pointed to the multibillion-dollar cost overruns on a federally funded highway project in Boston (the "Big Dig")

as an example of what can go wrong when a large project lacks sufficient oversight. The Massachusetts fiscal year 2007 Single Audit report identified vulnerabilities that included insufficient monitoring of subrecipients of federal grants to the state. For example, the Massachusetts Department of Early Education and Care programs, which will receive Recovery Act funds, did not conduct any on-site monitoring of the Child Care Resource and Referral Agencies (subrecipients), which received approximately $11 million in child care development funds and $122 million in Temporary Assistance for Needy Families funds. Since that audit, the department has implemented numerous improvements and controls to address these issues. The State Auditor has also identified financial management concerns with nonprofit entities that receive federal funds and will receive additional funds under the Recovery Act.

In addition, oversight officials noted some more general situations raising concerns. For example, some oversight officials identified new programs as potentially risky; however, new programs would have little impact on the fiscal year 2009 Single Audit report. New programs would probably be included on the fiscal year 2010 Single Audit report, which typically comes out some months after the end of the state's fiscal year. Oversight officials also expressed concern about programs receiving large increases under the Recovery Act, and recipients that do not typically receive federal funds—and therefore may not have systems in place to track them—are also at risk.

In order to better understand areas of potential vulnerability, the Governor asked all commonwealth agencies in late January 2009 to conduct self-assessments identifying existing oversight and accountability mechanisms. Most agencies submitted reports, which included varying levels of detail. The reports we reviewed showed that the agencies are generally comfortable with the mechanisms currently in place. One report expressed a need for additional resources to oversee any new funding. The self-assessments were shared with the State Auditor, Inspector General, and Comptroller's offices. The State Auditor has provided comments to the Governor's office, noting that while the self-assessments indicated existing control mechanisms in place to manage, account for, and monitor the spending of the Recovery Act funds, he expressed two areas of concern. He was concerned about tracking funds that bypass the state government and, based on past audits, about subgrantee monitoring. The Inspector General plans to provide comments on the needs assessments to the Governor's office by the end of April. The Comptroller is using the assessments to monitor agencies' controls over Recovery Act funds on an ongoing basis.

Plans for Oversight of Massachusetts' Recovery Act Funds

While the commonwealth's oversight community has come together to discuss issues such as avoiding areas of duplication and preventing oversight gaps, as a whole, it has yet to develop a coordinated plan describing which programs and departments it will focus on or how it will conduct critically needed oversight. Both the Inspector General and Attorney General recognize the need for training for local officials, specifically related to procurement. The Inspector General stated that his department would continue its training of local procurement officials and announced in its March 2009 Procurement Bulletin that his office should be contacted regarding any questions on procurement or Recovery Act expenditures. While the Inspector General identified the need for increased oversight, particularly related to procurements, oversight officials generally stated that once they determine the total distribution of Recovery Act money, they then would begin selecting areas for review. The Attorney General has convened a task force to coordinate on oversight issues with the federal and state oversight community.

The state legislature will also provide oversight of the Recovery Act funds through the newly created Joint Committee on Federal Stimulus Oversight. This committee has already held three hearings with plans to hold more regarding the oversight of Recovery Act spending. According to committee members, the impetus for creating this committee was Massachusetts' failure to control fraud, waste, and abuse in the federally funded "Big Dig" construction project. The purpose of the joint committee is to ensure compliance with federal regulations and to review current state laws, regulations, and policies to ensure they allow the commonwealth to access Recovery Act funding and streamline processes to quickly stimulate the economy. In addition to the co-chairmen having the capability to subpoena individuals, a co-chairman said that the Joint Committee has broad authority and its jurisdiction extends to wherever public federal, state, and local money is spent.[8]

Massachusetts' administration has emphasized transparency of Recovery Act spending and identified the state recovery Web site as a transparency tool. In addition, the Web site has links to planning documents, guidance, and intended uses of Recovery Act money, and officials are planning to enhance the Web site with a goal of making it the central portal for all

[8]The Joint Committee's jurisdiction covers wherever federal, state, and local money is spent within the commonwealth with the exception of the spending by the Massachusetts legislature.

Recovery Act information and reporting. Their goal is to include the ability to track Recovery Act money by town and by project, as well as to include each project's budget, schedule, awarded contracts (with contract details), and its on-time status. In addition, the public can send e-mails regarding stimulus issues to this site and the Recovery czar's staff is responsible for replying.

Availability of Resources for Oversight

Several Massachusetts officials expressed concern that the Recovery Act did not provide funding specifically for state oversight activities, despite the importance of ensuring that Recovery Act funds are used appropriately and effectively. In addition, the task forces the Governor convened in December 2008 concluded that it is critical the Inspector General and State Auditor have resources to audit Recovery Act contracts and management of Recovery Act funds, as well as recommended that the Attorney General's office should be provided with the resources to promptly and effectively pursue fraud and abuse.

However, due to the present economic conditions, state officials said the Massachusetts oversight community is facing budget cuts of about 10 percent at a time when increased oversight and accountability is critically needed. To illustrate the impact of the impending budget situation, the Inspector General told us that his department does not have the resources to conduct any additional oversight related to Recovery Act funds. This significantly impacts the Inspector General's capacity to conduct oversight since the budget of the Inspector General's office is almost entirely composed of salaries, and any cuts in funding would result in fewer staff available to conduct oversight. In addition, the State Auditor described how his office has already furloughed staff for 6 days and anticipates further layoffs before the end of fiscal year 2009. Similar to the Inspector General's office, 94 percent of his department's budget is for labor and any cuts in funding generally result in cuts in staff.

Some of these vulnerabilities may be mitigated by emergency legislation that the Governor recently filed, which included a provision to allow the pooling of administrative costs. This new legislation may make some Recovery Act funds available to the audit community for oversight, as long as federal law permits. Meanwhile, officials stated they are moving forward with developing and implementing enhancements to the Massachusetts recovery Web site, yet they are doing so without any Recovery Act funds. One senior state official stated she did not believe the Recovery Act provided funding for any state-level centralized information technology planning or development but noted that the Recovery Act

provided a considerable level of funding for information technology development at the program level.

Plans to Assess Impact of Recovery Act Funds Are in Initial Stages

Although they are awaiting federal guidance on how to assess the impact of the Recovery Act, Massachusetts agencies are in the process of considering how to assess the number of jobs that will be created. For example, officials from DHCD are examining different methodologies for identifying job creation, while the city of Boston is using an economic forecasting model to evaluate job creation and other economic effects of projects. In addition, DHCD officials told us that they asked Tax Credit Assistance Program project managers to report estimates on the number of jobs, by trade, that will be needed to complete projects and are also looking for a reliable economic forecasting model to use for this reporting objective. DHCD officials also said they are waiting for guidance from HUD on how to calculate and document job creation for programs funded under the Neighborhood Stabilization Program. DHCD officials said they plan to use a pre-existing process developed for community action programs to collect information on job creation for projects funded by the Weatherization Program. MBTA officials said they feel confident they can estimate the number of new jobs created using Recovery Act funds; however, they are waiting for specific guidance from the U.S. Federal Transit Administration or the Office of Management and Budget on what to include in job creation calculations, as well as how to track indirect (jobs created to manufacture goods used in the project) and leveraged jobs (jobs created by new building projects that result from transportation improvements). MBTA officials also said they are looking to outsource some of the required oversight, including documenting job creation. Finally, state transportation officials are concerned that incentives may encourage contractors to overinflate the number of jobs created by their projects. They told us that, in the absence of specific guidance on how to account for job creation, some smaller contractors might overreport the number of jobs created. Furthermore, the cold weather conditions in the commonwealth can prohibit construction from continuing during the winter months. Officials suggested the pressure to show that the projects are contributing to the recovery may encourage some contractors to inflate the number of jobs created in some months when weather conditions decrease employment.

Massachusetts's Comments on This Summary

We provided the Governor of Massachusetts and representatives of oversight agencies with a draft of this appendix on April 17, 2009, and representatives from the Governor's office and the oversight agencies responded that day. 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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Appendix XI: Michigan

Overview

Use of funds: In estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities nationwide will be for health, transportation, and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $701 million in increased FMAP grant awards to Michigan.
  - From January 2008 to January 2009, the state's Medicaid enrollment increased from 1,547,259 to 1,624,245 with the highest share of increased enrollment attributable to two population groups: (1) children and families and (2) disabled individuals.
  - As of April 1, 2009, Michigan has drawn down about $463 million—which represents funds drawn down for two quarters—or 66.1 percent of its initial increased FMAP grant awards.
  - Officials plan to use funds made available as a result of the increased FMAP to cover increased caseloads, offset general fund shortfalls, ensure compliance with prompt payment provisions, maintain existing populations of Medicaid recipients, avoid eligibility restrictions, increase provider payments, maintain current levels of benefits, and avoid benefit cuts.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Michigan was apportioned about $847 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009 the U.S. Department of Transportation had obligated $110.8 million for 27 Michigan projects.
  - As of April 13, 2009, the Michigan Department of Transportation had advertised 16 projects for competitive bid totaling more than $41 million. These projects included resurfacing I-196 in Grand Rapids and M-13 in Genesee County.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Michigan was allocated about $1.1 billion from the U.S. Department of Education's initial release of these funds on April 2, 2009.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. Michigan plans to submit its application on or after May 15, 2009, once it completes its review of all program priorities for which it intends to use stabilization funds.
  - Michigan Department of Education officials told us they consulted with local education agencies to develop plans and establish priorities for the use of State Fiscal Stabilization Fund funds that were consistent with the state's priorities, policies and programs, such as increasing support for the lowest performing schools.

Michigan is receiving additional Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (commonly known as No Child Left Behind); the Individuals with Disabilities Education Act (IDEA), Part B; Federal Transit Administration Transit Grants; and the Edward Byrne Justice Assistance Grants. These are described in this appendix.

Safeguarding and transparency: All of the state and local agency officials we interviewed indicated they plan to use existing systems to separately identify and track Recovery Act funding. State officials were confident that their existing processes, modified to incorporate specific Recovery Act codes, would be sufficient to allow them to separately account for funds as required by the act. However, officials were uncertain whether local entities have the capacity to similarly track federal funds that go directly to local entities rather than through the state.

Michigan also plans to continue using existing internal controls and processes to provide assurances over Recovery Act spending. Michigan has established a new Recovery Office to, among other things, provide oversight and enhance transparency over the availability and use of funds and maintain a Web site on Michigan's Recovery and Reinvestment Plan (www.michigan.gov/recovery). Michigan's existing processes also include ongoing risk-based self-assessments of controls by major state agencies that are next due on May 1, 2009. However, these assessments are limited to state agencies. In addition, the state Auditor General has identified material weaknesses in two key departments that have received Recovery Act funds—Michigan's Department of Human Services and Department of Community Health. The state Auditor General plans to continue working on a biennial basis, reviewing and reporting on about one-half of the state agencies each year. The state Auditor General's oversight responsibilities do not include efforts to ensure accountability over federal funds going directly to localities. For example, the U.S. Department of Education's Inspector General identified weak internal controls that resulted in problems in how the city of Detroit school district used federal funds for programs under Tile I of ESEA.[1] Specifically, its July 2008 report found that Detroit Public Schools, among other things, did not always properly support compensation charges against ESEA Title I funds. Detroit Public

[1]U.S. Department of Education, Office of Inspector General, *The School District of the City of Detroit's Use of Title I, Part A Funds Under the No Child Left Behind Act of 2001*, ED-OIG/A05H0010 (July 2008).

Schools officials told us that in the spring of 2009 they hired new staff to develop corrective action plans for addressing existing internal control weaknesses.

Assessing the effects of spending: Michigan officials have some experience in measuring the impact of funds in creating jobs and promoting economic growth. The state plans to rely on experts in economic modeling. The state's financial management system, however, is old and does not have the capability to track impacts, so the state will have to rely upon its agencies for this. State officials also told us that the state information technology group will implement a database system at the end of April 2009 that will support its financial management system in recording the impact of Recovery Act funds.

Michigan Beginning to Use Recovery Act Funds

Faced with the highest unemployment rate of all the states (as of February 2009), heavy reliance on the deteriorating car manufacturing sector, and declining tax revenue, Michigan officials plan to use Recovery Act funds to address the state's immediate fiscal needs as well as to help develop long-term capacity. From an employment peak in June 2000, Michigan had lost about 520,000 jobs as of December 2008. Unemployment sharply increased from 7.4 percent in February 2008 to 12 percent in February 2009, and several local communities had even higher rates. For example, since domestic auto manufacturing dominates Detroit's economy, the unemployment levels in the city have been consistently higher than in the rest of the state. As of December 2008, the city's jobless rate was 18.6 percent and according to Detroit officials reached nearly 22.8 percent in March 2009. To help address these issues, prior to the enactment of the Recovery Act on February 17, 2009, the federal government provided $23.7 billion to two auto companies and two financing companies operating in Michigan as part of the Troubled Asset Relief Program.[2]

Michigan has been experiencing declines in state revenues. In January 2009, Michigan reported an expected budget gap of approximately $1.4 billion for fiscal year 2010. In response, the Governor has proposed budget cuts for fiscal year 2010 of $670 million in key state programs such as public education, corrections, and community health; $232 million in

[2]U.S. Government Accountability Office, *Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-474T (Washington, D.C.: March 11, 2009).

revenue enhancements, such as tax increases and elimination of tax exemptions; and using funds made available as a result of $500 million in increased FMAP funds to offset the budget gap.

In March 2009, Michigan's legislature estimated that the state would receive approximately $7 billion in Recovery Act funding. These estimates show that the majority of Recovery Act funds would support education (36 percent), Medicaid (32 percent), and transportation (14 percent), with smaller amounts of funding available for other programs (18 percent).

Michigan has begun to use some of its Recovery Act funds, as follows.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[3] 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.[4] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states must use for their

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

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

Medicaid programs, and states have reported using these available funds for a variety of purposes.

Under the Recovery Act, Michigan's FMAP will increase to at least 69 percent, up from 58 percent in 2008. From January 2008 to January 2009, the state's Medicaid enrollment increased from 1,547,259 to 1,624,245, with the highest share of increased enrollment attributable to two population groups: (1) children and families and (2) disabled individuals. As of April 1, 2009, Michigan has drawn down $463 million, 66.1 percent, of its awards to date.[5] Michigan officials indicated that they will use funds made available as a result of the increased FMAP to cover increased caseloads, offset general fund shortfalls, ensure compliance with prompt payment provisions, maintain existing populations of Medicaid recipients, avoid eligibility restrictions, increase provider payments, maintain current levels of benefits, and avoid benefit cuts.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation funding, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Michigan has submitted these certifications.

As of April 16, 2009, the U.S. Department of Transportation had obligated $110.8 million for 27 Michigan projects.[6] On March 31, 2009, the Governor signed state legislation authorizing the use of federal Recovery Act funds

[5]Michigan received increased FMAP grant awards of $700.5 million for the first three quarters of federal fiscal year 2009

[6]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

for transportation projects that are expected to create about 25,000 jobs.[7] As of April 13, 2009, the Michigan Department of Transportation (MDOT) had advertised 16 projects totaling more than $41 million for competitive bidding. These projects included resurfacing I-196 in Grand Rapids and M-13 in Genesee County. Michigan was apportioned about $982 million for transportation projects, including $847 million for highway infrastructure investment projects and $135 million for urban and rural transit projects. MDOT was apportioned about 75 percent of Recovery Act highway infrastructure investment funds and remaining funds will be suballocated to metropolitan, regional, and local organizations.

MDOT identified 178 road and bridge projects that would, among other things, improve road pavement conditions on 1,300 lane miles of roadways, add lanes to four major roads to reduce congestion, and perform work on 112 bridges, of which 41 are structurally deficient. According to MDOT officials, the priority was to select shovel-ready projects that could be initiated and completed quickly. In Michigan, Recovery Act funds are being used primarily to fund transportation projects in fiscal year 2009 that were originally scheduled to begin in fiscal year 2010 or beyond, as well as some projects that had been identified but had no source of funding. MDOT officials told us they intend to complete selecting and approving specific road and bridge projects to be funded with Recovery Act money by May 1, 2009.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take action to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Michigan's initial SFSF allocation is $1.1 billion. The Recovery Act provided State Fiscal Stabilization Funds to increase funding for education over the next several years and avoid program cuts and teacher layoffs in fiscal year 2010. The amount of funding for each of the initiatives has not

[7]Michigan's fiscal year 2008-2009 Supplemental Appropriations, Federal American Recovery and Reinvestment Act (Transportation), Public Act 3 of 2009.

yet been determined. Michigan plans to submit its application for SFSF funds on or after May 15, 2009, once the state completes its review of all program priorities for which it intends to use stabilization funds. Michigan Department of Education officials told us they consulted with local education agencies to develop plans and establish priorities for the use of SFSF funds that were consistent with the state's priorities, policies, and programs, such as increasing support for the lowest performing schools.

U.S Department of Education ESEA Title I and Individuals with Disabilities Education Act (IDEA) Funds: Michigan Department of Education officials told us that although the amount of funding for each of these two initiatives has not yet been determined they anticipate that Recovery Act funds for ESEA Title I ($390 million) and IDEA ($426 million) will generally be used to support the same priorities that are funded in part by U.S. Department of Education funds that the state now receives. The state plans to use Recovery Act funds to support specified educational outcomes—reading, mathematics, and other learning proficiencies—and foster enhanced access to education programs for special needs students. Michigan's Department of Education also intends to use Recovery Act funds to support professional development among teachers that can help sustain achievement of educational outcomes beyond the time limits of Recovery Act funding.

U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant Program: Michigan plans to apply for $67 million in Recovery Act funds for crime control and prevention activities. Michigan Department of Community Health officials told us that about $41 million of these funds will support, among other things, state efforts to reduce the crime lab backlog, funding for multi-jurisdictional courts, and localities' efforts regarding law enforcement programs, community policing, and local correctional resources. An additional $26 million in Recovery Act funds will go directly to localities to support efforts against drug-related and violent crime. On April 13, 2009, Michigan began accepting grant applications from local Michigan jurisdictions for Byrne Justice Assistance grants funding administered by the state and will continue to accept them until May 11, 2009.

Michigan Is Augmenting Its Approach to Safeguarding and Transparency of Recovery Act Funds but Gaps Exist

All state and local agency officials we interviewed indicated that they plan to use their existing systems to tag and track Recovery Act funding, including increased FMAP funds. State officials were confident that their existing processes for receiving, coding, and monitoring federal funds could be used to separately account for the use of Recovery Act funds as required by the Act. For example, Michigan's Department of Education has used the Michigan Electronic Grants System since 2001 to generate recipient reports on the use of ESEA Title I, IDEA, and State Fiscal Stabilization Funds. According to its officials, Michigan Department Education plans to continue to use the grants system for reporting on recipients' use of Recovery Act funds by creating new accounting codes for Recovery Act funds.

Although state government officials told us they believed that their departments have sufficient capabilities to segregate Recovery Act funds, many expressed less confidence in the capabilities of sub-recipients to separately account for the use of Recovery Act funds. State officials expressed concerns about the capacity of smaller agencies and organizations to separately track and monitor Recovery Act funds. For example, Detroit Public Schools officials told us that the school district has not had a clearly specified process for segregating funds from different funding streams and for how it intends to use Recovery Act funds. According to the officials, in the last several years, the district has commingled ESEA Title I funds with its general funds, making it difficult to track the use of ESEA Title I funds and show that they were used only for allowable expenditures. In addition, according to Detroit Public Schools officials, without improvements to its oversight of these funds, Detroit Public Schools may continue experiencing oversight challenges with respect to Recovery Act funds provided through ESEA Title I and IDEA funding streams. For example, according to a July 2008 report from the U.S. Department of Education's Office of Inspector General, the Detroit Public Schools district, among other things, did not always properly support compensation expenses charged to ESEA Title I funds.[8] District officials told us that in April 2009 they hired new staff to develop corrective action plans for addressing existing internal control weaknesses.

[8]U.S. Department of Education Office of Inspector General: *The School District of the City of Detroit's Use of Title 1. Part A Funds Under the No Child Left Behind Act of 2001*, ED-OIG/A05H0010, July 2008.

Safeguarding Recovery Act Funds

In anticipation of the opportunity to receive additional federal funding and the need to act quickly, Michigan began preparations before the Recovery Act was enacted. For example, the Governor established a working group of executive branch officials from Michigan state agencies and departments, known as Economic Recovery Coordinators (ERC), to plan for the use of anticipated Recovery Act funds.

On February 13, 2009, the Governor established a Recovery Office for coordination of all Recovery Act activities, including communication with stakeholders within and outside the state. The Recovery Office is responsible for helping develop priorities for the use of Recovery Act funds by the state consistent with the objectives of the Recovery Act and with the state's priorities identified to fully maximize the impact of these federal funds.[9] Similarly, Detroit officials told us that they began planning in November 2008 for the receipt of Recovery Act funds and identified over 160 city projects that could be funded by working closely with city departments and community action organizations. Lansing Schools District officials told us that they began planning early for use of Recovery Act funding for the district's 34 schools. The Recovery Office has also been working with state agencies to develop strategies for overseeing and tracking the use of Recovery Act funds to comply with requirements of the act and minimize fraud, waste, and abuse of funds and to help ensure consistent, timely, and accurate compliance with all reporting and certification requirements under the Recovery Act. Michigan is also maintaining a Web site on Michigan's Recovery and Reinvestment Plan (www.michigan.gov/recovery).

According to state officials, Recovery Act funds must be appropriated by the state legislature before the state is authorized to spend the money. In addition, the Michigan Senate created a special committee, known as the Senate Federal Stimulus Oversight subcommittee, to oversee Recovery Act funds.

Michigan Department of Management and Budget officials told us that they are prepared to manage Recovery Act funds because they plan to use existing processes for purchasing goods and services. For example, Michigan will use existing processes to obtain competitive bids for

[9]Governor Granholm identified five priorities: (1) create new jobs and jumpstart Michigan's economy; (2) train Michigan workers and educate Michigan students, (3) rebuild Michigan infrastructure, (4) provide assistance for struggling Michigan families, and (5) invest in energy efficiency and renewable energy technologies.

contracts awarded by state agencies under the Recovery Act in accordance with state law, which state officials described as requiring competitive bids (other than certain exceptions such as emergencies or imminent protection).[10] In January 2009, Michigan created a prequalification program for vendors to provide an inventory of prequalified vendors ready to quickly respond to bids for work that will spend Recovery Act funds. As part of preparing to spend Recovery Act funds, Michigan Department of Management and Budget officials also told us they have been looking at ways to further streamline awarding contracts. Michigan also allows local units of government to join state contracts to leverage the state's negotiating and purchasing power.

Michigan Using Existing Internal Controls

Michigan will continue to use existing internal controls to provide assurances over Recovery Act spending, including ongoing self-assessments of controls by major state departments that are next due to the state Auditor General on May 1, 2009. The self-assessments include identification of internal controls and programmatic weaknesses and developing and tracking actions taken in response to corrective action plans.

The state Auditor General told us his office will include specific audit procedures to address Recovery Act funding as part of the planned procedures for its ongoing federal Single Audits of state departments which will start again in July 2009. However the state Auditor General does not yet have specific plans to audit Recovery Act funds. The state Auditor General's Single Audit approach is to audit and report on individual state departments. Approximately one-half of Michigan's 18 departments are audited each year, with the audits covering 2 fiscal years of departmental activity.

Recent state Auditor General Single Audit Act reports identified numerous material weaknesses in key state operations that are slated to receive significant amounts of Recovery Act funds. For example, the state Auditor General reported in August 2007 that, for fiscal years 2005 and 2006, Michigan's Department of Human Services did not materially comply with federal program requirements regarding allowed or unallowed costs, subrecipient monitoring, and eligibility. The October 2008 Single Audit report on Michigan's Department of Community Health stated that internal

[10]See Management and Budget Act, Act 431 of 1984, sec. 261.

controls were not sufficient to ensure the accuracy of financial accounting and reporting and compliance with federal requirements for 10 of 11 major programs.

The Michigan Auditor General's oversight responsibilities do not include most subrecipients[11] that receive federal funding, so any upfront safeguards to track or ensure accountability over Recovery Act funds going directly to localities have not been determined. Officials from Detroit's Office of the Auditor General told us that they intend to audit the use of Recovery Act funds. The superintendent of the Lansing school district told us the district, along with all the other 840 local school districts in the state, contract with independent public accountants to perform annual financial statement audits.

State Has Identified Staffing and Resource Constraints as a Significant Challenge in Monitoring the Use of Recovery Act Funds

A lack of staff and uncertainty of funding available under the Recovery Act to oversee the use of federal funds may pose challenges for Michigan. Michigan officials reported that a hiring freeze may not allow some state agencies to hire staff to increase their Recovery Act oversight efforts. Officials with the state's Departments of Community Health and Education and the Lansing School District are concerned about available administrative resources to cover increased oversight activities on the use of Recovery Act funds. For example, the state Department of Community Health said that because it has been downsizing for several years through attrition and early retirement, it does not have sufficient staff to cover its current responsibilities and that further reductions are planned for fiscal year 2010. However, state officials told us that they will take the actions necessary to ensure that state departments have the capacity to provide proper oversight and accountability for Recovery Act funds.

Michigan Officials Concerned about the Lack of Federal Guidance

Michigan officials we spoke with in March 2009 wanted additional federal guidance related to state responsibilities and reporting requirements under the Recovery Act and expressed concern about spending funds before they had received such guidance. For example, officials were unclear about the state's responsibilities concerning tracking or reporting on funds that go directly to local entities, such as transportation funding going directly to localities for urban transit. In addition, Michigan Department of

[11]Single Audits performed by the state Auditor General include audit procedures of subrecipients when the subrecipient is a state agency.

Education officials expressed concern about the lack of guidance from the U.S. Department of Education regarding several aspects of how to manage the receipt, allocation, use, and reporting of Recovery Act funds. In particular, state officials said they had not yet received guidance on tracking funds under IDEA, Part C and were concerned that recipients of grant funds might report information inconsistently. On April 1, 2009, the U.S. Department of Education issued additional guidance on the use of Recovery Act funds.

Plans to Assess Impact of the Recovery Act Are Preliminary

Michigan may face challenges in assessing the impact of Recovery Act funds because the state's financial management system is old and does not have the capability to track impacts, so the state will have to rely upon its agencies for this. Furthermore, state officials said they are aware of the requirement that the state measure the extent that certain Recovery Act funds create jobs and promote economic growth and have identified prospective participants to estimate the impact of Recovery Act funds. State officials also told us that the state information technology group will implement a database system at the end of April 2009 that will support its financial management system in recording the impact of Recovery Act funds. They told us that the Michigan Economic Development Corporation, universities in the state and other experts in economic modeling are expected to participate in prospective analysis supporting the potential impact of Recovery Act funds on a project basis. Additionally, the Department of Energy, Labor and Economic Growth and the state Treasurer will also be involved in analysis related to the impact of Recovery Act's funds.

Michigan's Comments on This Summary

We provided the Governor of Michigan with a draft of this appendix on April 17, 2009. Michigan's Recovery Czar responded for the Governor on April 20, 2009, stating that staff in the Michigan Governor's office and the Michigan Economic Recovery Office have reviewed the draft appendix and, in general, agree with its overview of the state's preparations for receiving and spending Recovery Act funding. These officials provided technical comments on the draft which were incorporated, as appropriate.

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Appendix XII: Mississippi

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 1, 2009, Centers for Medicare and Medicaid Services (CMS) had made about $225.5 million in increased FMAP grant awards to Mississippi.
  - As of April 1, 2009, the state had drawn down $114.1 million, or just more than 50 percent of its initial increased FMAP grant awards.
  - State officials reported that they plan to use funds made available as a result of the increased FMAP to cover their increased Medicaid caseload and to offset expected state budget deficits due to lower general fund revenue collections.
- ✓ **Transportation—Highway Infrastructure Investment**
  - On March 2, 2009, the U.S. Department of Transportation apportioned Mississippi about $355 million for highway infrastructure investment.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated approximately $137 million for 32 Mississippi projects.
  - As of April 1, 2009, Mississippi had signed contracts for 10 projects totaling approximately $77 million. The Mississippi Department of Transportation (MDOT) used a competitive and transparent process to select projects. These projects include activities such as road construction and road maintenance.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - On April 2, 2009, the U.S. Department of Education allocated Mississippi about $321 million from the initial release of these funds.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements or will be able to comply with waiver provisions and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. Mississippi plans to submit its application for state fiscal stabilization funds after it receives and reviews the final program guidance.
  - Mississippi expects to use these funds to help restore funding for elementary, secondary, and public higher education to prior levels in order to minimize reductions in education services in fiscal years 2009, 2010, and 2011. The state does not foresee having leftover funds for additional subgrants to local education agencies.

Mississippi is receiving additional Recovery Act dollars to fund other programs, including employment and training programs under the Workforce Investment Act, capital and management activities under the Public Housing Capital Fund, and gap financing for low-income housing tax credit projects under the Taxpayer Credit Assistance Program. The status of Mississippi's plans for using these funds is described throughout this appendix.

Safeguarding and transparency: The State Auditor's office has taken steps to ensure accountability. For example, the office hosted a meeting with state agency heads to discuss accountability requirements and expectations, and the office plans to conduct training seminars on accounting for and controlling the use of Recovery Act funds. In addition, officials with the auditor's office said Mississippi plans to add special accounting codes to the statewide accounting system in order to track the expenditure of Recovery Act funds. The state also plans to publicly report Recovery Act spending that state agencies receive directly. State officials noted that the statewide accounting system would not capture those funds that the federal government allocates directly to local and regional governmental organizations, nonprofit organizations, or higher education entities. According to the Governor's office, the state is developing a framework that would require these entities to report Recovery Act revenues and expenses to a central website.

Assessing the effects of spending: According to state officials, they are waiting for the federal government to provide more specific guidance for measuring job creation and retention. For example, the officials noted that the federal government's Office of Management and Budget (OMB) should provide more guidance for estimating job creation and retention.

Mississippi Beginning to Use Recovery Act Funds

Mississippi has begun to use some of its Recovery Act funds, as follows.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal

matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

Under the Recovery Act, Mississippi's FMAP will increase to 83.62 percent, an increase of 7.33 percentage points over its fiscal year 2008 FMAP. As of April 1, 2009, Mississippi had drawn down $114.1 million or just more than 50 percent of its initial increased FMAP grant awards. Mississippi officials plan to use funds made available as a result of the increased FMAP to cover their increased Medicaid caseload and to offset expected state budget deficits due to lower general fund revenue collections, avoiding cuts in services. Mississippi officials indicated that simplifications to CMS expenditure reporting systems are needed to automatically generate the increased FMAP applicable to qualifying expenditures. Officials also reported a need for CMS guidance regarding programmatic changes that were made to its Family Planning Waiver since July 1, 2008, and whether these changes affect the state's ability to draw down the increased FMAP.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation program, which apportions money to states to construct and maintain eligible highways and for other surface transportation

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

[2]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.

projects that could affect highways. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Mississippi's Governor provided this certification in a letter dated March 17, 2009. The Governor noted that transportation spending authority in Mississippi is granted annually by the state Legislature to the Mississippi Department of Transportation (MDOT), which operates under the guidance of independently elected transportation commissioners. As such, MDOT's Executive Director also provided this certification.

As of April 1, 2009, MDOT had signed contracts for 10 projects totaling approximately $77 million.[3] The agency used a transparent and competitive process for awarding contracts for these projects. MDOT issued an advance notice on its Web site to inform contractors of the opportunity to bid on the projects. Furthermore, MDOT used cost as a key criterion for awarding contracts. MDOT awarded the contract to the lowest bid, provided that the lowest bid did not exceed the state's cost estimate for the project by more than 10 percent. These projects include the expansion of State Route 19 in eastern Mississippi into a four-lane highway. This project fulfills part of MDOT's 1987 Four-Lane Highway Program, which seeks to link every Mississippian to a four-lane highway within 30 miles or 30 minutes. In addition, MDOT plans to upgrade a section of a major road, US-78, which runs across northern Mississippi. An MDOT official anticipated the project would have major economic benefits for Mississippi.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF), to be administered by the U.S. Department of Education (Education). The SFSF provides funds to states to help avoid reductions in education and other essential public services. The initial award of SFSF funding requires each

[3]As of April 16, 2009, the U.S. Department of Transportation had obligated $137 million for 32 Mississippi projects. For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

state to submit an application to Education that assures, among other things, it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Mississippi's initial SFSF allocation is about $321 million. The Recovery Act specifies that 81.8 percent is to be used for support of elementary, secondary and postsecondary education, and early childhood programs. The Recovery Act also authorizes the Governor to use 18.2 percent of these funds for "public safety and other government services," which may include education. Mississippi's Governor has not yet announced specific plans for the use of these other government services funds. According to state education officials, Mississippi will file its application for these funds after receiving and reviewing sufficient guidance. The funds will be appropriated to the state education agencies by the Mississippi State Legislature when it returns to session later this spring. The funding is expected to be used to stabilize education budgets in fiscal years 2009, 2010, and 2011 to help avoid reductions in education services. Restoring funding in those years to required levels is expected to consume all of the stabilization funds to be received by the state.

Mississippi Is Planning for Recovery Act Funding

Mississippi began planning for how the state would provide oversight of Recovery Act funding in February 2009. Officials from the Governor's Office said that the state did not establish a new office to provide statewide oversight of Recovery Act funding, in part because they did not believe that the act provided states with funds for administrative expenses—including additional staff. The Governor's Director of Federal Policy is serving as the stimulus coordinator for the state with support from a loaned executive from a statewide business development association. The stimulus coordinator told us she met individually with state agency heads to discuss their plans for spending funds allocated under the Recovery Act. In late March 2009, the Governor submitted a letter certifying that Mississippi would request funds available under the Recovery Act and such funds will be used to create jobs and promote economic growth. The Governor added in the certification letter that the state would continue to examine the various guidelines and fund-specific requirements associated with the Recovery Act funds. In April 2009, the Governor hosted a Mississippi Stimulus Summit where state agency heads provided information on the detailed steps that were already being taken or were planned regarding the use of Recovery Act funds. Finally, the Governor established a state stimulus Web site (www.stimulus.ms.gov) to

provide information to the public on the Recovery Act funding received by the state.

Addressing State's Fiscal Challenges Is Mississippi's Goal for Using Recovery Act Funding

Mississippi officials plan to use the anticipated $2.8 billion in Recovery Act funding to address fiscal challenges the state has experienced due to a weakened economy. State officials reported that Mississippi entered a recession in late 2008. One indicator of Mississippi's weakened economy is the state's unemployment rate, which was 8.7 percent in January 2009 compared with 6.9 percent in June 2008. The state's weakened economy has also resulted in lower-than-expected tax revenues for the state's current fiscal year. According to the Governor, Mississippi's Revenue Estimating Committee projected that the state's fiscal year 2009 general fund revenue will fall $301 million, or 5.9 percent, short of expectations. In response to anticipated budget shortfalls, the Governor made two cuts to most state agency budgets. In November 2008, the Governor cut most agency budgets by 2 percent, or $42 million. In January 2009, the Governor cut state agencies' budgets by an additional $158.3 million, bringing the total cuts to date for the fiscal year to $200 million. Each agency or department received a budget cut of up to 5 percent (see table 8).[4] Although the Governor anticipated that Congress would pass a stimulus package, he ordered the cuts in agency budgets to comply with state law that requires a balanced budget for the fiscal year, which ends on June 30.

[4]According to Mississippi officials, under Mississippi law, the Governor may cut any department or agency by 5 percent of its appropriation; however, the Governor cannot cut any department or agency by more than 5 percent until every department and agency has been cut by 5 percent.

Table 8: Budget Reductions for Selected State Agencies in Mississippi for Fiscal Year 2009

Selected agency	Appropriations for fiscal year 2009	Total budget cuts in fiscal year 2009	Percentage change during fiscal year 2009
Corrections	$328,180,918	$16,409,046	-5.0
Highway Safety Patrol	48,440,661	2,422,033	-5.0
Judiciary and Justice	63,799,714	3,189,985	-5.0
Economic Development	25,748,751	1,287,438	-5.0
Higher Education	961,063,754	46,649,166	-4.9
Fiscal Affairs	72,724,225	3,577,428	-4.9
Hospitals and Hospital Schools	278,480,866	13,226,449	-4.7
Public Education	2,517,323,677	92,021,567	-3.7
Public Health	61,264,961	1,705,331	-2.8
Social Welfare	692,477,684	6,603,119	-1.0

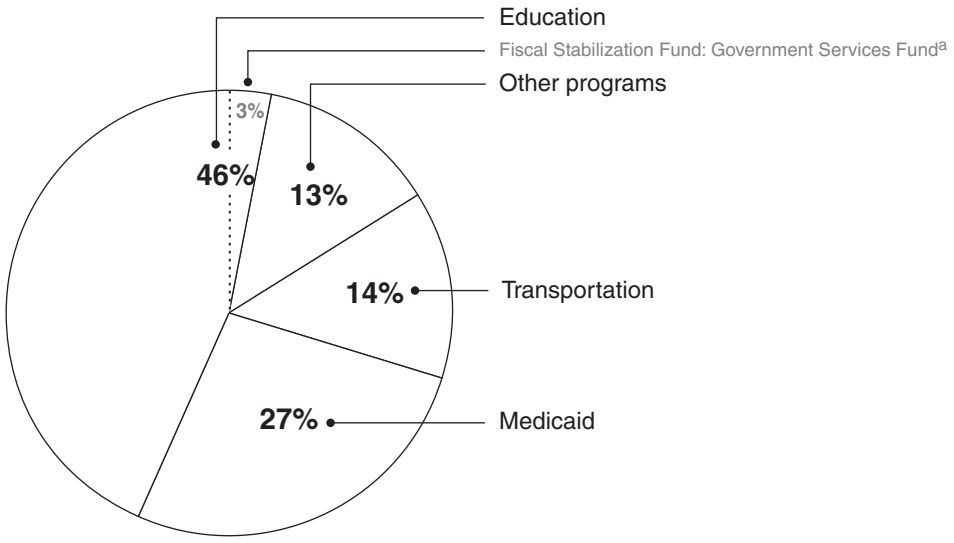
Source: GAO analysis of Mississippi Department of Finance and Administration data.

To mitigate the impact of economic fluctuations on state revenues, Mississippi has historically set aside 2 percent of projected revenues into a budget stabilization fund. In 2008, however, the state did not set aside any revenues for this fund, which made available an additional $100 million for Mississippi's 2009 fiscal year budget. Going forward, Mississippi faces budgetary challenges for fiscal year 2010. According to the Governor, the state's Revenue Estimating Committee projects that Mississippi's revenues will be $402.7 million, or 7.9 percent, short of expectations. State officials anticipate that the recession will increase the demand for certain government services, including unemployment benefits, Medicaid, food stamps, and rental assistance. Some Mississippi officials believe that the state's recession could continue through fiscal year 2012.

Most of the Recovery Act funds that Mississippi will receive are directed toward education, Medicaid, and transportation programs (see fig. 9). According to the Governor's office, state law provides for state agencies to escalate their spending plans to account for federal funds received under the Recovery Act. State officials also told us that the Legislature was considering adding further escalation language to the current fiscal year's appropriations bills that would authorize state agencies to spend any Recovery Act funds received. The Legislature normally conducts its regular session between the beginning of January and the end of March. However, the Legislature recessed early during the 2009 regular session in

part because of uncertainty regarding how the state's portion of Recovery Act funds should be spent. The Legislature plans to reconvene in early May 2009 to complete its work on the state's fiscal year 2010 budget.

Figure 9: Estimated Allocation of Mississippi's Recovery Act Funding by Major Programs



Source: GAO analysis of data provided by Mississippi Joint Committee on Performance Evaluation and Expenditure Review.

[a]A portion of the Fiscal Stabilization Fund is allocated for the Government Services Fund. The Government Services Fund may be used for public safety and other government services, including assistance for elementary and secondary education and public institutions of higher education.

Mississippi Has an Accounting System to Track Recovery Act Spending

Officials with the State Auditor's office told us that special accounting codes will be added to the Statewide Automated Accounting System (SAAS) in order to track the expenditure of Recovery Act funds. The state also plans to publicly report Recovery Act spending that state agencies receive directly. However, state officials noted that SAAS would not track Recovery Act funds allocated directly to local and regional governmental organizations, nonprofit organizations, or higher education entities. For example, cities with a population of more than 50,000 residents can apply directly to federal agencies for certain programs, such as Community Development Block Grants. In addition, Mississippi has 10 regional planning and development districts that may receive funding directly from federal agencies. Finally, Mississippi localities may receive Recovery Act funds directly from the Appalachian Regional Commission or Delta Regional Authority, federally chartered regional commissions charged

with promoting economic development in certain parts of the state. According to the Governor's office, the state is developing a framework that would require these entities to report Recovery Act revenues and expenses to a central website.

Some State Agencies Have Made Spending Decisions for Recovery Act Funds

A few state agencies have made spending decisions for Recovery Act fund apportionments received:

- The Mississippi Department of Employment Security (MDES) received about $40.7 million in Recovery Act funding for adult, dislocated worker, and youth activity programs under the Workforce Investment Act. MDES officials told us they planned to use the youth activity funding to provide summer youth programs across the state.

- The Jackson Public Housing Authority received a $1.1 million allocation to its Public Housing Capital Fund from the Department of Housing and Urban Development (HUD) for capital and management activities, including modernization and development of public housing projects. The officials told us they planned to use the Recovery Act allocation to fund projects already included in their 5-year Capital Fund Plan—for instance, one project will redevelop housing in Jackson's North Midtown Community.

- The Mississippi Home Corporation (MHC) was allocated approximately $21.9 million to provide additional gap financing to Low Income Housing Tax Credit (LIHTC) projects under the Taxpayer Credit Assistance Program (TCAP). MHC officials told us they had provided an initial notice to developers of LIHTC projects in the state about the additional funding provided under the Recovery Act for the TCAP but were waiting for HUD to issue final guidance before releasing details on their plans for administering the Recovery Act funding.

State Auditor Coordinating Plans for Safeguards and Controls

The State Auditor's office has taken and plans to take a number of steps to establish accountability. For example, in March 2009 the office hosted a meeting with staff from state agencies that are expected to receive Recovery Act funds to discuss accountability requirements and expectations. The office is planning to conduct training seminar for local officials and others concerned about accounting for and controlling the use of Recovery Act funds. Overall, the State Auditor believes the state has adequate controls for the use of Recovery Act funds but is concerned that the funding of new programs and the significant increase in funding of

current programs will stress the control system. In addition to the State Auditor, a legislative oversight committee and internal audit offices within each agency may provide oversight of Recovery Act funds. For example, the legislative committee staff in March 2009 said they began tracking the Recovery Act and the state's Recovery Act-related legislation and funding provided to Mississippi.

Mississippi's most recent Single Audit Act findings highlight two material weaknesses in internal control over financial reporting at one state agency that will receive Recovery Act funds. In its Single Audit report for fiscal year 2008, the State Auditor found that the Mississippi Department of Employment Security did not record the tax liens receivable account and corresponding Unemployment Insurance Premiums revenue account on the department's financial statements in accordance with generally accepted accounting principles. As a result, the State Auditor proposed, and management made an audit adjustment of, approximately $35.5 million to properly state the department's current year financial statements. In addition, the State Auditor found that the department's internal controls over its tax lien receivable system were inadequate, and management proposed audit adjustments totaling approximately $6.4 million to properly state the department's tax lien receivables. The State Auditor also identified one material weakness in internal control over compliance at the Mississippi Department of Human Services for the department's failure to verify and document compliance with the Davis-Bacon Act requirements for the Social Services Block Grant, which could result in questioned costs and funds due back to the federal granting agency.

Resources for Conducting Oversight Are Limited

State officials stated that the Recovery Act does not provide funding to oversight entities, but the federal government expects states to ensure accountability and transparency over expenditures. For example, officials from the State Auditor's office told us they had experienced significant staff turnover in recent years and relied on less-experienced staff to conduct audit work. In addition, the Lieutenant Governor expressed concern about whether the State Auditor could be funded to conduct additional Recovery Act-related auditing responsibilities, as was done for Hurricane Katrina related oversight. Officials from the State Auditor's office added that they normally charged the audit agency for the cost of audit services provided, but they were not sure whether Recovery Act funds could be used for this purpose. The State Auditor noted that the office would like to hire certified public accounting firms to conduct Recovery Act oversight work rather than increase staff. Further, the

officials noted that OMB should provide guidance regarding state level oversight, auditing, and administrative costs—such as how costs should be paid for and with what funds.

The legislative oversight committee also expressed concerns about the capabilities of the State Auditor's office and some state agency internal audit functions. For example, in a recent report, the committee noted that low staffing levels and high turnover in the office's Department of Audit's Financial and Compliance Audit Division had resulted in a decreased experience level of audit staff and reduced institutional knowledge to use in forming auditor judgment.[5] In addition, the committee noted there were limitations in the internal audit functions of some state agencies—for instance, state law required 19 agencies to establish an internal audit function; 13 had done so as of December 2008. Further, the committee reviewed the internal audit functions of 8 agencies and found that most focused on reviewing agency programs rather than testing internal controls. Finally, the committee found that the Executive Director for these agencies reviewed and approved the plans for their internal audit function, but this could limit the internal auditor's freedom to determine the internal controls tested and programs reviewed.

Assessing the Impact of Recovery Act Funds Requires Clear Federal Guidance

Officials from the State Auditor's office recommended that the federal government provide specific guidance for reporting on the use of Recovery Act funds to support job creation or retention because the reliability of such estimates depends critically on using a solid methodology. Furthermore, the officials recommended that OMB provide a clear definition of time-limited, part-time, full-time, and permanent jobs. Another concern was how to report on jobs created from the use of funds for programs, such as unemployment, food stamps, and Medicaid. These funds make up a large portion of the Recovery Act funding, but, according to state officials, the purpose of these programs is not job creation and retention.

The State Auditor's office also expressed concerns about data reliability. For example, staff noted that standardization of data was lacking and the various decentralized reporting mechanisms, while certainly cheaper and

[5]Mississippi Joint Legislative Committee on Performance Evaluation and Expenditure Review, *Report to the Mississippi Legislature #518, Enterprise Mississippi: A Vision for State Government* (Jackson, Miss., Dec. 9, 2008.).

less burdensome on state agencies, will not likely provide meaningful data on the impact of Recovery Act funds. Additionally, the staff noted that, if state agencies require their subrecipients to provide nonstandardized and nonuniform data, it will be difficult to identify trends at the state level. They also expressed concern that decentralized reporting would bypass the state-level efforts of accountability. Ultimately, they said state-level, centralized reporting using standardized and uniform data collection elements would be beneficial for state and federal oversight and would raise both the actual and perceived level of accountability.

As an example of state efforts to assess the impact of Recovery Act funds, MDOT hired a contractor to conduct an economic impact analysis of projects MDOT had preselected to receive Recovery Act funding. According to one of the contractor's staff, these projects were preselected on the basis that they were "shovel ready" during the first 90 days of the state receiving stimulus funds. The contractor used a forecasting model to measure the impact that an estimated $726 million in transportation stimulus funding would have on the state of Mississippi with regard to increased economic spending and the number of jobs from 2009 through 2011.[6]

Mississippi's Comments on This Summary

We provided the Governor of Mississippi with a draft of this appendix on April 17, 2009. The Director of Federal Policy, who serves as the stimulus coordinator, responded for the Governor on April 20, 2009. The official provided technical suggestions that were incorporated, as appropriate.

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Staff Acknowledgments

In addition to the contacts named above, Chris Keisling, assistant director; Marshall Hamlett, analyst-in-charge; David Adams; Michael O'Neill; Carrie Rogers, and Erin Stockdale made major contributions to this report.

[6]According to the contractor, the REMI model (Regional Economic Models Inc.) is a forecasting model that determines the economic impacts of transportation developments by identifying the interrelationships and ensuing impacts in five major sectors of the economy: output; production and labor supply; labor and capital demand; wages, costs and prices; and market share.

Appendix XIII: New Jersey

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**

- As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $550 million in increased FMAP grant awards to New Jersey. As of April 1, 2009, the state has drawn down $362.2 million, which is almost 66 percent of its awards to date.
- Officials stated that the funds made available as a result of the increased FMAP allow the state to cover the increase in caseload and maintain current populations and benefits. In addition, these funds will help balance the state's budget and allow the state to eliminate premiums for children in families with incomes less than 200 percent of the federal poverty level in New Jersey's State Children's Health Insurance Program.

✓ **Transportation—Highway Infrastructure Investment**

- New Jersey was apportioned about $652 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation. As of April 16, 2009, the U.S. Department of Transportation had obligated $280.8 million for 12 projects. Under the Recovery Act, highway funds are reimbursable, and New Jersey will receive funds after all or part of each project is completed.
- As of April 16, 2009, the New Jersey Department of Transportation (NJDOT) had advertised competitive bids on 10 projects totaling about $269.5 million. New Jersey has determined that it can meet Recovery Act requirements for obligating highway infrastructure investment funds.
- These projects included road improvements, pavement and signal rehabilitation, bridge deck repairs, and major design elements for major projects.

✓ **U.S. Department of Education State Fiscal Stabilization Fund (SFSF)**

- New Jersey was allocated about $891 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
- Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. State officials estimated that most of the SFSF funds will have an impact on the state's fiscal year 2010 budget, which will start on July 1, 2009. As of April 16, 2009, New Jersey had not applied for SFSF funds.
- State officials stated that, pending a New Jersey Supreme Court decision on the state's new education funding formula, the SFSF funds for primary education would follow that formula. The state's use of SFSF funds for higher education is unclear. State officials are currently trying to determine what portion of these funds will be allocated to higher education. New Jersey expects to make that determination in late April.

New Jersey is also receiving additional Recovery Act funds under other programs, such as transit capital assistance and fixed guideway modernization funds, Edward Byrne Memorial Justice Assistance Grants, and housing capital assistance. The status of plans for using these funds are described throughout this appendix.

Safeguarding and transparency: New Jersey plans to use several entities to oversee its Recovery Act funds. The Governor has established a state Recovery Accountability Task Force to coordinate and review how state and local agencies use Recovery Act funds as well as provide guidance and best practices for project selection and internal controls, among other things. The state has several accountability agencies that will undertake different aspects of Recovery Act oversight. New Jersey's agencies are adding capabilities to their accounting systems to track Recovery Act funds. Although New Jersey will publicly report the state's Recovery Act spending, state officials said they might not be aware of all federal funds sent directly to other entities, such as public housing authorities. State officials have some concerns about the use of some Recovery Act funds, such as by independent local entities in the state, and they are developing some strategies to mitigate those risks.

Assessing the effects of spending: New Jersey state agencies are in the early stages of developing plans to assess the effects of Recovery Act spending. Different state and local agencies will have different ways of collecting or estimating jobs created or retained. New Jersey is planning to develop a methodology to collect this data but is waiting to see what federal guidance requires.

New Jersey Beginning to Use Recovery Act Funds

New Jersey has begun to use some of its Recovery Act funds, as follows.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008,

and December 31, 2010.[1] 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.[2] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, New Jersey has drawn down $362.2 million in increased FMAP grant awards, which is almost 66 percent of its awards to date.[3] New Jersey officials reported that they plan to use funds made available as a result of the increased FMAP to offset state general fund deficits, cover the state's increased Medicaid caseload and maintain current populations and benefits.[4] This funding will also be used to help ensure that the Medicaid prompt payment requirements are met.[5] Additionally, state officials noted that the funds made available as a result of the increased FMAP are allowing them to eliminate premiums for children in families with incomes less than 200 percent of the Federal Poverty Level in New Jersey's State Children's Health Insurance Program

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

[2]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.

[3]As of April 3, 2009, New Jersey received increased FMAP grant awards of $549.8 million for the first three quarters of federal fiscal year 2009.

[4]From January 2008 to January 2009, the state's Medicaid enrollment increased from 750,529 to 771,156, with increased enrollment mostly attributable to two population groups: (1) children with families, and (2) individuals who are blind or disabled.

[5]Under the Recovery Act, to be eligible for the increased FMAP, states must comply with prompt pay requirements, which require states to pay 90 percent of clean claims from health care practitioners within 30 days of receipt and 99 percent of these claims within 90 days of receipt. 42 U.S.C. § 1396(a)(37)(A); Recovery Act, div. B, title V, § 5001(f)(2).

(SCHIP).[6] This will help the state retain children in SCHIP who would otherwise be terminated from the program for nonpayment of premiums.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects that could affect highways. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of highway spending and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. New Jersey provided these certifications but noted that the state's level of funding was based on the best information available at the time of the state's certification.[7]

At the Governor's direction, NJDOT had begun planning for a federal stimulus package for federal-aid eligible highway projects in November 2008. NJDOT originally developed a list of highway projects worth about $1.4 billion, which was pared down to meet the actual apportioned amount. NJDOT selected 40 total projects that it could deliver as quickly as possible. As of April 16, the U.S. Department of Transportation had obligated $280.8 million for 12 New Jersey projects.[8] The projects that were selected concentrated mainly on replacing in-kind projects that require little or no environmental clearance or extensive design work, such as pavement and signal rehabilitation and highway bridge painting and deck replacement. Of the 40 projects selected, 5 are in the design stage, while the rest are in the construction or right-of-way acquisition phases. NJDOT staff indicated they were allocating over a third of their

[6]The annual income for a family of four at 200 percent of the Federal Poverty Level is $44,100.

[7]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[8]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

Recovery Act transportation funding to 3 large projects, including one in an economically distressed area. As of April 16, 2009, 10 projects totaling about $269.5 million have been put out for bid through a competitive process. NJDOT officials estimate that Recovery Act funds will save the state about $100 million in interest charges over 12 years for one of the selected projects, as the state will not have to borrow to start and complete it. Not all of the selected projects were on the State Transportation Improvement Plan (STIP), but New Jersey, in consultation with the Federal Highway Administration, amended its STIP to include all of the selected projects.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF), to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

The state expects to receive $891.4 million in SFSF funds, about 82 percent of which is for education and about 18 percent of which is for the state to use for "public safety and other government services." State officials said that, pending a New Jersey Supreme Court decision on the state's new education funding formula, the SFSF funds for primary education would follow that formula. The state's use of SFSF funds for higher education is unclear. The Governor's Chief of Staff stated that New Jersey is currently trying to determine what portion of the SFSF education and other government services funds will be used for higher education and will not submit its application for SFSF funding until it completes this determination. New Jersey expects those determinations to be made sometime in April. The state expects that the receipt of stabilization funds will help balance its fiscal year 2009 budget and avoid layoffs or tax increases.

New Jersey state education officials said in March that the lack of clear, specific guidance from Education limited their ability to provide guidance to local institutions. As a result, school district officials we interviewed in Newark and Trenton in late March stated that they are waiting for state officials to tell them what their allocations are for each of the federal Recovery Act education programs. The timing of the federal and state guidelines for these funds are important as the local schools districts are

currently planning their upcoming fiscal year budgets and would like to know how the Recovery Act funds would complement their upcoming school spending. On April 1, 2009, Education issued guidance to the states on how Recovery Act funds could be used for education. State officials are continuing to review the guidance and on April 16, 2009, issued guidance to local school districts outlining each district's allocation of additional funds made available under the Recovery Act for programs authorized under Title I of the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act.

Transportation—Urban/Rural Transit Capital Assistance and Fixed Guideway Modernization Grants: New Jersey Transit (NJT), the primary public operator of bus and commuter rail transit lines in the state, was apportioned all of the Recovery Act funds for transit for New Jersey, which amounted to about $425 million in three pre-existing federal transit programs. NJT has selected 15 projects that will use Recovery Act funds, all of which were on their 20-year capital plan. About 70 percent of the funds are allocated to capacity expansion and improvement projects, with the remainder allocated to maintenance projects, as its regular funds are concentrated on safety, security and maintenance needs. According to NJT officials, NJT can move quickly to use these funds as the Federal Transit Administration (FTA), through its preaward authority, will reimburse the agency for funds expended for the selected projects, even though the funding for those projects has not yet been obligated by the FTA. The largest allocation of NJT's Recovery Act funds ($130 million) will be used toward designing and undertaking some construction activity for new train tunnels under the Hudson River. The tunnels are expected to double the number of NJT trains going into and out of New York City.

Housing and Urban Development—Housing Capital Assistance: HUD allocated approximately $104 million to 86 public housing authorities in New Jersey for capital and management activities, including modernization and development of public housing developments. Officials from the Newark Housing Authority (NHA), which is receiving an allocation of about $27.4 million, told us they planned to use the allocation to fund projects already included in their 5-year capital plan—including rehabbing 700 vacant units and 300 occupied units—which will generate income and additional HUD subsidies to NHA and provide new and improved affordable units for additional families.

Justice—Edward Byrne Memorial Justice Assistance Grants: State officials expect to receive a Recovery Act allocation of $48 million from the Byrne Justice Assistance Grant Program.[9] Local law enforcement officials stated that this program may provide for some additional facilities and other law enforcement equipment. For example, the Trenton Police Department is planning to use its Byrne Justice Assistance Grant funds on projects that will enhance its crime reduction efforts by sharing information with Mercer County's Prosecutor's Office and enhancing the department's forensic crime analysis capabilities. In contrast, according to Newark's Chief of Police, the amount of Byrne Justice Assistance Grants allocated to the Newark Police Department may be sufficient to provide some new equipment but not fund a major capital program.

New Jersey's Plans for Spending Recovery Act Funds Are Forming As Funds Are Being Distributed

New Jersey revenues for fiscal year 2009 fell short of expectations by about $3 billion. As a result, New Jersey had to rebalance the state's budget by cutting spending and taking personnel actions in January and February 2009 before the Recovery Act was enacted. In addition, as part of its actions in February, the state used $450 million of its $600 million surplus.[10] New Jersey's Office of Management and Budget is accounting for Recovery Act funds that come into state agencies, but there is no concerted effort to independently aggregate estimates of total funding across state agencies.[11] As of April 3, 2009, the state had received about $583.8 million in Recovery Act funds, mainly for increased FMAP grant awards and unemployment insurance. Other funds have been allocated but are not yet available, such as for some education and energy efficiency programs.

[9]The Byrne Justice Assistance Grant Program supports a broad range of activities to prevent and control crime and may be used for, among other things, equipment, supplies, training, personnel, and research and information systems for criminal justice efforts.

[10]In March 2009, the governor presented a proposed budget for fiscal year 2010 along with additional actions to again rebalance the fiscal year 2009 budget. Those actions included an additional reduction in the state's pension payment for fiscal year 2009, which allowed restoration of surplus in the current year which assisted in addressing a $7 billion deficit for fiscal year 2010.

[11]New Jersey officials stated they are unable to estimate the total amount of Recovery Act funds that are coming into the state because some formula allocations have not yet been announced by federal agencies and some funding, such as increased FMAP funds, are subject to change based on future conditions.

Anticipating even less revenue in fiscal year 2010, which begins on July 1, 2009, the Governor has proposed a $29.8 billion budget. According to the Governor, if New Jersey did nothing to curtail growth in state spending or adjust its mandatory obligations, the fiscal year 2010 budget would be about $36 billion, or $7 billion above anticipated revenues. In response to declining revenue, the Governor has proposed about $4 billion in cuts to programs, rebates, pension payments, and state worker personnel costs. In all, more than 850 line items in the budget have been cut. The largest cuts will come from scaling back state rebates of local property taxes by $500 million and reducing state payments to the pension fund by $895 million. The Governor is also proposing to save $400 million in personnel costs through a wage freeze and furloughs for state employees, avoiding an otherwise anticipated layoff of up to 7,000 state workers.

Some New Jersey officials began preparing for receipt of Recovery Act funds prior to passage of the Recovery Act. Anticipating federal stimulus spending for infrastructure, the Governor asked NJDOT to identify projects that could be ready for federal funding and quick implementation in November 2008. NJDOT officials identified about $1.4 billion in potential eligible projects but had to scale this list back to meet New Jersey's eventual apportionment of Recovery Act transportation funds. The city of Newark also prepared a process with evaluative criteria for selecting local projects for Recovery Act funds before the Recovery Act was enacted.

New Jersey officials stated that New Jersey's plans for spending Recovery Act funds have been complicated by not having guidance from federal agencies immediately available and by preparations for the state's upcoming fiscal year 2010 budget. For example, the state Department of Education could not determine how the state could distribute its allocation of Recovery Act education funds until the U.S. Department of Education released its guidance on April 1, 2009. Officials from the state's Department of Community Affairs (DCA), which is responsible for housing and urban development programs in the state, stated that they lacked guidance from federal agencies for most of the programs that they administer, which hindered their preparation for use of those funds.[12] The Governor's Chief of Staff stated that some of the federal funds, especially the state's allocation of the SFSF funds, will be disbursed to the state in its

[12]DCA officials stated they did receive guidance from the U.S. Department of Energy on the weatherization program.

fiscal year 2010 budget, which is currently being debated by the state legislature.

New Jersey officials have been and are planning to continue submitting certifications for the state's use of Recovery Act funds. The Governor issued a certification memo to the Secretary of the U.S. Department of Transportation that the state would maintain its efforts with regard to state funding for the types of projects funded under the Recovery Act. Other local officials told us they would issue or had issued similar certifications for Recovery Act funds for which they are directly responsible. For example, NHA staff told us their Executive Director signed a certification letter for the Recovery Act funds that the NHA was responsible for.

New Jersey Will Use Existing Resources for Recovery Act Oversight, but Lack of Additional State Funding May Hinder Its Efforts

According to state officials, the Governor and executive branch agencies have primary responsibility for controlling the state's receipt of Recovery Act funds, with legislative approval.[13] To this end, the Governor has created the state Recovery Accountability Task Force, co-chaired by the Governor's Chief of Staff and the state's Comptroller and consisting of active and former state and federal officials. The task force will, among other things, monitor the distribution of Recovery Act funds in the state and promote the effective and efficient use of those funds. The task force has established a public Web site and will provide guidance for internal controls for complying with Recovery Act provisions. As part of the task force, the state Comptroller has responsibility for coordinating all of the oversight agencies in the state. These entities will have different roles in the state's Recovery Act oversight efforts:

- the state Auditor, who is appointed by the legislature and handles financial and some performance audits of state agencies;
- the state Comptroller, who is generally responsible for performance audits at the state and local levels of government and reviews government contracts over $2 million;

[13]As described by state officials, similar to the federal government, each year the Governor submits to the legislature a proposed budget. The legislature has the ultimate authority to adopt the budget act and appropriate funds, subject to gubernatorial line-item veto. State agency use of federal funds must be authorized in state appropriations.

- the state Inspector General, who is responsible for investigations of fraud related to state government; and

- the internal audit offices that exist within most agencies, including the state Medicaid Inspector General and the contract compliance audit units within the Division of Purchase and Property (DPP) ad the Division of Property Management and Construction (DPMC).

According to the state's Comptroller, the legislature's State Commission on Investigation, which is concerned with investigations on enforcement of state law, particularly regarding racketeering and organized crime, will also be among the agencies helping to ensure that the state's public employees who administer Recovery Act funds do so effectively and in compliance with federal or state requirements. In addition, the state legislature, state agencies, and many local entities (e.g., housing authorities, school districts, and metropolitan planning organizations) also have a role in overseeing these funds.

As described by state officials, Recovery Act funds must be used by state agencies pursuant to appropriation by the state legislature, and Recovery Act funds were appropriated in legislation enacted in March 2009.Under that legislation, the specific programs and activities conducted by those agencies with Recovery Act funds are also subject to approval by the legislature's Joint Budget Oversight Committee. However, according to state officials, any Recovery Act funds directly received by local governments or other entities in the state would not be budgeted or appropriated by the state legislature. State officials describe New Jersey as a strong "home rule" state and its constitution as giving localities many rights and responsibilities for providing local services. Therefore, New Jersey has more than 1,900 cities, counties, towns, townships, and local authorities or taxing districts, including 86 housing authorities, 566 municipal governments, and 616 school districts that can apply for, use, and potentially be held accountable for Recovery Act funds.

The Governor's Chief of Staff stated there is oversight of certain local activities at the state level. For example, state oversight of local public school districts has been enhanced in recent years in part through state

mandated limitations on compensation practices[14] and proficiency targets for state assessments have been raised. Additionally, the state has a significant amount of oversight over the three districts that are under state control to review and control their budgets. The U.S. Department of Education and the county superintendent have the authority to review these school districts budgets, as well. Further, according to the Governor's Chief of Staff, because the state already funds local school districts with $8.8 billion in state funds, ensuring accountability for the use of state funds by school districts is not a new challenge to the state oversight agencies.

Many of the state and local agencies interviewed stated that their current accounting systems can track Recovery Act funds by program and project and can generate reports showing the use of those funds:

- Both the Newark and Trenton Housing Authorities stated that they use the Line of Credit Control System (LOCCS) accounting system, which HUD uses to provide funds to public housing authorities. LOCCS includes special accounting codes under which housing authorities can track Recovery Act funds by program and by type of use. Housing authorities can also use LOCCS to generate the required reports back to HUD showing how they have used Recovery Act funds.

- Both NJDOT and NJT stated that their accounting systems can track Recovery Act funds separately from their regular funds because they have created separate accounting codes to track these funds. Furthermore, most of the selected projects will be funded primarily with Recovery Act funds, making the process of tracking them easier.

- DPP officials stated that their current accounting system will be able to account for and control the use of Recovery Act funds used for procurement because DPP will create special accounting codes for these funds. These officials stated that their accounting systems had the capability to track funds using special accounting codes and that

[14]According to state officials, the state Department of Education has placed limitations on compensation and buyouts for high-level district administrators through a series of regulations and statutory changes. The Executive County Superintendent (a state employee) must review and approve, prior to district Board of Education approval, all employment contracts for the superintendent, deputy superintendent, assistant superintendent and business administrator, including new contracts, extensions, and renegotiations. There are specific state-imposed limitations on components of these contracts, like annuities, travel allowances, car allowances, and specific state limitations on buyout provisions in these contracts.

they were confident no special enhancements were needed to their accounting software, although they would monitor the accounting system to ensure it was functioning properly. DPP will also publicly advertise bids for projects funded with Recovery Act funds, include terms and conditions in each request for proposals and contract for these projects stating detailed reports required by the act, and will post contract award notices for Recovery Act funded projects.

- To track increased FMAP funds, New Jersey has established a discrete identifier in the state accounting system. The state has begun the process of adjusting systems, so that the additional FMAP funds can be tracked and monitored by specific service category. Despite these adjustments, tracking of these funds will not be dramatically different from how the state tracks funds for their overall budget. Additionally, the state is monitoring increased FMAP funds and comparing them against actual expenditures. According to New Jersey officials, the state is also monitoring unemployment levels to anticipate and project future FMAP levels.

New Jersey has not increased its number of state auditors or investigators, and there has not been an increase in funding specifically for Recovery Act oversight. Additionally, the state hiring freeze has not allowed many state agencies to increase their Recovery Act oversight efforts. For example, despite an increase of $469 million in Recovery Act funds for state highway projects, no additional staff will be hired to help with those tasks or those directly associated with the act, such as reporting on the number of jobs that the Recovery Act funds created. While NJDOT has committed to shift resources to meet any expanded need for internal Recovery Act oversight, currently one person is responsible for reviewing contractor-reported payroll information for disadvantaged business enterprises, ensuring compliance with Davis-Bacon wage requirements, and job creation figures.

Potential Areas of Vulnerability of New Jersey Recovery Act Funds

In New Jersey's fiscal year 2007 Single Audit report, the independent auditor identified 42 significant control deficiencies related to compliance with internal controls requirements over major federal programs, 33 of which were considered to be material. Twenty-seven of the significant control deficiencies pertained to compliance with requirements for several major federal programs that the state administers—including Medicaid programs and Community Services Block Grants—through which the Recovery Act funds will flow. New Jersey has also faced challenges with internal controls with state entities in the recent past. For example, in

2005, the state Inspector General's review of the now-dissolved School Construction Corporation, which was responsible for more than $8.66 billion in school construction funds, found the authority had "weak financial controls, glaring internal control deficiencies and lax or non-existent oversight and accountability" after it had disbursed $4.3 billion in contracts and approved approximately $540 million in changes to those contracts. In its place, in 2007, the state created a Schools Development Authority with a completely different management and accountability structure.

State officials noted that certain towns and cities, as well as regional planning organizations, can apply for and directly receive federal recovery funds under the terms of the Recovery Act. According to the state Inspector General, the risk for waste, fraud, and abuse increases the farther removed an organization is from state government controls. While some state officials said they have statewide investigative authority, they would not be able to readily track the funding going directly to local and regional government organizations and nonprofits as a result of the funding delivery and reporting requirements set up in the Recovery Act. In addition, staff from the state Auditor's office noted that some smaller cities and towns in New Jersey are not used to implementing guidance from the state or federal government on how they are using program funds, which could result in the localities reporting using funds for ineligible purposes. However, state Department of Education officials stated that although the sheer number of school districts in the state raises concerns, sufficient internal controls (state audits, Single Audits, state oversight, etc.) exist to prevent most instances of fraud and other illegal uses of funds.

As for state agencies, the Governor's Chief of Staff stated that the highest risk is associated with those agencies that will be responsible for managing significantly more money than ever before, compared with their normal budgets. While NJDOT officials stated they could accommodate about five times more Recovery Act funds than was received by New Jersey, other state officials stated that they were quickly developing plans to accommodate the influx of Recovery Act funds. For example, the Department of Community Affairs is responsible for implementing the state's allocation of $118.6 million in Recovery Act weatherization funds, which is about double the normal amount. DCA officials stated that to avoid losing any of the state's allocation of weatherization funds, they were making contingency plans to redistribute any unused funds to other possible recipients under the weatherization program. According to the Governor's Chief of Staff, the state is trying to be rigorous about how these

programs are being designed and how they are using the funds. For example, state officials are emulating the federal oversight effort, in part by trying to build internal controls at the outset of the process and to use merit-based selection criteria for Recovery Act projects. The state Inspector General, in coordination with the New Jersey Recovery Accountability Task Force, will be conducting training at New Jersey government agencies concerning Recovery Act related internal control issues. As of April 17, the Inspector General hopes to present the first trainings by mid-May.

Plans to Assess Impact of Recovery Act Funds Are in Initial Stages and Vary across State and Local Agencies

The Governor's Chief of Staff stated that different state agencies are planning to evaluate the impact of Recovery Act funds. Assessing the impact of the increased FMAP funds will involve the extent to which the Medicaid program is able to accommodate additional applicants as a result of these funds. A New Jersey official noted that the state will have benchmark numbers on how many additional people are served and that this approach is no different from how the state would currently report impact. The state Auditor and the state Comptroller have also committed to carrying out audits and assessments of the impact of Recovery Act funds.

Officials we interviewed at New Jersey state agencies have different ways of either collecting or estimating data on the number of jobs created or retained as a result of Recovery Act funds. For example, the NHA will use payroll data to keep track of the exact number of union tradesmen and housing authority residents employed to turn damaged vacant units into rentable ones. In contrast, NJT is using an academic study that examined job creation from transportation investment to estimate the number of jobs created by contractors on its Recovery Act-funded construction projects.[15] Finally, officials stated that both DPP and DPMC both have methodology and mechanisms in place to track jobs created and maintained for goods and services procured under Recovery Act contracts.

[15]The study estimated that for every $1 million of transportation infrastructure investment, 11 jobs are created, 70 percent of them are directly related to the investment, and 30 percent are indirectly related (Rutgers University Edward J. Bloustein School of Planning and Public Policy, "Economic Impacts of Planned Transportation Investments in New Jersey," New Brunswick, New Jersey, April 2008).

New Jersey's Comments on this Summary

We provided the Governor of New Jersey with a draft of this appendix on April 17, 2009. The Governor's Chief of Staff responded for the Governor on April 20, 2009. In general, the Chief of Staff substantially agreed with the draft and provided technical comments that were incorporated, as appropriate.

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Appendix XIV: New York

Overview

Use of funds: An estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities will be for health, transportation and education programs. The three largest funding categories are the Medicaid increased Federal Medical Assistance Percentage (FMAP) grant awards, the State Fiscal Stabilization Fund, and highways.

✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**

- As of April 13, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $3.14 billion in increased FMAP grant awards to New York.
- As of April 13, 2009, New York had drawn down about $1.74 billion, or 55 percent of its initial increased FMAP grant awards.
- Nearly $1.3 billion of the funds made available as a result of the increased FMAP were used to close the state's budget deficit for the fiscal year ending on March 31, 2009, or applied to lower the deficit for the current fiscal year. In addition, $440 million was returned to the counties for their contributions towards the non-federal share of Medicaid expenditures that qualified for the increased FMAP.

✓ **Transportation—Highway Infrastructure Investment**

- New York was apportioned about $1.12 billion for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
- As of April 16, 2009, the U.S. Department of Transportation had obligated about $276.5 million for 108 projects to the New York State Department of Transportation. New York will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.
- As of April 13, 2009, the New York State Department of Transportation had advertised for bids on 38 projects. Work on all of these projects is expected to begin this spring.
- The state will target Recovery Act transportation funds to infrastructure rehabilitation, including preventive maintenance and reconstruction, such as bridge repairs and replacement, drainage improvements, repaving and roadway construction. State officials emphasized that these projects extend the life of infrastructure and can be contracted for and completed relatively easily in the 3-year time frame required by the act. Some Recovery Act funds will go to more typical "shovel-ready" highway construction projects for which there were insufficient funds.
- By the end of April 2009, New York expects to have a complete list of transportation projects that Recovery Act funds will support.

✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**

- As of April 13, 2009, New York had been allocated about $2.0 billion from the initial release of these funds by the U.S. Department of Education.
- Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that the states will meet maintenance-of-effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. As of April 13, 2009, New York had not submitted its application for these funds.
- New York plans to use the majority of Fiscal Stabilization funding to support K-12 education costs for the 2009-2010 and 2010-2011 school years beginning July 1, 2009. New York education officials told us that most of the funds will be used to offset expected budget cuts throughout the school system that were caused by the downturn in the economy and in state revenues.

New York is also receiving additional Recovery Act funds under other programs, such as programs under Title I, Part A, of the Elementary and Secondary Education Act (ESEA) (commonly known as No Child Left Behind), and the Individuals with Disabilities Education Act, Part B (IDEA). These are described throughout this appendix. Overall, New York expects to receive about $26.5 billion in Recovery Act funds plus possible additional discretionary program funds over the next 3 years (fiscal years 2009-2011).

Safeguarding and transparency: New York plans to track and monitor Recovery Act funds mostly through its existing internal control, audit, and accounting systems, although the new Recovery Cabinet and other state institutions have initiated several steps to coordinate the oversight of Recovery Act projects. For example, the Office of the State Comptroller (OSC) is using its accounting system to tag and track these funds, while the New York State Department of Transportation (NYSDOT) is conducting a federal-aid risk assessment to focus its internal and contract audit resources on projects and contracts that may be most vulnerable to fraud, waste, and abuse. New York officials, however, expressed concerns about monitoring Recovery Act funds that do not pass through state offices but flow directly from federal agencies to local agencies or authorities. For example, the Metropolitan Transportation Authority, which provides transportation services for the New York City metropolitan area, expects to receive directly about $1 billion in federal transit funds under the Recovery Act.

Assessing the effects of spending: Officials have taken some initial steps to meet the Recovery Act's reporting requirements, but generally they are awaiting further federal guidance. Officials throughout the state government expressed concerns about how to consistently report on the impact of Recovery Act funds.

New York Beginning to Use Recovery Act Funds

New York has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance

Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2]

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 FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes. For the second quarter of fiscal year 2009, New York's FMAP was 58.78 percent, an increase of 8.78 percentage points over its fiscal year 2008 FMAP.

New York expects to receive about $11 billion in federal Medicaid funds as a result of the increase in its FMAP. As of April 13, 2009, CMS had made about $3.14 billion in increased FMAP grant awards to New York and the state had drawn down about $1.74 billion of its grant awards. Nearly $1.3 billion of the funds made available as a result of the increased FMAP was used to close the state's budget deficit for the state fiscal year ending on March 31, 2009, while $440 million was returned to the counties for their contributions towards the non-federal share of Medicaid expenditures eligible for the increased FMAP.

New York initially plans to use funds made available as a result of the increased FMAP to help address budget deficits. According to the Governor's office, New York State has the highest Medicaid cost per capita and, unlike most states, requires local governmental entities to contribute

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

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

towards the nonfederal share of Medicaid expenditures. The state's counties provide this local share. According to state officials, in 2006, in order to control Medicaid spending at the local level, the state instituted a cap on local Medicaid expenditures that constituted about 33 percent of the nonfederal share of expenditures at the time. This cap, unique to New York, basically limits the annual increase in a locality's Medicaid expenditures to 3 percent of what it spent in 2005. The result has been that the localities' percentage share of Medicaid expenditures has slightly declined each year since 2006.

The 2009-2010 enacted state budget plans to use nearly half of the enhanced FMAP funding expected to be received through March 31, 2010 on (1) health care to avoid certain difficult provider reimbursement cuts, and (2) other savings actions proposed by the Governor in his initial budget proposal in December 2008. These funds will also help pay for unanticipated rising Medicaid costs, primarily driven by rising caseloads resulting from the current economic downturn. In addition, the FMAP funds (1) helped avoid proposed cuts to important human services and mental hygiene programs, (2) were used to maintain revenue sharing funding for New York City, and (3) avoided several proposed tax increases that would have impacted middle class families and small businesses.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing federal-aid highway Surface Transportation Program, through which money is apportioned to states for the construction and maintenance of eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds.

As of April 16, 2009, the Federal Highway Administration had obligated about $276.5 million to New York State for 108 transportation projects.[3] The state has been able to move quickly on these projects largely because NYSDOT, as required by federal surface transportation legislation, has a planning mechanism that routinely identifies needed transportation projects and performs preconstruction activities, such as obtaining required environmental permits. A NYSDOT official told us that as of April 13, 2009, 38 projects approved in March 2009 had been advertised for bids for contracts.

In late 2008, NYSDOT began preparing to manage potential stimulus funding in transportation programs. NYSDOT, which oversees over 113,000 miles of highway, 16,000 bridges, and more than 130 transit operators, initially established a working group that began reviewing or "scrubbing" core projects in the state's transportation improvement plan (STIP) in late 2008 to make sure projects would be fully permitted and "shovel ready," should funding be made available. Because of an approximately 8 percent per year increase in construction costs during the last 3 years and the state's declining fiscal position, New York has a large backlog of planned transportation projects. As of April 16, 2009, the Governor had certified that 108 projects met the objectives of the act and that the state will maintain its planned level of effort within its transportation program.

To meet the act's objectives—funding projects that can be started quickly and have the desired economic impact in terms of jobs and local benefits—the state will target most state transportation funds to infrastructure rehabilitation, including preventive maintenance and reconstruction, such as bridge repairs and replacement, drainage improvement, repaving, and roadway reconstruction. State officials emphasized that these projects extend the life of infrastructure and can be contracted for and completed relatively easily in the 3-year time frame required by the act. The state will also target some Recovery Act highway dollars to more typical "shovel ready" highway construction projects for which there are insufficient funds. By the end of April 2009, NYSDOT expects to have a complete list of projects that Recovery Act funds will

[3]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

support. NYSDOT officials noted that the list of projects would be fluid depending on bid results, budget overruns, and the ability of localities to start and complete planned projects within expected time frames.

Consistent with the Governor's goal of leveraging the impact of Recovery Act funds, NYSDOT has also begun working with rural public transportation systems to identify eligible Federal Transit Administration activities. Recovery Act transit funds will be used to replace a significant number of vehicles that currently exceed their federally rated service life with new cleaner-fuel buses that comply with the Americans with Disabilities Act. NYSDOT will use a statewide bus contract to procure the majority of these new vehicles. This cooperative effort would also allow the communities to take advantage of the state's procurement expertise and presumably lower overall procurement costs.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). SFSF is intended 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 assures it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers. As of April 13, 2009, New York's SFSF allocation was about $2.0 billion; however, the state had not drawn down any of this amount. The state has not applied for these funds and they will not be allocated to public entities such as K-12 school districts and public higher education institutions until the school year begins on July 1, 2009. The Governor's office said that this application is expected to be submitted soon.

The New York State Education Department (NYSED), which has an annual budget of about $30 billion, expects to receive about $5 billion in Recovery Act funds. About half of the amount—approximately $2.5 billion—is expected to be provided through SFSF. These funds can be used to help avert elementary, secondary, and higher education reductions, such as the loss of teachers. NYSED officials told us that they believe most of these funds will be used to offset expected budget cuts throughout school systems that were caused by the downturn in the economy and in state revenues. State officials also have discretion over an additional 18 percent of the stabilization funds–approximately $549 million--and can use this portion for a wide range of government services, including school modernization.

As of April 13, 2009, New York had also been allocated an additional $1.7 billion in Recovery Act funds for programs under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act, and the Individuals with Disabilities Education Act (IDEA).

New York Has Established a Recovery Cabinet to Manage Recovery Act Funds

The key New York institutions involved in managing Recovery Act funds are the governor's office, the state program departments and agencies, and OSC. In addition, localities, transit, or housing authorities will play a role in managing some Recovery Act funds that do not pass through state offices. Because of the timing of New York's annual fiscal year and the February 17, 2009, enactment of the Recovery Act, the state had to quickly incorporate Recovery Act funding into the budget for the fiscal year beginning April 1, 2009. New York's Governor, in anticipation of the Recovery Act, established a Recovery Cabinet in February 2009. The Recovery Cabinet is led by the Governor's Senior Advisor for Transportation and Infrastructure. All state agencies and many state authorities are represented on the cabinet, which is charged with coordinating and managing Recovery Act funding throughout the state. Similarly, New York City officials developed a City Hall Working Group comprising city management and individuals from the relevant agencies that are planning to receive Recovery Act funding to coordinate and manage the funding.

While over 50 percent of Recovery Act funding, such as most education program funding, is formula driven and directed to specific localities in the state, other funds may be allocated by the state, such as discretionary funds for rail projects. A Recovery Cabinet committee is making such funding decisions in a "situation room" that works with the relevant state departments to disburse recovery funds in a manner that seeks to maximize the act's objectives and address the political need to spread money throughout the state. More specifically, the cabinet expects to leverage Recovery Act funding in transportation and other areas to maximize the economic impact of the funds. The cabinet also established other working groups to address communication and coordination objectives, including one group that is working on Recovery Act reporting requirements. State officials expressed concerns about the Recovery Act's requirements for reporting 10 days after the quarter ends. The officials said that this is a potential area of noncompliance for New York, particularly because the state does not have a strong track record on reporting compliance. Furthermore, state officials expressed concerns about how

Recovery Act administrative and monitoring costs might strain existing financial and human resources.

The Recovery Cabinet also serves as a focal point of contact for counties and other localities throughout the state—informing them of the types of projects that could be eligible for stimulus funding and soliciting ideas and proposals for such funding. In addition, New York established an economic recovery Web site in February 2009—www.recovery.ny.gov. By using the Web site, New Yorkers have been able to enter their project ideas directly into a project database and track Recovery Act funding and its impact. This database currently contains over 16,000 project ideas.

Other key players in New York's management of Recovery Act funds include OSC, an independently elected office that is charged with issuing the state's internal control standards, managing the central accounting system, and directing internal audits throughout the state's departments and agencies, among other responsibilities. OSC will be responsible for tracking and monitoring the progress of Recovery Act funding and ensuring that the funding meets established internal controls.

State authorities and metropolitan planning organizations that are not directly managed by the Governor are also key players in the delivery of New York State services and are therefore central to the management of some Recovery Act funds. For example, the Metropolitan Transportation Authority will manage about $1 billion of Recovery Act funds.

New York Plans to Oversee and Safeguard Recovery Act Funds Using Existing Control Mechanisms Where Possible

The primary responsibility for ensuring the transparency and accountability of Recovery Act funds rests with the executive branch, led by the governor. For the most part, New York plans to track and monitor Recovery Act funding using existing internal control, audit, and accounting systems. For example, OSC plans to use its existing Central Accounting System to tag and track Recovery Act funds as they are disbursed. Individual state agencies are also planning to use their existing management systems to monitor Recovery Act spending. For example, NYSDOT is conducting a federal-aid risk assessment to help its Internal Audit and Contract Audit Bureaus target their resources to the most vulnerable programs and projects. However, state officials have several oversight concerns, including monitoring Recovery Act funds that do not pass through state agencies and the ability of some local authorities that may not have experience managing federal programs to oversee large infusions of new funding. Finally, many officials throughout the state are

concerned about their ability to consistently report on the impact of Recovery Act funding.

New York Will Use Existing Control Structure

Several New York government entities are responsible for the management, implementation, and oversight of internal controls and for safeguarding taxpayers' money. These entities include OSC, individual state agencies, and the governor's office. For example,

- OSC is responsible for the state's Central Accounting System, disburses funds, and audits state agencies and authorities, among other responsibilities.
- Each large state agency, such as NYSDOT, has a director of internal audit,[4] as well as an internal control officer[5] who reports to the head of the agency, coordinates internal control activities, and helps ensure internal control program compliance.
- The head of each state agency and public authority must annually certify compliance with the State's Internal Control Act.
- Each state agency operates its own financial management and reporting system and has its own procurement officer. However, OSC must review and approve all contracts over $50,000.

The governor's office, in addition to overseeing state agencies, is responsible for conducting an annual audit of federal funds known as the Single Audit. New York's Single Audit for the year ending March 31, 2008, disclosed a number of material weaknesses involving the major federal programs. For example, the Single Audit found the following:

- OSC's procedures, through which OSC identified approximately $49.8 million in potential overpaid Medicaid claims, were adequate. The Department of Health and the Office of the Medicaid Inspector General have initiated recovery of those claims that they determined are

[4]The agency's director of internal audit reviews the operations of the agency to provide reasonable assurance of conformance with management policies and the effectiveness of internal controls. The internal auditor must maintain independence from the activities that are audited.

[5]The internal control officer assists the agency head and agency management and has responsibility for implementing, maintaining, and reviewing the agency's system of internal control.

appropriate for recovery. OSC had also identified about $17 million in potential overpaid claims in 2007. State officials told us, however, that many of the instances of potential Medicaid overpayments were without basis and were, in fact, made consistent with federal requirements.

- NYSDOT did not adequately document audit extensions that it granted subrecipients. Furthermore, the department did not have a sanction policy in effect for subrecipients that were not in compliance with audit requirements. Effective August 2008, NYSDOT established a formal sanctioning policy.

- The Housing Trust Fund Corporation did not have procedures in place to adequately monitor the compliance requirements of the Single Audit Act, as amended, and OMB's implementing guidance in OMB Circular No. A-133, for grant subrecipients.

- Several programs, including Temporary Assistance for Needy Families, the Child Care and Development Block Grant, and the Office of Children and Family Services, did not adequately complete forms documenting the transfer of funds awarded by the federal government.

- The Department of Education's Vocational Rehabilitation Services program had not determined individuals' eligibility for the program services within a reasonable period of time.

The Single Audit did not provide 10 federal programs, including the Medical Assistance, Low-Income Home Energy Assistance, and Food Stamp Cluster Programs, an unqualified opinion because of various findings, including cost allocation plans that were not approved by the federal government. New York also received an unqualified opinion on OSC's comprehensive annual financial statements for the state fiscal year that ended March 31, 2008.[6] The audit reported control deficiencies but disclosed no instances of noncompliance that would be material to the basic financial statements.

As noted above, the state will separately account for Recovery Act expenditures on the Central Accounting System to make tracking the funds easier. However, according to a state comptroller official, agencies

[6]For an unqualified opinion, the auditor expresses the opinion that the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the entity in conformity with generally accepted accounting principles.

may rely on multiple databases for handling transactional and performance data, making data reliability difficult to ascertain. According to this official, state agencies vary in their capabilities, and the independent financial management systems that operate distinctly from the Central Accounting System have varying degrees of sophistication and accessibility.

The Governor Plans to Implement Several Internal Control Initiatives for Recovery Act Funding

In addition to existing control systems, the Governor's office has planned several new initiatives for ensuring accountability of Recovery Act funds. First, drawing on past efforts of New York state agencies and the New York State Internal Control Association to improve the state's internal controls, transparency, and data integrity, the Recovery Cabinet plans to establish a working group on internal controls. This working group will be made up of internal control officers from major agencies in the cabinet and will meet regularly to provide additional guidance to those agencies receiving and or administering Recovery Act funds. Second, the Governor's office plans to hire a consultant to review the state's management infrastructure and capabilities to achieve accountability, effective internal controls, compliance, and reliable reporting under the Recovery Act. Third, the Director of State Operations provided initial guidance to the state agencies and authorities on the Recovery Act accountability and transparency requirements. According to state officials, all agencies and departments that expect to receive Recovery Act funds have been asked to review and report on their practices for fraud prevention, contract management, and grants accountability to assess their current vulnerabilities and to ensure that the state is prepared to meet the Recovery Act requirements. Finally, the state plans to coordinate fraud prevention training sessions.

Office of the State Comptroller Issued Guidance for Safeguarding Recovery Act Funds

On March 23, 2009, OSC issued accounting bulletins and procurement and disbursement guidelines to state agencies on using Recovery Act funds. Included in these guidelines are instructions to agencies on using a designated revenue code to account for all federal grant moneys received and a designated accounting code to process and report payments financed with Recovery Act funds. According to OSC, it intends to closely scrutinize contracts and monitor payments charged to Recovery Act appropriations to ensure adequate accountability, compliance, and effective and efficient use of Recovery Act funds. In addition, OSC says it plans to post the Recovery Act data that will flow through the central accounting system to Open Book, the Web site that provides transparency for contracts, expenditures, and local government funds. Furthermore,

OSC says that it will continue to advise and provide technical assistance to local governments as the requirements of the Recovery Act become clearer.

Examples of State Agencies' Planned Oversight and Reporting of Recovery Act Funds

Guided by the Recovery Cabinet working groups, state agencies are planning to implement various types of oversight and reporting mechanisms to comply with the Recovery Act. For example:

- NYSDOT is relying heavily on existing program oversight controls, such as normal highway project procurement requirements, to manage and control Recovery Act spending. In addition to those oversight controls, as described above, NYSDOT is conducting a risk assessment of federal-aid projects to direct future internal audit and contract reviews. NYSDOT officials said that special emphasis will be placed on high-risk areas, such as projects developed by local public agencies, and that a formal plan for overseeing Recovery Act subrecipients will include training, technical assistance, and regular reviews of subrecipients' documents and processes. With regard to reporting, NYSDOT is developing a dataset that is expected to contain all data elements required to fully meet state reporting requirements. NYSDOT is also putting a reporting requirement in existing recovery project contracts alerting contractors that they are responsible for meeting all Recovery Act reporting requirements.

- NYSED officials said that they have been meeting with OSC to ensure proper accounting codes are used in tracking and reporting Recovery Act funds. However, officials are concerned that once the funds reach localities, the funds may lose their accounting codes and get rolled up with other state and federal funds. In addition, state education officials said that they have established a waste, fraud, and abuse work team to examine risks and identify areas of concern associated with Recovery Act funds. The officials said that the biggest challenge that they foresee is district reporting at the school level. According to the officials, risk assessments for schools with higher spending per student will need to be developed.

- Division of Housing and Community Renewal officials said that they are fairly confident that they can modify the division's existing accounting and reporting systems to meet Recovery Act requirements. However, housing officials are concerned about the potential for fraud, waste, and abuse in the weatherization program. This concern results from the huge increase (over 600 percent) in funding New York will get, rule changes, the acceleration of the expenditure time line, and the

need to hire subcontractors, many of which will be new to the program. Specifically, New York State expects to receive $395 million in additional weatherization funds from the Recovery Act, compared with a little over $60 million allocated to the program in the previous state fiscal year. In addition, the Recovery Act increased the maximum amount that can be spent for each housing unit qualifying for the program from $2,500 to $6,500. Officials said they are concerned about their ability to effectively manage the program, given the major funding and program changes caused by the Recovery Act, when their existing staff is already stretched. Housing officials said that they are assessing the risk to the weatherization program.

- According to New York officials, increased FMAP grant awards are segregated from other Medicaid funds received by the state. These funds have received a distinct code to identify them as part of the funding received from the Recovery Act in OSC's Central Accounting System. Additionally, the increased FMAP grant awards received by the state and local governments are tracked separately in the accounting system. OSC has instructed localities to maintain a separate account for FMAP funds. As of April 13, 2009, the comptroller had not disclosed plans for auditing the increased FMAP funds.

Plans to Assess Impact Are Still Being Developed

State transportation, education, and housing agency officials are just beginning to consider plans to assess the impact of Recovery Act funds. They are generally waiting for the Office of Management and Budget to provide guidance or methods to help in assessing impact, such as job retention and creation, increases in tax revenues, and savings from weatherization or other energy projects. For instance, state housing officials said that they typically track dollars and that they will require additional guidance from the Department of Housing and Urban Development on how to track job creation. State education officials said that it would be difficult to isolate the impact of Recovery Act funds on student achievement from the impact of other initiatives the state is undertaking. State officials also expressed concerns about how to consistently measure the impact of funding, such as how to count job creation and how to track the ripple effect of funding.

New York City officials said that it will be a challenge, absent additional guidance, to account for the impact of Recovery Act funds on programs funded by multiple streams of money, such as counting the number of new beds at a homeless shelter or the number of additional children in the city's child care program. New York City is developing an online database that will describe the use of Recovery Act funds down to the program

level. Officials said that the purpose of the database is to provide transparency for New York City residents and to fulfill future reporting requirements. The database is expected to provide such details on a Recovery Act-funded program as the number of additional beds at a homeless shelter. However, New York City officials said that it is difficult to begin planning how to assess impact until they know what measures will be called for by federal reporting guidelines. Furthermore, New York City officials recommended relaxing the reporting deadlines and requirements for the first quarter after Recovery Act funds are received so states and localities have more time to understand new guidance.

New York's Comments on This Summary

We provided the Governor of New York with a draft of this appendix on April 17, 2009. The Senior Advisor for Transportation and Infrastructure responded for the Governor on April 20, 2009 by providing technical suggestions that were incorporated, as appropriate.

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Appendix XV: North Carolina

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, Centers for Medicare & Medicaid Services (CMS) had made about $657 million in increased FMAP grant awards to North Carolina.
  - As of April 1, 2009, North Carolina had drawn down $414.6 million in increased FMAP grant awards, or 63 percent of its awards to date.
  - North Carolina officials reported that they plan to use funds made available as a result of the increased FMAP to maintain current populations and benefits and to offset the state's general fund deficit.
- ✓ **Transportation—Highway Infrastructure Investment**
  - North Carolina was apportioned about $736 million for infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated about $165 million for 53 projects in North Carolina.
  - As of April 16, 2009 the North Carolina Department of Transportation had selected 138 projects estimated to utilize about 90 percent of its allocated Recovery Act funds.
  - These projects include activities such as repaving highways and replacing bridges.
  - North Carolina Department of Transportation officials told us they identified these projects based on Recovery Act criteria that priority is to be given to projects that are anticipated for completion within a 3-year time frame and that are located in economically distressed areas.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - North Carolina was allocated about $952 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. North Carolina officials said that they would apply for fiscal stabilization funds by the end of April 2009.
  - The state had not yet determined how fiscal stabilization funds will be used.

North Carolina is also receiving additional Recovery Act funds under other programs, such as Edward Byrne Memorial Justice Assistance Grant program to improve the functioning of the criminal justice system; the Tax Credit Assistance Program for low-income housing; and Workforce Investment Act Youth, Adult, and Dislocated Worker Programs that provide employment and training services. The status of state plans for using these funds is described throughout this appendix.

Safeguarding and transparency: The state has set up the Office of Economic Recovery and Investment (OERI) to help agencies track, monitor, and report on Recovery Act funds, and the North Carolina Senate and House of Representatives have established committees to provide legislative oversight of these funds. In addition, the state has a number of initiatives under way that will improve accountability and transparency for Recovery Act funds, and the state will track Recovery Act funds separately to ensure accountability for those funds. North Carolina officials identified several potential concerns about the safeguarding of funds. For example, several officials said that they were concerned about whether there were enough staff members to meet additional management and oversight responsibilities under the Recovery Act.

Assessing the effects of spending: North Carolina agencies are in the early stages of developing plans to assess the impact of Recovery Act expenditures. According to state officials, they have been awaiting guidance from the federal government, particularly related to measuring job creation.

North Carolina Beginning to Use Recovery Act Funds

North Carolina has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008,

and December 31, 2010.[1] 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.[2] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act are for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, North Carolina had drawn down $414.6 million in increased FMAP grant awards, or 63 percent of its awards to date.[3] North Carolina officials reported that they plan to use funds made available as a result of the increased FMAP to maintain current populations and benefits and to offset the state's general fund deficit. The state has received guidance on the requirements for reporting Medicaid expenditures under the Recovery Act. However, the state would like additional guidance on other types of reporting requirements, such as performance information.

Transportation – Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary

[1]Recovery Act, div. B, Title V, § 5001.

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

[3]North Carolina received increased FMAP grant award of $657.1 million for the first three quarters of federal fiscal year 2009.

legal reviews and determined that the projects are an appropriate use of taxpayer funds. North Carolina provided these certifications, but conditioned the level of funding from state sources for the Recovery Act covered programs on future revenue collections in the state.[4]

The North Carolina Department of Transportation (NCDOT) was apportioned about $736 million in Recovery Act funds for highways and bridges. As of April 16, 2009, the U.S. Department of Transportation had obligated about $165 million for 53 projects in North Carolina.[5] The department has plans to award 70 contracts for Recovery Act projects between March and June, which are estimated to cost $466 million. NCDOT officials told us that they identified these projects based on Recovery Act direction that priority is to be given to projects that are anticipated to be completed within a 3-year time frame and that are located in economically distressed areas. Projects were also evaluated based on several criteria, including alignment with long-range investment plans and considerations about geographical diversity and economic impact.[6] Based on the estimated costs of the initially selected projects, about one-third of costs are for projects not located in economically distressed areas, according to state officials.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures it will take action to meet certain educational requirements such as increasing teacher effectiveness and addressing inequities in the distribution of highly

[4]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the Department of Transportation and has not been reviewed by GAO.

[5]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

[6]Projects selected were evaluated based on several other criteria, including a state equity formula (North Carolina G.S. 136-17.2A) that creates a target value for programming future expenditures in various regions of the state. The formula is applied only to non-exempt highways funds and not transit and rail programs.

qualified teachers. North Carolina officials said that they would apply for fiscal stabilization funds by the end of April 2009.

The state has been allocated $952 million under the SFSF program. Officials from the state education agency, the North Carolina Department of Public Instruction, said that 81.8 percent of the SFSF would be distributed to school districts and institutions of higher education in accordance with Recovery Act requirements. State officials are in the process of determining how to calculate the relative amount of funding that school districts and public institutions of higher education would receive. Regarding the other 18.2 percent of SFSF, state officials said that a decision had not yet been made about how these funds would be allocated. State officials have emphasized in their communications with school districts that funds should be used for short-term investments with potential for long-term programmatic gains, echoing federal guidance.

U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant Program: The Edward Byrne Memorial Justice Assistance Grant Program (Byrne Grant Program) was established to streamline justice funding and grant administration, and allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. According to officials of the North Carolina Governor's Crime Commission, the office expects to receive an allocation of $34.5 million through the Byrne Grant Program. The Governor's Crime Commission is allowed to use 10 percent of that total, or about $3.5 million, for administrative purposes. This leaves a balance of $31 million. Of this amount, 42.4 percent, or $13.2 million, must be passed through by formula to local governments and the remainder of $17.9 million will go to other state agencies and institutions. North Carolina officials for the Byrne Grant Program are planning to fund programs based on the state's list of program priorities, which include programs such as the Criminal Justice System Improvement, Crime Victims' Services, Juvenile Justice Planning, and North Carolina Gang Prevention Initiative. Also, the localities within the state will receive $21.9 million, which will be awarded by the U.S. Department of Justice.

Tax Credit Assistance Program and the Low Income Housing Tax Credit (LIHTC) Exchange Program: The Tax Credit Assistance Program provides grant funding for capital investment in Low Income Housing Tax Credit (LIHTC) projects using a formula-based allocation to state housing credit allocation agencies. The LIHTC Exchange program provides grants for housing projects in lieu of LIHTC allocations. The

housing credit agencies in each state distribute these funds competitively and according to their qualified allocation plan. According to officials with the North Carolina Housing Finance Agency (NCHFA), the state has identified potential projects for the Tax Credit Assistance Program (TCAP), focusing initially on 40 to 50 tax credit projects that were stalled due to a lack of financing from other sources. NCHFA officials said they are waiting on guidance from the U.S. Department of Housing and Urban Development and Department of the Treasury before they begin the application process for developers. NCHFA officials said that environmental review requirements could pose a challenge to meeting federal timelines for making awards, but that they would not know for certain until final federal guidance has been issued.

Workforce Investment Act Youth, Adult, and Dislocated Worker Programs: The Workforce Investment Act (WIA) provides funds for employment and training services to youth, adults, and dislocated workers. North Carolina was allocated nearly $80 million through these WIA programs under the Recovery Act. The North Carolina Department of Commerce (DOC) has been working with local workforce development boards since January to help them plan and prioritize the use of these Recovery Act funds. The state has communicated these priorities to the local workforce development boards: (1) increasing the number of people served and trained, (2) targeting programs toward underserved populations, including those receiving public assistance, (3) implementing a statewide summer youth employment program, and (4) increasing support services, such as child care and transportation. As necessary, the department has worked with other state departments to coordinate efforts. For example, DOC has coordinated with the state community college system to create short-term course offerings in 12 high-growth occupations that lead to certificates at each of the 58 state community colleges. DOC officials are also developing plans to use state-level funds received under the Recovery Act, and anticipate using those funds to help conduct outreach to inform the public of available programs and services funded through the Recovery Act.

Background Information on North Carolina

Federal funding plays an important role in North Carolina's state budget, with the state receiving a total of about $12 billion for fiscal years 2007-2008, which accounted for about one-quarter of the total state budget of about $41 billion. Health and Human services, at about $16 billion, and education, at about $15 billion, were the two largest categories of state spending, together accounting for more than 70 percent of the state budget. Federal funds accounted for more than half of total state spending

on health and human services, and about 10 percent of state spending on education.

North Carolina is expecting to receive an estimated $6.1 billion of the Recovery Act funding going to states. North Carolina's fiscal situation is not unlike many other states. In the midst of its economic crisis, the Governor's proposed biennial budget contains $2.6 billion in spending reductions and $1.3 billion in revenue increases, and proposes to use $2.9 billion of federal recovery funds to support education and other mission-critical services over the biennium. The Governor's budget proposal indicated that most programs face reduced or level funding, but recommended continued focus on growing North Carolina's economy, improving public education, keeping higher education accessible and affordable, and protecting the state's most vulnerable citizens.

North Carolina, after 3 consecutive years of growth, suffered a significant economic decline in 2008. As reported in the Governor's budget proposal, the state lost over 120,000 jobs—a nearly 3 percent decline—in 2008, pushing its unemployment rate up to about 10 percent. Job losses were particularly steep in the manufacturing sector, but the state reported that its housing sector, while also suffering a decline, was less affected by the housing downturn than other states. The Governor's budget proposal projects the economy to continue its decline, but to stabilize in 2010 and begin to grow in 2011. In general, the state projects economic performance to outpace the U.S. average.

The North Carolina state government operates on a biennial budget cycle, which begins on July 1 of odd-numbered years. The North Carolina constitution requires the Governor to submit a balanced budget, and state statute requires the General Assembly to pass a balanced budget, according to the National Association of State Budget Officers. North Carolina's General Assembly must pass an appropriations bill in order for state agencies to disburse federal funds, according to state officials, according to NASBO.

North Carolina's Governor, Beverly Perdue, took office in January of 2009. The Governor is supported by a 10-person cabinet that she appoints, and in February 2009, she established the Office of Economic Recovery and Investment (OERI) to oversee the state's implementation of the Recovery Act. Several other key state-level executive positions, including the

Treasurer and the Superintendent of Public Instruction,[7] are selected through statewide elections. Also, the State Auditor, who is responsible for providing independent evaluations and audits of state agencies and programs, is selected by statewide election. North Carolina has a bicameral General Assembly, with members of both the House and Senate being elected to 2-year terms. The General Assembly typically meets for a full session in odd-numbered years and a shorter session in even-numbered years. There is no concluding date for either session, according to state officials.

North Carolina's Planning Process Is Being Led by the Newly Created Office of Economic Recovery and Investment

On February 17, 2009—the same day the Recovery Act was enacted—Governor Perdue created the OERI to oversee North Carolina's handling of federal stimulus funds as well as state-level economic recovery initiatives. OERI's responsibilities include, among other things, coordinating state efforts to track and report on Recovery Act funds and maximizing the state's use of Recovery Act funds. Another of OERI's major responsibilities is to provide guidance to state departments and localities on how to monitor, track, and report the use of Recovery Act funds. On March 30, 2009, the state issued a memorandum on budgeting and accounting for Recovery Act funds. This memorandum is the first of what is anticipated to be a continuing series of information and directives to ensure that state agencies and subrecipients comply with federal and state requirements. Specifically, this memorandum provides guidance requiring that Recovery Act funds may not be commingled with other funds and that Recovery Act expenditures will require review and approval by the Office of State Budget and Management (OSBM). In addition, OERI has established two management directives requiring agencies to make weekly reports on Recovery Act funds, and to submit grant applications to OERI for review.

Also, OERI is creating several working groups to coordinate state implementation of Recovery Act programs and requirements. Specifically, working groups from OERI and OSBM are being established for each recipient agency and grant program to ensure close coordination, clear establishment of operating procedures, and improved communications. According to OERI's Director, three working groups for education, housing and homelessness, and health information technology, have been established, and more are planned. OERI has also developed a senior state

[7]The Chief Executive Officer of the State Board of Education is appointed by the Governor.

management team with representatives from state agencies to exchange information and facilitate Recovery Act implementation.

Governor Perdue's budget proposal, which according to state documents incorporated an anticipated $6.1 billion in Recovery Act formula funds, is currently being considered and reviewed by the General Assembly. In an effort to monitor and oversee these Recovery Act funds, the North Carolina Senate established the Select Committee on Economic Recovery. According to the committee's Chairman, the new committee was established to have legislative review of how the Recovery Act funds will be used and the effect the funds may have on the state's budget. The North Carolina House of Representatives has established a similar committee.

Plans for Safeguards and Controls Being Developed at the State Level and at State Agencies Administering Federal Programs

As North Carolina prepares for the receipt, tracking, monitoring, and reporting of Recovery Act funds, it currently faces a number of known financial management challenges and other risks. For example, North Carolina's 2007 Single Audit report had 18 findings for material weaknesses and material noncompliance related to issues with federal program compliance for the North Carolina Departments of Health and Human Services (16) and Crime Control and Public Safety (2). Five of the 18 findings were related to insufficient subrecipient monitoring. The state auditor's office also noted that single audit findings have consistently found issues related to subrecipient monitoring by state agencies. Insufficient subrecipient monitoring and other deficiencies such as these may leave Recovery Act funds vulnerable to fraud, waste, and abuse.

In addition to single audit findings, some state officials identified challenges for state agencies responsible for overseeing Recovery Act funds. For example, several state officials said they were concerned about the adequacy of staff and funds needed to meet additional management and oversight responsibilities under the Recovery Act. In particular, officials with the Department of Public Instruction noted that it would be difficult to add staff to take on anticipated additional monitoring and reporting requirements. State officials told us they will explore the possibility of receiving a waiver from the U.S. Department of Education that would allow the state to set aside additional Recovery Act funds under Title I, Part A of the Elementary and Secondary Education Act of

1965 (ESEA, commonly known as No Child Left Behind).[8] However, officials in other agencies, such as the North Carolina Department of Commerce, which administers Workforce Investment Act funds, felt that they would be able to absorb additional responsibilities with current staff and resources. State officials also identified programs that were receiving a significant increase in program funding as a risk. For example, several officials noted that the weatherization program is receiving a substantial increase in funding. Finally, state officials told us that state agency guidance and communications with local governments are areas that will bear watching, as ensuring that local governments understand how to properly account for and segregate federal and state funds will be critical.

Plans for Oversight of North Carolina's Recovery Act Funds

Within the state of North Carolina, a variety of efforts are under way to establish new safeguards over Recovery Act funds, including some that will build on current systems and recent initiatives. For example, officials at North Carolina's OSC and OSBM told us that several state agency accounting systems will need to be modified to track Recovery Act funds as required by the Recovery Act. OSBM officials told us that they have been waiting for Office of Management and Budget (OMB) guidance on the reporting requirements, which was released by OMB on April 3, 2009. These officials have not identified any state agency accounting systems that are incapable of adding a unique identifier code to separately track Recovery Act funds, but said that nearly all systems will need some modifications. A bigger concern is that Recovery Act reporting time frames may not be aligned to the state departments' normal accounting cycles, which may delay the departments' ability to provide monthly or quarterly reports to OSBM and OERI.

North Carolina officials also told us that they plan to build on recent statewide transparency and accountability initiatives to help meet reporting and oversight requirements. For example, the state plans to use its Web site, www.NCOpenBook.gov, to include information on contracts and grants awarded with Recovery Act funds. In addition, North Carolina has created another Web site, www.NCrecovery.gov, designed to maintain a record of how Recovery Act funds are being spent in a way that is transparent and accountable. Although still under development, plans for

[8]In ESEA Title I guidance released by the Department of Education on April 1, 2009, the department noted that it would propose regulations adjusting state administrative expenditure caps in order to help states defray the costs of data collection requirements in the Recovery Act.

this Web site include the ability to provide additional information about how funds will be distributed, information on how to apply for funds or contracts, a mechanism to track spending on individual projects, and estimates of the economic impact and jobs created. Additionally, OSBM, in consultation with the state Department of Administration, Division of Purchase and Contract, is reviewing a statewide procurement process to streamline the process and identify any areas that need to be improved. The results of this review may indicate either systemic statewide or individual agency needs related to the Recovery Act. Finally, the OSC is phasing in a statewide internal control program called EAGLE (Enhancing Accountability in Government through Leadership and Education), which is intended to establish adequate internal controls and increase fiscal accountability. Under the EAGLE program, each agency will be required to perform an annual assessment of internal controls over financial reporting and identify risks.

North Carolina's State Auditor told us that, given current staffing levels, her office will conduct as many oversight reviews and audits of Recovery Act funds as they can. In order to handle the new Recovery Act work, it will be necessary to cut back on some of the other fiscal control audits. The State Auditor told us that she uses a risk-based approach to auditing and plans to focus the State Auditor's Recovery Act work on subrecipient monitoring and on how the Recovery Act funds are being segregated from other federal funds coming through traditional funding streams. The State Auditor's office also noted that OMB and other federal agency guidance may identify areas that may merit closer scrutiny.

Plans to Assess Impact of Recovery Act Funds Are Just Being Developed

State officials across agencies told us that that the state Office of Economic Recovery and Investment was developing guidance on the Recovery Act reporting requirements, but that the state has not yet begun assessing the effects of Recovery Act funds. The state provided localities with guidance on a number of Recovery Act-related topics on March 30, 2009, but the guidance has not yet specifically addressed Recovery Act reporting requirements. State officials told us that they needed federal guidance about how to assess the effects of Recovery Act funds before they can release state guidance. For example, the state's Chief Procurement Officer said that the state needs guidance about how to measure specific reporting requirements such as jobs created and jobs saved.

North Carolina's Comments on This Summary

We provided the Governor of North Carolina with a draft of this appendix on April 17, 2009. The Director of OERI responded for the Governor on April 20, 2009. In general, the comments were either technical or were status updates. The official also provided technical suggestions that were incorporated, as appropriate.

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Staff Acknowledgments

In addition to the contacts named above, Bryon Gordon, Assistant Director; Scott Spicer, analyst-in-charge; Carleen Bennett; George Depaoli; Bonnie Derby; Leslie Locke; Stephanie Moriarty; and Anthony Patterson made major contributions to this report.

Appendix XVI: Ohio

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made about $760 million in increased FMAP grant awards to Ohio.
  - As of April 1, 2009, Ohio has drawn down about $420.6 million, or 55.3 percent of its initial increased FMAP grant awards.
  - Ohio officials indicated that they will use Recovery Act funds made available as a result of the increased FMAP to cover increased caseloads, offset general fund shortfalls due to state budget deficits, ensure compliance with prompt payment provisions, maintain existing populations, avoid eligibility restrictions, increase provider payments, and maintain and increase current levels of benefits.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Ohio was apportioned about $935.7 million for highway infrastructure investment on March 2, 2009 by the U.S. Department of Transportation.
  - Of the $935.7 million, about $774.2 million was apportioned to the Ohio Department of Transportation (ODOT).
  - On March 26, 2009, ODOT announced that it will fund 149 projects with $774.2 million in Recovery Act funding. According to ODOT officials, they are currently meeting with all project sponsors and performing detailed reviews of project documentation, confirming federal eligibility, assessing project delivery, and establishing project schedules.
  - As of April 16, 2009, the U.S. Department of Transportation had not obligated any Recovery Act funds for Ohio projects.
  - ODOT expects to begin advertising for bids during the week of April 20, 2009.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Ohio was allocated $1,198,882 from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - As of April 17, 2009, Recovery Act funds for education and some child care programs had not been appropriated by the legislature. Officials with the Governor's office and Ohio's Office of Budget and Management (OBM) said these funds would be included in the budget for state fiscal years 2010-2011 and must pass by June 30, 2009.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments.
  - State officials said that they intend to apply for State Fiscal Stabilization Funds sometime in the future.

The state of Ohio expects to receive a total of $8.2 billion from the Recovery Act over the next 3 years (fiscal years 2009-2011). In addition to the funding described above, Ohio is also receiving Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (commonly known as No Child Left Behind); programs under the Individuals with Disabilities Education Act (IDEA); and two programs of the U.S. Department of Agriculture—one for administration of the Temporary Food Assistance Program and one for competitive equipment grants targeted to low-income districts from the National School Lunch Program. The status of plans for using some of these funds is described in this appendix.

Before passage of the Recovery Act, Ohio created a Web site at Recovery.Ohio.gov, which represents the state's effort to create an open, transparent, and equitable process for allocating Recovery Act funds. Through the Web site, the state has encouraged proposals for uses of Recovery Act funds, and as of April 8, 2009, individuals and organizations from across Ohio have submitted over 23,000 proposals. While still receiving proposals, new submissions to the Web site have dropped in number dramatically, as guidance from federal agencies has clarified details about funding opportunities. By mid-April, approximately 26 state agencies with programmatic expertise had sorted the 23,000 submissions for response. Ohio regularly updates its Web site to provide timetables and information on applying for funds from state and federal agencies.

State agencies are beginning to identify specific projects to fund. On April 1, 2009, the Governor signed House Bill 2. As described by state officials, the bill appropriates $1.9 billion in Recovery Act resources for 11 state agencies. According to state officials, additional appropriations are needed to spend Recovery Act funds for education and some child care programs, including Ohio's share of the State Fiscal Stabilization Fund. According to state officials, these appropriations are included in House Bill 1, which is part of the state's biennial budget and must be approved by June 30. As of April 1, 2009,

- The Ohio Department of Public Safety received about 730 proposals for Edward Byrne Memorial Justice Assistance Grant projects through the Ohio Recovery Web site. Applications for the state-administered funds are due on May 1, 2009; the department issued its request for proposals with caveats that specific reporting requirements are forthcoming from OMB and the U.S. Department of Justice.

- The Ohio Department of Job and Family Services (ODJFS) plans to allocate Workforce Investment Act (WIA) funds directly to local area workforce boards, and ODJFS provided these boards with estimates early so they could begin the planning process. Before funds were appropriated, some local areas began their efforts to procure providers for youth programs, particularly for work sites.

Safeguarding and transparency: Ohio is planning to use existing systems and safeguards to track Recovery Act funds, but reliance on subrecipients to provide data for enhanced reporting requirements may present challenges. For example, the fiscal year 2007 single state audit identified material weaknesses with a number of the systems that Ohio's Department of Jobs and Family Services uses to record and process eligibility and financial information for all their major federal programs. Moreover, officials with the Columbus Metropolitan Housing Authority (CMHA) noted limitations in how far they could reasonably be expected to track Recovery Act funds. They said they could track Recovery Act dollars to specific projects but could not systematically track funds spent by subcontractors on materials and labor.

Assessing the effects of spending: Ohio continues to explore ways to assess the impact of Recovery Act funds, but officials anticipate challenges. Specifically, in the absence of guidance on the types of data to collect, funding could be released before state officials have determined reporting requirements. Moreover, Ohio officials are concerned that, without uniform reporting requirements, each state will develop their own methodologies for assessing the impact of the federal stimulus, eliminating any possibility of making assessments that are comparable nationwide.

Ohio Beginning to Use Recovery Act Funds

Ohio has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage (FMAP) Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 to no more than 83 percent, with poorer states receiving a higher

federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

Ohio began the planning process to spend these funds before the enactment of the Recovery Act. In December 2008, to mitigate a budget revision[3] resulting from a 3.3 percent drop in estimated state tax revenues, the Governor's office assumed that additional federal assistance would be forthcoming. By including funds made available as a result of the increased FMAP in the assumptions used to revise the budget, cuts to state agency budgets and services were less severe. As of April 1, 2009, Ohio has drawn $420.6 million in Medicaid Recovery Act funds or 55.3 percent of its initial FMAP funds. Ohio officials indicated that as of March 31, 2009, they will use Recovery Act funds to cover increased caseloads, offset general fund shortfalls due to state budget deficits, ensure compliance with

[1]Recovery Act, div. B, title V.

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

[3]According to state officials, the Ohio constitution requires the state to have a balanced budget. Ohio's biennial budget covers two separate fiscal years which each begin on July 1 and end on June 30 of the following year. Separate budget bills are prepared for the state's General Revenue Fund and another for transportation and public safety activities. Because Ohio may not carry a deficit, the state must revise its budget whenever revenue estimates decline. Since enactment of its current budget for fiscal years 2008-2009, the Governor has made three downward revisions totaling over $1.9 billion—or about 9.5 percent of the fiscal year 2009 State-only General Revenue Fund budget. These actions resulted in statewide cuts to agency and departmental budgets.

prompt payment provisions, maintain existing populations, avoid eligibility restrictions, increase provider payments, and maintain and increase current levels of benefits.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Ohio provided this certification, but conditioned it, noting that future highway spending would depend on: the state's collection of transportation revenues, state budgeting levels, ability to sell bonds, construction inflation, pending state legislation and the solvency of the federal highway trust fund.[4]

On March 26, 2009, the Governor announced that Ohio will fund 149 projects with $774.2 million in Recovery Act funding. At least 113 of these projects, costing $605.5 million, involve roadway repaving and bridge repair. Specific roadway projects range from $200 million, for the Cleveland Innerbelt Bridge in Cuyahoga County, to $50,000, for pavement markings in Belmont County. The remaining transportation funds, nearly $170.0 million, are to be spent for railroad, maritime, intermodal, and engineering projects. ODOT officials told us that they are currently meeting with all project sponsors and performing detailed reviews of project documentation, confirming federal eligibility, assessing project delivery, and establishing project schedules. ODOT expects to begin advertising for bids during the week of April 20, 2009. In addition to the more than $774 million apportioned to ODOT, another $161.5 million was directly suballocated to Ohio's eight major metropolitan planning organizations in Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown. As of April 16, 2009, the U.S. Department of

[4]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

Transportation had not obligated any Recovery Act funds for Ohio projects.[5]

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Ohio's initial SFSF allocation is $1,198,882. According to state officials, the Ohio legislature has not passed the appropriations bills for Recovery Act-funded education programs and some child care programs. Those funds are expected to be appropriated, along with the rest of the state budget, by June 30, 2009. State officials said that they intend to apply for the State Fiscal Stabilization Funds sometime in the future.

To provide guidance on key Recovery Act requirements and assure that the state is maximizing its access to and use of Recovery Act funds, a number of statewide teams have formed to aid the planning process. The Governor's office organized a team of policy advisors, information technology specialists, and agency program staff to work on the application, program administration, reporting, and accountability related to the Recovery Act funds. This team is to ensure coordination with other offices, state agencies, or federal government entities and will work to ensure that Ohio appropriately applies for Recovery Act funding for which the state is eligible. In addition to the Governor's teams, Ohio's Office of Budget and Management (OBM) mandated that state agencies establish Recovery Act teams and recommended including fiscal, program, and compliance staff. The Governor also appointed an Infrastructure Czar to advise on the creation of an open, transparent process and to assist the state's leaders in the strategic use of infrastructure dollars. As the infrastructure awards moved toward completion, state officials said he has

[5]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

turned his attention to assisting in competitive grant opportunities for entities in Ohio, including state agencies. The Czar will head a process for determining the most efficient and effective distribution of Recovery Act funds for competitive projects.

Ohio Is Planning to Use Existing Systems and Safeguards to Track Recovery Act Funds, But Reliance on Subrecipients to Provide Data for Enhanced Reporting Requirements Could Present Challenges

The Ohio OBM will have primary responsibility for collecting and presenting financial data from state agencies through its Ohio Administrative Knowledge System (OAKS).[6] OBM has issued guidance to state agencies on Recovery Act reporting requirements and risk management and accountability responsibilities. To ensure that Recovery Act funds are segregated from other program funds and accounted for separately, OBM will create a centralized system to report all accounting data through OAKS. To facilitate tracking, OBM assigns an OAKS program number (for both revenues and expenses) unique to Recovery Act funds. OBM plans to develop a series of program reports that state agencies can use to regularly monitor Recovery Act revenues and spending metrics to ensure the agency is in compliance.

Although OAKS will allow the state to tag Recovery Act funding, in many cases the state agencies will rely on grantees and contractors to track the funds to the end use. Because the state intends to code each Recovery Act funding stream separately, and because these recipients typically manage more than one funding stream at a time, state officials said that the recipients should be able to track Recovery Act funds and other funding sources separately.

However, some state departments may not be able to rely on data from a number of the complex information systems they use. For example, the fiscal year 2007 single state audit identified material weaknesses with a number of the systems that ODJFS uses to record and process eligibility and financial information for all their major federal programs. Auditors found that without sufficient, experienced internal personnel possessing the appropriate technical skills to independently analyze, evaluate, and

[6]Ohio's fiscal year 2007 single audit report had a clean opinion on financial statements and did not identify any material weaknesses. In addition, on October 10, 2008, the Ohio Auditor of State issued a SAS 70 report on OAKS. While the Auditor noted numerous exceptions in the tests of operating effectiveness in the general control areas of program change and IT security, the Auditor opined that the state provided reasonable assurances that its controls (relevant to a user agency's internal controls) relating to financial statements, payroll, warrant writing, and electronic fund transfers (EFT) could be relied on, were suitably designed, and had been placed in operation as of June 30, 2008.

test these complex information systems, ODJFS management may not be reasonably assured these systems are processing transactions accurately. In its response, ODJFS replied that it did not have the resources to create a separate independent office, but said that it had protocols in place to provide some assurances that its systems were processing transactions accurately. State officials said they are aware of the weakness listed and are taking action to remedy it. Further, OBM has instructed its own internal audit office to provide additional resources to assist the agency.

Moreover, state and local officials we talked to raised some concerns about the ability of some localities to track Recovery Act funds to their end use. Specifically, they raised concerns about the capacity of grantees and contractors to track funds spent by subrecipients. For example, officials with the Ohio Department of Education said that they can track Recovery Act funds to school districts and charter schools, but they have to rely on the recipients' financial systems to be able to track funds beyond that. An official with the Columbus City Schools said that its accounting system might be challenged to meet enhanced reporting requirements. While they could provide assurances that Recovery Act funds were spent in accordance with program requirements, they could not report systemwide how each federal Recovery Act dollar was spent. Officials with the Columbus Metropolitan Housing Authority (CMHA) also noted limitations in how far they could reasonably be expected to track Recovery Act funds. They said they could track Recovery Act dollars to specific projects but could not systematically track funds spent by subcontractors on materials and labor. These officials added, however, that if they required the contractors to collect this information from their subcontractors, they would be able to report back with great detail. Still, without guidance from the federal government on specific reporting requirements, they were hesitant to burden their contractors with collecting the data.

On March 27, 2009, OBM directed state agencies to put in place risk management strategies for programs receiving Recovery Act funds. The guidance stresses the importance of having risk mitigation strategies in place that assure (1) management controls are operating to identify and prevent wasteful spending and minimize fraud, waste, and abuse; (2) adequate program monitoring by qualified personnel occurs; (3) awards are competed; (4) revenues and expenses are accurately reported; and (5) cost overruns and improper payments are minimized.

To ensure that existing safeguards are followed, OBM's Office of Internal Audit (OIA) plans to (1) provide training and education to state agency

personnel, (2) assess the adequacy and effectiveness of the current internal control framework, (3) test whether state agencies adhere to the current framework, and (4) coordinate multiagency reviews with both federal and state officials. According to OIA officials, pursuant to its statutory implementation plans, OIA will increase its internal audit staff from 9 (current) to 33 by transferring internal audit personnel from other state agencies and hiring new staff by July 2009. OBM officials said that the increase in OIA staff will help provide the needed resources to implement its objectives and ensure that current safeguards are in place and followed as the state manages it Recovery Act-funded programs.

Separately, both the Ohio State Auditor's office and the Ohio Office of Inspector General are to provide independent reviews of the use of Recovery Act funds. The Ohio State Auditor's office has created a Web-based database for all state agencies and local governments to report on Recovery Act funding and project expenditure activity. This database will also allow for public viewing of Recovery Act funds activity in the future. The State Auditor plans to use this information in helping assess risks and determine which programs to test as part of its single audit requirements. In addition, the State Auditor's office plans to conduct interim audit work over controls and compliance at various state agencies and local governments. According to state officials, as part of House Bill 2, the Ohio General Assembly created in the Office of Inspector General the position of Deputy Inspector General for funds received through the Recovery Act. The Deputy Inspector General is charged with monitoring state agency distribution of Recovery Act funds, conducting a program of random reviews of the processing of contracts associated with Recovery Act projects, and investigating all wrongful acts or omissions committed by officers, employees, or contractors.

Ohio Is Exploring Ways to Assess Impact of Recovery Act Funds, but Officials Anticipate Challenges

OBM officials said that the emphasis on measuring the impact of certain Recovery Act funding has focused, thus far, on job creation; however, they noted that there are other goals of the Recovery Act. They argued that without comprehensive reporting guidance, states will struggle to assess impact on some of these other outcomes. States will not be able to go back later in the process to assess the impact of the Recovery Act on these other outcomes if they do not have guidance on what data to collect.

While some state agencies have identified options for reporting on job creation, there are concerns about the soundness of some of the methodologies. The Ohio Department of Transportation, for example, identified a study from 1979 which projects how many jobs will be created

by a given expenditure. Other models have also been identified; however, in the absence of uniform guidance from the federal government, Ohio officials are concerned that states and localities will use a variety of methods that will ultimately not be comparable and will make nationwide assessment of the Recovery Act difficult.

Ohio's Comments on This Summary

We provided the Governor of Ohio with a draft of this appendix on April 17, 2009. The Chief Legal Council for OBM responded for the Governor on April 20, 2009. In general, the comments were either technical or were status updates. The Auditor of State also reviewed the draft and provided technical suggestions. We incorporated these comments, as appropriate.

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Appendix XVII: Pennsylvania

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation and education programs. The three largest funding categories are the Medicaid increased Federal Medical Assistance Percentage (FMAP) grant awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, Centers for Medicare & Medicaid Services (CMS) had made about $1 billion in increased FMAP grant awards to Pennsylvania.
  - As of April 3, 2009, Pennsylvania has drawn down about $330.8 million, or nearly 32 percent of its initial increased FMAP grant awards.
  - Officials plan to use funds made available as a result of the increased FMAP grant awards to help cover the state's increased Medicaid caseload, ensure prompt claims payments, and to offset Pennsylvania's general fund budget deficit.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Pennsylvania was apportioned about $1.0 billion for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $308.6 million for 108 Pennsylvania projects.
  - As of April 16, 2009, the Pennsylvania Department of Transportation had advertised competitive bids on 97 projects totaling about $260 million, and the earliest contract was awarded on March 20, 2009.
  - These projects include activities such as highway repaving as well as bridge replacement and painting.
  - Pennsylvania will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund (Initial Release)**
  - Pennsylvania was allocated about $1.3 billion from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increased teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. Pennsylvania plans to submit its application by April 25, 2009.
  - The Governor plans to use the funds to increase state funding for school districts and restore state funding for public colleges. The Governor also plans to use some funds to pay operating costs for the Department of Corrections.

Pennsylvania is receiving additional Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (commonly known as No Child Left Behind); programs under the Individuals with Disabilities Education Act (IDEA); Transit Capital Assistance and the Fixed Guideway Infrastructure Investment Programs; Workforce Investment Act; the U.S. Department of Housing and Urban Development Neighborhood Stabilization Program; the U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grants; and the U.S. Department of Energy Weatherization Assistance Program. Plans to use these funds are described throughout this appendix.

Safeguarding and transparency: On March 4, 2009, the Governor named the Secretary of General Services as the state's Chief Implementation Officer responsible for the effective and efficient delivery of all Recovery Act-funded initiatives and projects. Additionally, the Governor set up a Recovery Management Committee to report to him on the progress of recovery efforts. According to the Chief Implementation Officer, this body meets regularly to discuss the status of the program, troubleshoot areas of concern, and report to the Governor on the progress of recovery efforts. In addition, Pennsylvania officials said they would use their existing integrated accounting system to track Recovery Act funds flowing through the state government. Although Pennsylvania has plans to publicly report its Recovery Act spending through a Web site (www.recovery.pa.gov), officials have said that the state may not be aware of all Recovery Act funds sent directly by the federal agencies to municipalities and independent authorities. In late March 2009, the Governor appointed a Chief Accountability Officer who will be responsible for reporting on Pennsylvania's use of Recovery Act funds. Pennsylvania plans to conduct several risk assessments for Recovery Act programs by June 2009. Pennsylvania's Auditor General also anticipates work auditing and investigating Recovery Act funds received by state and local agencies.

Assessing the effects of spending: Pennsylvania state departments are in the early stages of developing plans to assess the effects of Recovery Act spending. According to state officials, they are awaiting further guidance from the federal government, particularly related to measuring job creation.

Pennsylvania Beginning to Use Recovery Act Funds

Pennsylvania has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 percent to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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.[2] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of this increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, Pennsylvania has drawn down $330.8 million in increased FMAP grant awards, which is almost 32 percent of its awards to date.[3] Pennsylvania officials reported that they plan to use funds made available as a result of the increased FMAP to cover the state's increased Medicaid caseload and maintain current populations and benefits. State

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

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

[3]Pennsylvania received increased FMAP grant awards of $1.04 billion for the first three quarters of federal fiscal year 2009.

officials also noted that such funds are allowing them to forgo reductions that they otherwise would have had to make because state funding streams are smaller this year. For example, Pennsylvania officials indicated that the state's share for Medicaid expenditures is 20 percent of their state revenues; thus this funding fluctuates as the economy rises and falls. Funding made available as a result of the increased FMAP will also be used to offset the state's general fund deficit and to help ensure that the Medicaid prompt payment requirements are met.[4] Pennsylvania officials noted that early notification from CMS regarding any reporting forms that the state will be required to complete would be beneficial to ensure that the state's accounting systems are properly aligned to produce needed reports.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and other surface transportation projects. States must follow the requirements for the existing program, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Pennsylvania provided the first of these certifications but noted that the state's level of funding was based on "planned non-bound state expenditures" (sic) and represented the best information available at the time of the state's certification.[5]

As of April 16, 2009, the U.S. Department of Transportation had obligated $308.6 million for 108 Pennsylvania projects.[6] As of April 16, 2009, the

[4]To be eligible for the increased FMAP, states must comply with prompt pay requirements, which require states to pay 90 percent of clean claims from health care practitioners within 30 days of receipt and 99 percent of these claims within 90 days of receipt.

[5]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U..S. Department of Transportation and has not been reviewed by GAO.

[6]For federal-aid highway projects, the Federal Highway Administration of 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 a project. The commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

Pennsylvania Department of Transportation (PennDOT) had advertised 97 projects for competitive bid totaling about $260 million. These projects included highway repaving as well as bridge replacement and painting. Pennsylvania will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Pennsylvania's initial SFSF allocation is $1.3 billion. According to the Chief Implementation Officer, Pennsylvania plans to file its application for these monies by April 25, 2009. According to the Governor's proposal, $418 million in SFSF will support state funding to elementary and secondary schools and $317 million to improve basic programs operated by local educational agencies in state fiscal year 2010. Similarly, $44 million will help restore state funding for higher education. The Governor proposes to spend $173 million on Department of Corrections operations in state fiscal year 2009 and reserve $324 million for appropriation in fiscal year 2010.

Some State Agencies and Localities Have Started Planning and in Some Cases Made Decisions for Using Recovery Act Funds

Faced with declining revenue projections since fiscal year 2008, Pennsylvania officials believe that federal funds are critical to help alleviate the immediate fiscal pressure and help balance the state budget. Based on February 2009 projections, Pennsylvania faces a $2.3 billion shortfall in fiscal year 2009, largely because of lower-than-expected revenues. Since September 2008, the Governor has cut state spending by more than $500 million, imposed a state hiring freeze, and banned out-of-state travel and new vehicle purchases. Pennsylvania plans to draw $250 million from the state rainy day fund—one-third of the current balance—to help avoid further cuts in fiscal year 2009.[7] According to Pennsylvania's

[7]Other actions to address the current shortfall include cuts in the enacted budgets for the legislature and independent agencies as well as increased revenue from natural gas drilling leases.

Secretary of the Budget, state revenues continue to decline and this may necessitate using even more rainy day funds during the current fiscal year. For fiscal year 2010, the Governor proposes to draw $375 million from the rainy day fund. The Governor's budget proposal for fiscal year 2010, among other things, includes program cuts, layoffs, and reduced contributions for employees' health care. According to budget documents, federal fiscal relief would be used to prevent even deeper cuts throughout the budget. As part of the budget process, the Pennsylvania General Assembly generally must appropriate federal funds, including Recovery Act amounts.

The Governor's office and state agencies have begun planning for the use of Recovery Act funds in Pennsylvania. As noted previously, in March 2009, the Governor named a Chief Implementation Officer who is responsible for the effective and efficient delivery of all Recovery Act-funded initiatives and projects. According to the Chief Implementation Officer, the Recovery Management Committee meets regularly to discuss the status of the program, troubleshoot areas of concern, and report to the Governor on the progress of recovery efforts.[8] Pennsylvania plans to apply for competitive grants available under the Recovery Act, and the Governor's Secretary for Planning and Policy is coordinating this strategy.

Some state programs have received federal Recovery Act funds, and in some cases they have made funding decisions. For example, the U.S. Department of Transportation, through the Federal Highway Administration and the Federal Transit Administration, published final apportionments for the federal-aid highway program and Transit Capital Assistance and the Fixed Guideway Infrastructure Investment Programs March 2 and March 5, 2009, respectively.[9] PennDOT officials said that they have been working closely with metropolitan and rural transportation planning organizations to develop spending plans. On March 17, 2009, PennDOT released its final list of 241 highway and bridge projects to be

[8]The Recovery Management Committee is composed of: the Governor's Chief-of-Staff, the Chief Implementation Officer, the Chief Accountability Officer, the Secretary of Budget, Secretary of Policy, Secretary of Administration, Secretary of Legislative Affairs, and the Communications Director as well as other senior members of the Governor's administration.

[9]74 Fed. Reg. 9630 (March 5, 2009).

funded by the $1.0 billion Recovery Act investment in highways.[10] Youth activities under the Workforce Investment Act have also received a funding allocation, and local Workforce Investment Boards must quickly establish summer youth programs for the Recovery Act Funding.[11] According to local officials in the Harrisburg region, planning challenges include identifying eligible youth (some of whom are out of school and difficult to locate), identifying employment opportunities that fit the requirements of the Recovery Act and the Workforce Investment Act, and performing required background checks on staff before the summer program begins.

The Pennsylvania Department of Education estimated allocations for their school districts while waiting for their final Recovery Act allocations. The Recovery Act funding will not be available to schools until the state General Assembly appropriates the funds.

Some Programs Are Waiting for Clear Recovery Act Guidance and Some Have Questions about Using Funds for Administrative Purposes

Program officials with whom we spoke provided varying levels of satisfaction with the guidance they had received from federal agencies, but some agencies were waiting for federal guidance to make spending and programmatic decisions. Officials from PennDOT stated that they have received guidance and have been able to administer Recovery Act funds. For the two new low-income housing tax credit financing programs created under the Recovery Act, the Pennsylvania Housing Finance Authority received initial information from the U.S. Department of Housing and Urban Development but no information from the U.S. Department of the Treasury; the housing finance agency is waiting for formal guidance before releasing implementation plans. Pennsylvania Department of Education officials also stated that although they received guidance on April 1, 2009, from the U.S. Department of Education on Recovery Act funds, they are concerned about certain provisions, such as

[10]PennDOT is also finalizing a list of transit projects to be funded from Recovery Act money. Of the approximately $415 million in Recovery Act money apportioned by the Federal Transit Administration to Pennsylvania for transit capital assistance and fixed guideway infrastructure investment, about $48 million (11.5 percent) will flow through the state to small urban (less than 200,000 population) and nonurbanized areas (less than 50,000 population). The remainder (about $367 million) will go to large (over 200,000 population) areas directly.

[11]According to the U.S. Department of Labor guidance, the period of "summer" will be from May 1 through September 30 for purposes of the Recovery Act funds.

the maintenance of effort provision, and are anticipating additional guidance.

Some agency officials were unclear about whether Recovery Act funds could be used to fund administrative costs. Even though a good portion of the Recovery Act funds is flowing through established grant programs, some state agency officials were concerned about paying for the increased administrative costs associated with program implementation, including increased reporting and tracking requirements. For example,

- Pennsylvania Department of Education officials were unclear if Recovery Act funds could be spent on state administrative costs and anticipated applying to the U.S. Department of Education for a waiver for these costs. State department officials were specifically concerned that they might need to build an entirely new reporting system to evaluate teachers and principals to meet Recovery Act requirements.

- Pennsylvania Department of Community and Economic Development officials said they had not received guidance from the U.S. Department of Housing and Urban Development about implementation of the Recovery Act portion of the Neighborhood Stabilization Program,[12] and were unsure of how much Recovery Act funds could be used for administrative purposes.

- PennDOT officials told us that, in some instances, non-Recovery Act funds were used to pay administrative costs for Recovery Act initiatives. This was the case in hiring two consultants to assess potential transit projects for Recovery Act funding.

[12]The Neighborhood Stabilization Program was originally created in July 2008 by the Housing and Emergency Recovery Act of 2008 and was in the process of implementation when the Recovery Act increased program funding and made some of the funding subject to a competitive process to receive grants.

Pennsylvania Developing Plans for Safeguards and Controls

Pennsylvania has entities responsible for tracking, monitoring, and overseeing financial expenditures. The Office of the Budget oversees the state's uniform accounting, payroll, and financial reporting systems. Pennsylvania is reorganizing and centralizing its internal audit and comptroller functions within the Governor's Office of the Budget.[13] The state's elected Treasurer has a pre-audit function to review disbursements to be paid out by state agencies prior to payment. The state Inspector General—who works for the Governor—is charged with investigating fraud, waste, abuse, and mismanagement. The state's elected Auditor General, who is responsible for ensuring that all state money is spent legally and properly, performs performance audits, financial audits, and investigations of state and local government entities. The Auditor General also partners with an accounting firm to perform Pennsylvania's annual single audit of the federal money that Pennsylvania receives to ensure the funds are spent according to federal laws and guidelines.

Pennsylvania Has System to Track Recovery Act Funds, but Will Rely on Subrecipients to Meet Reporting Requirements at Local Level

Pennsylvania will use its existing accounting system to track Recovery Act funds and state officials are confident that it will adequately identify Recovery Act funds received and how they are used. Pennsylvania has an enterprise resource planning[14] (ERP) system that is used by all state agencies to account for federal and state funding. The integrated accounting system will be used to track Recovery Act funds. To accommodate the Recovery Act, on March 10, 2009, Pennsylvania's Office of the Budget issued an administrative circular to all agencies under the Governor's jurisdiction describing the specific accounting codes they must use to separately identify the expenditure of Recovery Act funds. Individual agencies are also taking action to ensure that Recovery Act funds are tracked separately. For example, PennDOT issued an administrative circular in March 2009 that established specific Recovery Act program codes to track highway and bridge construction spending. The department also established four new funds to account for Recovery Act fund reimbursements to local governments.

[13]According to the Secretary for Budget, the new reorganization will be completed in May 2009.

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

Pennsylvania officials said that the state will rely on subrecipients to meet reporting requirements at the local level. Recipients and subrecipients can be local governments or other entities such as transit agencies. For example, about $367 million in Recovery Act money for transit capital assistance and fixed guideway infrastructure investment was apportioned directly to areas such as Philadelphia, Pittsburgh, and Allentown. State officials also told us that the state would not track or report Recovery Act funds that go straight from the federal government to localities and other entities, such as public housing authorities.

Past Audits Have Identified Vulnerabilities, and Pennsylvania Plans to Identify and Assess Risks Associated with Recovery Act Funds

Past audits have identified vulnerabilities in Pennsylvania's financial reporting and noncompliance with requirements for federal money. Pennsylvania's fiscal year 2007 single audit report had an unqualified opinion on financial reporting, but auditors found material weaknesses in the accounting controls. For example, auditors found weaknesses in segregating duties among staff and monitoring user activities to reduce the risk of inappropriate changes to accounting data or misappropriation of assets. Pennsylvania's Secretary of the Budget told us that to mitigate this risk, internal auditors now are to work closely with the Office of Administration and the Office of Information Technology on all new system changes to ensure internal controls are built into the application. The single audit scope was limited in that auditors could not obtain key documentation needed to check compliance with procurement regulations for competitively bid contracts for goods and services. The Secretary of the Budget told us that, beginning in January 2009 under Pennsylvania's Right to Know law, information related to losing bids and scoring by participants of the procurement committees will now be available for audit purposes.

In 2007, Pennsylvania had a qualified opinion due to noncompliance with major federal programs. For example, auditors identified 13 weaknesses in which state agencies, such as the Department of Community and Economic Development, did not adequately monitor subrecipients or failed to document procedures for performing on-site monitoring for subrecipients or subgrantees. It is important to correct these weaknesses for Pennsylvania to be able to provide reasonable assurance that its subrecipients comply with requirements for Recovery Act funding, when appropriate. Pennsylvania's Secretary of the Budget told us that the Office of Budget monitors the agencies' corrective action plans and provides additional program monitoring and training for agency program staff as appropriate. As of April 2009, the Office of the Budget's auditors were

reviewing the status of implementing corrective action plans for past single audit findings.

Pennsylvania officials also cited potential risks, based on experience with existing structures, with programs receiving Recovery Act funding. Pennsylvania's Governor told us that he is concerned that school districts may use Recovery Act funds to start or expand education programs that are fiscally unsustainable when the federal funds expire. Several Pennsylvania officials, including the Governor, were specifically concerned about the Weatherization Assistance Program. Under the Recovery Act, the program is receiving a significant increase in funding and will make substantial use of contractors to weatherize properties. A 2007 Pennsylvania Auditor General report found that the program had, among other things, weak internal controls, weaknesses in contracting, and inconsistent verification and inspection of subcontractor work.[15]

According to the Chief Implementation Officer, Pennsylvania plans to conduct several risk assessments by June 2009, including assessments of potential contractor capacity challenges for transportation projects and the capacity of current weatherization providers and contractors. The Office of Chief Counsel is reviewing all construction contracts and grants to ensure compliance with the Recovery Act requirements as well as guidance issued by the U.S. Office of Management and Budget (OMB) and federal agencies. According to Pennsylvania's Secretary of the Budget, the new Bureau of Audits within the Office of the Budget will develop a risk-based approach for Recovery Act audits with measurable criteria and develop a matrix of risks for each Recovery Act program by the end of June 2009.

Plans for Oversight and Transparency of Pennsylvania's Recovery Act Funds

Pennsylvania has established structures to oversee Recovery Act funds and provide transparency to the public. On March 31, 2009, the Governor appointed a Chief Accountability Officer who will be responsible for reporting on Pennsylvania's use of Recovery Act funds and working with the Office of Budget to ensure funds are spent in accordance with

[15]Pennsylvania Auditor General, *A Special Performance Audit of the Department of Community and Economic Development's Weatherization Assistance Program*, August 2007.

Recovery Act requirements.[16] To serve as a portal for transparency of state Recovery Act spending, Pennsylvania also established a Web site (www.recovery.pa.gov) that makes available updates on funding and solicits public input on funding use. The Chief Accountability Officer will be responsible for identifying ways to present visual evidence, such as photographs and mapping, to help citizens track Recovery Act projects in Pennsylvania.

A new Pennsylvania Stimulus Oversight Commission was created by the Governor—by executive order on March 27, 2009—after outreach to the Pennsylvania congressional delegation, the state legislature, and others. In addition to the Chief Accountability Officer, the commission is composed of the Governor, the Recovery Act Chief Implementation Officer, four representatives selected by Pennsylvania's congressional delegation, members of each of the four caucuses in Pennsylvania's General Assembly, and representatives from the Pennsylvania Chamber of Business and Industry, United Way of Pennsylvania, and Pennsylvania AFL-CIO. The commission was established to, among other things, monitor Pennsylvania's efforts to ensure compliance with the Recovery Act and to review the state's approach to allocating and disbursing funds, tracking funds, transparency, performance, and grants management and oversight. The commission met for the first time on March 31, 2009, and has not announced its oversight plans; the next commission meeting will be on April 23, 2009.

Other state offices are generally not expecting new staff or resources for Recovery Act oversight. The Auditor General anticipates work auditing and investigating Recovery Act funds received by state and local agencies. For example, the Auditor General will audit Recovery Act funds during the annual single audit and will initiate additional compliance audits for Recovery Act programs. The Auditor General observed that the Recovery Act did not provide funding for his office to undertake work related to the act. In addition, officials of the Auditor General's office have different views about what authority they have to audit federal money that flows directly to localities, such as housing authorities and municipalities. Pennsylvania is also in the process of reorganizing and centralizing its internal audit and comptroller functions within the Governor's Office of

[16]The Chief Accountability Officer also will chair a new Governor's Working Group for Stimulus Accountability that includes the Chief Implementation Officer and senior state officials. In addition, the Chief Accountability Officer also serves on the Governor's Recovery Management Committee.

the Budget. According to the Secretary of Budget, the Bureau of Audits is not expected to dramatically change audit responsibilities in the state but rather provide a more focused, risk-based approach, particularly for Recovery Act funding. This office is expected to employ 95 people, about 70 of whom will be field auditors. The remaining staff will be responsible, among other things, for subrecipient desk reviews and agency risk assessments.

The number of staff devoted to program oversight, and implementation in some state agencies has been affected by the state's hiring freeze. For example, Workforce Investment Act program officials said monitoring efforts will need to increase under the Recovery Act and they have applied to the Governor for a waiver to hire additional staff. Department of Community and Economic Development officials told us that they have requested to hire 12 people, 3 or 4 of whom will be devoted to Recovery Act work related to the Neighborhood Stabilization Program. The Pennsylvania Commission on Crime and Delinquency, which administers the Edward Byrne Memorial Justice Assistance Grants, is trying to maximize the use of its existing staff and sought advice from the U.S. Department of Justice Inspector General; the latter will give a presentation, share checklists, and train program staff in monitoring subrecipients. PennDOT officials told us that they meet weekly to oversee the highway and bridge program funded through the Recovery Act. These meetings cover such things as the status of obligating program funds and potential problems. The department also has a special "war room" that tracks each project in each state district.

Plans to Assess Impact of Recovery Act Funds Depend on Federal Guidance

Agency officials stated that, although they are emphasizing the planning and allocating of Recovery Act funds quickly, they are aware of requirements to assess the economic and other impacts of these funds. The new Chief Accountability Officer will be responsible for developing and using performance measures to demonstrate outcomes associated with Recovery Act spending and projects. Some agency officials with whom we met—at the Pennsylvania Department of Education and the Department for Community and Economic Development—are generally waiting for additional guidance from the federal government on performance measures, especially on how to measure and report jobs created and sustained.

Pennsylvania's Comments on This Summary

We provided the Governor of Pennsylvania with a draft of this appendix on April 17, 2009. The Chief Implementation Officer and the Secretary of the Budget responded for the Governor on April 20, 2009. These officials provided clarifying and technical comments that we incorporated where appropriate. We also provided the Auditor General's staff with portions of the draft that addressed the Auditor General's past work and plans related to Recovery Act funding. We incorporated those technical comments as appropriate.

GAO Contacts

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Staff Acknowledgments

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Appendix XVIII: Texas

Overview

Use of funds: An estimated 90 percent of fiscal year 2009 Recovery Act funding provided to states and localities will be for health, transportation, and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, the State Fiscal Stabilization Fund, and highways.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare & Medicaid Services (CMS) had made approximately $1.45 billion in increased FMAP grant awards to Texas.
  - As of April 1, 2009, the state has drawn down about $665.7 million, or 46 percent, of its initial increased FMAP grant awards**.**
  - Texas officials noted that the funds made available as a result of the increased FMAP will allow the state to maintain the program's level of service and eligibility standards in fiscal year 2009.
- ✓ **Transportation—Highway Infrastructure Investment**
  - Texas was apportioned about $2.25 billion for highway infrastructure investments on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $533.7 million for 159 projects in Texas.
  - According to Texas Department of Transportation officials, the department is scheduled to receive bids in April 2009 on 137 contracts that would total approximately $400 million in Recovery Act funds.
  - Texas will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund**
  - Texas was allocated about $2.66 billion from the initial release of these funds on April 2, 2009, by the U.S. Department of Education.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the Department of Education. These include assurances that they will meet maintenance of effort requirements (or that they will be able to comply with waiver provisions) and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. According to Texas officials, the state's application likely would not be submitted before the state legislature (which is in session until June 1, 2009) has finalized an appropriation for public and higher education.
  - Texas officials indicated that the state plans to use its allocated federal funds to assist in continuing the historical levels of support for elementary, secondary, and higher education in the state. Education Agency officials said funds could be used, for example, to support efforts related to assessing school performance, teacher incentives, and teacher equity. Higher education officials anticipate using the funds to mitigate tuition and fee increases; support modernization, repair, and renovation of facilities; and provide incentive funding based on degrees awarded.

Texas is receiving additional Recovery Act funds under other programs, such as programs under Title I, Part A of the Elementary and Secondary Education Act (ESEA), commonly known as No Child Left Behind; programs under the Individuals with Disabilities Education Act (IDEA); two programs of the U.S. Department of Agriculture—one for the administration of the Temporary Food Assistance Program and one for competitive equipment grants targeted to low income districts from the National School Lunch program; housing programs, including weatherization assistance; and justice assistance grants. The status of plans for using selected funds is discussed throughout this appendix.

Safeguarding and transparency: To help ensure accountability and transparency, the Texas legislature's forthcoming general appropriations act—expected to be passed by June 2009 to function as the state's fiscal 2010-2011 biennium budget—will have a provision for tracking Recovery Act funds allocated to the state, according to the executive and legislative branch officials we contacted in Texas. To provide additional accountability and transparency, the Comptroller of Public Accounts has established a centralized budget account (with a unique funding code) for Recovery Act funds and has also established a Web page, www.window.state.tx.us/recovery, with links to www.recovery.gov/. To further help ensure accountability and transparency, Texas officials suggested that federal authorities provide concurrent notification to the state's key stakeholders—particularly the Office of the Governor, the Comptroller of Public Accounts, the State Auditor's Office, and the Legislative Budget Board[1]—when Recovery Act funds are periodically distributed to Texas agencies and/or localities. Also, Texas officials told us that despite U.S. Office of Management and Budget (OMB) guidance, the increased FMAP funds the state has received through the Recovery Act, to date, have not been separately identified by the federal government.

Assessing the effects of spending: Texas officials commented that—under the state's performance-based budgeting process—agencies already have measures in place for assessing the performance of programs. Officials also believe that the state's current monitoring and control

[1]According to state officials, the Legislative Budget Board is a permanent joint committee of the Texas legislature that develops budget and policy recommendations for legislative appropriations for all agencies of state government, as well as completes fiscal analyses for proposed legislation. The lieutenant governor and House speaker serve as co-chairs of the board. Other members include the chairs of the House Appropriations Committee and the Senate Finance Committee. See www.lbb.state.tx.us.

processes and procedures are adequate to administer initiatives funded under the Recovery Act. The officials recognized, however, that some adjustments to performance measures may be needed for assessing the impact of Recovery Act funds.

Texas Beginning to Use Recovery Act Funds

Texas has begun to use some of its Recovery Act funds, as follows:

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[2] 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.[3] Generally, for federal fiscal year 2009 through the first quarter of federal fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs, (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs, and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act is for state expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

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

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

As of April 1, 2009, Texas had drawn down $665,665,000, or 46 percent, of its initial increased FMAP grant awards of $1,448,824,000 in FMAP funds. Texas officials commented that the funds made available as a result of the increased FMAP will allow the state to maintain the program's level of service and eligibility standards and cover increased caseloads, among other uses. Texas officials indicated that guidance from CMS is needed regarding whether certain programmatic changes being considered by Texas, such as a possible extension of the program's eligibility period, would affect the state's eligibility for increased FMAP funds.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor must certify that the state will maintain its current level of transportation spending, and the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds. Texas provided this certification but noted that the state's level of funding was based on the best information available at the time of the state's certification.[4]

Texas was apportioned about $2.25 billion of Recovery Act funds for highway infrastructure investments on March 2, 2009, by the U.S. Department of Transportation. As of April 16, 2009, the U.S. Department of Transportation had obligated $533.7 million of Recovery Act funds for 159 projects in Texas.[5] According to Texas Department of Transportation officials, the department is scheduled to receive bids in April 2009 on 137 contracts that would total approximately $400 million in Recovery Act

[4]A number of states qualified their certifications in various ways. The legal effect of such qualifications is currently being examined by the U.S. Department of Transportation and has not been reviewed by GAO.

[5]For federal-aid highway projects, the Federal Highway Administration of 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 a project. This commitment occurs at the time the federal government approves a project agreement and the project agreement is executed.

funds. Texas will request reimbursement from the U.S. Department of Transportation as the state makes payments to contractors.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other things, it will take actions to meet certain educational requirements such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

Texas' initial SFSF allocation is $2,662,203,000. According to Texas officials, the state generally plans to use its SFSF allocation to assist in continuing the historical levels of support for elementary, secondary, and higher education in the state. In April 2009, officials from the Office of the Governor informed us that the state was in the process of preparing its application for submission to the U.S. Department of Education—and that the application would reflect the fact that providing funding for public education is a priority in the state. The officials noted that the state's application likely would not be submitted until the state legislature (which is in session until June 1, 2009) has finalized an appropriation for elementary, secondary, and higher education. Also, the officials commented that the state was awaiting further federal guidance on the appropriate use of Recovery Act funds. Generally, however, Texas Education Agency officials said that the federal funds could be used, for example, to support efforts related to high-quality assessment performance in schools, teacher incentives, and teacher equity. Also, according to the Texas Higher Education Coordinating Board, public institutions of higher education in Texas anticipate expending Recovery Act funds for three purposes—mitigating tuition and fee increases; supporting modernization, repair, and renovation of facilities; and providing incentive funding based on degrees awarded. To provide tracking and oversight of the Recovery Act funds, board officials commented that existing systems for implementing policies for accountability, internal controls, compliance, and reporting would be leveraged to the maximum extent possible to avoid the administrative burden associated with creating a completely new system. These officials explained that the proposed uses of the Recovery Act funds are not dissimilar to other well-established programs within the agency.

Overall, throughout the multiyear time frame covered by the Recovery Act, Texas' share of the total federal funds is estimated to be more than $15 billion for supporting a variety of program areas, such as health and human services, state fiscal stabilization, transportation, and education. (See table 9.)

Table 9: Estimated Allocations by Program Areas of Federal Recovery Act Funds in Texas (as of March 2009)

	Estimated federal Recovery Act funds (through fiscal year 2011)	
Program areas	**Amount (in billions)**	**Percentage of total**
Health and human services: Of the $4.5 billion, a large majority ($4.2 billion) is an increase in the Federal Medical Assistance Percentage funds.	$4.5	29
State fiscal stabilization funds: Of the $4.0 billion, about 82 percent ($3.3 billion) is to be used to support elementary, secondary, and higher education (e.g., for the purposes of modernization, renovation, and repair). The other 18 percent of the funds may be used, at the discretion of the governor, for education, public safety, and other government services.	4.0	26
Transportation: Of the $2.8 billion, a large majority ($2.3 billion) is to be allocated for highway and bridge construction.	2.8	18
Education: Of the $2.3 billion, a large majority involves two formula grant programs—grants to local educational agencies ($1.2 billion) and special education grants to assist individuals with disabilities ($1.0 billion).	2.3	15
Housing and infrastructure: Of the $1.2 billion, the largest component ($327 million) is the weatherization assistance program to provide energy-related improvements to homes and educate residents about energy conservation.	1.2	8
Other: Program areas include, for example, Edward Byrne Memorial Justice Assistance Grants ($147.5 million) and child care and development block grants ($214.9 million).	0.6	4
Total	**$15.4**	**100%**

Source: GAO summary based on review of Texas Legislative Budget Board data and interviews with agency officials.

Note: The amounts of Recovery Act funds shown in the table are anticipated to flow to or through Texas agencies. As such, Texas plans to include these Recovery Act funds in the state's budget-setting process, as discussed below. However, additional amounts of other Recovery Act funds (not yet quantified) are anticipated to flow directly to localities within the state.

In his letter certifying acceptance of federal Recovery Act funds, the Texas Governor voiced opposition to "using these funds to expand existing government programs, burdening the state with ongoing expenditures long after the funding has dried up."[6] Similarly, during our review in Texas, legislative branch officials generally acknowledged that most of the

[6]State certification letter, dated February 18, 2009, from Governor Rick Perry, State of Texas, to President Barack Obama.

federal Recovery Act funds appear to be one time in nature and that the state must avoid spending the funds for ongoing projects that would result in unsustainable future costs to the state's budget. An illustration of such avoidance involves unemployment insurance. While the Texas Governor accepted some Recovery Act funds for unemployment insurance, he did not request Unemployment Insurance Modernization funds because the Governor believed that receiving those funds would place additional tax burdens on businesses, which would impede job creation and hamper the economy.[7]

Even though Texas generally continues to fare better economically than most states, nearly all available data suggest that the Texas economy is in recession, according to the Federal Reserve Bank in Dallas. In January 2009, the Office of the Comptroller of Public Accounts reported that the state's fiscal 2010-2011 biennium budget will have $9 billion less in revenue than the current biennium budget. For perspective, officials with the Governor's office told us that the $9 billion represents a 5 percent adjustment to the budget.

In January 2009, anticipating that Texas faced a likely budget shortfall, the co-chairs of the state's Legislative Budget Board requested that state agencies look for ways to reduce fiscal year 2009 expenditures by 2.5 percent. The co-chairs further noted that the state legislature should prudently plan on having a reasonable reserve in the state's economic stabilization fund[8] so that the state does not face a large deficit in the next biennium, ending August 31, 2011. In response to the co-chairs' request for ways to reduce spending in fiscal year 2009, state agencies identified approximately $396 million in potential budget reductions based on hiring freezes, reduced services, delayed capital purchases, and other cost-cutting efforts. At the time of their request, the co-chairs noted that the Recovery Act—which was being debated in Washington, D.C.—could not

[7]According to the Texas Comptroller of Public Accounts Web site, in order to accept Unemployment Insurance Modernization Funds under the Recovery Act the state would be required to change its eligibility standards to expand benefits to additional categories of workers. State officials described a recently introduced, but not enacted, bill in the Texas legislature to propose changes to the eligibility standards. On April 20, 2009, the Texas Senate voted in favor of the bill. According to those officials, if the House of Representatives also votes in favor of the bill, the governor has the option of vetoing the bill.

[8]The state's economic stabilization fund is commonly referred to as the "rainy day fund." The fund balance, according to Legislative Budget Board estimates, is expected to reach $9.1 billion by 2011.

responsibly be factored into the state's budget process because many details were not known.

In discussions with our review team in March 2009, representatives of the Office of the Lieutenant Governor commented that because of Recovery Act funds, state agencies were not required to implement the 2.5 percent spending reductions anticipated for state fiscal year 2009 and, further, the state did not have to tap into its rainy day fund. The representatives told us that absent the availability of Recovery Act funds, state agencies likely would have been asked to make cuts of about 10 percent for the fiscal 2010-2011 biennium budget, in addition to the state drawing upon the rainy day fund.

On the other hand, officials representing the Office of the Governor commented that budget deficit situations do not necessarily result in the state using its rainy day fund. The officials stressed that—to meet the requirement to pass a balanced budget—a variety of other solutions could be considered, such as budget reallocations among state agencies and programs, as well as spending cuts. As an example, these officials noted that even though the state's overall budget was reduced in 2003, the state raised education spending by $1 billion that year. Additionally, the officials explained that use of the rainy day fund is not an option readily available because it requires approval by two-thirds of the state legislature.

Texas Is Taking Steps to Help Ensure Accountability and Transparency and Address Potential Areas of Vulnerability

Texas is taking various steps to help ensure accountability and transparency and address areas of vulnerability potentially associated with Recovery Act spending.

Steps to Help Ensure Accountability and Transparency

Texas officials noted that Recovery Act funding will flow generally through existing federal-state agency partnerships or programs. Thus, to the extent possible, the state plans to use existing systems, processes, or mechanisms to provide Recovery Act funding accountability and transparency, according to the executive and legislative branch officials we contacted in Texas. In further reference to accountability and transparency, oversight of federal Recovery Act funds in Texas involves various stakeholders, including the Office of the Governor, the State

Auditor's Office, and the Office of the Comptroller of Public Accounts as well as two entities established within the Texas legislature specifically for this purpose—the House Select Committee on Federal Economic Stabilization Funding[9] and the House Appropriations' Subcommittee on Stimulus. Also, according to executive and legislative branch officials in Texas, the state plans to ensure that the forthcoming biennial general appropriations bill has a provision designed to specifically facilitate the tracking of federal Recovery Act funds distributed to Texas—that is, the act will have a separate section ("article") that identifies, by applicable state agency, Recovery Act funds allocated to Texas.[10] At the time of our study in April 2009, the Texas legislature was in session (81st regular session) and had not finished its work to complete and submit to the Governor a general appropriations bill for the state's fiscal 2010-2011 biennium (Sept. 1, 2009, through Aug. 31, 2011).[11]

To further facilitate tracking, in March 2009, the Office of the Comptroller of Public Accounts established a centralized budget account for federal

[9]See www.txstimulusfund.com. The committee chair has been holding hearings with state agencies and asking about the resources they have or need; how the Recovery Act funds will be disbursed; and what policies, procedures, and internal controls are in place for the funds.

[10]Essentially, as described by state officials, the Texas legislature will use the state's general appropriations bill to appropriate federal Recovery Act funds for the fiscal 2010-2011 biennium (Sept. 1, 2009, through Aug. 31, 2011). Any Recovery Act funds received earlier (i.e., funds received in fiscal year 2009) will not be included in the general appropriations bill. In Texas, according to state officials, the general appropriations bill functions as the state's budget by allocating resources and setting performance targets based on the strategies identified by agencies in their respective strategic plans. Under Texas law, the governor is the state's chief budget officer, but the state legislature and the Legislative Budget Board have a large role in the state's budget process. By constitutional mandate, Texas operates under budgets set for 2-year periods. Both the governor and the Legislative Budget Board develop budget recommendations and submit budget proposals to the legislature, which adopts a budget (general appropriations bill) for the 2-year period. The state legislature in constitutionally required to pass a balanced budget, and the governor is constitutionally required to sign a balanced budget.

[11]According to state officials, the legislature meets in regular session for 140 days in odd-numbered years. The 81st regular session began January 13, 2009, and extends to June 1, 2009. The House and Senate generally take turns originating the general appropriations bill and chairing the budget conference committee. Both chambers work on the budget and hold hearings simultaneously. After the general appropriations bill has been approved by both chambers of the legislature, it must be certified by the Comptroller of Public Accounts; thereafter, it is submitted to the governor for approval. The governor has line item veto power, which allows the governor to veto specific appropriations rather than vetoing the entire bill. A veto may be overridden by a two-thirds vote in each chamber of the legislature.

Recovery Act funds, with a unique funding code (0369).[12] In turn, according to Texas officials, state agencies are modifying their financial systems to enable tracking of Recovery Act funds. Also, after the Recovery Act passed, the Office of the Governor began hosting regularly scheduled meetings (twice weekly) of a Stimulus Working Group comprising representatives of major state agencies to help ensure statewide communication of the need for accountability and transparency regarding Recovery Act funds.[13] Similarly, a periodic forum of the internal audit staff of Texas state agencies serves as another means of statewide communication.[14] Also, in March 2009, the Office of the Comptroller of Public Accounts scheduled training regarding federal awards and financial statements—training that included representatives from the Office of the Governor to discuss Recovery Act funds. Further, the Comptroller's Office plans to hire 5 to 10 additional staff to help account for Recovery Act funds, according to office officials. In April 2009, the Comptroller's Office issued policies and procedures to state agencies related to use and subsequent reporting on Recovery Act funds.

The State Auditor's Office is taking additional steps to ensure accountability. Anticipating that federal Recovery Act funding will increase its scope of responsibilities, the State Auditor's Office plans to hire 10 additional staff (9 auditors and 1 investigator).[15] The office intends to audit Recovery Act funds through the Single Audit of the State of Texas' expenditures of federal awards—that is, the audit required by the Single Audit Act and to which OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, relates.[16] Also, the State

[12]Also, the Office of the Comptroller of Public Accounts has established a stimulus-related Web page (window.state.tx.us/recovery/) with links to the national Web site, www.recovery.gov.

[13]Members of GAO's review team attended the March 19, 2009, meeting of the Stimulus Working Group in Austin, Texas.

[14]Members of GAO's review team attended the March 27, 2009, state agency internal audit forum in Austin, Texas.

[15]State officials described the State Auditor's Office as the independent auditor for Texas state government. The office operates with oversight from the Legislative Audit Committee, a six-member permanent standing committee of the Texas legislature, jointly chaired by the lieutenant governor and the speaker of the House of Representatives.

[16]For example, see State Auditor's Office, *State of Texas Federal Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2008*, SAO Report No. 09-330 (Austin, Tex., Feb. 2009).

Auditor's Office may conduct discretionary audits based, for example, on (1) discussions with internal auditors at state agencies or (2) risk assessments that consider previously reported material weaknesses in program compliance and internal controls, as well as risk assessments of programs that have not been tested before. Furthermore, the State Auditor's Office noted that, as warranted, it pursues leads generated by complaint letters, hotline calls, and other information received from the public. In this regard, the State Auditor's Office has Web-based and telephone "hotline" contacts for the general public to use in reporting possible fraud, waste, and abuse. In March 2009, the State Auditor told us that he was preparing a letter to send to state agencies regarding their general fraud responsibilities related to state funds.[17] Moreover, in April 2009, the State Auditor's Office informed us that a provision for reporting Recovery Act-related fraud is being added to the state's fiscal 2010-2011 biennium appropriations bill. Among other requirements, this legislative provision, according to the State Auditor's Office, will require that state agencies' Web sites provide information on how to report suspected fraud, waste, and abuse directly to the State Auditor's Office.

According to state officials, in March 2009, a bill was filed in the Texas legislature that proposed creating a new office—the Texas Fiscal Responsibility Office—to oversee or monitor the spending of federal Recovery Act funds in Texas.[18] As of early April 2009, the bill's status had not been determined by the state legislature, which was scheduled to be in regular session until June 1, 2009.

Potential Areas of Vulnerability of Recovery Act Funds in Texas

In response to our inquiry, the State Auditor's Office provided us its views regarding accountability risks and other challenges potentially associated with the expenditure of federal Recovery Act funds in Texas. Based on its experience in auditing Texas' use of previous federal awards and reporting internal control deficiencies or material weaknesses, the State Auditor's Office noted that relatively high risks generally can be anticipated with certain types of programs—such as (1) new programs with completely

[17]Some Texas agencies, such as the Health and Human Services Commission, have an Office of Inspector General.

[18]State officials identified this bill as H.B. No. 2942, cited as the "Texas Government Accountability and Transparency Act of 2009." According to state officials, under the bill's provisions, the Texas Fiscal Responsibility Office would be created as an independent agency of the legislative branch of state government.

new processes and internal controls, (2) programs that lack clear guidance on allowable uses of Recovery Act funds, (3) programs that distribute significant amounts of funds to local governments or boards, and (4) programs that rely on subrecipients for internal controls and monitoring. The State Auditor's Office also noted that general economic stability and public education programs are considered to be high risk because they are new programs and federal guidance regarding the state's appropriate use of the funds the funds is uncertain. The State Auditor's Office further noted that highway construction and workforce programs are also high risk because funds flow through contractors or to local entities, respectively.[19]

Officials from Office of the Governor acknowledged that there are inherent risks associated with large, complex programs as well as programs that involve a large number of contracts and rely on subrecipients. However, the officials emphasized that Texas has experience in monitoring these types of programs, and officials noted that state agencies have controls in place to mitigate these risks. Regarding the Medicaid program, for example, the officials noted that in 2003, the Governor appointed an Inspector General for the Texas Health and Human Services Commission and charged the Inspector General with monitoring and preventing fraud, waste, and abuse. Also, the officials noted that the state's Attorney General's Office has a Medicaid Fraud Investigation Unit.

The Texas State Auditor's Office made a recommendation regarding the monitoring of subrecipients for risk in its most recent audit of the Texas Education Agency.[20] The audit report did not find that subrecipients were improperly spending federal funds or were not meeting federal requirements; however, the report did note, however, that the agency had "a limited number of resources available to monitor fiscal compliance." The audit report recommended that the Texas Education Agency continue to add resources, within its budget constraints, to increase its monitoring of federal fiscal compliance performed. According to the State Auditor's Office, following the audit in February 2009, the Texas Education Agency

[19]The State Auditor's Office further noted that additional information about high-risk programs could be obtained by inquiring about what actions at the agency level that management will be taking to mitigate risks.

[20]State Auditor's Office, *State of Texas Federal Portion of the Statewide Single Audit Report for the Fiscal Year Ended August 31, 2008*, SAO Report No. 09-330 (Austin, Tex., Feb. 2009). The audit was performed by an independent public auditing firm under contract to the State Auditor's Office.

created a comprehensive correction plan, which the agency is implementing to address this resource issue.

After the Recovery Act was enacted, the Texas Education Agency announced in March 2009 that it was creating a task force on federal stimulus and stabilization to coordinate the agency's plans. Also in March 2009, the agency reported that it had established new accounting codes for tracking Recovery Act funds. Furthermore, the agency indicated that its application guidance for the temporary funding would specify that (1) grantees are expected to expend funds in ways that do not result in unsustainable continuing commitments after the funding expires and (2) the funds must be separately tracked and monitored.

Generally, state officials recognized that a potential vulnerability can be associated with significant increases in funding levels. An example is the weatherization assistance program. As noted in table 1, of the estimated $1.2 billion in Recovery Act funds to be used for housing and infrastructure programs in Texas, weatherization assistance is the largest component program in terms of funding ($327 million). This funding level represents about a 25-fold increase over the estimated annual amount ($13 million) that existed before the Recovery Act, according to Texas Department of Housing and Community Affairs data. Tentatively, the department indicated that its program implementation plan will include using an existing network of 34 weatherization assistance program providers (e.g., various community action entities) as well as awarding other contracts to cities with populations over 75,000. Under the program, subrecipients have 2 years to fully expend the weatherization funding. The Texas Department of Housing and Community Affairs noted that it intends to periodically assess progress and determine if unobligated funds need to be moved to high-performing entities.

More broadly, a particular challenge or difficulty cited by the executive and legislative branch officials we contacted in Texas is the need for more guidance from OMB and other applicable federal agencies.[21] Regarding quarterly recipient reports, for example, the officials said that there is a lack of clarity regarding whether all agencies in the state must submit reports to OMB or whether each state must submit a consolidated report.

[21]OMB issued initial guidance on February 18, 2009, and provided additional guidance on April 3, 2009. As presented in this appendix, the observations of Texas officials are based on OMB's initial guidance only.

The officials also noted that it would be useful to have a reporting "template" that specifies the specific data fields or information to be reported. Furthermore, the officials commented that rather than simply being directed to a Web site, it would be helpful to have a centralized point of contact in Washington, D.C., for receiving and addressing questions. In April 2009, the Governor's Office and State Comptroller of Public Accounts officials continued to express concerns to us about unclear guidance from federal agencies on allowable uses and reporting requirements. Also in April 2009, the officials informed us that the Office of the Governor had hired a consulting company, and six consultants had been staffed to track deadlines and work with state agencies to assist Texas in meeting Recovery Act reporting requirements.

Regarding other opportunities for enhancing Recovery Act funding accountability, the executive and legislative branch officials we contacted in Texas advocated that various oversight entities in the state be concurrently notified when funds are distributed. As mentioned previously, in Texas, the state-level decision-making process regarding use (and accountability and transparency) of federal Recovery Act funds involves several entities or key stakeholders, particularly the Office of the Governor, the Office of the Comptroller of Public Accounts, the State Auditor's Office, and the Legislative Budget Board. Generally, in our meetings with representatives of these entities, a common theme expressed has been a desire to be notified by federal authorities when Recovery Act funds are distributed to Texas state agencies and/or localities. The representatives stated that concurrent notification to the state's key stakeholders would help to further ensure accountability and transparency.

In April 2009, officials from the Office of the Governor and the State Comptroller's Office told us that, in its disbursement of Recovery Act funds to the state, the federal government was not identifying these funds separately from other federal funds. The Texas officials cited increased FMAP funding as an example. Absent separate coding from the disbursing federal agency, the Texas officials said that the state relies on the Texas Health and Human Services Commission to inform the State Comptroller's Office of what portion of the combined funds are Recovery funds. The Texas officials commented that it would be helpful if the federal government put in place the coding structure to identify Recovery Act funds separately from other federal funds—as they believe the Act requires—before Recovery Act funds are disbursed to Texas.

Plans for Assessing the Impact of Recovery Act Funds Are Evolving

The executive and legislative branch officials we contacted in Texas—including officials from the Office of the Governor, the Office of the Comptroller of Public Accounts, the State Auditor's Office, the Legislative Budget Board, and various program agencies—recognized the importance of the state taking steps to assess the impact of Recovery Act funds in terms of preserving and creating jobs, assisting those individuals most impacted by the recession, and so forth. In late January 2009, for example, in preparing to implement the transportation components of the anticipated national economic recovery program, the Texas Transportation Commission recognized that a primary purpose of the recovery program is to "create and sustain jobs."[22]

Texas officials commented that agencies in Texas—a state that has a performance-based budgeting process—already have performance measures in place for their respective programs and operations, although some Recovery Act-related adjustments or modifications may be needed. Texas Department of Transportation officials noted, for example, that contracts involving the use of Recovery Act funds will have special provisions requiring contractors to report on jobs created. These officials also cited potential difficulties in measuring the impact of Recovery Act funds used for programs that commingle these funds with other federal or state funds.

Finally, Texas officials told us that the Governor's Office has taken the lead in administering the state's responsibilities under the Recovery Act. As mentioned previously, the Governor's Office chairs a Stimulus Working Group with representatives from the state agencies that have a role under the Recovery Act. Texas officials were uncertain as to whether a specific agency would be designated to be responsible for compiling an overall assessment of the impact of Recovery Act funds in the state. The officials added, however, that the state's legislature was still in session and that the forthcoming biennial general appropriations bill—which will have a separate section specifically for Recovery Act funds—could perhaps assign such responsibility to an agency.

[22]Texas Transportation Commission, "Report on: Economic Recovery Plan," presented at January 29, 2009, meeting by John Barton, Assistant Executive Director Engineering Operations.

Texas's Comments on This Summary

We provided the Governor of Texas with a draft of this appendix on April 17, 2009. A Senior Advisor, designated as the state's point of contact for the Recovery Act, responded for the Governor on April 20, 2009. In general, the Senior Advisor agreed with the information in this appendix but wanted us to provide more context for the views of the State Auditor regarding potential areas of vulnerability with Recovery Act funds. We added contextual perspectives to address this concern and the Senior Advisor's belief that Texas is equipped to meet its responsibilities under the Recovery Act. The Senior Advisor also provided technical suggestions that we incorporated where appropriate.

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Appendix XIX: Washington, D.C.

Overview

Use of funds: An estimated 90 percent of Recovery Act funding provided to states and localities nationwide in fiscal year 2009 (through Sept. 30, 2009) will be for health, transportation, and education programs. The three largest programs in these categories are the Medicaid Federal Medical Assistance Percentage (FMAP) awards, highways, and the State Fiscal Stabilization Fund.

- ✓ **Medicaid Federal Medical Assistance Percentage (FMAP) Funds**
  - As of April 3, 2009, the Centers for Medicare and Medicaid Services (CMS) had made about $87.8 million in increased FMAP grant awards to the District of Columbia.
  - As of April 1, 2009, the District had drawn down about $49.9 million, or about 57 percent of its initial increased FMAP grant awards.
  - District officials plan to use funds made available as a result of the increased FMAP to cover an increased caseload, offset general fund deficits, and maintain current Medicaid eligibility and benefit levels.
- ✓ **Transportation—Highway Infrastructure Investment**
  - The District of Columbia was apportioned $123.5 million for highway infrastructure investment on March 2, 2009, by the U.S. Department of Transportation.
  - As of April 16, 2009, the U.S. Department of Transportation had obligated $36.6 million for one project in the District of Columbia.
  - The District of Columbia plans to use these funds for reviewed and vetted "shovel ready" projects, such as pavement restoration and resurfacing work on federal roadways, once the appropriate contracting processes have been completed.
- ✓ **U.S. Department of Education State Fiscal Stabilization Fund**
  - The District of Columbia was allocated $89.4 million from the initial release of these funds on April 2, 2009, by the U.S. Department of Education. District officials intend to use these funds to increase aid across all schools in the District. As of April 2, 2009, about $59.9 million of this allocation was available for the District to draw down upon.
  - Before receiving the funds, states are required to submit an application that provides several assurances to the U.S. Department of Education. These include assurances that they will meet maintenance of effort requirements, or that they will be able to comply with waiver provisions, and that they will implement strategies to meet certain educational requirements, including increasing teacher effectiveness, addressing inequities in the distribution of highly qualified teachers, and improving the quality of state academic standards and assessments. As of April 15, 2009, the District was awaiting a response from the U.S. Department of Education on the District's proposed plan for using the funds before submitting an application.

In addition to the funding for these three programs, the District of Columbia is receiving Recovery Act funds under other programs, such as programs under Title I, Part A, of the Elementary and Secondary Education (ESEA), commonly known as the No Child Left Behind Act; programs under the Individuals with Disabilities Education Act (IDEA); and two programs of the U.S. Department of Agriculture—one for administration of the Temporary Food Assistance Program and one for competitive equipment grants targeted at low income districts from the National School Lunch Program. The District's plans for using these and other Recovery Act funds are discussed throughout this appendix.

Safeguarding and transparency: The District plans to use its existing financial systems to track the use of Recovery Act funds, and plans to use an ongoing accountability program to monitor District agency efforts to ensure that funds are used as intended. District officials are working to correct 89 material weaknesses in internal controls over both financial reporting and compliance with requirements applicable to major federal programs that were identified in the *Fiscal Year 2007 Single Audit Report* for the District of Columbia. The major federal programs in which these weaknesses were identified include programs that will be receiving Recovery Act funds, such as Medicaid's FMAP, ESEA Title I Education grants, and Workforce Investment Act programs. At present, it is not clear whether corrective actions will be completed before the Recovery Act funds are received by the District. This could increase the risk that Recovery Act funds may not be used properly. The District's Inspector General has also identified a number of District agencies with internal control and management issues that place them at risk for misusing Recovery Act funds. The District has initiated a Recovery Act Web site to help ensure that its Recovery Act efforts are transparent to the public.

Assessing the effects of spending: The District plans to assess the impact of Recovery Act funds by using the information in reports required by federal agencies under the Recovery Act, including information on the economic impact of the funds, such as on job creation. The District has provided initial guidance to city agencies on the tracking and use of Recovery Act funds and is awaiting further guidance from the federal government, particularly information related to measuring jobs. District officials stated that the Office of Management and Budget (OMB) should provide a common definition of "job" and a metric to measure the number of jobs that are created by Recovery Act funds. District officials are also concerned about the lack of guidance for the methodology of tracking the new jobs created.

District of Columbia Beginning to Use Recovery Act Funds

The Mayor of the District of Columbia has established 13 work groups to oversee the use of Recovery Act funds in each program area. Each work group is led by the head of a District agency or department, or their designee, who reports to the City Administrator through his Recovery Act coordinator. The work groups will collaborate to make decisions on the use of Recovery Act funds. As of April 3, 2009, the District had been allocated about $240 million in Recovery Act funds. The City Administrator stated that the District is committed to taking full advantage of the opportunities provided by the Recovery Act, and is committed to doing so in a manner that is fiscally responsible, efficient, effective, and transparent, while addressing the goals of the statute and the needs of District residents. The District has begun to use the Recovery Act funds as follows.

Increased Federal Medical Assistance Percentage Funds: 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 amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). Across states, the FMAP may range from 50 to no more than 83 percent, with poorer states receiving a higher federal matching rate than wealthier states. The Recovery Act provides eligible states with an increased FMAP for 27 months between October 1, 2008, and December 31, 2010.[1] 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 enactment of the Recovery Act.[2] Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, provides for (1) the maintenance of states' prior year FMAPs; (2) a general across-the-board increase of 6.2 percentage points in states' FMAPs; and (3) a further increase to the FMAPs for those states that have a qualifying increase in unemployment rates. The increased FMAP available under the Recovery Act are for state

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

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

expenditures for Medicaid services. However, the receipt of the increased FMAP may reduce the funds that states must use for their Medicaid programs, and states have reported using these available funds for a variety of purposes.

As of April 1, 2009, the District of Columbia had drawn down $49.9 million in increased FMAP grant awards, which was 56.8 percent of its awards to date.[3] District of Columbia officials reported that they plan to use funds made available as a result of the increased FMAP to cover an increased caseload, offset general fund deficits, and maintain current eligibility and benefit levels in the District's Medicaid program.

Transportation—Highway Infrastructure Investment: The Recovery Act provides additional funds for highway infrastructure investment using the rules and structure of the existing Federal-Aid Highway Surface Transportation Program, which apportions money to states to construct and maintain eligible highways and for other surface transportation projects. States must follow the requirements for the existing programs, and in addition, the governor or other appropriate chief executive must certify that the state or local government to which funds have been made available has completed all necessary legal reviews and determined that the projects are an appropriate use of taxpayer funds.

As of March 2, 2009, the District's Department of Transportation was apportioned $123.5 million in Recovery Act funds for highway infrastructure and has identified "shovel ready" projects for these funds. According to the District of Columbia's certification, approximately $56 million in projects have been fully reviewed and vetted. As of April 16, 2009, the U.S. Department of Transportation had obligated $36.6 million for one District project—the demolition and reconstruction of the existing New York Avenue Bridge over the railroad.

U.S. Department of Education State Fiscal Stabilization Fund: The Recovery Act created a State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education). The 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 assures, among other

[3]The District of Columbia received increased FMAP grant awards of $87.8 million for the first three quarters of federal fiscal year 2009.

things, it will take actions to meet certain educational requirements, such as increasing teacher effectiveness and addressing inequities in the distribution of highly qualified teachers.

As of April 15, 2009, the District was awaiting a response from Education on the District's proposed plan for using the funds to increase funding for education on a per student basis. Once this response is received, the District will submit an application to the federal government and expects to receive about $89.4 million in fiscal stabilization funds. The District is home to about 220 schools in 60 local education agencies (LEAs). The District's 60 LEAs include one large public school system (District of Columbia Public Schools, or DCPS) and 59 smaller LEAs that are mostly single public charter schools. For the 2008-2009 school year, about 64 percent of District students were enrolled in DCPS, while about 36 percent were in public charter schools. District officials stated that they intend to distribute stabilization funds across all 60 LEAs.

Other Education Funds: The District expects to receive about $37 million in Recovery Act funds for its ESEA Title I program. Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act provides funds to LEAs for schools that have high concentrations of students from families living in poverty in order to help improve teaching and learning. District officials told us that it may be a challenge to disburse funds rapidly while also meeting programmatic requirements. They also told us they did not yet know how the LEAs were planning on using these funds.

The District also expects to receive about $18.8 million in stimulus funds for Individuals with Disabilities Education Act (IDEA) programs. About $16.4 million will be used for Part B grants to states, and about $260,000 for Part B grants for preschool children. The other $2.1 million will be used for Part C (state grants for infants and families). Officials told us that they were unsure of how IDEA funds would be used, but they anticipate being able to serve more children under each program, improve methods for assessing the performance of students with disabilities, and improve services to children and compliance with IDEA's requirements.

Public Transit Capital Assistance: The U.S. Department of Transportation, through the Federal Transit Administration (FTA), has apportioned funds for Transit Capital Assistance grants. Although these funds are not apportioned directly to the District, the Washington Metropolitan Area Transit Authority (WMATA), which serves the District of Columbia and the surrounding area, estimates that WMATA will receive

approximately $202 million in Recovery Act funding from FTA. WMATA plans to use these funds for 29 projects, including improving information technology and operating systems, maintenance, repair and replacement of buses, and renovation of passenger facilities in disrepair. According to its Web site, WMATA expects to make its first Recovery Act purchase of 45 hybrid-electric buses at the end of April 2009.

Workforce Investment Act (WIA): As of April 3, 2009, the District's Department of Employment Services had been allocated about $1.5 million for adult Workforce Investment Act (WIA) programs, about $3.8 million for dislocated workers programs, and almost $4 million for youth programs. The District plans to use these Recovery Act funds in accordance with the U.S. Department of Labor's Guidance Letter Number 14-08. This guidance states that it is the intent of the Recovery Act that WIA adult funds be used to provide the necessary services to substantially increase the number of adults to support their entry or reentry into the job market, and that WIA dislocated worker funds be used to provide the necessary services to dislocated workers to support their reentry into the recovering job market. The guidance also emphasizes Congress's interest in using WIA youth funds to create summer employment opportunities for youth.

The District has also developed a plan that includes an increase in weekly benefits for the unemployed and an expansion of city services to help those filing unemployment claims and looking for work. The new benefits for the unemployed include additional compensation in the form of a supplemental $25 weekly benefit outlined in the Recovery Act. In addition, the District announced an extension for those who have exhausted their unemployment benefits and are actively seeking work. According to District officials, the Mayor plans to forward legislation to the D.C. City Council that will enable those who will exhaust their unemployment benefits by late spring to extend them until December 2009. Both the new supplemental compensation and the extension of benefits are 100 percent federally funded as part of the Recovery Act.

Housing Programs: The U.S. Department of Housing and Urban Development (HUD) allocated about $11.6 million to the District of Columbia to provide additional gap financing to Low Income Housing Tax Credit (LIHTC) projects under the Taxpayer Credit Assistance Program (TCAP). District of Columbia Department of Housing and Community Development (DHCD) officials told us that they were waiting for the Internal Revenue Service (IRS) and HUD to issue guidance for TCAP and the LIHTC Exchange programs before releasing details on their plans for implementing the program. Regarding the LIHTC Exchange program,

DHCD officials said they have questions about how the program will be implemented and that the answers to their questions could require revisions to state qualified allocation plans and procedures. As a result, further guidance from IRS will be needed to understand whether DHCD would use the program and, if so, what management changes, if any, will be needed for its implementation. As required by the Recovery Act, HUD allocated about $27 million to the District of Columbia Housing Authority (DCHA) for capital and management activities, including modernization and rehabilitation of public housing projects. DCHA officials told us that they planned to use the allocation to fund improvements at ongoing projects included in their 5-year construction plan.

Homeland Security and Justice Programs: District officials expect to receive an additional allocation of about $11.7 million through the Department of Justice's Edward Byrne Memorial Justice Assistance Grant Formula Program, which nearly doubles the total amount of grant funding awarded by the District's Justice Grants Administration in the last fiscal year. The District plans to use these funds in several areas, including prisoner reentry, detention and incarceration diversion initiatives, and court diversion services for at-risk youth. The District plans to change its funding priority targets by phasing out small discrete grants and instead focus on awarding grants that invest in long-term projects. According to District officials, they have collaborated with local criminal justice stakeholders and community groups to identify funding priorities.

The District Plans to Use Existing Systems to Track Recovery Act Funds

District officials plan to track Recovery Act funds using existing financial systems. According to District officials, the financial system already has the infrastructure to track, monitor, and report the source of funds distributed to recipients to ensure strict compliance with the requirements of the Recovery Act and to monitor the flow of Recovery Act funds from the federal government to District agencies. District officials plan to account for Recovery Act funds in a manner similar to the way they track and manage grant funds, using a unique four-digit code. Officials from the District's Office of the Chief Financial Officer told us that they had notified District agency officials of the need to closely monitor Recovery Act funds. The District has not provided guidance to recipients regarding the tracking and use of Recovery Act funds. The District will determine what guidance needs to be provided to recipients once the District receives guidance from OMB.

District Web site Used to Promote Transparent Use of Recovery Act Funds

The District has developed a Recovery Act Web site (www.recovery.dc.gov) that is intended to allow the public to track Recovery Act efforts. The Web site contains information on the management process the District plans to use to oversee Recovery Act spending, and provides the public a way to track Recovery Act spending and get information on grants and contracts that are available. The Web site also offers the public a means to submit ideas and to identify any waste or fraud. Further, the Mayor's certification of the use of the funds is also posted on the Web site, as is the testimony of the City Administrator and the Chief Procurement Officer on Recovery Act efforts before the D.C. Council—the District's legislative body.

District Plans for Ensuring that Adequate Safeguards and Internal Controls Are in Place

The District Plans to Use Existing Accountability Program for Recovery Funds

The District will continue to use CapStat, a performance-based accountability program designed to make the District government run more efficiently and to ensure accountability, effectiveness of internal controls, compliance with reporting requirements, and reliable reporting about uses of Recovery Act funds. The CapStat process takes the form of weekly accountability sessions where the Mayor and City Administrator bring into one room all the executives responsible for improving performance on an issue to examine performance data and explore ways to improve government services, as well as to make commitments for follow-up actions. Each District agency participates in the program. Agency directors prepare for a session by examining their agency's performance measures and analyzing how they can improve their results.

Single Audit Identified Many Weaknesses in District Internal Controls

The *Fiscal Year 2007 Single Audit Report* for the District of Columbia identified 89 material weaknesses in internal controls over both financial reporting and compliance with requirements applicable to major federal programs. There were three financial reporting material weaknesses related to (1) fraudulent activities involving the Office of Tax and Revenue, (2) management of the Medicaid program, and (3) systemic weaknesses in DCPS. The single audit report identified material

weaknesses in compliance with requirements applicable to major federal programs including Medicaid's FMAP, ESEA Title I Education grants, and Workforce Investment Act programs, all of which will be receiving Recovery Act funds. The findings were significant enough to result in a qualified opinion for that section of the report. In addition, Education designated the District as a high-risk grantee in April 2006 because of its poor management of federal grants. If the District continues to be designated as a high-risk grantee, Education could respond by taking several actions, such as discontinuing one or more federal grants made to the District or having a third party take control over the administration of federal grants. OCFO officials told us that they are in the process of working with the federal agencies to address these material weaknesses, but it is unlikely the corrective actions will be completed before the District programs with these weaknesses begin receiving Recovery Act funds. This could increase the risk that Recovery Act funds may not be used properly.

District's Office of Inspector General Intends to Monitor Recovery Act Funds During Ongoing and Planned Work

The District's Office of Inspector General (OIG) has not developed a specific plan to audit Recovery Act spending, but OIG officials believe that ongoing and planned reviews will cover programs that are going to receive much of the stimulus money. OIG officials said that they continuously audit these four areas that have internal control problems and management issues: Medicaid, D.C. Public Schools, grants management, and the vendor/contractor payment process. As a result, the OIG maintains a regular presence in the D.C. Department of Health, DCPS, the Office of the Chief Financial Officer (OCFO), and the Office of Procurement. However, according to OIG officials, the OIG does not have legal authority to audit the District's Public Charter Schools.[4] The OIG also performs an annual audit of the District's Highway Trust Fund (separate from the Federal Highway Trust Fund). The OIG also plans to use the District's Comprehensive Annual Financial Report (CAFR) Committee, which the OIG chairs, to monitor Recovery Act spending by District agencies. This committee, which oversees D.C.'s Comprehensive Annual Financial Report, is working with the mayor's office regarding how the Committee can assist in monitoring Recovery Act spending. The OIG noted that they

[4]All public charter schools in the District of Columbia are required to submit annual financial audits to the D.C. Public Charter School Board. The charter schools select an auditor from a list of best qualified auditors and who has been approved by the D.C. Chief Financial Officer and the Public Charter School Board.

did not receive any additional funds or resources to carry out specific Recovery Act reviews.

Role of the D.C. Auditor for Recovery Act Accountability Is Limited Due to Legislative Directive and Resource Constraints

The Office of the District of Columbia Auditor is the legislative auditor for the District. The office exists to support the District City Council in meeting its legislative oversight responsibilities and to help improve the performance and accountability of the District government. The Auditor has the authority to conduct audits on District funds, including those used by the D.C. Charter schools, but is not set up to provide comprehensive services regarding federal funds except in instances of D.C. Council requests and pre-existing mandates. The D.C. Auditor's main body of work is developed on a rotating basis, where the Auditor selects specific activities or accounts to review every 3 years, concentrating on financial accounting and reporting. According to the D.C. Auditor, due to limited resources, they only plan to conduct audits based on scheduled rotations and requests, and they have no plans to audit Recovery Act funds. If, however, a planned audit concerns a program receiving Recovery Act funds, then the Auditor may adjust audit plans accordingly.

Plans to Assess Impact of Recovery Act Funds Have Not Yet Been Developed

The District plans to assess the impact of Recovery Act funds by using the information in reports required by federal agencies under the Recovery Act, including information on the economic impact of the funds, such as on job creation. However, District officials told us that calculating the number of jobs created through Recovery Act funds may be difficult. Officials stated that OMB should provide a common definition of "job" and a metric to measure the number of jobs that are created by Recovery Act funds. They are also concerned about the lack of guidance for the methodology of tracking the new jobs. They recommended that OMB create a centralized recovery tracking system that provides consistency in measuring how funds have impacted each state. While the direct impact of Recovery Act funds may be measurable, District officials are unsure of methods to track indirect impact and how to separate the impact of Recovery Act funds and the impact from other federal funds in programs that receive both sources and use both sources in their program implementation. Without this guidance, the District believes it will have difficulty producing reports using quantitative measures related to using the Recovery Act funds. In addition, officials would like to have a standardized reporting template with addendums for each federal agency. This would clarify confusion for the District and states since a reporting template would reduce reporting burden, especially since the amount of funding per issue area varies from state to state. Officials request that

OMB provide a template for the format and required information for Recovery Act Web sites as well.

District officials also plan to use the CapStat performance-based accountability program to examine the impact of the use of Recovery Act funds on District agencies and programs.

District of Columbia's Comments on This Appendix

We provided the Office of the Mayor of the District of Columbia with a draft of this appendix on April 15, 2009. On April 17, 2009, the City Administrator's office provided technical suggestions on the appendix that were incorporated, as appropriate.

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The names of GAO staff who served on the teams for the selected states and the District are listed at the end of each respective appendix. In addition, the following staff contributed to this report: Stanley J. Czerwinski, Denise Fantone, and Yvonne Jones (Directors); Thomas James, James McTigue, and Michelle Sager (Assistant Directors); and Allison Abrams, David Alexander, Peter Anderson, Thomas Beall, Joanna Berry, Sandra Beattie, Bonnie Beckett, Pedro Briones, Kimberly Brooks, Kay Brown, Marcia Buchanan, Ted Burik, Steven Cohen, Nancy Cosentino, Robert Cramer, Michael Derr, Kevin Dooley, Heather Dowey, Colin Fallon, Alice Feldesman, Andy Finkel, Shannon Finnegan, Jim Fuquay, Vicky Green, Brandon Haller, Anita Hamilton, Tracy Harris, Laura Heald, Michael Hrapsky, Mary Catherine Hult, Susan Irving, Shirley Jones, Stuart Kaufman, Karen Keegan, Martha Kelly, Ba Lin, Edward Leslie, Leslie Locke, Steve Martin, JoAnn Martinez, Kim McGatlin, John McGrail, Donna Miller, Sheila Miller, Clarita Mrena, Elizabeth Morrison, Andy O'Connell, Lisa Pearson, Janice Poling, Brenda Rabinowitz, Carl Ramirez, Mathew Scire, Thomas Short, Michael Springer, George Stalcup, Andrew Stephens, Hemi Tewarson, Patrick Tobo, Gabriele Tonsil, Cheri Truett, Susan Wallace, Lindsay Welter, Michelle Woods, and Carolyn Yocom.

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