

March 2010

# RECOVERY ACT

## One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability



GAO

Accountability \* Integrity \* Reliability



Highlights of [GAO-10-437](#), a report to the Congress

### Why GAO Did This Study

This report responds to two ongoing GAO mandates under the American Recovery and Reinvestment Act of 2009 (Recovery Act). It is the fifth in a series of reports since passage of the Recovery Act on the uses of and accountability for Recovery Act funds in 16 selected states, certain localities in those jurisdictions, and the District of Columbia (District). These jurisdictions are estimated to receive about two-thirds of the intergovernmental assistance available through the Recovery Act. It is also the second report in which GAO is required to comment on the jobs created or retained as reported by recipients of Recovery Act funds. GAO collected and analyzed documents and interviewed state and local officials and other Recovery Act award recipients. GAO also analyzed federal agency guidance and spoke with officials at federal agencies overseeing Recovery Act programs.

### What GAO Recommends

GAO updates the status of agencies' efforts to implement GAO's 23 previous recommendations and makes 5 new recommendations to the Office of Management and Budget (OMB) and the Departments of Transportation (DOT), Housing and Urban Development (HUD), and Education. GAO continues to believe that Congress should consider changes related to the Single Audit process. Agency responses to new GAO recommendations are included on the following page.

[View GAO-10-437 or key components.](#) For more information, contact J. Christopher Mihm at (202) 512-6806 or [mihmj@gao.gov](mailto:mihmj@gao.gov).

## RECOVERY ACT

### One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability

#### What GAO Found

As of February 12, 2010, \$88.7 billion, or a little more than 30 percent, of the approximately \$282 billion of total Recovery Act funds for programs administered by states and localities had been paid out by the federal government. Of that amount, approximately \$36 billion has been paid out since the start of federal fiscal year 2010. The following table shows the composition of Recovery Act funding by sector for fiscal years 2009-2011 and 2012-2019.

	Composition of outlays in percent			
	Actual	Estimated		
	2009	2010	2011	2012-2019
Health	60	39	17	1
Education and Training	28	37	46	8
Transportation	6	9	14	40
Income security	3	7	10	21
Community development	3	5	7	13
Energy & environment	1	3	7	17
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Total dollars in billions</b>	<b>\$52.9</b>	<b>\$103.7</b>	<b>\$63.4</b>	<b>\$61.9</b>

Source: GAO analysis of CBO, FFIS, and Recovery.gov data.

Note: Percentages may not total due to rounding.

#### Increased Medicaid Funding

As of January 29, 2010, the 16 states and the District have drawn down about \$30 billion in increased Federal Medical Assistance Percentage (FMAP) funds, representing nearly 100 percent of these states' grant awards for federal fiscal year 2009 and about 57 percent for the first and second quarters of federal fiscal year 2010. Most states reported that, without the increased FMAP funds, they could not have continued to support the substantial Medicaid enrollment growth they have experienced, most of which was attributable to children. Most states reported that the increased FMAP funds were integral to maintaining current eligibility levels, benefits, and services and to avoiding further program reductions. As for the longer-term outlook for their Medicaid programs, the District and all but one of the selected states expressed concern about sustaining their programs after the increased FMAP funds are no longer available, beginning in January 2011.

#### Highway Infrastructure Investment and Transit Funding

As of February 16, 2010, the Federal Highway Administration (FHWA) had obligated \$25.1 billion and the Federal Transit Administration (FTA) had obligated about \$7.5 billion—combined about \$32.6 billion (over 93 percent) of the \$35 billion that the Recovery Act provided for highway infrastructure projects and public transportation. Nationwide, Recovery Act funding has been obligated for over 11,000 eligible highway projects. However, some requirements, such as the Recovery Act's maintenance-of-effort requirement—

which is designed to prevent states from substituting federal funds for state funds—have proven challenging. Many states have yet to complete a maintenance-of-effort certification that DOT finds fully acceptable, and this, coupled with states' fiscal challenges, raises questions as to whether this requirement will achieve its intended purpose. In addition, the Recovery Act does not require DOT to determine whether states have met this requirement until around 6 months after the provision's covered time period expires. GAO recommends that DOT gather timely information and report preliminary information to Congress within 60 days of the certified period (Sept. 30, 2010) on whether states met required program expenditures, the reasons that any states did not meet these certified levels, and lessons learned from the process. DOT is considering GAO's recommendation.

### Education

As of January 22, 2010, the 16 states and the District had drawn down, in total, about \$13.3 billion (56 percent) from the State Fiscal Stabilization Fund (SFSF); \$1.1 billion (17 percent) of Elementary and Secondary Education Act (ESEA) Title I, Part A funds; and \$1.2 billion (17 percent) of Individuals with Disabilities Education Act (IDEA), Part B, Recovery Act funds available to them. Much of the Recovery Act education funds have been used to pay education staff, including teachers. In response to GAO's recommendation that Education ensure states monitor subrecipients of SFSF funds, Education announced a plan for reviewing states' SFSF subrecipient monitoring plans. GAO is continuing to work with Education to address our recommendation to enhance transparency by requiring states to include an explanation of changes to maintenance-of-effort levels in their SFSF application resubmissions.

### Other Selected Recovery Act Programs

Housing agencies are to obligate the \$3 billion in Public Housing Capital Fund formula grant Recovery Act funds they received by March 17, 2010. As of January 30, 2010, about 31 percent of these funds had not been obligated. Over 200 agencies reported obligating no funds. HUD has worked hard to implement the Recovery Act but has faced challenges in simultaneously carrying out public housing programs mandated by the Recovery Act, including designing and carrying out a \$1 billion grant competition, while meeting its continuing responsibilities for the ongoing Public Housing Capital Fund program. As a result, HUD delayed obligating its fiscal year 2009 funds by 3 months. HUD does not have a management plan to determine how to meet these competing demands. GAO recommends that HUD develop such a plan to determine the adequate level of staffing needed to administer its Recovery Act and regular capital funds and to determine the most effective use of the staff it currently has. While HUD disagrees with GAO's recommendation, GAO continues to believe HUD would benefit from developing such a plan. With

regard to the Weatherization Assistance Program, as of December 31, 2009, the Department of Energy (DOE) had obligated about \$4.73 billion to states for weatherization activities. On February 24, 2010, DOE reported that about 5 percent of the approximately 593,000 homes DOE originally planned to weatherize using Recovery Act funds had been weatherized as of December 31, 2009. State and local officials reported that weatherization activities had been slowed by concerns over compliance with the Davis-Bacon and National Historic Preservation Acts. The Recovery Act also included \$1.2 billion for Workforce Investment Act (WIA) youth activities, including summer employment. As of December 31, 2009, \$765 million of WIA youth funds had been drawn down nationwide. Over 355,000 youths reportedly participated in Recovery Act WIA activities.

### Recipient Reporting

Progress was achieved in addressing some data quality and reporting issues identified in the first round; however data errors, reporting inconsistencies, and decisions by some recipients not to use the new job reporting guidance for this round compromise data quality and the ability to aggregate the data. For example in the education area, which was the largest category of jobs reported, GAO found that a number of states reported job numbers using the old methodology. Overall, while significant issues remain, the second round of reporting appears to have gone more smoothly as recipients have become more familiar with the reporting system and requirements. GAO expects that the simplified jobs reporting guidance and reporting system enhancements will ultimately result in improved data quality and reliability. GAO makes specific recommendations to Education, HUD, and OMB for improving reporting guidance. Education, HUD, and OMB generally agreed with the recommendations.

### Accountability

GAO has recommended that OMB adjust the Single Audit process to help mitigate the risks posed by Recovery Act funding. Although OMB has taken steps to implement our recommendations, these efforts do not yet fully address the significant risks over Recovery Act funds. OMB's steps include a voluntary Single Audit Internal Control Project that encourages earlier reporting of deficiencies, so that corrective action can be taken. Auditors of states participating in the project submitted internal control reports to OMB by December 31, 2009. For 13 of the 16 states, auditors reported over 70 internal control deficiencies that affected the states' compliance with federal requirements for Recovery Act funds. These states also provided corrective action plans for the deficiencies. OMB plans to analyze the project's results to identify improvements to the Single Audit process by the spring of 2010.

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United States Government Accountability Office  
Washington, DC 20548

March 3, 2010

## Report to the Congress

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was enacted on February 17, 2009, in response to what is generally reported to be the most serious economic crisis since the Great Depression.<sup>1</sup> The purposes of the Recovery Act include promoting economic recovery, making investments, and minimizing and avoiding reductions in state and local government services. Specifically, 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.

Initially estimated to cost \$787 billion, the Recovery Act includes an estimated \$580 billion of federal outlays, of which nearly half—or approximately \$282 billion—will flow to states and localities affecting about 50 state formula and discretionary grants as well as about 15 entitlement and other countercyclical programs. The remaining Recovery Act funds are in the form of a wide variety of tax provisions assisting individuals, businesses, and state and local governments. These include, for example, the Making Work Pay tax credit, various energy-related incentives, and special bond financing provisions for state and local governments. On February 10, 2010, we issued a report reviewing various tax-related aspects of the Recovery Act.<sup>2</sup> The volume of funds, the number of entities involved in their distribution, and short time frames all speak to the need for oversight to ensure transparency and accountability. Indeed, GAO has been given a number of roles related to oversight of these

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<sup>1</sup>Pub. L. 111-5, 123 Stat. (Feb. 17, 2009).

<sup>2</sup>GAO, *Recovery Act: IRS Quickly Implemented Tax Provisions, but Reporting and Enforcement Improvements Are Needed*, [GAO-10-349](#) (Washington, D.C.: Feb. 10, 2010).



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Recovery Act programs and has issued more than 39 Recovery Act products. See the Related GAO Products section for a list of these products. Federal agency inspectors general, state and local auditors, as well as the Recovery Accountability and Transparency Board (the board),<sup>3</sup> which was established by the Recovery Act, all play roles in oversight of Recovery Act spending.

In response to a Recovery Act mandate, we have conducted bimonthly reviews of programs for which states and localities have received major funding.<sup>4</sup> Specifically, in four previous reports, we have collected and reported data on programs receiving substantial Recovery Act funds during this first year of implementation in 16 selected states, certain localities, and the District of Columbia, and made recommendations when changes could result in improvements.<sup>5</sup> The selected jurisdictions for our in-depth reviews contain about 65 percent of the U.S. population and are estimated to receive collectively about two-thirds of the intergovernmental assistance available through the Recovery Act.<sup>6</sup>

This report, the fifth in response to the Recovery Act's mandate, updates and adds new information on the following: (1) selected states and localities use of Recovery Act funds for specific programs, (2) the approaches taken by selected states and localities to ensure accountability for Recovery Act funds, and (3) state activities to evaluate the impact of the Recovery Act funds they receive. The programs we selected for review

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<sup>3</sup>The Recovery Act established the Board to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse. The Board is composed of a chairperson and 12 inspectors general. To carry out its oversight mission, the Board employs 47 staff, of whom 19 are detailed from agencies throughout the federal government. In addition, the Board established three committees drawn from the 12 inspectors general on the Board. Recovery Act, div. A, §§ 1521-1525, 123 Stat. 289-93.

<sup>4</sup>Recovery Act, div. A, title IX, §901.

<sup>5</sup>GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability*, [GAO-10-231](#) (Washington, D.C.: Dec. 10, 2009); *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed*, [GAO-09-1016](#) (Washington, D.C.: Sept. 23, 2009); *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*, [GAO-09-829](#) (Washington, D.C.: July 8, 2009); and *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, [GAO-09-580](#) (Washington, D.C.: Apr. 23, 2009).

<sup>6</sup>Selected states are Arizona, California, Colorado, Florida, Georgia, Illinois, Iowa, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. We also visited the District of Columbia.

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were chosen primarily because they have begun disbursing funds to states or have known or potential risks. The risks can include existing programs receiving significant amounts of Recovery Act funds or new programs. In some cases we have also collected data from all states, and from a broader array of localities, to augment the in-depth reviews. This report focuses on the following programs:

- Federal Medical Assistance Percentage (FMAP).
- Federal-Aid Highway Surface Transportation and Transit Capital Assistance Programs.
- State Fiscal Stabilization Fund (SFSF).
- Title I, Part A of the Elementary and Secondary Act of 1965, as amended (ESEA).
- Parts B and C of the Individuals with Disabilities Education Act, as amended (IDEA).
- Public Housing Capital Fund.
- Weatherization Assistance Program.
- Workforce Investment Act of 1998 (WIA) Youth Program.

The Recovery Act also requires that nonfederal recipients of Recovery Act funded grants, contracts, or loans submit quarterly reports on each project or activity, including information concerning the amount and use of funds and jobs created or retained.<sup>7</sup> The first of these recipient reports was to cover the cumulative activity since the Recovery Act's passage through the quarter ending September 30, 2009. The Recovery Act requires us to comment on the estimates of jobs created or retained after the recipients have reported. We issued our initial report related to recipient reporting, including recommendations for recipient report improvements, on November 19, 2009.<sup>8</sup> A second major focus of the current report is to provide updated information concerning recipient reporting in accordance with our mandate for quarterly reporting.<sup>9</sup>

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<sup>7</sup>Recovery Act, div. A, § 1512, 123 Stat. 287-288. We will refer to the quarterly reports required by section 1512 as recipient reports.

<sup>8</sup>GAO, *Recovery Act: Recipient Reported Jobs Data Provide Some Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention*, [GAO-10-223](#) (Washington, D.C.: Nov. 19, 2009).

<sup>9</sup>The Recovery Act requires recipients of funding under the Act to report quarterly on the use of these funds including jobs created or retained with Recovery Act funding. The first recipient reports filed in October 2009 cover activity from February 2009 through September 30, 2009. The second quarterly recipient report was filed in January 2010 and cover activity through December 31, 2009.

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This report also discusses state and local budget stabilization, federal requirements and guidance, and oversight, transparency, and accountability issues related to the Recovery Act and its implementation. It also provides information on the status of our prior recommendations related to the Recovery Act and includes additional new recommendations.

We analyzed guidance and interviewed officials at the Office of Management and Budget (OMB). We also analyzed grant award amounts—as well as relevant regulations and federal agency guidance on programs selected for this review—and spoke with relevant program officials at the Departments of Education, Energy, Health and Human Services (Centers for Medicare and Medicaid Services), Housing and Urban Development, and Transportation. We also integrated information from our prior Recovery Act reports into this review where appropriate.

Where statements about state law are attributed to state officials, we did not analyze 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. 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.

We conducted this performance audit from December 5, 2009, to March 3, 2010, 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.

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## Background

The Congressional Budget Office (CBO) originally estimated that the Recovery Act's combined spending and tax provisions would cost \$787 billion through 2019, with more than 90 percent of the spending and tax reductions occurring before the end of fiscal year 2011. As of December 31, 2009, the Council of Economic Advisors (CEA) reported that approximately one-third of the \$787 billion (or \$263 billion) had been outlaid or provided to households and businesses in the form of tax reductions. In addition to that amount, CEA reported that another \$150 billion had been obligated.

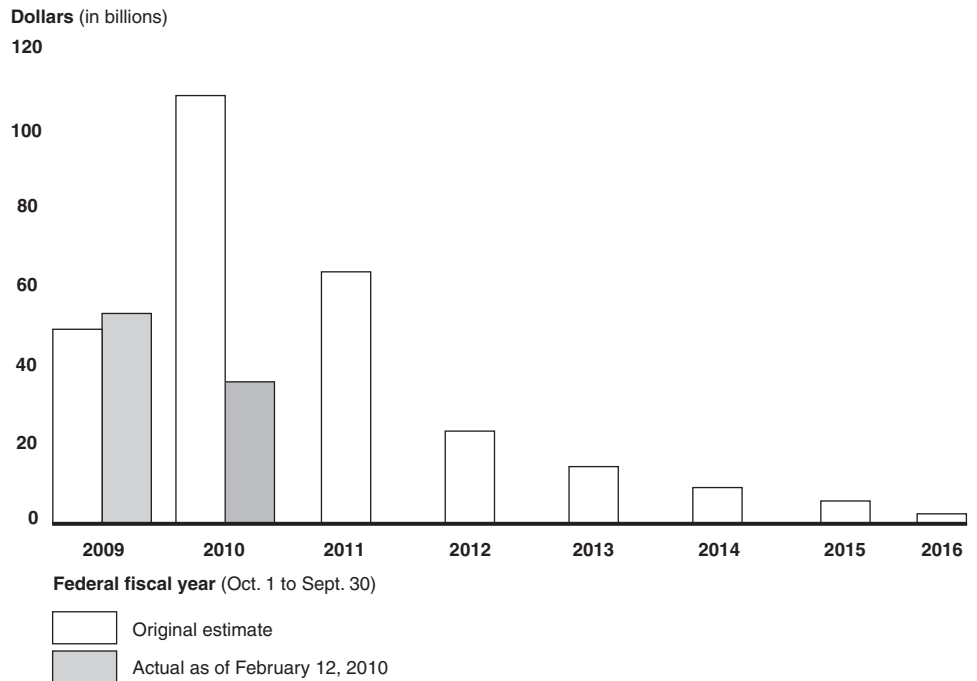
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On January 26, 2010, CBO updated its estimate of the cost of the Recovery Act. It now estimates that the Recovery Act will cost \$75 billion more than originally estimated—or a total of \$862 billion from 2009 through 2019. It cited the following key reasons for the increase:

- Unemployment compensation will be \$21 billion more than originally estimated due to higher than anticipated unemployment.
- Supplemental Nutrition Assistance Program is now expected to cost \$34 billion more than originally estimated because the increased family benefit amount under the Recovery Act is now estimated to exceed the unadjusted benefit amount through 2019.
- Participation in the Build America Bond program is significantly higher than originally estimated. More than \$60 billion in new bonds have been issued since the program began in April, leading CBO to increase its projected cost of the program by \$26 billion.

With the intent of disbursing funds quickly to create and retain jobs and stabilize state and local budgets, major Recovery Act funding to states and localities is front-loaded into the first 3 years since the enactment. Nearly 80 percent of funding to states and localities is projected to be distributed within the first 3 years, with about 56 percent in just the first 2 years. Peak projected outlays are in fiscal year 2010, with outlays that year projected to be more than twice the level of fiscal year 2009 outlays. Figure 1 shows the projected federal outlays to states and localities for fiscal years 2009 through 2016, as well as actual outlays to date as reported by federal agencies on Recovery.gov.

**Figure 1: Estimated versus Actual Federal Outlays to States and Localities under the Recovery Act**



Source: GAO analysis of CBO, Federal Funds Information for States, and Recovery.gov data.

Note: Data reflect estimated and actual federal outlays for a select set of Recovery Act funded programs administered by states and localities. The Supplemental Nutrition Assistance Program (food stamps) and unemployment compensation payments are not included.

As shown in table 1, actual federal outlays to states and localities under the Recovery Act were slightly above the projected level in fiscal year 2009. Across the United States, as of February 12, 2010, the Department of the Treasury has paid out \$88.7 billion in Recovery Act funds for use in states and localities. Of that amount, approximately \$36 billion has been paid out since the start of fiscal year 2010 on October 1, 2009.

In addition to variation in outlays over the years, outlays also vary substantially by sector. As shown in table 1, outlays in health and education and training constituted 88 percent of total outlays to states and localities in fiscal year 2009. Outlays for transportation, income security, energy and the environment, and community development are all substantially smaller. However, by fiscal year 2012, investments in highways, transit, high-speed rail, and other transportation infrastructure will be the largest share of state and local Recovery Act funding, albeit of a substantially smaller total outlay. Taken together, transportation

spending—along with investments in the community development, energy, and environmental areas—that is geared more toward creating long-run economic growth opportunities will represent approximately two-thirds of state and local Recovery Act funding after 2011. Thus, across the years, spending shifts from a primary focus on recovery to a primary focus on reinvestment.

**Table 1: Composition of State and Local Recovery Act Funding, Fiscal Year 2009 Actual and Fiscal Years 2010 through 2012 Estimated**

	Composition of outlays in percent			
	Actual	Estimated		
	2009	2010	2011	2012-2019
Health	60	39	17	1
Education and training	28	37	46	8
Transportation	6	9	14	40
Income security	3	7	10	21
Community development	3	5	7	13
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<b>Total</b>	100%	100%	100%	100%
<b>Total dollars in billions</b>	<b>\$52.9</b>	<b>\$103.7</b>	<b>\$63.4</b>	<b>\$61.9</b>

Source: GAO analysis of CBO, FFIS, and recovery.gov data.

Note: Percentages may not total due to rounding.

There is also a major change in the amount of flexibility states will have concerning the use of funds. Health and education and training funds are the predominant sectors of funding in the first 2 years. Education and training funds allowed states some flexibility in how they chose to use the funds. States also experienced flexibility as to their use of state funds made available as a result of the increased FMAP. In later years, this flexibility will be reduced as funds are specifically designated by purpose.

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## Uses of Recovery Act Funds by States and Localities in the First Year

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### Timely Access to Increased FMAP Funds Facilitated States' Efforts to Support Medicaid Enrollment Growth and Minimize Program Reductions, but States Remain Concerned about Longer-Term Program Sustainability

Medicaid is a joint federal-state program that finances health care for certain categories of low-income individuals, including children, families, persons with disabilities, and persons who are elderly. The federal government matches state spending for Medicaid services according to a formula based on each state's per capita income in relation to the national average per capita income. The rate at which states are reimbursed for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP), which may range from 50 percent to no more than 83 percent. The Recovery Act provides eligible states with an increased FMAP for 27 months from October 1, 2008, to December 31, 2010.<sup>10</sup> On February 25, 2009, the Centers for Medicare & Medicaid Services (CMS) made increased FMAP grant awards to states, and states may retroactively claim reimbursement for expenditures that occurred prior to the effective date of the Recovery Act. Generally, for fiscal year 2009 through the first quarter of fiscal year 2011, the increased FMAP, which is calculated on a quarterly basis, includes (1) a "hold harmless" provision, which maintains states' regular FMAP rates at the highest rate of any fiscal year from 2008 through 2011, (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.

As a result, the increased FMAP available to the 16 states and the District of Columbia (the District) by the fourth quarter of fiscal year 2009 averaged over 10 percentage points higher than their regular 2009 FMAP rates, with increases ranging from about 8 percentage points in Iowa to about 12 percentage points in Florida. For all states, the largest proportion of the increased FMAP was attributable to the across-the-board increase of

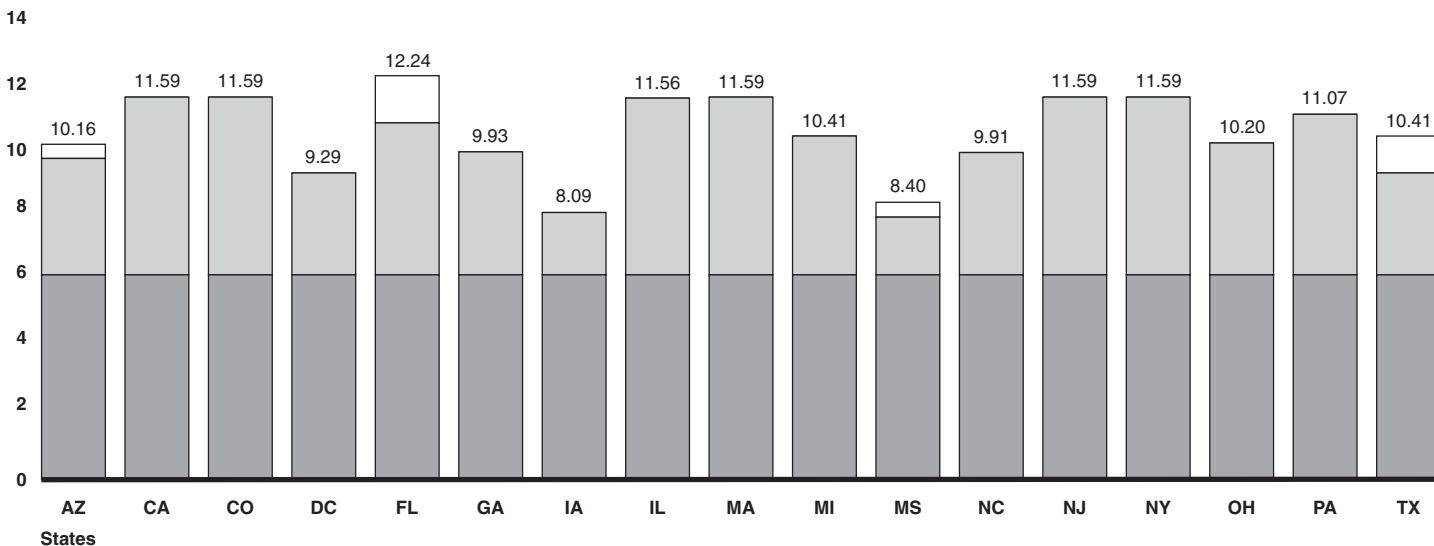
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<sup>10</sup>Recovery Act, div. B, title V, § 5001. The Department of Health and Human Services (HHS) Office of Inspector General found that HHS's Office of the Assistant Secretary of Planning and Evaluation and CMS correctly calculated the increased FMAP in accordance with applicable provisions of the Recovery Act. See HHS Office of the Inspector General, "Review of the Calculations of Temporary Increases in Federal Medical Assistance Percentages Under the American Recovery and Reinvestment Act," (A-09-09-00075), and "Review of the Calculation of Additional Medicaid Funding Awarded Under the American Recovery and Reinvestment Act," (A-09-09-00080).

6.2 percentage points; however, qualifying increases in unemployment rates also contributed to the increase in each of the states. The “hold harmless” provision further contributed to the increased FMAP in 4 states in our review, albeit to a lesser extent. (See fig. 2.) In the first quarter of fiscal year 2010, qualifying increases in unemployment rates or increases in regular FMAP rates have contributed to further increases in FMAP rates for half of the sample states.

**Figure 2: Components of Fiscal Year 2009 FMAP Increases**

FMAP Increase (percentage points)



- Hold-harmless provision
- Qualifying increases in unemployment
- Across-the-board increase

Source: GAO analysis of HHS data.

For states to qualify for the increased FMAP available under the Recovery Act, they must comply with a number of requirements, including the following:



- 
- 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.<sup>11</sup>
  - States must comply with prompt payment requirements.<sup>12</sup>
  - States cannot deposit or credit amounts attributable (either directly or indirectly) to certain elements of the increased FMAP in any reserve or rainy-day fund of the state.<sup>13</sup>
  - States with political subdivisions—such as cities and counties—that contribute to the nonfederal share of Medicaid spending cannot require the subdivisions to pay a greater percentage of the nonfederal share than would have been required on September 30, 2008.<sup>14</sup>

In addition, CMS requires states to separately track and report on increased FMAP funds.

### Reliance on Existing Payment System to Distribute Increased FMAP Funds and CMS Efforts to Provide Guidance Facilitated States' Access to Available Funds

CMS distributed the increased FMAP funds to states through an existing payment management system, thereby providing states with timely access

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<sup>11</sup>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 plans or waivers on July 1, 2008. See Recovery Act, div. B, title V, §5001(f)(1)(A).

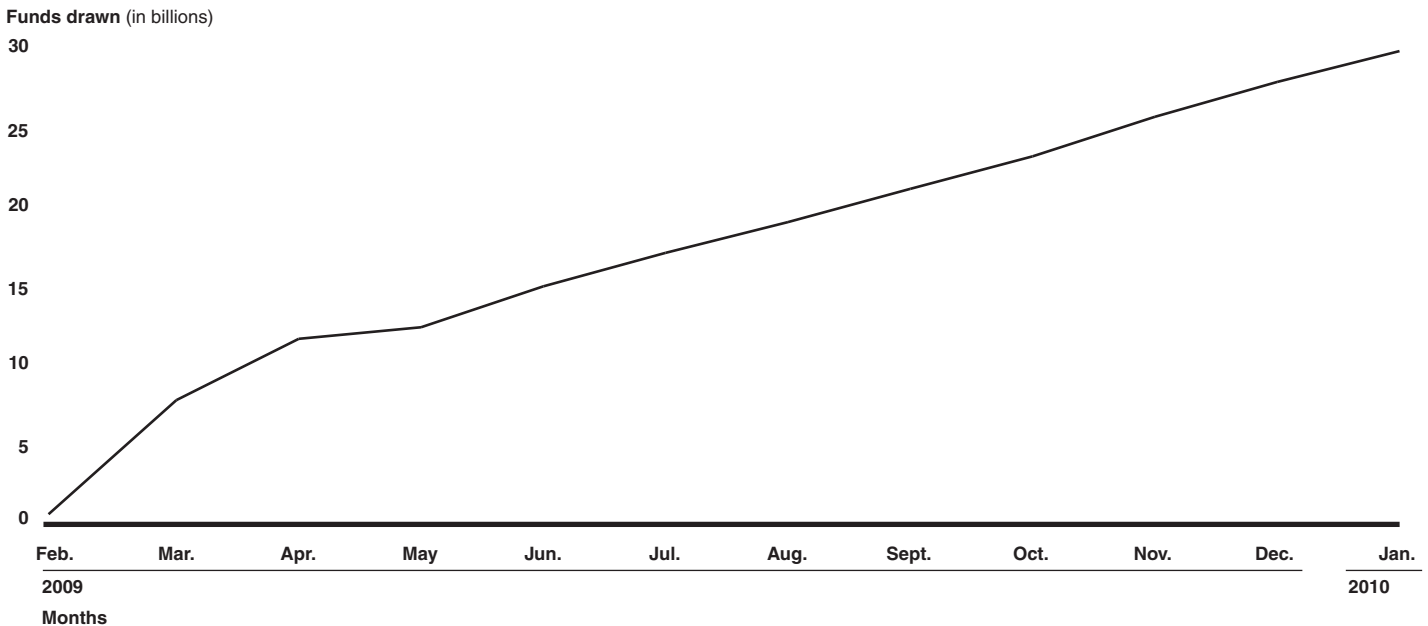
<sup>12</sup>Under the Recovery Act, states are not eligible to receive the increased FMAP for certain claims for days during any period in which that state has failed to meet the prompt payment requirement under the Medicaid statute as applied to those claims. See Recovery Act, div. B, title V, §5001(f)(2). Prompt payment requires states to pay 90 percent of clean claims from health care practitioners and certain other providers within 30 days of receipt and 99 percent of these claims within 90 days of receipt. See 42 U.S.C. §1396a(a)(37)(A).

<sup>13</sup>A state is not eligible for certain elements of increased FMAP if any amounts attributable directly or indirectly to them are deposited in or credited to a state reserve or rainy-day fund. Recovery Act, div. B, title V, §5001(f)(3).

<sup>14</sup>In some states, political subdivisions—such as cities and counties—may be required to help finance the state's share of Medicaid spending. Under the Recovery Act, a state that has such financing arrangements is not eligible for certain elements of the increased FMAP if it requires subdivisions to pay during a quarter of the recession adjustment period a greater percentage of the nonfederal share than the percentage that would have otherwise been required under the state plan on September 30, 2008. See Recovery Act, div. B., title V, § 5001(g)(2). The recession adjustment period is the period beginning October 1, 2008, and ending December 31, 2010.

to the funds.<sup>15</sup> Specifically, by March 27, 2009—30 days after the increased FMAP grant awards first became available—13 of the sample states and the District had drawn down nearly \$5.7 billion, or just over one-half of the funds available at that time, and by April 30, 2009, all sample states and the District had drawn down increased FMAP funds.<sup>16</sup> Through January 29, 2010, the sample states and the District have drawn down about \$30 billion in increased FMAP funds and in the aggregate have done so at a fairly continuous pace. (See fig. 3.)

**Figure 3: Cumulative Increased FMAP Funds Drawn Down by the Sample States and the District by Month, February 2009 through January 2010**



Source: GAO analysis of HHS Payment Management System data.

Note: The amounts shown represent the funds that had been drawn down as of the end of each month. The funds were first available on February 25, 2009.

The \$30 billion in increased FMAP funds drawn by the sample states and the District through January 29, 2010, represents nearly 100 percent of

<sup>15</sup>CMS provided the increased FMAP funds to states through a separate account in the payment management system, allowing the funds to be tracked separately from regular FMAP funds as required by the act.

<sup>16</sup>Nationwide, all but 5 states had begun to draw down increased FMAP funds by this date.

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these states' grant awards for fiscal year 2009,<sup>17</sup> and about 57 percent of the grant awards for the first and second quarters of fiscal year 2010. Nationally, the 50 states, the District, and several of the largest U.S. insular areas combined have drawn down about \$44 billion.

In addition to distributing the increased FMAP funds through the existing Medicaid payment system, CMS provided guidance to states to facilitate their timely access to these funds. For example, CMS issued three State Medicaid Director letters that provided specific guidance on how to comply with certain Recovery Act requirements, including the prompt payment and maintenance of eligibility requirements.<sup>18</sup> CMS also issued fact sheets and written responses to states' frequently asked questions, and hosted conference calls for all states in February and March 2009 to discuss issues related to compliance with these requirements. Because of the variation in state operations, funding processes, and political structures, CMS frequently worked with states on an individual basis to resolve compliance questions. For example, CMS advised Arizona that it would have to reverse a change the state had made to the frequency with which it conducted eligibility determinations in order to qualify for the increased FMAP,<sup>19</sup> and consulted with California on issues related to its compliance with the Recovery Act's requirement related to political subdivisions. Although most sample states and the District reported no delay in drawing down increased FMAP funds, 10 states indicated that it had been somewhat difficult or difficult to comply with the Recovery Act's eligibility requirements, and 12 reported making adjustments to their Medicaid programs in order to comply.

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<sup>17</sup>States can continue to draw from their increased FMAP grant awards for third and fourth quarter fiscal year 2009 expenditures until CMS finalizes the grant awards for these quarters, a process the agency has not yet completed. As part of the normal Medicaid grant award process, CMS reconciles states' quarterly estimated and actual Medicaid expenditures and finalizes the quarterly grants once the reconciliation is complete.

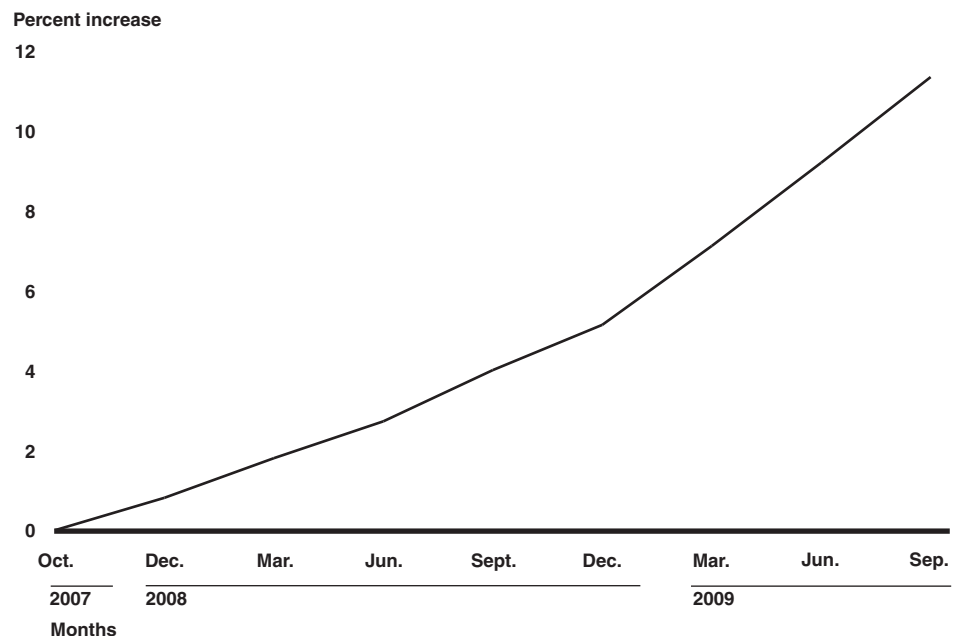
<sup>18</sup>As of January 29, 2010, these State Medicaid Director Letters were available on the CMS Web site. See <http://www.cms.hhs.gov/SMDL/SMD/list.asp?sortByDID=1a&submit=Go&filterType=none&filterByDID=-99&sortOrder=ascending&intNumPerPage=10>.

<sup>19</sup>Arizona initially drew down increased FMAP funds in March 2009, but was advised by CMS that it was not eligible for the funds because it had changed the frequency of certain Medicaid eligibility determinations from 12 to 6 months. CMS determined that this change constituted a more restrictive eligibility standard. Therefore, Arizona did not actually claim these drawn down funds, or resume drawing down additional funds, until the state legislature had reversed the change.

**Increased FMAP Funds Were Critical to States' Efforts to Support Increasing Medicaid Enrollment Growth and Minimize Program Reductions**

Most states reported that without the increased FMAP funds, they could not have continued to support the substantial Medicaid enrollment growth they have experienced. Overall Medicaid enrollment in the sample states and the District increased by 11.3 percent between the beginning of fiscal year 2008 and the end of fiscal year 2009, with the majority of enrollment growth occurring in fiscal year 2009. (See fig. 4.) Specifically, in fiscal year 2008, overall Medicaid enrollment among the 16 states and the District increased by 4 percent, with increases in individual states ranging from 1.6 percent in New York to 12 percent in Ohio. By the end of fiscal year 2009, overall enrollment had further increased by 7.3 percent, with increases in individual states ranging from 4.6 percent in California to 15.4 percent in Arizona. For over two-thirds of the sample states and the District, the rate of enrollment growth in fiscal year 2009 was double or nearly double the rate of growth in fiscal year 2008. Most of the enrollment growth in both fiscal years was attributable to children, a population group that is sensitive to economic downturns.

**Figure 4: Cumulative Quarterly Medicaid Enrollment Growth in the Sample States and the District since October 2007**



Source: GAO analysis of state reported data.

Given enrollment growth, most states reported that the increased FMAP funds were integral to their efforts to maintain current eligibility levels, benefits and services, and to avoid further program reductions. For

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example, Georgia reported using these funds to avoid reductions in eligibility and optional benefits, and Colorado reported using the funds to reduce planned cuts to provider payment rates. However, most states reported that the availability of the increased FMAP funds did not fully prevent the need for Medicaid program reductions. Nine states reported reducing or freezing provider rates, and 5 states reported reducing certain optional Medicaid benefits or services in fiscal years 2009 or 2010; for example, California reported cutting adult dental services. Given that the District and all but 2 states reported that the amount of increased FMAP funds was not fully sufficient to maintain their Medicaid programs in fiscal year 2010, such program reductions may become more common.<sup>20</sup> Looking ahead to fiscal year 2011, 5 states and the District reported they were considering eligibility reductions; 8 states and the District reported considering reductions to benefits and services; and 10 states and the District reported considering reductions to provider payment rates.

While the increased FMAP funds are for Medicaid services only, the receipt of these funds may free up funds that states would otherwise have had to use for their Medicaid programs. Virtually all of the sample states and the District reported using the freed-up funds for multiple Medicaid purposes as well as for other purposes, such as financing general state budget needs. Only 2 states—North Carolina and Ohio—reported using freed-up funds exclusively to finance general state budget needs.

#### States Reported Concerns about the Sustainability of Their Medicaid Programs once Increased FMAP Is No Longer Available

As for the longer-term outlook for their Medicaid programs, the District and all but 1 of the sample states expressed concern about sustaining their Medicaid programs beginning in January 2011, after the increased FMAP funds are no longer available. When asked about the factors driving their concerns, virtually all of the states and the District cited the increase in the state's share of Medicaid payments that will occur in January 2011 because of the end of the increased FMAP—an increase that will range from about 7.5 percentage points to about 12.2 percentage points (an average of 10.5 percentage points) compared with the first quarter 2010 increased FMAP. (See table 2.)

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<sup>20</sup>The amount of these funds was more often viewed as sufficient for fiscal year 2009. Specifically, 7 states and the District reported that the amount of increased FMAP funds was sufficient to maintain their Medicaid programs and provide fiscal relief to the state in fiscal year 2009, whereas 2 states reported that the funds were sufficient for these purposes in fiscal year 2010.

**Table 2: Increase in State Share between Preliminary First Quarter Fiscal Year 2010 Increased FMAP and Fiscal Year 2011 Regular FMAP**

<b>State</b>	<b>Preliminary fiscal year 2010 increased FMAP, first quarter<sup>a</sup></b>	<b>Fiscal year 2011 regular FMAP<sup>b</sup></b>	<b>Percentage point difference in state share between preliminary first quarter 2010 increased FMAP and 2011 regular FMAP</b>
Arizona	75.93	65.85	10.08
California	61.59	50.00	11.59
Colorado	61.59	50.00	11.59
District of Columbia	79.29	70.00	9.29
Florida	67.64	55.45	12.19
Georgia	74.96	65.33	9.63
Illinois	61.88	50.20	11.68
Iowa	72.55	62.63	9.92
Massachusetts	61.59	50.00	11.59
Michigan	73.27	65.79	7.48
Mississippi	84.86	74.73	10.13
New Jersey	61.59	50.00	11.59
New York	61.59	50.00	11.59
North Carolina	74.98	64.71	10.27
Ohio	73.47	63.69	9.78
Pennsylvania	65.85	55.64	10.21
Texas	70.94	60.56	10.38
<b>Average difference</b>			<b>10.53</b>

Source: GAO analysis of HHS data.

<sup>a</sup>The preliminary increased FMAP rates listed for the first quarter of federal fiscal year 2010 were provided by CMS on November 13, 2009.

<sup>b</sup>The fiscal year 2011 FMAP rates were published in the *Federal Register* on November 27, 2009.

The size of the increase in state share does not necessarily reflect the difficulty that a state may have in absorbing these costs. Ultimately, the impact of states' increased share in Medicaid payments will vary depending on factors such as program enrollment and state fiscal circumstances. For example, according to Kaiser Family Foundation estimates, about 27 percent of New York's population was enrolled in Medicaid in 2006 compared with about 11 percent of New Jersey's

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population.<sup>21</sup> Similarly, state fiscal circumstances also vary considerably among the 16 states and the District. The December 2009 unemployment rate, which is one indicator of fiscal circumstances, varied from 6.6 percent in Iowa to 14.6 percent in Michigan. As a result, the impact of the increased state share of Medicaid payments will vary on a state-by-state basis.

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## Recovery Act Transportation Projects on Track to Meet Legislative Time Frames, but Other Requirements Presented Challenges

### Recovery Act Transportation Projects on Track to Meet Legislative Time Frames

Using the existing federal surface transportation program structure, states and transit agencies were on track to meet the March 2010 legislative deadline for obligating all Recovery Act highway and public transportation funds when we completed our work.<sup>22</sup> The existing federal surface transportation structure has well-established programs and processes that were understood by state departments of transportation, local transit agencies, and others. For example, Recovery Act highway funds were distributed under the rules governing the Federal-Aid Highway Program generally and its Surface Transportation Program in particular. State departments of transportation were well acquainted with the type of projects eligible for and the federal requirements associated with this funding. Similarly, public transportation funds were primarily distributed through well-established programs, with most of the funds distributed through the Transit Capital Assistance Program. Like state departments of transportation, project sponsors (typically transit agencies) are familiar with the grant application processes of these programs. Federal surface transportation programs are administered through established federal-state or federal-local partnerships, where each agency is aware of its specific roles and responsibilities. For example, the Federal Highway Administration (FHWA) has an office in every state and the District of

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<sup>21</sup>"Medicaid Enrollment as Percent of Total Population, 2006." The Kaiser Family Foundation, *statehealthfacts.org*.

<sup>22</sup>The Secretary of Transportation is to withdraw and redistribute to eligible states any amount that is not obligated within this time frame.

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Columbia to work with state transportation departments, and the Federal Transit Administration (FTA) has 10 regional offices that work with transit providers. Finally, there is a long-standing transportation planning process that states and metropolitan areas are required by law to follow for both short-range and long-range transportation planning.<sup>23</sup> This transportation planning process is meant to foster better transportation investment decisions.

Using existing programs and processes, state departments of transportation and local transit agencies were able to identify over 11,000 highway projects and submit over 960 grant applications<sup>24</sup> for transit funds, respectively, that could be quickly started and promote state and local transportation goals, with the following results:

- **The majority of the approximately \$35 billion that the Recovery Act provided for highway infrastructure projects and public transportation has been obligated.** As of February 16, 2010, FHWA has obligated \$25.1 billion of the \$26.7 billion (around 95 percent)<sup>25</sup> that was apportioned to all 50 states and the District of Columbia for over 11,000 highway infrastructure and other eligible projects nationwide. In addition, FTA has obligated about \$7.5 billion of the \$8.4 billion (around 89 percent)<sup>26</sup> that was appropriated to fund public transportation throughout the country by awarding over 740 grants

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<sup>23</sup>Transportation improvement programs (TIP), based on the long-range (20-year) transportation plan, are required for each metropolitan urbanized area with a population of more than 50,000 and should be designed to achieve an area's transportation goals using spending, operating, management, and financial tools. State transportation improvement programs (STIP) are similar to TIPs in that they identify 4 years of transportation project priorities and must be fiscally constrained. STIPs must be approved by both FHWA and FTA.

<sup>24</sup>Number of grant applications and number of grants awarded are as of February 11, 2010.

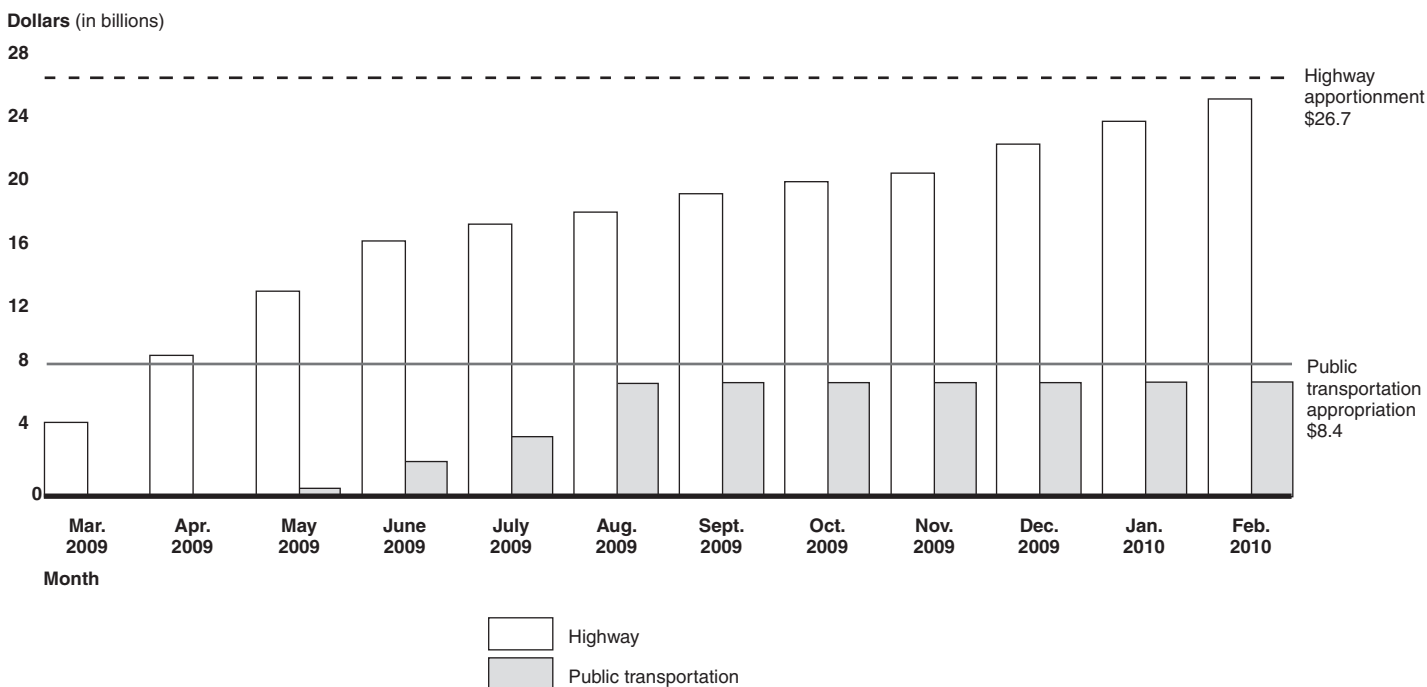
<sup>25</sup>As of February 16, 2010, \$406.7 million and \$25.7 million of the \$26.7 billion apportioned for highways was transferred from FHWA to FTA and DOT's Maritime Administration for transit and other projects, respectively, leaving \$26.2 billion available for highways. Information on amount and the percent of funds obligated does not include obligations associated with these transferred funds. Specifically, the 95 percent represents the \$25.1 billion obligated as of February 16, 2010 of the \$26.2 billion that remained available for highway projects.

<sup>26</sup>This amount includes nearly \$283 million that had been obligated as of February 16, 2010 from the total funds that were transferred from FHWA to FTA, but this funding is not included in the Recovery Act public transportation appropriations of \$8.4 billion.



nationwide.<sup>27</sup> Figure 5 shows Recovery Act highway and transit funding and obligations nationwide. As provided for in the Recovery Act, 50 percent of apportioned highway funds were obligated before June 30, 2009, and 50 percent of Transit Capital Assistance Program and Fixed Guideway Infrastructure Investment program funds were obligated before September 1, 2009.<sup>28</sup>

**Figure 5: Cumulative Recovery Act Highway and Public Transportation Funding and Obligations Nationwide**



Source: GAO analysis of FHWA and DOT data.

Note: Public transportation obligation amounts include obligations associated with funds that were transferred from FHWA to FTA for public transportation projects. February 2010 data are as of February 16, 2010.

<sup>27</sup> Recovery Act funding for public transportation was distributed through three existing FTA formula grant programs, the Transit Capital Assistance Program, the Fixed Guideway Infrastructure Investment program, and the Capital Investment Grant program, and one discretionary grant program, the New Starts program. An FTA grant may be limited to one specific project or include multiple individual projects.

<sup>28</sup> DOT has interpreted the term obligation of funds to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement (highways) or grant agreement (public transportation).

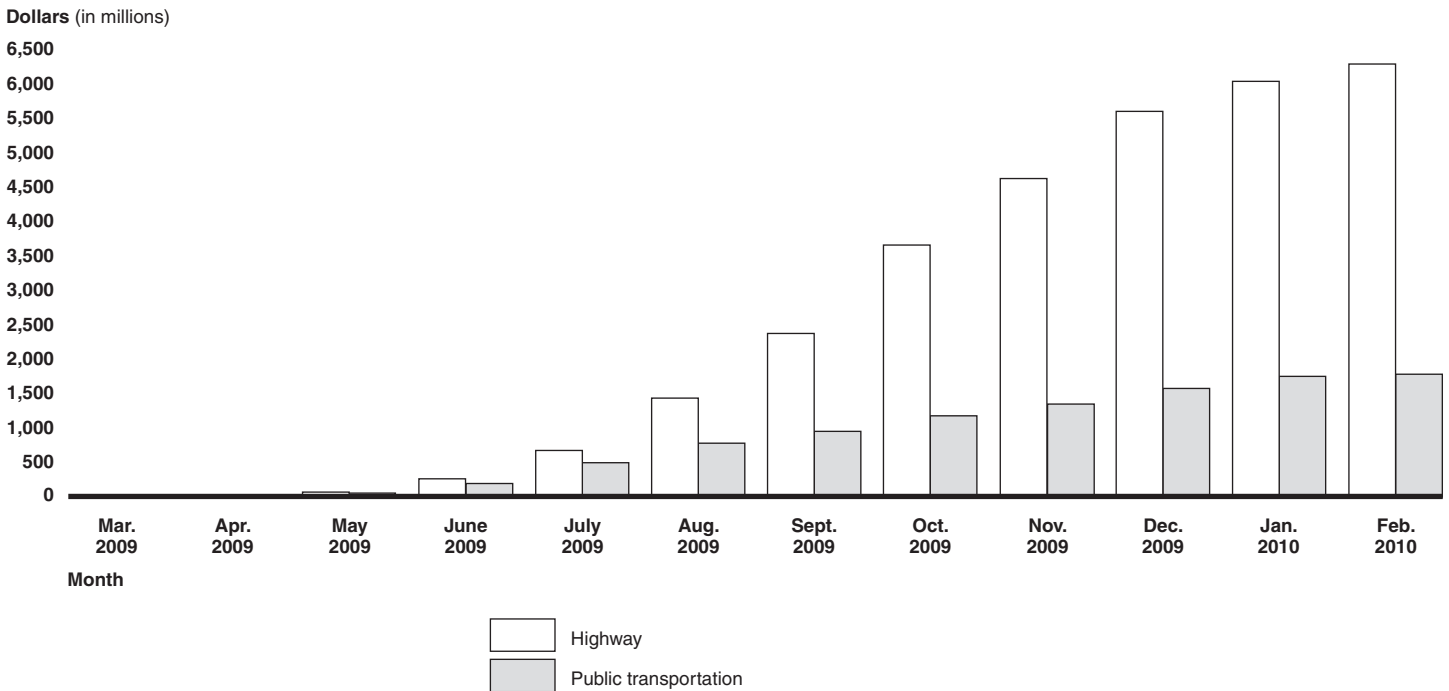
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**Reimbursements continue to increase.** After federal funds have been obligated, and once portions of the work have been completed, states and transit agencies may request reimbursement from FHWA and FTA.<sup>29</sup> Therefore, reimbursements generally lag behind obligations since it takes time for a state or transit agency to bid, award, and start work on specific projects. As of February 16, 2010, FHWA has reimbursed \$6.29 billion (25 percent) to states nationwide, and FTA has reimbursed \$1.8 billion (24 percent) to states and transit agencies nationwide, with the amount of reimbursements almost doubling since September 2009 (see fig. 6). Even though reimbursement rates for Recovery Act highway funds have been increasing nationwide, our analysis shows that wide differences exist across states, mainly because of the complexity of the types of projects that states undertook and the extent to which projects were administered by local governments. The reimbursement rate for Recovery Act funds for public transportation projects has also been increasing. Transit officials we interviewed noted that their agencies are reimbursed as work is completed. Therefore, while for some projects, such as the construction projects, agencies may request reimbursement quickly as the projects meet certain schedule milestones, for other projects, such as bus purchases, agencies may not request any reimbursements until the actual delivery dates, which could be years from now.

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<sup>29</sup>States and transit agencies make payments to contractors for completed work, and FHWA or FTA, through the U.S. Department of the Treasury, pays the state or transit agency after it pays out of its own funds for project-related purposes. All reimbursements under public transportation programs funded through the Recovery Act must be completed by September 30, 2015, except those for administration, management, and oversight purposes.

**Figure 6: Cumulative Recovery Act Highway and Public Transportation Funds Reimbursed by FHWA and FTA Nationwide**



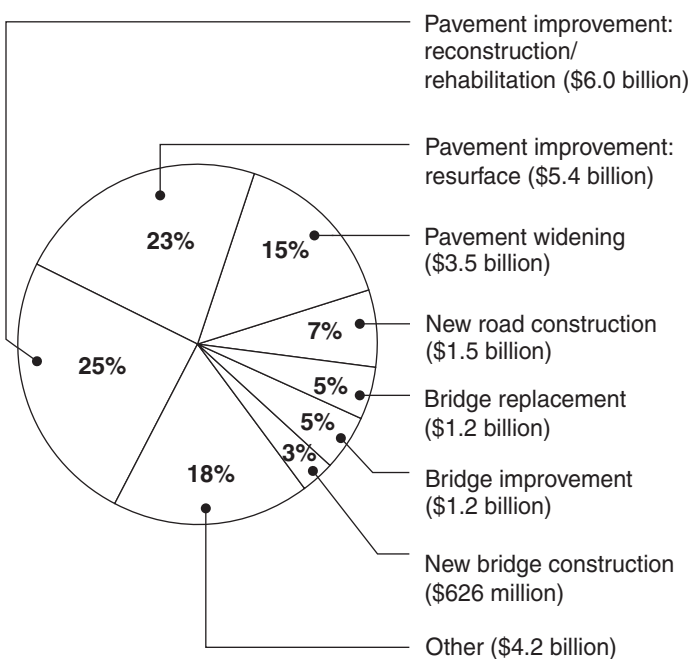
Source: GAO analysis of FHWA and DOT data.  
 Note: February 2010 data are as of February 16, 2010.

- States and transit agencies have used Recovery Act funding to meet transportation goals.** While many officials noted that they selected projects that could be started quickly, states and transit agencies have used the considerable latitude they have under the existing federal surface transportation structure to address a variety of state and local goals. For example, Iowa officials stated that they used a significant portion of their Recovery Act funds for resurfacing projects, which will reduce the demand for these types of projects and free up federal and state funding for larger, more complex projects in the near future. Massachusetts officials told us that the focus of the state’s projects for reconstructing and rehabilitating roads is to select projects that promote the state’s broader long-term economic development goals. Pennsylvania used nearly a third of its Recovery Act funds for bridge improvement and replacement (compared with 10 percent nationally), in part because a significant percentage of its bridges are structurally deficient. In addition, many transit agency officials told us that they decided to use Recovery Act funding for transit infrastructure construction projects and related activities—

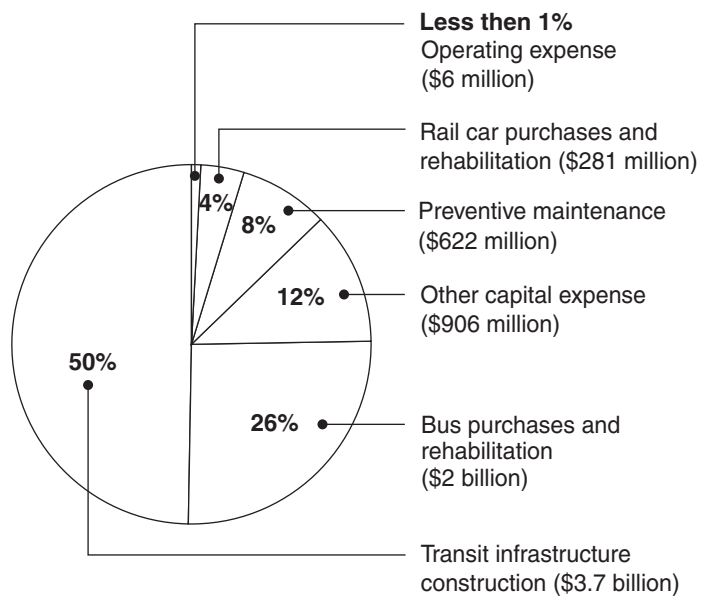
ranging from large-scale projects, such as upgrading power substations, to a series of smaller projects, such as installing enhanced bus shelters—since they were high-priority projects that either improve safety or would otherwise not have been funded. The Metropolitan Transportation Authority in New York State, for example, funded a number of public transportation projects that had been postponed because of budget constraints. Figure 7 shows obligations by the types of highway and public transportation projects funded.

**Figure 7: Nationwide Recovery Act Highway and Public Transportation Obligations by Project Type**

**Highway obligations**



**Public transportation obligations**



Source: GAO analysis of FHWA and FTA data.

Notes: Highway percentages may not add to 100 because of rounding. "Other" includes safety projects, such as improving safety at railroad grade crossing, and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

Public transportation percentages may not add to 100 because of rounding. "Transit infrastructure construction" includes engineering and design, acquisition, construction, and rehabilitation and renovation activities. "Other capital expenses" includes leases, training, finance costs, mobility management project administration, and other capital programs. This amount does include Recovery Act funds that were transferred from FHWA to FTA.

Highway data are as of February 1, 2010 and public transportation data are as of January 15, 2010.

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## Recovery Act Requirements Have Presented Challenges to Transportation Agencies

While funding is apportioned under the rules governing the current federal surface transportation structure, the Recovery Act has additional requirements that limit the latitude and flexibility that states and transit agencies normally have under the existing programs. Three Recovery Act requirements in particular have presented some challenges to some states and transit agencies, which have required the U.S. Department of Transportation (DOT) and the Office of Management and Budget (OMB) to issue multiple sets of clarifying guidance over the course of the year since the passage of the Recovery Act.

One Recovery Act requirement is to give priority to projects that can be completed within 3 years and are that are located in economically distressed areas.<sup>30</sup> As we previously reported, there has been substantial variation in the extent to which states prioritized projects in economically distressed areas and how they identified these areas. For example, we found instances of states developing their own eligibility requirements for economically distressed areas using data or criteria not specified in the Public Works and Economic Development Act. State officials told us that they did so to respond to rapidly changing economic conditions and, according to DOT officials, several states found that the data specified in the Public Works and Economic Development Act failed to recognize areas that suffered severe economic disruption, in part due to the difficulty in obtaining current data. In response to our July 2009 recommendation, FHWA, in consultation with the Department of Commerce, issued guidance to the states in August 2009 on (1) identifying and giving priority to economically distressed areas and (2) criteria to identify “special need” economically distressed areas that do not meet the statutory criteria in the

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<sup>30</sup>Economically distressed areas are defined by the Public Works and Economic Development Act of 1965, as amended. To qualify as an economically distressed area, an area must (1) have a per capita income of 80 percent or less of the national average; (2) have an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate; or (3) be an area that the Secretary of Commerce determines has experienced or is about to experience a “special need” arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short- or long-term changes in economic conditions. In response to our recommendation, FHWA, in consultation with the Department of Commerce, issued guidance on August 24, 2009, that provided criteria for states to use for designating special need areas for the purpose of Recovery Act funding. The criteria align closely with special need criteria used by the Department of Commerce’s Economic Development Administration in its own grant programs, including factors such as actual or threatened business closures (including job loss thresholds), military base closures, and natural disasters or emergencies. FHWA issued “questions and answers” on November 12, 2009, to further address implementation questions.

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Public Works and Economic Development Act. Three states in our review—Arizona, California, and Illinois—developed their own eligibility requirements or applied a special need criterion that would have increased the number of counties being designated as economically distressed in these states. California’s use of the special need criteria resulted in an increase from 49 to all 58 counties being designated as distressed. FHWA reviewed the documentation provided by the three states and determined that the types of data used by those states are not consistent with FHWA guidance. FHWA is working with those states to identify conforming special need criteria.<sup>31</sup> As we previously reported, widespread designations of special need areas would give added preference to highway projects for Recovery Act funding; however, it would also make it more difficult to target Recovery Act highway funding to areas that have been the most severely affected by the economic downturn.

Another Recovery Act requirement is for the governor of each state to certify that the state will maintain the level of spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 2010.<sup>32</sup> However, the challenges that states have faced in submitting their certifications coupled with their fiscal challenges raise questions as to whether the maintenance-of-effort provision will achieve its intended purpose of preventing states from substituting federal funds for some of their planned spending on transportation programs. Maintenance-of-effort and similar provisions are important mechanisms for helping ensure that federal economic stimulus spending achieves its intended effect of providing countercyclical assistance and increasing overall spending and investment. This can be particularly important in the

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<sup>31</sup>Each state used FHWA’s special need criterion that relates to severe job dislocation resulting from actual or threatened business closure or restructuring. These states have been notified of FHWA’s determination and advised that in order to be consistent with the FHWA guidance, the states must have data that show a connection between demonstrated severe job losses and actual, identified firm closures and restructurings. FHWA continues to work with the states wishing to use the special need provision of the Public Works Act and will review any additional data submissions from the states for consistency with the statute and FHWA guidance. We will continue to monitor this issue in our subsequent Recovery Act bimonthly reports.

<sup>32</sup>A state that does not meet its level of effort will be prohibited from participating in the redistribution of federal-aid highway obligation authority scheduled to occur in August 2011.

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highway program, as we have found in previous work that increasing federal highway funds influences states and localities to substitute federal funds for funds they otherwise would have spent on highways.<sup>33</sup> Such substitution makes it difficult to target an economic assistance package that results in increased spending and investment.

This requirement has proven challenging to implement. Although the Recovery Act gave the states 30 days after enactment of the act to provide their certifications, many states have yet to complete a maintenance-of-effort certification that DOT finds fully acceptable.<sup>34</sup> For example, as we reported in July 2009, most states had to revise their initial certifications because DOT found that many states submitted explanatory or conditional certifications that were subject to certain assumptions, future legislative action, or other conditions. DOT informed the states that such explanatory or conditional certifications were not permitted by the Recovery Act. Subsequently, in assessing the states' certified amounts for reasonableness, DOT found inconsistencies and confusion among the states, including how states calculated their planned expenditures and how states treated funding related to in-kind contributions, bond proceeds, and aid to local governments. Given the inconsistencies and confusion, and in response to questions from the states, DOT has issued multiple guidance documents to the states and some states have submitted multiple revisions to their certifications. On February 9, 2010, DOT requested that each state review its current certification and take any corrective action with regard to the state's calculation of the maintenance-of-effort amount on or before March 11, 2010.<sup>35</sup> According to FHWA officials, they expect many states to submit revised certifications,

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<sup>33</sup>GAO, *Federal-Aid Highways: Trends, Effect on State Spending, and Options for Future Program Design*, [GAO-04-802](#) (Washington, D.C.: Aug. 31, 2004). We have found that the preponderance of evidence suggests that increasing federal highway funds influences states and localities to substitute federal funds for funds they otherwise would have spent on highways. In 2004 we estimated that during the 1983 through 2000 period, states used roughly half of the increases in federal highway funds to substitute for funding they would otherwise have spent from their own resources, and that the rate of substitution increased during the 1990s. The federal-aid highway program creates the opportunity for substitution because states typically spend substantially more than the amount required to meet federal matching requirements. As a consequence, when federal funding increases, states are able to reduce their own highway spending and still obtain increased federal funds.

<sup>34</sup>Recovery Act, div. A, title XII, § 1201(a).

<sup>35</sup>According to its February 2010 guidance, DOT determined that the Recovery Act requires states to maintain their level of effort for each individual covered program (e.g., highways, transit) rather than maintaining a total level of effort for all covered programs.

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including 12 of the 16 states and the District that we reviewed for our study. As a result, these states are now in the position of determining what they planned to spend over a year ago on transportation from February 17, 2009, through September 30, 2010, and adjusting these planned expenditure levels to reflect various guidance from DOT but not for the economic and budgetary changes their states have experienced over the last year. According to DOT officials, DOT has not determined a date for finalizing its review of these certifications because department officials are uncertain what will be included in the certifications and whether they will comply with DOT guidance.

Given the fiscal condition of many states, it is unclear whether states will be able to maintain the certified levels of effort. Although the state officials we spoke with are committed to trying to meet the maintenance-of-effort requirements, several told us that the current decline in state revenues, such as declines in state fuel tax and other sources used for state and state-funded local highway projects, as well as possible reductions in their departments' fiscal years 2010 or 2011 budgets, may make it more difficult for them to maintain their levels of transportation spending. For example, Mississippi and Ohio transportation officials stated that if their legislatures reduce their respective departments' budget for fiscal years 2010 or 2011, the departments may have difficulty maintaining certified spending levels.

DOT officials told us they will continue to monitor the progress states are making to meet their maintenance-of-effort requirements and to collect and disseminate lessons learned from the process. However, the Recovery Act does not require DOT to make a determination as to whether states have met their required program expenditures until around 6 months after the maintenance-of-effort provision covered time period expires on September 30, 2010. Specifically, the act does not require states to report the amount of funds they planned to expend and the actual expenditures from state sources until February 2011, and DOT to assess the penalty for not meeting the requirement until August 2011. More timely information from the states on the progress they are making in meeting the maintenance-of-effort requirements could better inform policymakers' decisions on the usefulness and effectiveness of the maintenance-of-effort requirements and of imposing similar provisions in future legislation.

State highway and transit officials have also had challenges in complying with the reporting requirements under Section 1201(c) and the Section 1512 recipient reporting requirements of the Recovery Act, which have necessitated multiple issuances of supplemental guidance from both DOT



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and OMB. Section 1201(c) is only required for recipients of Recovery Act transportation funds, while the Section 1512 recipient reporting requirement is required for recipients of any Recovery Act funds. While DOT and OMB have provided training and guidance, such as conducting webinars—three on the Section 1201(c) reporting process and four on the recipient reporting process—and issuing implementing guidance on recipient reporting, we found that there was confusion among states about a number of reporting requirements, including how to calculate the number of jobs created or sustained. For example, four transit agencies in Pennsylvania used different denominators to calculate the number of full-time equivalent (FTE) jobs they reported for their September 30, 2009, recipient report submissions. The conflicting requirements between Section 1201(c) and Section 1512, of direct and indirect jobs created or retained, posed challenges as to how transit agencies should report project contractors and subcontractors and what FTE methodology recipients should use for the first recipient reporting period. OMB issued guidance on December 18, 2009, that simplified the FTE calculation and the period of performance for the recipient reporting requirement. In addition, on February 1, 2010, FTA issued guidance to transit agencies instructing them to use the same methodology for calculating jobs retained through vehicle purchases under Section 1201 as they had been using for the recipient reporting. This revised previous guidance that had instructed transit agencies to use different methodologies for vehicle purchases under Section 1201 and Section 1512. The Recovery Act requirements and supplemental guidance have created many challenges for state highway and transit program officials who were only accustomed to meeting normal reporting requirements.

Another Recovery Act requirement is for states and transit agencies to ensure that all apportioned Recovery Act funds are obligated within 1 year—the Secretary of Transportation is to withdraw and redistribute to eligible states any amount that is not obligated within this time frame. As of February 16, 2010, when we completed fieldwork, states and transit agencies were well on their way to meeting the 1-year deadline. Obligating funds in a timely manner is an important feature of the Recovery Act, as an economic stimulus package should, as we have reported, include projects that can be undertaken quickly enough to provide a timely stimulus to the economy.<sup>36</sup> However, our prior reports have also identified challenges and

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<sup>36</sup>GAO, *Physical Infrastructure: Challenges and Investment Options for the Nation's Infrastructure*, GAO-08-763T (Washington, D.C.: May 8, 2008).

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issues associated with the 1-year deadline, in particular, for highways. These challenges and issues have required DOT, through FHWA, to exercise diligence as the deadline approached to ensure that Recovery Act funds were not only obligated in a timely manner, but also used to meet the goals of the act. Specifically, we have previously reported the following:

- **Obligations for projects in suballocated areas generally lagged behind obligations for statewide projects in many states and lagged considerably in a few states, but these obligations have been increasing.** As of February 16, 2010, all states and suballocated areas appeared to be on track to meet the deadline. However, some states needed to obligate a significant amount of funds quickly as the deadline approached, and this posed some challenges for both states and FHWA. For example, according to a senior FHWA official, some states have minimal “shelf depth,” that is, projects that are ready to be started and are eligible for Recovery Act funding. This requires states to either accelerate project planning or have those Recovery Act funds withdrawn. As the DOT Office of Inspector General has reported, FHWA faces oversight challenges when states accelerate project planning, as hastily amended plans could result in states or localities selecting imprudent projects or ones that do not meet Recovery Act goals.<sup>37</sup> We will continue to monitor the states’ and FHWA’s actions leading up to the 1-year deadline for our subsequent Recovery Act bimonthly reports.
- **Many highway contracts were awarded for less than the original cost estimates.** These “bid savings” allowed states to fund more projects with the Recovery Act funding than were initially anticipated. To use bid savings, a state may need to request that DOT deobligate the funds associated with the bid savings and then obligate the funds for a new project. In addition, any funds that were deobligated prior to the March 2, 2010, deadline must also have been obligated for a new project before March 2 to avoid being withdrawn for redistribution to other states. However, if funds are deobligated after the March 2, 2010, deadline, those funds will be available for obligation to new projects until September 30, 2010. Thus, for known bid savings, it was important for DOT to carefully monitor and determine that states did

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<sup>37</sup>Department of Transportation, Office of Inspector General, *DOT’s Implementation of the American Recovery and Reinvestment Act: Continued Management Attention Is Needed to Address Oversight Vulnerabilities*, MH-2010-024 (Washington, D.C., Nov. 30, 2009).

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not attempt to circumvent the 1-year requirement—which is intended to ensure that funds are put to use quickly. To that end, in December 2009 and January 2010, FHWA provided guidance to its field offices reminding them that the FHWA regulations require that within 90 days of determining that the estimated federal share of project costs has decreased by \$250,000 or more, states are required to request that FHWA deobligate these funds. FHWA’s guidance also stated that above and beyond the 90-day rule, it was in the states’ best interest to ensure that as much as possible was deobligated before the Recovery Act 1-year deadline, consistent with normal state processes for such activities. While states have been having FHWA deobligate Recovery Act funds regularly since the passage of the act, some states with known bid savings decided not to request that FHWA deobligate funds for projects for contracts awarded after mid-December 2009 because, according to these states, there was not sufficient time to deobligate funds and submit new projects for obligation before the March 2, 2010, deadline. We will continue to report on the status of contract bid savings and the deobligation of Recovery Act highway funds after the March deadline for our subsequent Recovery Act bimonthly reports and to monitor whether actions states took were consistent with state processes and FHWA guidance.

- **FHWA has the authority to transfer Recovery Act highway infrastructure funds to FTA for eligible transit projects.**<sup>38</sup> In September and December 2009, we reported that FHWA had transferred approximately \$290 million to FTA. As of February 1, 2010, this amount increased to \$332 million, and, as of February 16, to \$407 million—an increase of \$75 million in a 2-week period. DOT officials believe that Recovery Act funds transferred to FTA do not have to comply with either the highway or transit Recovery Act 1-year obligation deadline because other provisions of law govern how funds made available through transfers for projects or transportation planning are treated, but that transferred funds must meet the Recovery Act’s requirement that all funds be fully obligated by the September 30, 2010. Thus, according to DOT’s interpretation, a state

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<sup>38</sup>Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA. For FHWA to transfer Recovery Act highway funds to FTA, a metropolitan planning organization must request the transfer and have a specific transit project identified that will receive the funds. Once the transfer request has been made, but before funds are officially transferred, FTA will include the transit project receiving the funds in its grant management system and will report that it is a pending project. The funds are officially transferred from FHWA to FTA when the U.S. Treasury executes the transfer.

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that did not have 100 percent of its highway funds obligated as it approached the 1-year deadline could request a transfer of highway funds to FTA for an identified transit project after which it would have until September 2010 to have FTA obligate these funds. We will continue to monitor the status of transferred funds, including the amounts transferred and how these funds were used.

While we will continue to monitor DOT's efforts other government entities are also planning audit activity related to Recovery Act funds. For example, DOT's Inspector General has completed an audit on DOT's implementation of the Recovery Act. The DOT Inspector General is also conducting several audits on other Recovery Act issues such as job creation and DOT oversight. In addition, eleven of our selected states and the District have completed, are conducting, or plan to conduct audit activities involving Recovery Act funded transportation/highway projects.

**Recommendation for Executive Action**

The Secretary of Transportation should gather timely information on the progress states are making in meeting the maintenance-of-effort requirements and report preliminary information to Congress within 60 days of the certified period (Sept. 30, 2010), on (1) whether states met required program expenditures as outlined in their maintenance-of-effort certifications, (2) the reasons that states did not meet these certified levels, if applicable, and (3) lessons learned from the process.

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**Recovery Act Education Funds Have Been Used Primarily to Fund Education Staff and, to a Lesser Extent, Innovation and Reform**

Even with the influx of Recovery Act funds, the budget condition of local educational agencies (LEA) across the country is mixed, with some still facing large budget cuts. The Recovery Act provided \$53.6 billion<sup>39</sup> in appropriations for the State Fiscal Stabilization Fund (SFSF) to be administered by the U.S. Department of Education (Education), as well as additional funds for existing education programs, including Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and parts B and C of the Individuals with Disabilities Education Act (IDEA), as amended. Education, in its guidance and communications to states and LEAs, has emphasized the opportunity for education funds under the Recovery Act to be used for innovation and reform. Most LEAs reported that they considered Education's stated goals to be important

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<sup>39</sup>While \$53.6 billion was appropriated for the State Fiscal Stabilization Fund in its entirety, \$5 billion of these funds are reserved for specific competitive grants, leaving approximately \$48.6 billion for the U.S. Department of Education to allocate among the states as State Fiscal Stabilization Fund formula grants.

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when planning for uses of Recovery Act funds, although in the context of decreasing state and local revenues, much of the Recovery Act education funds have been used to fund education staff positions, including teachers. Other uses include items that could help build long-term capacity and advance educational goals and reform while also avoiding recurring costs for LEAs. Education has worked closely with states and localities in helping them use Recovery Act funds, but the influx of funds has illustrated the need for Education to work with states to ensure that they have adequate cash management processes in place, as well as transparent means to establish that they are complying with maintenance-of-effort provisions. Education has also engaged in numerous efforts to facilitate reporting by states and LEAs on jobs created and retained by the Recovery Act, but state and local officials we spoke with raised some concerns about the quality of jobs data reported in October 2009.

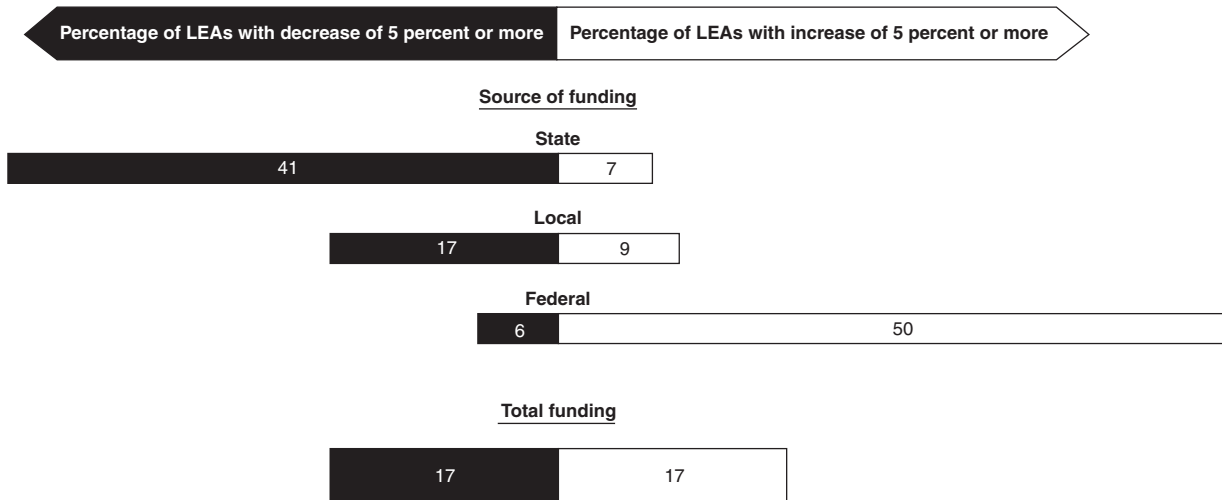
#### Even with Recovery Act Funds, LEAs' Budget Situations Vary

Even with the current infusion of Recovery Act funding for education programs, the budget condition of LEAs across the country is mixed, according to our national survey of LEAs. According to the Congressional Research Service, the Recovery Act provided approximately \$100 billion for discretionary education programs—elementary, secondary, and postsecondary—in fiscal year 2009, which, when combined with regular appropriations, represents about a 235 percent increase in federal funding compared to fiscal year 2008. Based on our national survey results, we estimate that approximately the same amount of LEAs—17 percent—face decreases of 5 percent or more in total education funding—federal, state, and local—as face funding increases of 5 percent or more for the current school year. On the other hand, an estimated 57 percent of LEAs reported smaller or no funding changes for the current school year. Education funding in the United States primarily comes from state and local governments. Prior to the influx of Recovery Act funding for education from the federal government, LEAs, on average, derived about 48 percent of their fiscal year 2007 funding budget from state funds, 44 percent from local funds, and 9 percent from federal funds.<sup>40</sup> Figure 8 shows the estimated percentage of LEAs nationally that are facing budget fluctuations of 5 percent or more by funding source—state, local, and federal.

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<sup>40</sup>The percentages do not add to 100 percent due to rounding. L. Zhou, *Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2006-07 (Fiscal Year 2007) (NCES 2009 337)* (Washington D.C.: National Center for Education Statistics, U.S. Department of Education), <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2009337> (accessed Nov. 16. 2009).

**Figure 8: Estimated Percentage of LEAs Nationally with Funding Decreases and Increases of 5 Percent or More for School Year 2009-2010, by Source of Funding**



Source: GAO survey of LEAs.

Notes: Percentage estimates for these nationwide estimates have margins of error, at the 95 percent confidence level, of plus or minus 5 percentage points or less.

The budgetary picture for LEAs ranges widely across states. According to our survey, we estimate that nearly 40 percent of LEAs in California, Georgia, and North Carolina face overall funding cuts of 5 percent or more, while about 30 percent of LEAs in Texas, Mississippi, and New Jersey reported total education funding increases of 5 percent or more.<sup>41</sup>

**States Varied in the Rate at Which They Have Drawn Down Recovery Act Funds for Education Programs**

Rates of spending for education under the Recovery Act have varied: as of January 2010, 9 states had drawn down 75 percent or more of their awarded education stabilization funds, while 3 states and the District of Columbia had drawn down less than 25 percent of these funds.<sup>42</sup> (See table 3.) Budget debates at the state level delayed the initial allocation and

<sup>41</sup>For more details on how the budget situations of LEAs varied across states, see GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability*, [GAO-10-231](#) (Washington, D.C.: Dec. 10, 2009).

<sup>42</sup>The District of Columbia had not drawn down Recovery Act funds as of January 22, 2010. District of Columbia officials told us that they were making an effort to strengthen accountability systems for federal education funds prior to drawing down funds. In addition, officials told us that many LEAs had carryover funds from prior years that had not been spent. In the District, LEAs are reimbursed for approved uses of federal funds, and LEAs may have obligated some Recovery Act funds but have not yet been reimbursed by the District.

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spending of education-related funds in some states. According to officials in 3 of the states we visited, the state budget process slowed the release of funds and the ability of local and state educational agencies to finalize their plans for using ESEA Title I Recovery Act funds. For example, in Pennsylvania, ESEA Title I and IDEA funds could not be expended until the legislature passed a stopgap budget in August 2009, according to state officials. Also, the rate of spending was affected by how quickly some states were able to obtain assurances and applications from their LEAs that the funds would be used in accordance with applicable provisions of the Recovery Act and other requirements. Nearly all of the 16 states and the District of Columbia required each LEA to submit an application, a budget, or a detailed plan as a condition for receiving Recovery Act funding, but the amount of time needed to complete these processes varied. According to a Pennsylvania official, in February 2010, the state completed its review of LEAs' SFSF applications and was finalizing the documentation needed to provide the funds to LEAs, and most LEAs were expected to receive SFSF funds in March 2010.

**Table 3: Percentage of Awarded Education Stabilization, ESEA Title I, and IDEA, Part B Recovery Act Funds Drawn Down by States as of January 22, 2010**

State	Percentage of awarded Recovery Act funds drawn down		
	Education stabilization funds	ESEA Title I	IDEA, Part B
Arizona	90	18	14
California	90	41	22
Colorado	75	4	6
District of Columbia	0	0	0
Florida	34	19	24
Georgia	89	10	12
Illinois	92	6	22
Iowa	82	32	40
Massachusetts	76	11	17
Michigan	85	14	7
Mississippi	49	8	2
New Jersey	92	1	4
New York	10	1	6
North Carolina	57	20	26
Ohio	41	16	20
Pennsylvania	0	30	25
Texas	16	14	15
<b>Total</b>	<b>58</b>	<b>17</b>	<b>17</b>

Source: GAO analysis of U.S. Department of Education data.

**With Many LEAs Facing Budget Cuts and Fiscal Pressures, Job Retention Is the Primary Planned Use of Recovery Act Education Funds**

Our survey results indicate that job retention for education staff, including teachers, was the top planned use for Recovery Act funds for LEAs across the three federal education programs we reviewed. An estimated 63 percent of LEAs plan to use more than 50 percent of their Recovery Act SFSF funds to retain jobs, while an estimated 25 percent and 19 percent of LEAs said they planned to use over half of their Recovery Act funds on job retention under ESEA Title I, Part A and IDEA, Part B, respectively. In one example, education officials in the small, rural school district of Jasper-Troupsburg in upstate New York told us that they would use 95 percent of their Recovery Act funds to retain jobs. Because employee-related expenditures are the largest category of school expenditures—with salaries and benefits accounting for more than 80 percent of local school expenditures, according to Education’s most recent estimates—it is understandable that LEAs would use much of their Recovery Act funds for



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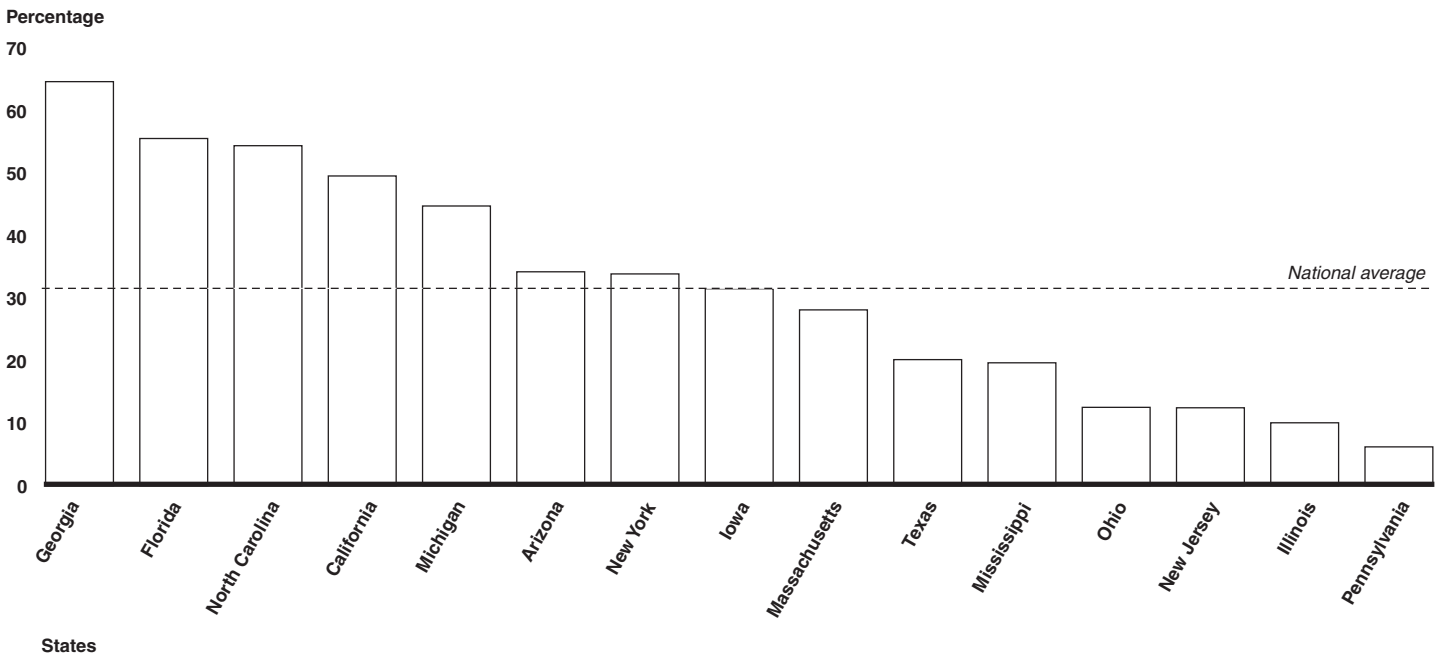
staff salaries. Also, given the fiscal uncertainty and substantial budget shortfalls facing states, federal funds provided by the Recovery Act give LEAs additional support for the retention of teachers and other education staff. Overall, the nationwide impact of Recovery Act education funds on job retention may be significant because K-12 public school systems employ about 6.2 million staff, based on Education's estimates, and make up about 4 percent of the nation's workforce.

However, an estimated 32 percent of LEAs nationally expected to lose jobs, even with SFSF funds, but the percentage of LEAs expecting to lose jobs varies by state. (See fig. 9.) Among the states with higher percentages of LEAs expecting job losses even with SFSF funds were Georgia, Florida, North Carolina, and California.<sup>43</sup> According to our analysis, in all of these states except for Florida, the proportion of LEAs that experienced decreases of 5 percent or more in total education funding from last year was larger than the national average of 17 percent.

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<sup>43</sup>A Florida official attributed staff reductions at Florida LEAs at least partially to an overall decline in student enrollment, requiring fewer teachers in the 2009-2010 school year.

**Figure 9: Estimated Percentage of LEAs Expecting Decreases in the Number of Jobs, Even with Recovery Act SFSF Funds, by State**



Source: GAO survey of LEAs.

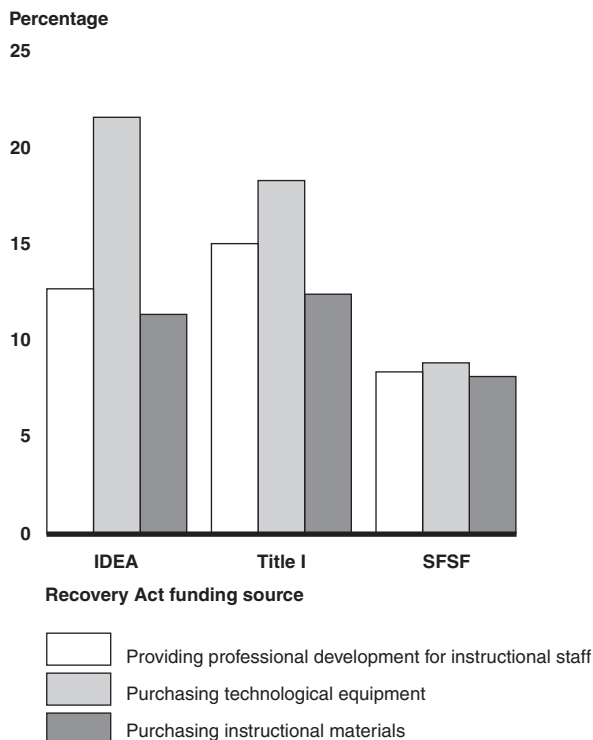
Notes: Colorado was not included in our analysis of SFSF fund use because the state did not allocate these funds to LEAs. Given its ongoing fiscal support to LEAs, Colorado allocated its education stabilization funds to institutions of higher education.

Percentage estimates for states have margins of error, at the 95 percent confidence level, of plus or minus 12 percentage points or less (Arizona, Iowa, Mississippi, and Pennsylvania have a margin of error of 13 percent; New Jersey has a margin of error of 15 percent; and Massachusetts has a margin of error of 16 percent). The nationwide percentage estimates have a margin of error of plus or minus 5 percentage points.

In our survey, LEAs reported that they planned to spend some of their Recovery Act funds on items that could help build long-term capacity and advance educational goals and reform while also avoiding recurring costs for LEAs. In addition to helping stabilize budgets and retain and create jobs, Education’s guidance released to states in April 2009 noted that education funds under the Recovery Act “provide a unique opportunity to jump start school reform and improvement efforts,” and suggested possible ways to use Recovery Act funds in several categories. We estimate that most LEAs—about 80 percent—gave great or very great importance to “improving results for students” in deciding how to use Recovery Act funds, while “increasing educators’ long term capacity” was the next most cited. After job retention and creation, LEAs surveyed also reported several onetime expenditures, such as purchasing technological

equipment, including new computers; providing professional development for instructional staff; and purchasing instructional materials, as among the highest uses of funds. Figure 10 shows the national estimated percentages of LEAs that reported planning to use more than a quarter of their Recovery Act funds for these three nonrecurring budgetary items across the three education programs.

**Figure 10: Estimated Percentage of LEAs Nationally Planning to Use More Than 25 Percent of Their Recovery Act Funds from the SFSF, ESEA Title I, and IDEA Programs for Professional Development, Technological Equipment, and Instructional Materials**



Source: GAO survey of LEAs.

Note: Percentage estimates for these nationwide estimates have margins of error, at the 95 percent confidence level, of plus or minus 5 percentage points or less.

### Education Continues to Work with Some States to Address Cash Management Challenges

The substantial increase in federal education funds going to states because of the Recovery Act has increased the importance of having cash management systems in place to ensure that funds are spent timely once they are drawn down by states. However, several states did not initially have cash management systems in place for SFSF funds that could disburse funds to LEAs when they were needed and ensure the calculation

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and remittance of any interest due.<sup>44</sup> For example, Illinois has distributed SFSF funds to LEAs in semimonthly payments, but according to state officials, the state did not have the ability to identify specific cash needs from LEAs prior to distributing these funds. Also, California drew down 80 percent of its available ESEA Title I, Part A Recovery Act funds in May 2009 and immediately distributed them to LEAs. According to Education officials, California Department of Education (CDE) officials said that the drawdown was in lieu of its normally scheduled drawdown of school year 2008-2009 ESEA Title I funds, and therefore the schools would be ready to use the funds quickly. However, in August, we contacted the 10 LEAs in California that had received the largest amounts of ESEA Title I, Part A Recovery Act funds and found that 7 had not spent any of these funds and that all 10 reported large cash balances—ranging from \$4.5 million to about \$135 million—which raised issues about the state’s compliance with applicable cash management requirements. In order to address its cash management issues, CDE has implemented a pilot project to test its Web-based cash management data collection system. CDE officials said they plan to expand the pilot to include regular and Recovery Act ESEA Title I and SFSF cash balances by October 2010.<sup>45</sup> Illinois has also taken action to help ensure compliance with cash management requirements, and Education is providing these states, and others, with targeted technical assistance on cash management. Education’s Office of Inspector General has also focused on cash management practices in its work and issued an alert memo on October, 21, 2009, which pointed out that states need to ensure that funds are distributed to LEAs when they are needed to pay program costs, and that states need to have controls in place to ensure that LEAs remit interest earned on Recovery Act fund balances at least quarterly.<sup>46</sup> We will continue to monitor cash management issues related to Recovery Act education funds.

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<sup>44</sup>Education’s cash management rules require LEAs to promptly remit interest earned on cash advances for any amounts exceeding \$100, and to do so at least quarterly.

<sup>45</sup>Additionally, in January, 2010, CDE issued guidance to LEAs underscoring the requirement to remit interest earned on federal cash balances at least quarterly and including detailed methodology on how the interest should be calculated.

<sup>46</sup>U.S. Department of Education, “State Educational Agencies’ Implementation of Federal Cash Management Requirements under the American Recovery and Reinvestment Act, Alert Memorandum,” ED-OIG/L09J0007 (Washington, D.C., Oct. 21, 2009).

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Education Is Developing Plans to Monitor and Enforce State Compliance with Maintenance-of-Effort Requirements and Subrecipient Monitoring

The Recovery Act requires that each state make assurances that it would meet maintenance-of-effort (MOE) requirements for elementary and secondary (K-12) education and public institutions of higher education (IHE) as a condition of receiving SFSF funds. Education required governors in their phase I SFSF applications to provide assurances that their states will meet MOE requirements or that they will be able to comply with waiver provisions,<sup>47</sup> and for phase II states are required to attest that they met MOE requirements in fiscal year 2009. In order to meet SFSF MOE requirements, a state must maintain state support for K-12 education and IHEs at least at fiscal year 2006 levels in fiscal years 2009, 2010, and 2011.

After maintaining state support at no less than fiscal year 2006 levels, states must first use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to K-12 school districts and IHEs in fiscal years 2009 through 2011. Education disseminated several guidance documents to states in the spring and summer of 2009 to assist states in defining their MOE amounts. In determining, for MOE purposes, the state level of support for K-12 education in fiscal year 2006, Education guidance said states must include funding provided through their primary formulas for distributing funds to school districts. However, Education also allowed states some flexibility in choosing the basis they use to measure MOE, as well as in what they include or exclude in their MOE definition. Further, Education directed states to amend their SFSF applications to reflect any final budget changes and, in the amended applications, provide final assurance that they will meet MOE levels or apply for waivers. Specifically, according to Education guidance, a state must amend its SFSF application if there are changes to the reported levels of state support for education that were used to determine the MOE amount or to calculate the amounts needed to restore state support for education to the fiscal year 2008 or 2009 level. Education officials said adjustments were made to fiscal year 2006 MOE levels because, as state fiscal year 2009 budgets become final, states are attempting to develop equivalent information for both their fiscal year 2006 levels of support calculation and their calculations for fiscal year 2009. However, guidance from Education does not require states to include an explanation for changes made to MOE calculations in their

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<sup>47</sup>For a state to be eligible to receive a waiver, the percentage of total state revenues used to support education cannot decrease from the previous year. Waivers are granted based on a state's total level of support for education as a percentage of state revenue, while MOE levels are based on a selected measure of state spending for education.

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resubmitted applications, reducing transparency in terms of what has changed from previously approved applications. Given that some states decreased their fiscal year 2006 MOE funding levels by billions of dollars, an explanation of why this change was made would allow the public and policymakers alike the ability to better understand the action. We recommended in November 2009 that the Secretary of Education take further action to enhance transparency by requiring states to include an explanation of changes to MOE levels in their SFSF application resubmissions.<sup>48</sup> Education agreed with our recommendation, and we are continuing to work with Education to ensure that actions are taken to enhance transparency of state MOE changes.

Education has informed states of the requirements for monitoring subrecipients' use of SFSF funds, but it is not clear that states have focused on this requirement. Education enumerated administrative requirements in the SFSF application and required governors to provide assurances that they would comply with the requirements. However, we previously reported in September 2009 that it was not clear that all states had begun to put in place subrecipient monitoring systems that comply with Education's requirements, which include a monitoring schedule, procedures, and processes to verify that corrective actions are implemented. We recommended that the Secretary of Education take further action, such as collecting and reviewing documentation of state monitoring plans, to ensure that states understand and fulfill their responsibility to monitor subrecipients of SFSF funds and consider providing training and technical assistance to states to help them develop and implement state monitoring plans for SFSF. Education developed a plan to monitor state implementation of the SFSF program that will include reviewing state processes and documents for monitoring subrecipients and making site visits to selected states. Education officials also said they are taking several steps both to monitor information they are receiving from states and to provide technical assistance to states. For example, according to Education officials, prior to approving SFSF

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<sup>48</sup>For more details on the MOE requirements, see GAO, *Recovery Act: Planned Efforts and Challenges in Evaluating Compliance with Maintenance of Effort and Similar Provisions*, [GAO-10-247](#) (Washington, D.C.: Nov. 30, 2009).

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awards, Education reviewed each state's application to ensure that the state complied with statutory requirements to receive the funds.<sup>49</sup>

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## Housing Agencies Have Continued to Make Progress on Obligating Recovery Act Funds, but Capacity Issues Have Presented Challenges to Both HUD and Some Housing Agencies

The Recovery Act requires the U.S. Department of Housing and Urban Development (HUD) to allocate \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008. HUD allocated Capital Fund formula dollars to public housing agencies shortly after passage of the Recovery Act and, after entering into agreements with more than 3,100 public housing agencies, obligated these funds on March 18, 2009.<sup>50</sup> A HUD Inspector General report found that HUD had allocated the funds appropriately and met the requirements of the Recovery Act.<sup>51</sup> As of January 30, 2010, 2,910 public housing agencies (93 percent of the housing agencies that entered into agreements with HUD for Recovery Act funds) had reported to HUD that they had obligated a total of \$2.07 billion, or about 69 percent of the total Capital Fund formula funds HUD allocated to them (see fig. 11). According to HUD officials, housing agencies report obligations after they have entered into binding commitments to undertake specific projects. Housing agencies previously were required to report obligations at least once per month, but in December 2009 HUD officials requested that housing agencies report obligations as funds are obligated in order to provide HUD with up-to-date data to inform monitoring and outreach efforts. A majority of housing agencies that had obligated funds—2,514 of 2,910 housing agencies—had also drawn down funds in order to pay for project expenses already incurred. In total, as of January 30, 2010, public housing agencies had drawn down almost \$653 million, or about 22 percent of the total HUD allocated to them. The Recovery Act requires 60 percent of the funds to be expended by March 2011 and 100 percent by March 2012.

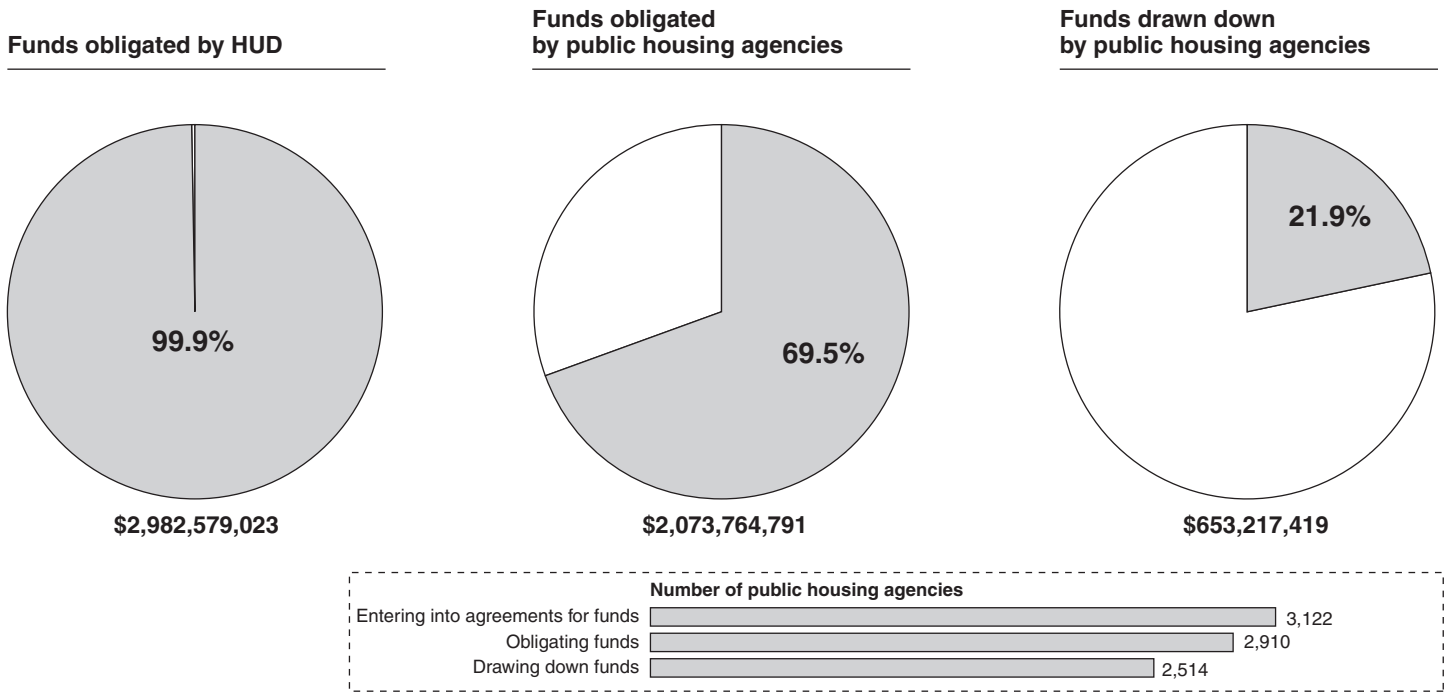
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<sup>49</sup>For more details on subrecipient monitoring, see the recipient reporting section of this report, and GAO, *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed*, [GAO-09-1016](#) (Washington, D.C.: Sept. 23, 2009).

<sup>50</sup>HUD allocated Capital Fund formula dollars from the Recovery Act to 3,134 public housing agencies, but obligated funds to 3,122 housing agencies. According to HUD officials, 12 housing agencies chose not to accept Recovery Act funding or no longer had eligible public housing projects that could utilize the funds.

<sup>51</sup>HUD Office of Inspector General, *Review of American Recovery and Reinvestment Act Formula Allocations*, 2009-FO-0006 (Washington, D.C.: September 25, 2009).

**Figure 11: Percentage of Public Housing Capital Fund Formula Grants Allocated by HUD That Have Been Obligated and Drawn Down Nationwide as of January 30, 2010**

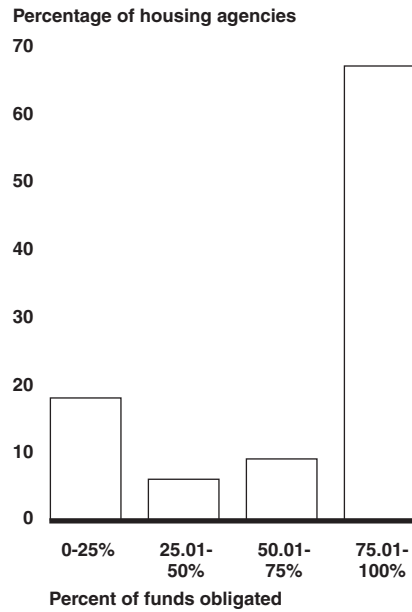


Source: GAO analysis of data from HUD's Electronic Line of Credit Control System.

The Recovery Act requires that housing agencies obligate 100 percent of their funds within 1 year from when the funds became available, which means they have until March 17, 2010, to obligate 100 percent of their funds. As of January 30, 2010, 559 housing agencies (18 percent) had reported obligating 25 percent of their funds or less, including 212 (7 percent) that had reported obligating none of their Recovery Act funds (see fig. 12). However, about half of housing agencies had reported obligating 100 percent of their funds as of January 30, 2010, placing them ahead of the Recovery Act's 12-month deadline. An additional 522 housing agencies (17 percent) had reported obligating more than 75 percent of their funds as of January 30, 2010.



**Figure 12: Housing Agencies' Obligations of Recovery Act Funds by Quartile as of January 30, 2010**



Source: GAO analysis of data from HUD's Electronic Line of Credit Control System.

Public housing agencies may use Recovery Act funds for any eligible uses allowed under the regular Capital Fund program, except that no funds may be used for operations or rental assistance, and HUD regulations limit the amount of funds that can be used for administration and management improvements. We examined 83 projects at 47 selected housing agencies in greater depth. Housing agency officials stated that 31 of these projects include roofing or gutter work, 23 include replacing windows or doors, 19 involve rehabilitating unit interiors, and 16 projects include replacing heating, cooling, or hot water systems. Other uses we encountered include renovating common areas, repairing sidewalks, repaving parking lots, and replacing security systems. Depending on the scope of the projects, multiple activities could be undertaken for a single project.

The Recovery Act required housing agencies to give priority to projects already under way or in their 5-year plans, projects that can award contracts based on bids within 120 days, and projects that rehabilitate vacant rental units. Housing agencies generally selected projects that were in their 5-year plans. In addition, HUD required housing agencies that wanted to use Recovery Act funds on work items not already in an approved annual or 5-year plan to revise their plans to include the work items and resubmit the plans for HUD approval. Twenty-eight of the 47

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housing agencies we selected said they were able to award at least one contract based on bids within 120 days of the funds becoming available. Most of the selected housing agencies reported having few vacant units. Some of their projects involved rehabilitating a few vacant units at one or more properties, while others focused on other priorities. For a few housing agencies we spoke with, however, vacant units were a major issue, and these housing agencies were more likely to include projects that rehabilitate vacant units in their plans for Recovery Act funds. In particular, 5 housing agencies—Newark Housing Authority in New Jersey, Philadelphia Housing Authority, San Francisco Housing Authority, Cuyahoga Metropolitan Housing Authority in Ohio, and Chicago Housing Authority—planned to use Recovery Act funds to rehabilitate a total of about 1,400 vacant units.<sup>52</sup>

The 47 selected housing agencies were able to address several priorities of the Recovery Act with some project selections. Across all their projects, 12 of the 47 selected housing agencies reported that they were able to address all three priorities by selecting projects from an approved 5-year plan, awarding at least one contract within 120 days, and rehabilitating 1 or more vacant units. Of the 83 projects we examined in greater depth at the 47 selected housing agencies, housing agency officials said 9 projects addressed all three priorities, while 36 projects addressed two of the three priorities. The selected housing agencies were more likely to have projects for which they could award one or more contracts within 120 days than to have projects that rehabilitate vacant rental units.

In addition to awarding Capital Fund formula dollars, HUD was also required under the Recovery Act to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofitting. HUD accepted applications from June 22 to August 18, 2009, and according to a HUD official, 746 housing agencies submitted 1,817 applications for these competitive grants. In September 2009, HUD awarded 396 competitive grants in the amount of \$995 million for the creation of energy-efficient communities, gap financing for projects stalled because of financing

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<sup>52</sup>Newark Housing Authority in New Jersey planned to rehabilitate 493 vacant units, Philadelphia Housing Authority planned to rehabilitate 410 vacant units, San Francisco Housing Authority planned to rehabilitate 171 vacant units, Cuyahoga Metropolitan Housing Authority in Ohio planned to rehabilitate 161 vacant units, and Chicago Housing Authority planned to rehabilitate 142 vacant units.

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issues, public housing transformation, and improvements addressing the needs of the elderly or persons with disabilities. As of January 30, 2010, housing agencies had reported obligations totaling about \$79 million for 128 grants.

**Some Housing Agencies Lacked Capacity to Apply for and Administer Recovery Act Grants**

Capacity, especially with regard to staffing levels, was a substantial barrier to applying for competitive grants for a variety of housing agencies we visited, including at least three housing agencies that were awarded competitive grants.<sup>53</sup> Some housing agency officials that we interviewed stated that timing constraints presented issues when applying. For example, officials from one agency had a contractor assist with the application because their staff did not have the capacity to complete it in time. These officials further stated that the timing for the competitive grant applications drained limited resources and caused delays in administering the formula grant funds. Also, the officials stated that the Recovery Act did not allow recipients to adequately strengthen their workforces to handle the additional workloads brought on by the act's funding. Similarly, officials from another housing agency stated that the agency lacked the time and staff to complete the water and energy consumption assessments to include in their competitive grant application. They instead used conservative water- and energy-saving estimates, which resulted in a lower application score and which they believe contributed to their agency not receiving any competitive grant funding. In addition, officials from one housing agency believed that larger housing agencies were able to put together better applications and were more likely to be awarded grants because they had professional staff in-house to put the applications together. Another housing official also felt that the process favored large housing agencies and preferred that HUD allocate the money using the same formula as other Recovery Act Capital Funds. Public housing industry officials correspondingly stated their desire for HUD to provide formula grants as opposed to competitive grants, since smaller members would be less likely to receive competitive grant funds than larger members.

Similarly, at least six public housing agencies we visited did not apply for Recovery Act competitive grants because of insufficient time and resources to do so. For example, officials from four housing agencies we visited stated they did not apply because they did not have enough time or

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<sup>53</sup>We visited 28 housing agencies that applied for competitive grants, including 18 that received competitive grant awards.

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staff to pull together the information required before the deadline. Agency officials from one housing agency stated they did not apply because they were not sure that they had the capacity to administer the competitive grant within the time frames specified in the Recovery Act. Another housing agency did not apply for competitive grants because of resource constraints. Housing officials at the agency questioned whether it was worthwhile to apply for some projects. They stated that it did not make sense to expend resources satisfying the multiple requirements to apply for competitive grants for fairly small projects, such as window replacements. HUD officials stated that if housing agencies did not have the capacity to apply for the competitive grants, this might be an indicator that they do not have the capacity to administer another grant. HUD officials noted that they developed an electronic version of the competitive grant application to simplify the process for housing agencies and extended the deadline for initial application submissions to enable smaller housing authorities to have sufficient time to submit an application.

Capacity issues also affected the ability of housing agencies to administer Recovery Act funds. According to recent reviews conducted by HUD's Office of Inspector General, some housing agencies had capacity deficiencies that limited their ability to effectively administer Recovery Act funds. For example, 1 housing agency that received approximately \$114,000 in capital funds under the Recovery Act did not have the capacity to administer these funds in accordance with applicable rules and regulations. The HUD Inspector General noted that this housing agency had been rated as troubled for years, and despite intense technical assistance from HUD was unable to establish sound financial and operational management.<sup>54</sup> In response to these findings, the housing agency has selected a management services agency to take over its management and has also entered into a memorandum of agreement with a local nonprofit agency to oversee its Recovery Act work. Another housing agency that received \$4.9 million in Recovery Act funds had weaknesses that the HUD Inspector General noted could adversely affect its ability to administer these funds, including failure to adequately document monitoring of its Capital Fund activities as well as not

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<sup>54</sup>HUD Office of Inspector General, *The Housing Authority of the City of Eloy Lacked Capacity to Administer Its Recovery Act Capital Fund Grant Without Outside Assistance*, 2009-LA-1021 (Sept. 25, 2009).

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## HUD Has Taken Steps to Help Housing Agencies Obligate Recovery Act Funds

maintaining complete contract files.<sup>55</sup> In response to these findings, the housing agency took actions to monitor and verify work performed by its contractor and noted that it had taken steps to ensure that an independent cost estimate is performed on every project.

HUD has taken several steps to assist public housing agencies in obligating Recovery Act funds. HUD officials stated in recent months they have been emphasizing the formula grant 1-year deadline of March 17, 2010, to housing agencies, and they pointed to notices, frequently asked questions, and Web seminars as evidence. In addition, they have stressed that the Recovery Act does not provide HUD with any way to grant exceptions or extensions. HUD will recapture any funds not obligated by the deadline and will reallocate those funds to other housing agencies. According to HUD officials, in November 2009 HUD field staff began to contact housing agencies that have not obligated any Recovery Act funds by phone, by e-mail, or in person in order to understand where these housing agencies are in the process of awarding contracts and obligating funds, and they continue to do so. They repeated the process for housing agencies below obligation levels of 100 percent in early December. For housing agencies that continued to struggle to obligate their funds, HUD officials said they provide additional technical assistance, including answering procurement questions. HUD officials noted that the technical assistance required varies by the size of the housing agencies and the tenure of their staff.

HUD has made progress in completing its remote and on-site reviews of housing agencies' administration of the Recovery Act for both nontroubled and troubled agencies, as determined under its Public Housing Assessment System.<sup>56</sup> According to HUD officials, HUD had completed remote reviews of all 172 troubled housing agencies by December 2009, and as of February 3, 2010, had completed 2,891 out of 2,950 remote reviews of nontroubled

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<sup>55</sup>HUD Office of Inspector General, *The East St. Louis Housing Authority Had Weaknesses That Could Affect Its Capacity to Administer Its Recovery Act Funding*, 2009-KC-1801 (Sept. 18, 2009).

<sup>56</sup>HUD developed the Public Housing Assessment System to evaluate the overall condition of housing agencies and to measure performance in major operational areas of the public housing program. These include financial condition, management operations, and physical condition of the housing agencies' public housing programs. Housing agencies that are deficient in one or more of these areas are designated as troubled performers by HUD and are statutorily subject to increased monitoring.

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housing agencies, which HUD planned to complete by January 15, 2010.<sup>57</sup> HUD officials also noted that on-site reviews are in progress. As of February 3, 2010, HUD field staff had completed all of the on-site reviews of troubled housing agencies. HUD had also completed 278 of 542 on-site reviews of nontroubled housing agencies, which were to be completed by February 15, 2010. According to HUD officials, these systematic reviews across the country have identified potential issues and led to better guidance to housing agencies on obligations and procurement policies, among other topics. For example, on December 11, 2009, HUD sent an e-mail to housing agencies clarifying the proper procedures for obligating and drawing down funds for administration of Recovery Act grants. HUD officials told us that they are developing additional guidance to be issued to housing agencies and field staff on topics including physical needs assessments and procurement issues.

To determine what additional steps HUD should take to assist housing agencies in meeting the March 2010 deadline for obligating 100 percent of Recovery Act funds, HUD field staff prepared status reports in December 2009 for housing agencies that had obligated less than 50 percent of their funds. As noted above, HUD has also decided to ask housing agencies to report obligations as funds are obligated—agencies usually report monthly—so that HUD can have up-to-date information to determine ongoing outreach and monitoring efforts, and notified all housing agencies of this reporting change in early December. HUD officials told us they are also creating a database to collect project-level information from its field offices on 985 formula grants, which will capture housing agency obligation and expenditure timeline projections and their backup plans for ensuring funds are obligated prior to the deadline.<sup>58</sup> In addition, HUD officials noted that they sent a letter to all housing agencies below 100 percent obligations as of February 12, 2010, with contact information for the HUD field offices. As the March deadline approaches, HUD officials expect more housing agencies will achieve 100 percent obligations, allowing HUD to better target its outreach efforts.

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<sup>57</sup>According to HUD officials, HUD staff have completed approximately 50 additional remote reviews, but these reports had not yet been uploaded to HUD's tracking system and therefore are not reflected in these figures.

<sup>58</sup>HUD officials noted that these 985 grants accounted for 90 percent of the funds awarded.

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HUD Administration of Recovery Act Funds Has Been Challenged by Capacity Issues and Would Benefit from a Management Plan

HUD has taken several steps in recent months to assist housing agencies with obligating funds prior to the March 2010 deadline. However, HUD's overall administration of Recovery Act funds as well as its existing Capital Fund program has been challenged over the past year by capacity issues that HUD has not addressed. As we reported in September 2009, the large response to HUD's Capital Fund Recovery Competition program created a slower than expected review process for HUD staff.<sup>59</sup> While HUD dedicated 40 to 50 staff members to review these applications, a number of applications had lengthy narratives needing review. HUD was required to complete these reviews and obligate all funds by September 30, 2009. In part because of dedicating so many staff members to reviewing competitive grant applications, HUD did not obligate fiscal year 2009 funds for its existing Capital Fund program until September 2009, 3 months later than anticipated. HUD officials emphasized that they obligated these funds by the end of the fiscal year.<sup>60</sup> According to public housing industry officials, while housing agencies understood that HUD was overwhelmed with Recovery Act issues, not having their regular capital funds when expected may have resulted in significant delays in capital expenditures. HUD staff then concentrated their efforts on the October 2009 recipient reporting period, when they were not only to help housing agencies comply with the reporting guidelines but also to conduct quality reviews of recipient-reported data. HUD officials told us that in November 2009, they were able to focus their efforts on trying to assist those housing agencies with low obligation rates in meeting the March 17, 2010, obligation deadline. Overall, HUD officials stated that their internal collaboration permitted it to distribute the workload and meet Recovery Act and ongoing program requirements. HUD also noted that it is now developing a second-year strategy for monitoring and overseeing housing agencies.

HUD has not yet finalized how it will reallocate formula grant funds not obligated by the March 17, 2010, deadline. While HUD's goal is that agencies achieve 100 percent obligations, officials said that realistically some housing agencies probably will not obligate all of their funds in time. HUD officials said that part of the process of reaching out to housing agencies with low obligations is to identify which housing agencies do not expect to make the deadline so that HUD can begin planning for

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<sup>59</sup>GAO, *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed*, [GAO-09-1016](#) (Washington, D.C.: Sept. 23, 2009).

<sup>60</sup>In comparison, HUD obligated its fiscal year 2008 capital funds in June 2008.

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recapturing and reallocating the funds. HUD officials have drafted a memorandum for recapturing and reallocating unobligated formula grant funds. The memorandum includes an outline of how and when HUD proposes to notify housing agencies at risk of not meeting the obligation deadline about the recapture process, how HUD proposes to recapture funds, and how the recaptured funds will be redistributed. However, HUD officials told us that they cannot establish a deadline for redistributing these funds until they determine the amount of funds to be recaptured. Finalizing this memorandum quickly would position HUD to meet Recovery Act goals of managing and expending the funds quickly.

HUD officials told us that given the additional responsibilities that would be associated with administering the Recovery Act funds, they conducted a personnel needs assessment in February 2009 but did not develop a management plan to determine how best to meet the competing demands of administering both the Recovery Act funds and the existing Capital Fund program. In its initial assessment, HUD determined that it would need to hire five staff members at the headquarters level to administer the new funds. As of December 2009, HUD had hired only three additional staff members and was in the process of hiring a fourth. HUD had canceled its solicitation for the fifth position, but as of December 2009 was working to reissue the solicitation. HUD officials also stated they had hired three additional staff members and were in the process of hiring a fourth to help with the existing capital funds program. At the Field Operations level, HUD hired two additional staff members to handle Recovery Act work. HUD officials noted that the agency has not developed a management plan that addresses all of its added responsibilities under the Recovery Act, although it did develop a spending plan for the approximately \$20 million it received to fund administration of the Recovery Act funds. HUD officials stated that it would be beneficial to determine the optimal level of resources needed to address all of the agency's added responsibilities under the Recovery Act. However, HUD has not done so because of the volume of daily work and near-term challenges associated with meeting Recovery Act deadlines. Instead of developing a formal plan for managing its resource needs, the agency has been addressing staffing needs for Recovery Act work by shifting resources between field offices and within headquarters on an as-needed basis rather than determining the most efficient use of its resources. A management plan would help HUD to identify not only any additional staffing needs but also how to most effectively use the resources it



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HUD and Public Housing  
Agencies Faced Challenges  
with Recipient Reporting  
during the First Reporting  
Period

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currently has.<sup>61</sup> Without a plan, HUD cannot be assured that its staffing levels are sufficient not only to administer its existing Capital Fund program but also to continue its administration of Recovery Act funds, including monitoring of housing agency obligations and expenditures, as well as potentially recapturing and reallocating any funds not obligated by HUD's deadlines.

For the first quarterly reporting period, ending on September 30, 2009, we found that a lack of system input controls in the FederalReporting.gov system made it difficult for HUD to locate and validate recipient data because some grantees had entered incorrect information.<sup>62</sup> For example, HUD initially achieved a reporting rate of approximately 84 percent because of a substantial number of housing agencies incorrectly entering values into certain identification (ID) fields, such as the award ID number, the awarding agency, or the type of funding received. HUD officials said the system did not have validation measures in place to ensure the correct award ID numbers were entered. In addition, housing agencies could not edit the award ID number without submitting a new report. For example, one housing agency official told us HUD instructed him to file a second recipient report with the correct award number, which led to two reports for the same award being posted on the Recovery.gov Web site for the first reporting period. The housing agency official told us he cannot delete a recipient report once it is created.<sup>63</sup> After an intensive review of all reports submitted with nonmatching award ID numbers and the Office of Management and Budget's (OMB) list of reports that could not be matched to a federal agency, HUD was able to determine a rate of reporting of approximately 96 percent. According to a HUD official, there were 152

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<sup>61</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

<sup>62</sup>The FederalReporting.gov system was created and managed by OMB and the Recovery Accountability and Transparency Board for all Recovery Act recipients to report on the nature of projects undertaken with Recovery Act funds and on job creation estimates.

<sup>63</sup>According to HUD officials, recipients have been able to deactivate reports in FederalReporting.gov for both reporting cycles. However, once the October 2009 reports were published on the Recovery.gov Web site, recipients were no longer able to deactivate those recipient reports in FederalReporting.gov or cause the reports to be taken down. In contrast, for the current reporting cycle Recovery.gov will be refreshed every 2 weeks beginning February 10, 2010, permitting regular updates from FederalReporting.gov, including the removal of deactivated reports, due to the newly instituted continuous corrections period. Despite this change, recipients remain unable to deactivate or modify reports in FederalReporting.gov from the October 2009 recipient reporting period that were already published in Recovery.gov.

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Capital Fund formula and competitive grant awards for which a report was required but for which no report was found. HUD officials told us they sent warning e-mails on December 4, 2009, to the 152 nonreporting housing agencies reminding them to report in the second reporting period.

In November 2009, OMB issued a memo requiring federal agencies to take steps to improve compliance with recipient reporting requirements in future reporting cycles. OMB requires agencies to identify and document any noncompliance, and continue to monitor recipients' reporting activity during the following reporting cycle. In cases where noncompliance appears to be fraudulent, OMB instructs the agency to refer the matter to the appropriate agency officials, such as the officer responsible for criminal investigation. HUD notes on its Web site that a housing agency's failure to report is a violation of the agreement it entered into with HUD in order to receive Recovery Act funds, which subjects the housing agency to further actions. HUD also developed a Recovery Act Non-Reporting Enforcement Plan in September 2009 that states that all recipients who fail to report in FederalReporting.gov by the end of their first applicable reporting cycle will receive a warning letter from HUD program staff. If recipients fail to report a second time, HUD will initiate further enforcement actions, which can include formal or informal hearings, suspension of access to funds, or other actions.

To address the issue of making corrections to recipient reports, in November 2009 HUD submitted recommendations to OMB that, among other things, allowed for (1) grantees to make corrections to the award number field after the initial reporting period or (2) the award number field to be validated against a list provided by the agency to OMB. Subsequently, OMB published guidance on December 18, 2009, that announced that starting with the data submitted for the current quarter, the FederalReporting.gov solution will be open for periods of continuous corrections of all data submitted. Furthermore, recipients will have the ability to make corrections up until the start of the next reporting period. The guidance also requires federal agencies to provide recipients with key award information such as the award number, funding agency code, and awarding agency code in a single source document by December 24, 2009. According to a HUD official, Office of Field Operations staff sent an e-mail for each grant on December 23 containing the data for the specified data fields, such as the award number, award amount, and award date, along with detailed instructions about reporting. The HUD official told us this information was sent again on January 13, 2010, to housing agencies that had not yet reported.

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According to HUD officials, public housing agencies encountered challenges related to registration and system access controls for the FederalReporting.gov system. For example, a housing agency official stated that she was initially unable to access the reporting system during the first round of recipient reporting because the personal identification number (PIN) was sent only to the housing agency's Executive Director, who could not be contacted. However, the housing agency official reported she was able to contact a support representative on October 10, at which point she received a temporary PIN and had no further problems submitting her report. The FederalReporting.gov system takes each recipient's point of contact information directly from the Central Contractor Registration (CCR), and if an organization changes its point-of-contact information, it takes 48 hours for FederalReporting.gov to receive the change and e-mail the Federal Reporting Personal Identification Number (FRPIN) and temporary password to the new point of contact. According to a HUD official, housing agencies are responsible for entering any changes in their contact information in the CCR system, but the housing agencies often do not update the system in time for access to be correctly transferred. HUD made an additional recommendation to OMB in November 2009 requesting an alternative procedure for validating reports or obtaining an FRPIN. However, the procedure for obtaining an FRPIN and validating recipient reports for the second reporting cycle still relies on point-of-contact information contained in the CCR system. A HUD official told us that OMB allows for sufficient feedback from federal agencies, but not all of HUD's recommendations could be accommodated in time for the January recipient reporting cycle.

As we reported in December 2009, during the first quarterly reporting period there was widespread misunderstanding by public housing agencies about OMB's methodology for calculating the number of jobs created or retained by the Recovery Act, in part because housing agencies are not familiar with reporting jobs information. In a few cases, we found that public housing agencies had reported the number of jobs created or retained into FederalReporting.gov without converting the number into full-time equivalents. In early September, HUD posted the OMB guidance from June 22, 2009, to its Web site and provided information by e-mail to housing agencies on registration for FederalReporting.gov, as well as links to Web seminars and training provided by OMB. HUD issued further guidance to public housing agencies by e-mail on September 25, 2009, approximately 2 weeks before the October 10, 2009, deadline for recipient reporting, providing templates and data dictionaries tailored to the Public Housing Capital Fund. HUD also posted a jobs calculator spreadsheet to its Web site, and HUD field staff directed housing agencies to this

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guidance when they asked specific questions about how to calculate jobs. HUD officials told us they did not have enough time to translate some of the terminology into concrete terms that would be clearer to housing agency officials, partly because of their continuing discussions with OMB on clarifying its guidance. According to a HUD official, HUD held a Web seminar in December 2009 on reporting jobs created as well as on reporting obligations.

The revised guidance OMB published on December 18, 2009, required federal agencies to submit their guidance documents to OMB for review and clearance by December 22, 2009, and from time to time thereafter as required by OMB in order to promote consistency between OMB guidance and agency supplemental guidance. According to a HUD official, HUD submitted two documents to OMB pertaining to job guidance on December 28. The first document was a bullet point summary of the December 18 OMB guidance followed by some hypothetical job-counting scenarios using HUD grantees. The HUD official told us OMB approved the use of this document and it is currently posted on HUD's Recovery Act Web site. HUD also provided its job-counting calculator spreadsheet to OMB according to the HUD official. The HUD official told us that OMB asked HUD not to use the calculator for the current reporting period because OMB wanted to have the opportunity to have several offices review the calculator before it is publicly released. As a result, the HUD official told us HUD did not distribute the jobs calculator spreadsheet to housing agencies.

HUD Is Improving Registration for the Recovery Act Management and Performance System and Expanding the System to Measure Performance Outcomes

HUD developed the Recovery Act Management and Performance System (RAMPS) to meet the requirements for reporting on environmental assessments as outlined in Section 1609 of the Recovery Act.<sup>64</sup> HUD officials said that while public housing agencies have had to comply with the National Environmental Policy Act (NEPA) since it was enacted in 1970, reporting on environmental assessments is a new requirement for public housing agencies. A HUD official told us most of the challenges that housing agencies faced with RAMPS during the first quarterly reporting period were related to registration and accessing the system rather than entering data. For example, some housing agencies reported having difficulty gaining access to RAMPS. An official from a public housing

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<sup>64</sup>Section 1609 of the Recovery Act requires that adequate resources be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act (NEPA) are completed expeditiously and that the shortest existing applicable process under NEPA shall be used.

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industry association told us that HUD has since conducted outreach programs to housing agencies regarding accessing RAMPS, which the industry group's members found to be effective. According to a HUD official, to ensure that housing agencies do not face similar registration issues in the future, HUD has registered all users from other HUD systems for RAMPS, where previously it registered only one administrative staff member per housing agency. Also, HUD centralized the registration process through its Recovery Act Web site. According to a HUD official, this required HUD to construct an agencywide access system that previously did not exist. HUD is also cleaning up data in order to resolve registration issues that were caused by data matching errors.

According to HUD guidance, HUD added a new core activities module to RAMPS to capture information at the project level on development, modernization, and energy efficiency work funded by the Recovery Act. Specifically, the core activities module of RAMPS collects information on units of affordable housing developed or modernized using Capital Fund Recovery Grant funds as well as data on energy efficiency improvements included in those units. A HUD official told us that HUD began collecting this information through RAMPS on December 29, 2009. A HUD official told us that in December 2009 HUD asked each housing agency to prepare a Recovery Act Performance Report as a temporary way of gathering this information. According to a HUD official, HUD populated RAMPS with the data collected through the Recovery Act Performance Reports, and housing agencies are updating the data in RAMPS during the current reporting cycle. The official told us he expects the data will be vastly improved both in RAMPS and in the recipient reports now that housing agencies have had experience with the systems and the data elements.

#### Recommendation for Executive Action

To help HUD achieve Recovery Act objectives and address challenges with its continued administration of Recovery Act funds, we recommend that the Secretary of Housing and Urban Development develop a management plan to determine the adequate level of agency staff needed to administer both the Recovery Act funds and the existing Capital Fund program going forward, including identifying future resource needs and determining whether current resources could be better utilized to administer these funds.

#### Agency Comments and Our Evaluation

We provided a draft of this report to HUD for review and comment. In a response from HUD's Director, Office of Capital Improvements, HUD noted that the report documented its efforts under way and the status of implementation of the Recovery Act work to date but thought the report could more fully reflect actions and achievements. In response, we

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provided greater descriptions of HUD's efforts to assist agencies applying for competitive grants and HUD efforts to monitor agencies with low obligation rates. HUD also provided some technical comments that we incorporated, as appropriate.

HUD did not concur with our recommendation to develop a management plan to determine the adequate level of staff needed to administer both the Recovery Act and the existing Capital fund program. HUD cited what it considered effective and efficient collaborative efforts to meet the requirements of the act. We continue to believe HUD would benefit from developing a management plan as it continues to address the Recovery Act challenges. In its comments, HUD notes that the competitive grant program has expanded the complexity of the program, and the increased focus on transparency and accountability has increased significantly its oversight and monitoring responsibilities. HUD has thus far relied on shifting resources to meet demands. However, we continue to believe that without a detailed management plan, HUD cannot be assured that its staffing levels are sufficient not only to administer its existing Capital Fund program but also to continue its administration of Recovery Act funds.

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### Most States Are Just Beginning to Use DOE's Weatherization Assistance Program Recovery Act Funds to Weatherize Homes

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, which the Department of Energy (DOE) is distributing to each of the states, the District of Columbia (District), and seven territories and Indian tribes. During the past 32 years, the program has helped more than 6.2 million low-income families by making such long-term energy-efficiency improvements to their homes as installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, and air conditioning equipment. These improvements enable families to reduce energy bills, allowing these households to spend their money on more pressing needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years.

During 2009, DOE obligated about \$4.73 billion of the Recovery Act's weatherization funding to the states, while retaining about 5 percent of funds to cover the department's expenses, such as those for training and technical assistance, and management and oversight for the expanded weatherization program. DOE first provided each state with the initial 10

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percent of its Recovery Act funds, which could be used for start-up activities such as hiring and training staff, purchasing needed equipment, and performing energy audits of eligible homes, among other things.<sup>65</sup> The District and the states in our review all received their initial 10 percent in March and April 2009.<sup>66</sup> DOE required each state to submit a weatherization plan outlining how it would use its Recovery Act weatherization funds before DOE provides states with the next 40 percent of their respective funds. These plans included the states' strategies for monitoring and measuring performance and the number of homes to be weatherized, among other things. By the time we issued our December Recovery Act report, DOE had approved the weatherization plans of all of the states, the District, and seven territories and Indian tribes.<sup>67</sup> Each now has access to 50 percent of its funds, and DOE plans to provide access to the remaining funds once a state has completed weatherizing 30 percent of the homes identified in its state weatherization plan. Under Section 1603 of the Recovery Act, funds are available for obligation by DOE until September 30, 2010, and DOE has indicated that the states are to spend the funds by March 31, 2012.

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<sup>65</sup>See GAO, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stress*, [GAO-09-829](#) (Washington D.C.: July 8, 2009).

<sup>66</sup>Our discussion on weatherization is primarily limited to the 16 states and the District of Columbia that are the focus of this report.

<sup>67</sup>See GAO, *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability*, [GAO-10-231](#) (Washington D.C.: Dec. 10, 2009).

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**Table 4: DOE’s Recovery Act Weatherization Assistance Program Obligations**

<b>Funding recipients</b>	
<b>States we reviewed</b>	<b>Total obligations</b>
Arizona	\$66,091,428
California	185,811,061
Colorado	79,531,213
District of Columbia	8,089,022
Florida	175,984,474
Georgia	124,756,312
Illinois	242,526,619
Iowa	80,834,411
Massachusetts	122,077,457
Michigan	243,398,975
Mississippi	49,421,193
New Jersey	118,821,296
New York	394,686,513
North Carolina	131,954,536
Ohio	266,781,409
Pennsylvania	252,793,062
Texas	326,975,732
<b>Other states and territories</b>	
Alabama	71,800,599
Alaska	18,142,580
American Samoa	719,511
Arkansas	48,114,415
Connecticut	64,310,502
Delaware	13,733,668
Hawaii	4,041,461
Guam	1,119,297
Idaho	30,341,929
Indiana	131,847,383
Kansas	56,441,771
Kentucky	70,913,750
Louisiana	50,657,478
Maine	41,935,015
Maryland	61,441,745



<b>Funding recipients</b>	
<b>Other states and territories</b>	<b>Total obligations</b>
Minnesota	131,937,411
Missouri	128,148,027
Montana	26,543,777
Nebraska	41,644,458
Nevada	37,281,937
New Hampshire	23,218,594
New Mexico	26,855,604
North Dakota	25,266,330
Northern Mariana Islands	795,206
Oklahoma	60,903,196
Oregon	38,512,236
Puerto Rico	48,865,588
Rhode Island	20,073,615
South Carolina	58,892,771
South Dakota	24,487,296
Tennessee	99,112,101
Utah	37,897,203
Vermont	16,842,576
Virginia	94,134,276
Virgin Islands	1,415,429
Washington	59,545,074
West Virginia	37,583,874
Wisconsin	141,502,133
Wyoming	11,195,471
<b>Total obligations: states and territories</b>	<b>4,728,750,000</b>
DOE departmental expenses, such as training and technical assistance, management and oversight, etc.	271,250,000
<b>Total obligations</b>	<b>\$5,000,000,000</b>

Source: GAO analysis of DOE information.

Although each state has access to half of its Recovery Act weatherization funds, the states have used only a small percentage of their available funds in 2009, mostly because state and local agencies needed time to develop the infrastructures required for managing the significant increase in weatherization funding and for ensuring compliance with Recovery Act

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Federal, State, and Local  
Governments Have  
Experienced Challenges Using  
Recovery Act Funds for  
Weatherization

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requirements.<sup>68</sup> According to DOE officials, many local weatherization agencies have been spending their DOE annual appropriation funds—which are not subject to some key Recovery Act requirements—to weatherize homes before using their Recovery Act funds. As of December 31, 2009, according to available DOE data, 47 states and 5 territories reported they had begun to use Recovery Act weatherization funds, while 3 states, the District of Columbia, and two Indian tribes reported they had not used any Recovery Act funds.<sup>69</sup> The 52 states and territories also reported that, as of December 31, 2009, they had spent about \$372 million, or about 8 percent, of the \$4.73 billion for weatherization activities. States and territories have separated their Recovery Act expenditures into various categories, including expenditures for program operations, administration, training and technical assistance, and other activities. According to DOE, variances among the states in the percentage of funds devoted to program operations reflect different levels of maturity in, for example, providing the infrastructure needed to manage the expanded weatherization program.

During 2009, federal, state, and local governments planning to use Recovery Act funds to weatherize homes were challenged by concerns about ensuring that weatherization activities complied with various requirements. A significant challenge involved compliance with Davis-Bacon provisions, which were applied by the Recovery Act to the weatherization program for the first time in 2009.<sup>70</sup> Specifically, weatherization contracts were delayed because state and local officials had concerns that wage rates for weatherization had not yet been determined by the Department of Labor (Labor). The Davis-Bacon provisions of the Recovery Act require that all laborers and mechanics employed by contractors and subcontractors on Recovery Act-funded projects be paid at least the prevailing wage, including fringe benefits, as determined by the Secretary of Labor. State and local officials also had concerns about whether local agencies could handle increased administrative tasks and had the proper infrastructure in place to administer the program requirements related to the Davis-Bacon

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<sup>68</sup>See [GAO-10-231](#).

<sup>69</sup>The quarter ending December 31, 2009, is the most recent quarter for which the states are required to report data under the Recovery Act. DOE officials noted that the states and territories also have access to annually appropriated funds for weatherization activities.

<sup>70</sup>The Davis Bacon Act is codified at 40 U.S.C. § 3141 et seq. The Recovery Act's Davis-Bacon provisions are located at section 1606 of the act.

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provisions. Finally, some state officials expressed concerns about compliance with the National Historic Preservation Act, specifically the increased number of homes that may fall under the protection of the act that require historic preservation reviews.<sup>71</sup>

Regarding the Davis-Bacon provisions, officials in about half of the states we reviewed had decided to wait to begin weatherizing homes until Labor had determined county-by-county prevailing wage rates for their state to ensure compliance with Davis-Bacon requirements. These officials explained that they wanted to avoid having to pay back wages to weatherization workers who started working before the prevailing wage rates were known.<sup>72</sup> Arizona officials said all but one of its local service providers decided to wait to weatherize homes using Recovery Act funds until the prevailing wage rates were determined because they were concerned about the time required to reconcile differences in wage rates. Similarly, Iowa officials told us paying back wages would be especially burdensome to smaller contractors. California officials were also concerned about the prevailing wage rates, and they wrote DOE to inquire about the possibility of requesting an exemption from the Davis-Bacon requirements for weatherization workers hired through the state's federal, state, and local workforce development partnerships aimed at creating training and employment opportunities for youth and dislocated workers. California officials told us that the application of Davis-Bacon provisions could weaken or eliminate workforce development as a significant component of its weatherization program, stating that paying prevailing wages to the inexperienced, entry-level workers typically hired through these programs would not be appropriate.<sup>73</sup> According to DOE officials, as a result of these concerns, some local agencies held off on spending their Recovery Act money, instead spending money obtained from DOE's

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<sup>71</sup>Pub. L. No. 89-665, 80 Stat. 915 (codified as amended at 16 U.S.C. § 470 et seq.).

<sup>72</sup>In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they pay construction workers at least Labor's wage rates for residential construction, or an appropriate alternative category, and compensate workers for any differences if Labor establishes a higher local prevailing wage rate for weatherization activities.

<sup>73</sup>According to Labor officials and guidance provided on its Web site, individuals who meet Labor's definition of apprentices and trainees may be paid a percentage of the journeyman rate on the wage determination. To do so, however, these individuals must be participating in a program that has been registered with Labor or with a State Apprenticeship Agency recognized by Labor.

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annual appropriations—which are not subject to Davis-Bacon requirements. However, one of the states we reviewed, Ohio, started to use Recovery Act funds before wage rates were determined. While officials in about half of the states reviewed were concerned about prevailing wage rates prior to Labor’s determination, officials in North Carolina and Mississippi were not concerned because they expected that the prevailing wage rates would be similar to the existing wages being paid to weatherization workers.

On September 3, 2009, Labor completed its initial determination of wage rates for weatherization work conducted on residential housing units in each county of the 50 states and the District.<sup>74</sup> However, state and local officials in several states expressed concern over the need to use different wage rates for weatherization activities in different types of buildings. Labor determined that the revised prevailing wage rates for weatherization workers were limited to multifamily residential buildings of four or fewer stories. However, Labor’s commercial building construction wage rates (which apply to plumbers, carpenters, and other laborers) apply to multifamily residential buildings of five or more stories. As a result, local agencies conducting weatherization work on multifamily units in high-rise buildings must pay their workers wage rates that can be significantly higher than what local agencies pay weatherization workers for residential housing units. For example, in New York County (Manhattan), commercial prevailing wage rates were three times the rates for residential weatherization laborers. Representatives of two local agencies in New York told us that they intend to subcontract out all weatherization work conducted on buildings over four stories because they could not pay their workers vastly different wages based on the type of building involved. According to Ohio officials, some local agencies had delayed projects in larger multifamily buildings until they could better estimate project costs. Under 10 CFR §440.21(d), weatherization materials installed must be cost effective, resulting in energy cost savings over the lifetime of the measure. However, because of higher wage rates required for weatherization work done on building of five or more stories (high-rise buildings), materials installed on high-rise buildings may not have been able to meet the cost-effectiveness requirement established by regulation. In response to states’ concerns, DOE’s November 10, 2009, guidance allows the states to calculate the cost effectiveness over the lifetime of a project by using the new weatherization wage rates rather than the prevailing commercial

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<sup>74</sup>The wage rates were revised in December 2009.

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wages for plumbers, carpenters, and other laborers working on high-rise buildings.

Concerns about administrative burdens of the Davis-Bacon provisions also affected use of Recovery Act funds in several states. For example, several state agencies delayed disbursing Recovery Act funds to local agencies because of concerns about the impact of these administrative tasks on small contractors, citing that these contractors generally have fewer resources and less experience with accounting processes. Some state agency officials said they were not satisfied that local agencies had the proper administrative infrastructure in place to comply with Davis-Bacon requirements, including the requirement that contractors submit weekly certified payroll records to the contracting agency. For example, Pennsylvania officials told us that delays occurred because some local agencies had initially submitted management plans that had not included language describing how they would comply with the Davis-Bacon requirements. In California, where according to state officials local agencies must certify that they can comply with the Davis-Bacon requirements before these agencies are provided with Recovery Act funds to weatherize homes, only 2 of California's 35 local agencies that were awarded Recovery Act funds accepted these required amendments by the initial October 30, 2009, deadline.

Many state and local agencies took time to hire additional staff or make infrastructure upgrades to better ensure compliance with administrative requirements. For example, Michigan officials told us their agency planned to add 22 staff members, including a Davis-Bacon analyst, and told us that federal administrative requirements, such as weekly certified payroll, required them to make technological upgrades in their weatherization division to ensure compliance with Recovery Act requirements. District of Columbia officials told us that their agency had not expended Recovery Act funds to weatherize homes because they have been developing the infrastructure to administer the program by, for example, hiring new staff. Local agencies in California, Michigan, New York, and Ohio had also hired new staff to process Davis-Bacon paperwork.

State officials noted that the National Historic Preservation Act may present another challenge that could slow the use of the Recovery Act's

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weatherization funds.<sup>75</sup> Enacted in 1966, the National Historic Preservation Act requires federal agencies to, among other things, take into account the effect of any federal or federally assisted undertaking on historical properties included in a national register of historic sites, buildings, structures, and objects. Michigan state officials told us that, under the act, its State Historic Preservation Office is allowed to conduct a historic review of every home over 50 years of age if any work is to be conducted. They explained that, in Michigan, this could mean an estimated 90 percent of the homes to be weatherized would need such a review, which could cause significant delays. However, in November 2009, Michigan state officials signed an agreement with the State Historic Preservation Office that is designed to expedite the review process. With this agreement in place, state officials said they are confident that the historic preservation requirements can be met without causing further delays. New York officials told us that several entire neighborhoods in their state fall under the protection of the act and noted that the State Historic Preservation Office may have to conduct a review before any residential units in such a neighborhood can be weatherized. State officials in Iowa expressed similar concerns. State officials in New York and Iowa have contacted their respective historic preservation offices to develop approaches for addressing the review process.

**DOE Has Issued Guidance to Mitigate Risk in the Weatherization Program, but Federal, State, and Local Agencies Face Challenges in Monitoring the Use of Recovery Act Weatherization Funds**

DOE has issued guidance requiring recipients of Recovery Act weatherization funds to implement a number of internal controls to mitigate the risk of fraud, waste, and abuse.<sup>76</sup> Specifically, DOE requires state weatherization agencies to conduct on-site monitoring of all weatherization service providers to inspect the management of funds and the production of weatherized homes.<sup>77</sup> These monitoring visits consist of a financial review of the service provider's records pertaining to salaries, materials, equipment, and indirect costs; program reviews of the service provider's records, contracts, and client files; and a production review, consisting of the inspection of weatherized homes by the state agencies and by the service provider. DOE requires that each state agency inspect

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<sup>75</sup>DOE officials told us in January 2010 that they were in the process of developing an agreement with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers to create a manageable framework for streamlining DOE's compliance with the requirements of the National Historic Preservation Act.

<sup>76</sup>See, for example, DOE, "Weatherization Program Notice 09-1B" (Mar. 12, 2009).

<sup>77</sup>Service providers weatherize homes; local agencies manage service providers but are sometimes qualified to provide weatherization services themselves.

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at least 5 percent of the weatherized units and each service provider inspect all of the completed units or units in the process of being weatherized. If an inspection reveals reporting inconsistencies, quality control issues, or other problems, the state agency is required to increase the number of units monitored and frequency of inspection. DOE is implementing an enhanced monitoring plan that would allow DOE's weatherization project officers to track each state's performance. As part of this enhanced monitoring, DOE submitted a deviation request to the Office of Management and Budget (OMB) to require the states to submit monthly, rather than quarterly, reports. OMB approved this request on December 1, 2009. As a result of the significant increase in program funding, many of the states are reporting a need to increase staff to implement internal controls.

DOE is hiring staff to provide national oversight to the Recovery Act weatherization program. DOE officials told us that each state will be assigned a project officer who will review the state's fiscal and programmatic reports. Project officers will also be responsible for coordinating site visits to the state and local agencies responsible for weatherization, as well as visiting a sample of projects being weatherized with Recovery Act funds.

DOE provides state agencies with the discretion to develop and implement these internal controls in accordance with each state's weatherization plan. One way that state officials can determine the effectiveness of a recipient's internal controls is through an assessment conducted as part of the Single Audit Act.<sup>78</sup> These audits review the performance and management of nonfederal entities receiving \$500,000 or more in federal awards. Some state weatherization programs, however, have been considered too small to be monitored during the state's Single Audit. Other risk mitigation strategies include annual reviews of independent auditors' reports, increased frequency of on-site monitoring of service providers and weatherized homes, fraud detection training, the requirement of monthly reports from service providers, and the use or proposed use of a Web-

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<sup>78</sup>The Single Audit Act of 1984, as amended (31 U.S.C. §§ 7501-7507), requires that each state, local government, or nonprofit organization that expends at least a certain amount per year in federal awards—currently set at \$500,000 by OMB—must have a Single Audit conducted for that year subject to applicable requirements, which are generally set out in OMB Circular No. A-133, Audits of States, Local Governments and Non-profit Organizations (June 27, 2003). If an entity expends federal awards under only one federal program and when federal laws, regulations, or grant agreements do not require a financial statement audit of the entity, the entity may elect to have an audit of that program.

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based reporting database. Some states, however, believe that current controls are sufficient, but they will need to hire additional staff to accommodate the increase in Recovery Act funding.

While the states have spent relatively little of their total funds and we have reviewed weatherization activities in only a few locales, we have identified challenges for DOE and the states to address in order to ensure that Recovery Act funds are spent prudently and that the performance of local agencies is well-managed. For example, in Ohio we found during our site visits that grantees had inconsistent practices for reporting the number of homes weatherized and, in one case, a grantee used Recovery Act funds to weatherize the home of an ineligible applicant. Faced with these early implementation challenges, on November 20, 2009, Ohio officials issued new guidance to all state agencies regarding reporting requirements. The guidance indicated that state officials will begin administrative monitoring in December 2009 and fiscal monitoring in January 2010. Challenges in Pennsylvania include expanding the state's oversight capacity, training and certifying of weatherization workers, and implementing a statewide procurement system for weatherization materials purchased with Recovery Act funds. Among the challenges that California will be handling will be the monitoring of local agencies. For example, the state's Inspector General has identified one local agency designated as high risk because of questionable spending.<sup>79</sup>

Some state officials have also cited the substantial influx of new money as a reason to audit the spending of weatherization funds. For example, because of the large increase in weatherization funding received by Texas, the Internal Auditor of the Texas Department of Housing and Community Affairs is currently auditing the department's monitoring and oversight of the program. Also, in a few states, prior audits have identified deficiencies in weatherization programs. For example, Michigan's State Auditor General found that the Michigan Department of Human Services' internal controls over the weatherization program did not ensure compliance with federal laws and regulations regarding subrecipient monitoring during the 2-year period that ended on September 30, 2008.

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<sup>79</sup>A November 3, 2009, press release issued by the State of California Office of the Inspector General noted serious problems with the Economic Opportunity Council of San Francisco, including financial management deficiencies.



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Reporting on the Impacts of  
Recovery Act Funds Is Still  
Limited

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Local agencies also utilize risk assessments to prevent fraudulent or wasteful use of Recovery Act funds. For example, some local agencies reported that new contractors are subjected to a higher level of scrutiny than more experienced contractors. Local agency officials in New York, California, and Ohio told us a long history of weatherization service mitigates the risk that a contractor will improperly use funds. Furthermore, most local agencies have procedures in place to ensure they do not contract with service providers that have been placed on the “Excluded Parties List” due to a history of fraudulent business practices.<sup>80</sup> Local agencies reported the most common procedure to evaluate a contractor’s reputation was to check the contractor’s name online against the “Excluded Parties List.” Other local agencies require contractors to sign documentation stating that they have not been debarred or bankrupt.

In March 2009, DOE issued guidance that directed the states to report on the number of housing units weatherized and the resulting impacts to energy savings and jobs created and retained at both the state and local agency level. However, reporting about impacts, especially energy savings, is still somewhat limited. On February 24, 2010, DOE reported that 30,252 homes have been weatherized with Recovery Act funds as of December 31, 2009. This represents about 5 percent of the approximately 593,000 total homes that DOE originally planned to weatherize using Recovery Act funds.<sup>81</sup> In addition, available data shows that about 8,500 jobs have been created through the use of Recovery Act weatherization funds.<sup>82</sup> But although many local officials have collected data about new hires, none

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<sup>80</sup>The General Services Administration maintains the Excluded Parties List System, which identifies parties excluded from receiving federal contracts, certain subcontracts, and certain other assistance and benefits. In [GAO-09-174](#), Excluded Parties List System: Suspended and Debarred Businesses and Individuals Improperly Receive Federal Funds, we recommended that the General Services Administration take actions to strengthen controls over the system.

<sup>81</sup>DOE collects data reported by states and territories on the number of homes weatherized and on state and territory expenditures of funds on a quarterly basis. The data reported by states as of a certain date (such as for the quarter ending December 31, 2009) can change as states finalize figures for homes weatherized and funds spent. For example, in January, 2010, DOE reported that about 9,100 homes had been weatherized as of December 31, 2009. DOE originally planned to weatherize about 593,000 homes with Recovery Act funding by March 31, 2012. A DOE report issued on February 24, 2010, indicated that 30,252 homes had been weatherized nationwide as of December 31, 2009.

<sup>82</sup>According to the guidance issued by OMB on December 18, 2009, the estimate of the number of jobs created or retained by the Recovery Act should now be expressed as full-time equivalents (FTE).

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could provide us with data on energy savings. Contributing to the lack of information about impacts is that most state and local agencies either are just beginning to use Recovery Act funds to weatherize homes or have not yet begun to do so.

Some states told us they plan to use performance measures developed by DOE, while others have developed their own measures. For example, Florida officials told us they plan to measure energy savings by tracking kilowatts used before and after weatherization, primarily with information from utility companies. In addition, local agencies in some states either collect or plan to collect information about other aspects of program operations. For example, local agencies in both California and Michigan collect data about customer satisfaction. In addition, a local agency in California plans to report about obstacles, while an agency in New York will track and report the number of units on the waiting list.

In regard to recipient reporting, officials in all eight states that we reviewed for the December Recovery Act report said they submitted these reports on schedule, although weatherization officials from Massachusetts and Ohio cited issues with the reporting requirements that existed prior to the changes that came about as a result of the December 18, 2009, guidance. In Massachusetts, state officials told us of confusion that had been associated with terminology related to new or retained jobs, and local officials said that the Massachusetts Recovery and Reinvestment Office requires additional information about demographics not required by OMB. Ohio officials told us that for reporting purposes, they had estimated the number of jobs that could potentially be created. The inconsistency between potential positions and actual hours worked resulted in an inaccurate reporting of jobs created. One of the local agencies we visited reported 36 jobs created, but officials acknowledged they had only filled 20 positions at the time of our visit. Another local agency reported 14 agency and 8 contractor jobs created, but an official confirmed that only 6 agency and 7 contractor positions had been filled. According to Ohio officials, the process followed by the local agencies that resulted in these inaccurate reports of jobs created has since been corrected in the second quarter recipient reports.

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## WIA Youth Program Outcomes Show States Provided Many Youth with Summer Employment and Training Opportunities

The Recovery Act provides an additional \$1.2 billion in funds for Workforce Investment Act (WIA) Youth Program activities, including summer employment.<sup>83</sup> Administered by the Department of Labor (Labor), the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act also extended eligibility through age 24 for youth receiving services funded by the act. While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,<sup>84</sup> the conferees stated that they were particularly interested in states using these funds to create summer employment opportunities for youth. While summer employment is a required component of the WIA Youth Program, Labor issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.<sup>85</sup> Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component.

Gearing up to provide or expand summer employment activities presented challenges for many state and local areas. Once the Recovery Act was passed, officials had a few months to get their summer youth employment activities up and running. Moreover, in implementing the year-round service requirements of the WIA Youth Program, many states and local areas had greatly reduced their summer youth employment programs and no longer offered a stand-alone summer program—or they had found funding sources other than WIA, such as state, local, or foundation funds, to cover it. Local areas without recent experience had to build the program from the ground up.

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<sup>83</sup>For purposes of the Recovery Act funds, the period of “summer” is from May 1 through September 30.

<sup>84</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>85</sup>Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

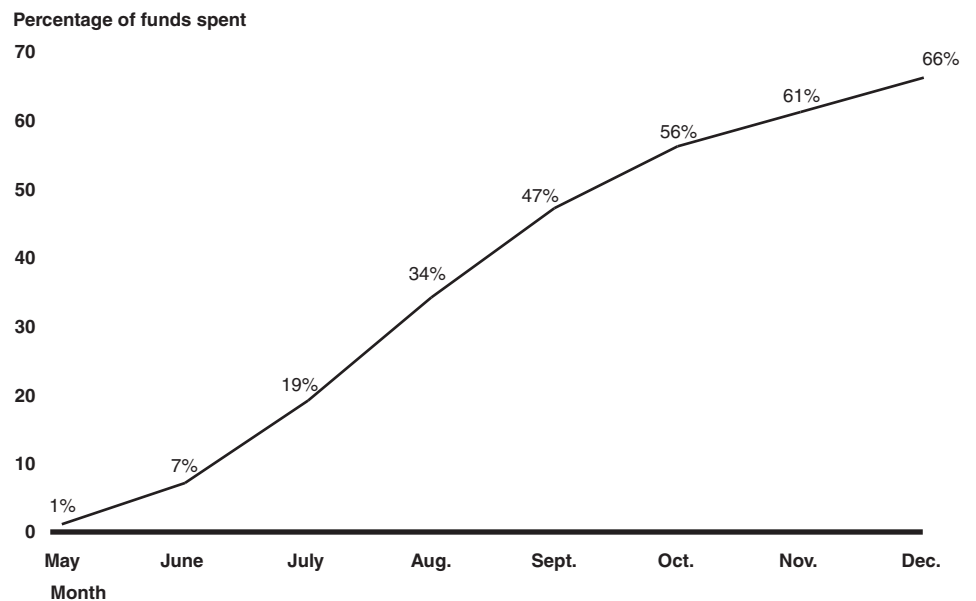
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States Have Drawn Down  
about Two-thirds of Funds

As of December 31, 2009, 66 percent of Recovery Act WIA youth funds (\$765 million) had been drawn down nationwide, according to Labor data—an increase of 32 percentage points from the 34 percent we reported as of August 31, 2009 (see fig. 13).

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**Figure 13: National Drawdown Rates for Recovery Act Funds for the WIA Youth Program, as of December 31, 2009**



Source: GAO analysis of Department of Labor data.

Among the 16 states, the percentage drawn down ranged from 51 percent for Arizona to 82 percent for Mississippi (see table 5).

**Table 5: Selected States' Drawdowns of Recovery Act WIA Youth Funds and Drawdowns Nationwide as of December 31, 2009**

Dollars in millions

State	Allotment	Amount drawn down	Percentage drawn down
Arizona	\$17.8	\$9.1	51
California	186.6	99.9	54
Colorado	11.9	8.3	70
Florida	42.9	31.9	74
Georgia	31.4	23.1	74
Illinois	62.2	44.5	72
Iowa	5.2	3.9	75
Massachusetts	24.8	15.7	63
Michigan	73.9	51.4	70
Mississippi	18.7	15.3	82
New Jersey	20.8	12.4	60
New York	71.5	41.6	58
North Carolina	25.0	16.9	68
Ohio	56.2	40.0	71
Pennsylvania	40.6	21.5	53
Texas	82.0	62.0	76
<b>Nationwide</b>	<b>\$1,167.2</b>	<b>\$765.0</b>	<b>66</b>

Source: GAO analysis of Department of Labor data.

Recovery Act-Funded WIA Youth Program Served over 355,000 Youths

Nationwide, as of November 30, 2009, 355,320 youths had participated in Recovery Act-funded WIA youth activities—a 20 percent increase from the 297,169 youth who had participated as of July 31, 2009. Sixty-four percent of youth participants were 14 to 18 years old, making up the largest category of participants. Nine percent of youth were ages 22 to 24, the new age category authorized under the Recovery Act. Of the youth served with Recovery Act funds, 36 percent were out-of-school youth.<sup>86</sup> Table 6 provides information on WIA youth served with Recovery Act funds nationwide and in our 16 study states.

<sup>86</sup>Under WIA, local areas must ensure that a minimum of 30 percent of funds, including Recovery Act funds, are used for serving out-of-school youth.

**Table 6: WIA Youth Served with Recovery Act Funds in Selected States and Nationwide, as of November 30, 2009**

State	Number served <sup>a</sup>	Percentage who were 14-18 years old	Percentage who were 19-21 years old	Percentage who were 22-24 years old	Percentage who were out-of-school youth
Arizona	3,404	75	19	6	31
California	45,267	68	24	8	41
Colorado	3,328	69	24	7	40
Florida	14,548	62	27	11	39
Georgia	11,192	72	21	7	30
Illinois	17,868	64	26	10	46
Iowa	1,375	52	35	14	45
Massachusetts	6,917	79	16	5	25
Michigan	20,649	68	23	9	33
Mississippi	6,742	62	27	10	46
New Jersey	6,195	62	27	10	42
New York	25,323	71	21	7	27
North Carolina	6,436	65	25	10	42
Ohio	17,861	56	30	13	39
Pennsylvania	9,359	68	24	7	29
Texas	24,669	67	23	9	29
<b>Total for 16 states</b>	<b>221,133</b>	<b>67</b>	<b>24</b>	<b>9</b>	<b>36</b>
<b>Nationwide</b>	<b>355,320</b>	<b>64</b>	<b>24</b>	<b>9</b>	<b>36</b>

Source: Department of Labor data based on information reported by the states.

Note: The sum of percentages for youth in the age categories of 14-18, 19-21, and 22-24 in each of the states may not equal 100 percent due to rounding. According to Labor, nationwide totals do not equal 100 percent due to data reporting issues in some of the other states and territories.

<sup>a</sup>According to Labor, this represents the number of WIA youth served with Recovery Act funds, which includes those youth who participated in summer employment or other allowable WIA activities during the summer months.

Nationwide, of the youth who participated in Recovery Act-funded WIA youth activities, 313,821—88 percent—were placed in summer employment, according to Labor’s data. Eighty-two percent of youth placed in summer employment completed their work experience, as shown in table 7.<sup>87</sup>

<sup>87</sup>The summer employment completion rate represents the percentage of youth who completed their summer work experience without dropping out prior to the scheduled end date of the work experience.

**Table 7: Recovery Act-Funded WIA Youth Participation in Summer Employment in Selected States and Nationwide, as of November 30, 2009**

<b>State</b>	<b>Number of youth placed in summer employment</b>	<b>Percentage who completed their summer employment</b>
Arizona	2,982	89
California	42,066	87
Colorado	3,138	80
Florida	13,652	92
Georgia	11,027	91
Illinois	16,626	81
Iowa	1,270	80
Massachusetts	6,795	92
Michigan <sup>a</sup>	18,364	68
Mississippi	6,543	75
New Jersey	5,888	32
New York	23,888	85
North Carolina	6,436	71
Ohio	10,481	85
Pennsylvania	9,238	74
Texas	21,851	87
<b>Total for 16 states</b>	<b>200,245</b>	<b>82</b>
<b>Nationwide</b>	<b>313,821</b>	<b>82</b>

Source: Department of Labor data based on information reported by the states.

<sup>a</sup>Because of delayed reporting, Michigan's denominator for its summer employment completion rate does not include the full cohort of youth who were placed in employment and may be understated by about 2,918 youth. Labor officials told us that some other states may have also underreported this data element, but to a much lesser extent.

Those youth participating in Recovery Act-funded WIA youth activities who were not placed in summer employment included younger in-school youth and older youth who were participating in other allowable WIA youth activities, within and outside of the summer months, such as career exploration, classroom training, employment preparation services, and academic improvement services, according to Labor.

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Three Quarters of Youth  
Participants Achieved a Work  
Readiness Skill Goal

The Recovery Act requires that only the work readiness measure, also referred to as the work readiness attainment rate, be used to assess the effects of the summer-only youth employment activities. This measure is defined as the percentage of participants in summer employment who attain a work readiness skill goal. A work readiness skill goal is defined as

“a measurable increase in work readiness skills including world-of-work awareness, labor market knowledge, occupational information, values clarification and personal understanding, career planning and decision making, and job search techniques (resumes, interviews, applications, and follow-up letters). It may also encompass survival/daily living skills such as using the phone, telling time, shopping, renting an apartment, opening a bank account, and using public transportation. It may also include positive work habits, attitudes, and behaviors such as punctuality, regular attendance, presenting a neat appearance, getting along and working with others, exhibiting good conduct, following instructions and completing tasks, accepting constructive criticism from supervisors and co-workers, showing initiative and reliability, and assuming the responsibilities involved in maintaining a job. It entails developing motivation and adaptability, obtaining effective coping and problem-solving skills, and acquiring an improved self-image.”<sup>88</sup>

Nationwide, the work readiness attainment rate was 75 percent. This is a good baseline that shows a high level of achievement but leaves room for growth, according to a Labor official. Among the 16 states, the work readiness attainment rates ranged from 22 percent in New Jersey to 91 percent in Georgia (see table 8).

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<sup>88</sup>Department of Labor, Attachment B-Training and Employment Guidance Letter No. 17-05 (Feb. 17, 2006).



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**Table 8: Work Readiness Attainment Rate for Youth in Summer Employment in Selected States and Nationwide, as of November 30, 2009**

<b>State</b>	<b>Work readiness attainment rate</b>
Arizona	87%
California	74%
Colorado	79%
Florida	87%
Georgia	91%
Illinois	80%
Iowa	79%
Massachusetts	85%
Michigan	68%
Mississippi	72%
New Jersey	22%
New York	83%
North Carolina	62%
Ohio	89%
Pennsylvania	72%
Texas	83%
<b>Nationwide</b>	<b>75%</b>

Source: Department of Labor.

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## The Second Round of Recipient Reporting Showed That Improving Data Quality Is a Work in Progress

The Recovery Act mandates that we comment on the estimates of jobs created or retained as reported by recipients of Recovery Act funding. Our initial report on November 19, 2009<sup>89</sup> covered the first period of recipient reports including activity since the Recovery Act's passage in February 2009 through the quarter ending September 30, 2009. This section discusses our comments on the second round of recipient reports covering the period October 1, 2009, through December 31, 2009.

The raw data from recipients of federal contracts, grants, and loans from the first round of recipient reporting contained many recipient mistakes. For the second submission of reports, because many first round recipients did not understand how to report correctly the number of jobs created or

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<sup>89</sup> [GAO-10-223](#).

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retained, OMB clarified its guidance and is working with federal agencies to improve the agencies' reviews of recipient data for mistakes and other problems. In addition, for this second round of reporting, the Board developed technical and content changes to try to help improve the quality of recipient data and streamline the reporting process.

On January 30, 2010, the Board published the results of the second round of recipient reporting on Recovery.gov. According to the Web site, recipients submitted over 160,000 reports indicating that the Recovery Act funded nearly 600,000 jobs during the quarter ending December 31, 2009. As reported by the Board, the job calculations are based on the number of hours worked in a quarter and funded under the Recovery Act. The data also solely reflect the direct hours worked and funded by the Recovery Act and reported by recipients of grants, contracts, and loans.

While significant issues remain, the second round of recipient reporting appears to have gone more smoothly as recipients have become more familiar with the reporting system and requirements. OMB and the Board's responsiveness to feedback and lessons learned during the first round led to new simplified jobs reporting guidance and system enhancements that we believe will ultimately improve data quality and reliability. This round of reporting represents somewhat of a transition as recipients worked to implement the new reporting guidance, but clearly progress was achieved in addressing some of the major data quality and reporting issues identified in the first round. As recipient reporting moves forward, we will continue to review the processes that federal agencies and recipients have in place to ensure the completeness and accuracy of data.

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## Economic Methods and Recipient Reports Together Are Needed to Provide Insight into the Employment Effects of Fiscal Stimulus

Tracing the effects of the Recovery Act through the economy is a complicated task. Prospectively, before the act's passage or before funds are spent, the effects can only be projected using economic models that represent the behavior of governments, firms, and households. While funds are being spent, some effects can be observed but often relevant data on key relationships and indicators in the economy are available only with a lag, thereby complicating real-time assessments. When a full range of data on outcomes becomes available, economic analysts undertake retrospective analyses, where the findings are often used to guide future policy choices and to anticipate effects of similar future policies. Stimulus spending under the broad scope of the Recovery Act will reverberate at the national, regional, state, and local levels. Models of the national economy provide the most comprehensive view of policy effects, but they do not provide insight, except indirectly, about events at smaller

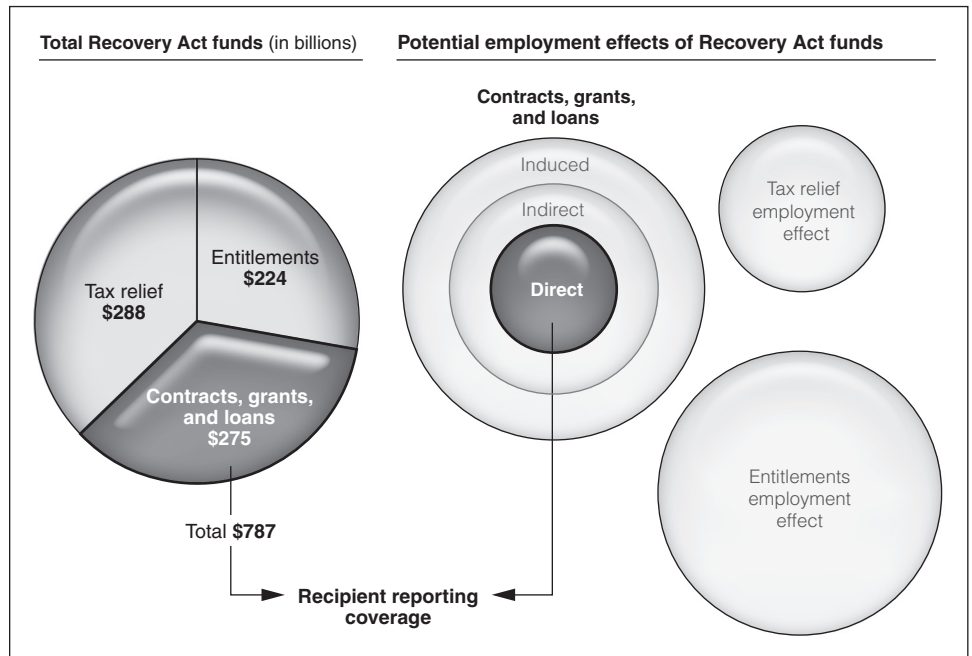
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geographical scales. The diversity and complexity of the components of the national economy are not fully captured by any set of existing economic models. Some perspective can be gained by contemporaneous close observation of the actions of governments, firms, and households, but a complete and accurate picture of the Recovery Act's impact will emerge only slowly. The information reported by recipients can provide such insight into the use and impact of Recovery Act funds in local communities and regions.

The recipient reports are not estimates of the effects of the Recovery Act, although they do provide a real-time window on the aftermath of Recovery Act spending. Recipients are expected to report accurately on their use of funds; recipients are not required to say what they would have done without the benefit of the program. Neither the recipients nor analysts can identify with certainty the impact of the Recovery Act because of the inability to compare the observed outcome with the unobserved, counterfactual scenario (in which the stimulus does not take place). At the level of the national economy, models can be used to simulate the counterfactual. At smaller scales, comparable models of economic behavior either do not exist or cover only a very small portion of all the activity in the macroeconomy.

In interpreting recipient reporting data, it is important to recognize that the recipient reporting requirement covers a defined subset of the Recovery Act's funding. The reporting requirements apply to nonfederal recipients of funding, including all entities receiving Recovery Act funds directly from the federal government, such as state and local governments, private companies, educational institutions, nonprofits, and other private organizations. OMB guidance, consistent with the statutory language in the Recovery Act, states that these reporting requirements apply to recipients who receive funding through the Recovery Act's discretionary appropriations, not recipients receiving funds through entitlement programs, such as Medicaid, or tax provisions. Recipient reporting also does not apply to individuals. In addition, the required reports cover only direct jobs created or retained as a result of Recovery Act funding; they do not include the employment impact on materials suppliers (indirect jobs) or on the local community (induced jobs). Figure 14 shows the division of total Recovery Act funds and their potential employment effects.

**Figure 14: The Potential Employment Effects of Recovery Act Funds**



Source: GAO.

Note: The potential employment effects of the different types of Recovery Act funds are based on historical data and are reflected in the size of the circles. The amounts shown reflect the original cost estimate of the Recovery Act as reported on Recovery.gov.

Recipients are to file reports for any quarter in which they receive Recovery Act funds directly from the federal government, and recipients are to submit reports no later than 10 days after the end of each calendar quarter in which they received Recovery Act funds. Each report is to include the total amount of Recovery Act funds received, the amount of funds expended or obligated to projects or activities, and a detailed list of those projects or activities. For each project or activity, the detailed list must include its name and a description of the project or activity, an evaluation of its completion status, and an estimate of the number of jobs created or the number of jobs retained by that project or activity. Certain additional information is also required for infrastructure investments made by state and local governments.

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## Updated OMB Guidance and Board Procedures Changed Important Reporting Elements for Recipients

In response to suggestions made by recipients, agencies, our recommendations, and others, on December 18, 2009, OMB issued a memorandum for the heads of executive departments and agencies updating its guidance on the Recovery Act, data quality, nonreporting recipients, and reporting of job estimates, among other important reporting requirements.<sup>90</sup> The updated guidance standardized the period of measurement of jobs created or retained as one quarter and removed the requirement that recipients must sum various data on hours worked across multiple quarters of data when calculating jobs estimates. OMB now defines FTEs as the total number of hours worked and funded by Recovery Act dollars within the reporting quarter divided by the quarterly hours in a full-time schedule. The guidance also removed the need for recipients to make a judgment on whether jobs were created or retained because of the Recovery Act and made more explicit that jobs created or retained are to be reported as hours worked and paid for with Recovery Act funds. The guidance further clarified that jobs are to be counted only if a recipient will eventually be reimbursed with Recovery Act funding and specified that jobs will be counted based on the proportion of Recovery Act funding provided for the job. In addition, the guidance provided a series of practical examples of how the simplified formula for jobs calculation should be applied.

The updated guidance also provided federal agencies with a list of minimum actions that they must conduct regarding data quality reviews including a review of significant errors in high priority data fields and material omissions. Material omissions include not reporting on a received award, or data in a report that is not responsive to a specific data element. Federal agencies will be required to evaluate continuously recipient and subrecipient efforts to meet recipient reporting requirements, as well as the requirements of OMB implementing guidance and any relevant federal program regulations. The guidance requires that federal agencies inform OMB of recipients who are noncompliant because they did not report on their uses of funds and FTEs created or retained.

Additionally, the Board modified its procedures to (1) permit continual correction by recipients of data in FederalReporting.gov beginning February 2, 2010, as well as continuous review by federal agencies; (2)

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<sup>90</sup>OMB Memorandum, M-10-08, *Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates* (Dec. 18, 2009).

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implement updating of Recovery.gov at biweekly intervals, beginning February 10, 2010; and (3) outline new internal logic checks preventing errors such as misidentification of recipient congressional districts and entry of expenditure data indicating recipients expended more funds than they received.

### Fewer Reports Show FTEs with No Funds Either Received or Expended

In our previous review of the prior quarter's prime recipient reports, we examined the relationship between recipient reports showing the presence or absence of any FTE counts with the presence or absence of funding amounts shown in either or both data fields for amount of Recovery Act funds received and amount of Recovery Act funds expended. While there were more reports, in terms of both percentage and count, for reporting FTEs, there were fewer reports showing FTEs but no funds either received or expended. Fifty-six percent of the prime recipient reports, as compared to 44 percent from the previous quarter, showed an FTE value. Previously, we identified 3,978 prime recipient reports where FTEs were reported but no dollar amount was reported in the data fields for amount of Recovery Act funds received and amount of Recovery Act funds expended. These records constituted 16 percent of all the reports showing FTEs and accounted for about 9 percent of the total FTEs reported at that time. As shown in table 9, for the most recent quarter, we identified 2,059 such reports, which accounted for 6 percent of all reports showing FTEs and about 1.4 percent of the total FTEs. Our follow up with a sample of cases found that while recipients made mistakes, some seemingly anomalous results were reasonable. For example, DOT funds highway and transportation programs on a reimbursement basis, so there is a time lag between the payment of workers by contractors and reimbursement by DOT made with Recovery Act dollars. We flagged four Mississippi transportation program recipient reports because the amounts expended in comparison to the FTEs seemed too high or too low. However, after we analyzed the data the Mississippi Department of Transportation used to calculate FTEs, we were able to verify that their calculations were correct. On the other hand, we flagged a round one Georgia Head Start recipient report because of the high number of FTEs reported. Officials did not know the number reported in round one was wrong until after they submitted the report. Although they believed the number seemed off, the officials reported submitting it based on the direction of an official representing the federal reporting hotline. The issue was not applicable to round two reporting, as Head Start had issued guidance after round one stating that recipients were not to include cost of living adjustments or quality improvement in the calculation of the jobs created or retained.

In addition, OMB's December guidance stated that recipients may decide to begin hiring new employees as soon they are notified of the amount of their Recovery Act award, but before Recovery Act dollars are received or expended. In such a situation, where non-Recovery-Act dollars that are paying the wages of the new employees are used as an advance on the Recovery Act dollars awarded, recipients can appropriately report these jobs as created or retained.

**Table 9: Fourth Quarter, 2009—Count of Prime Recipient Reports by Presence or Absence of FTEs and Recovery Act Funds Received or Expended**

<b>Recovery Act funds</b>	<b>Report <i>with</i> FTEs</b>	<b>Reports <i>without</i> FTEs</b>
Received or expended funds reported <sup>a</sup>	35,045 (94%)	14,353 (50%)
No received or expended funds reported	2,059 (6%)	14,370 (50%)
<b>Total</b>	<b>37,104</b> <b>(100%)</b>	<b>28,723</b> <b>(100%)</b>

Source: GAO analysis of prime recipient reports for 4th quarter, 2009 from Recovery.gov as of January 30, 2010.

<sup>a</sup>Prime recipient reports showing a nonzero dollar amount in either or both Recovery Act funds received or expended data fields.

In our previous report, we noted that 10 recipient reports accounted for close to 30 percent of the FTEs reported. In this second round of recipient reports, we noted 10 reports accounting for 25 percent of the FTEs. Those 10 reports described funding support for education-sector related positions.

Previously, 71 percent of those prime recipient reports that showed no FTEs also showed no dollar amount in the data fields for amount of Recovery Act funds received and amount expended. As shown in table 9 above, reports showing no FTEs are equally split between those reporting and not reporting funds received or expended. The total cumulative value of funds reported in the expenditure field for recipient reports showing no FTEs but having received or expended funds was \$3.2 billion. The switch to reporting FTEs on a quarterly basis while continuing to report Recovery Act funding on a cumulative basis will mean that such comparisons will become less meaningful over time and, therefore, must be made with care. For example, projects that are completed during a reporting quarter may show few or no FTEs but significant Recovery Act funding due to the cumulative funding reporting and the delay in receiving funds in cases where funds are used to reimburse expenses already incurred.

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## Interpretation of the FTE Data

Several factors need to be taken into consideration when interpreting the FTE data from the recipient reports. First, in our November report, we noted that the concept of an FTE should allow for the aggregation of different types of jobs—part-time, full-time, or temporary—and should cover a standard period of performance. OMB’s updated guidance on the FTE calculation accomplished this. However, our review of second round reporting indicates that some recipients, particularly in the education area, did not follow the new calculation and do not expect to do so until the third round of reporting. We previously cautioned against aggregation of first round FTE data, and it holds for this round of reporting as well. Because not all recipients used the new calculation, we are not able to compare FTEs across projects or add the FTEs together. As recipients follow the updated guidance on calculating FTEs, this may be possible. Even if all recipients had reported data consistent with the updated OMB guidance, however, there are important implications to consider when using an FTE number to analyze projects funded under the Recovery Act. For example, firms may choose to increase the hours of existing employees, which can certainly be said to increase employment but not necessarily be an additional job in the sense of adding a person to the payroll. FTE counts can also vary across projects that might otherwise look similar and therefore should be considered in the context of a specific project through its completion. In some cases, Recovery Act funds were used to fund capital investment for a project, not to fund direct hours. As part of its data quality checks, for example, FHWA asked recipients to explain the relationship between FTEs to the funds expended field relative to how large or small the relationship is compared to expected values. In many cases, the recipient noted that they used funds to initiate a project, which could include purchasing items such as material and moving equipment.

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## Improved Data Quality Is a Work in Progress

We performed an initial, limited set of edit checks and basic analyses on the first quarter recipient report data that were posted and available for download from Recovery.gov on October 30, 2009. Based on that review work, we identified recipient report records that showed certain data values or patterns in the data that were either erroneous or suggested that some further review could be merited due to an unexpected or atypical data value or relationship between data values. As a means of assessing the extent to which instances of those data values or patterns continued to recur, we performed these analyses again as well as some new analyses on the second round of quarterly recipient reports covering the period October 1, 2009, through December 31, 2009 (the fourth calendar quarter of 2009), which we downloaded from Recovery.gov on January 30, 2010.



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For the most part, the number of records identified by our edit checks was relatively small compared to the 65,827 prime recipient report records downloaded from Recovery.gov. This number represents 8,841 more recipient reports than the previous quarter and represents about a 16 percent increase. About a third of this increase consists of reports covering highway projects. Large increases were also seen in reports from the Army Corps of Engineers and the Department of Energy. Reports from recipients of funding from Health and Human Services programs also showed a large increase.

While we noted a reduction in certain types of errors, inconsistencies, or atypical patterns, others have persisted into the second quarter of reports. The occurrence of such errors or inconsistencies is indicative of inaccurate or incomplete data and raises concerns about the quality of information in other data fields that cannot be readily detected through various automated checks of the data.

In our analyses of the data fields showing Recovery Act funds, we previously identified 132 recipient reports where the award amount was zero or less than \$10, which suggests data entry errors or other mistakes. For this second round of quarterly reports, there were just 31 such reports. Previously, we identified 133 records where the amount reported as received exceeded the reported award amount by more than \$10. There were no such reports in the second round. It appears that edit checks are, for the most part, successfully addressing these issues.

In our review of the first round of recipient reports, we noted that while the data fields for Treasury Account Symbol (TAS) codes and Catalog of Federal Domestic Assistance (CFDA) numbers showed no invalid values on recipient reports, the values on some reports were not congruent with their associated agency name fields and either the agency name or the code were likely to be erroneous.<sup>91</sup> Both TAS and CFDA values are linked to specific agencies and their programs. In the first round of quarterly reports, we identified 454 reports as having a mismatch on the CFDA

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<sup>91</sup>The TAS codes identify the Recovery Act funding program source. The two left most characters of each TAS code form a data element, which is identical with the two-digit numerical code used in the federal budgetary process to identify major federal organizations. The CFDA is a governmentwide compendium of federal programs, projects, services, and activities that provide assistance or benefits. It contains assistance programs administered by departments. Each program is assigned a unique number where the first two digits represent the funding agency.

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number, that is the CFDA number shown on the report did not match the CFDA number associated with either the funding or awarding agency shown on the report. On TAS codes, we identified 595 reports where there was no TAS match including 76 instances where GAO was erroneously identified as either the funding or awarding agency. Our repeat of this analysis on the second round of quarterly reports showed a reduction in but not an elimination of the number of reports where a mismatch between the codes occurred. We identified 232 reports as having a mismatch on the CFDA number and 157 reports where there was no TAS match. In our TAS match, we found no instances where GAO was erroneously identified. Although the frequency of misalignment of TAS and CFDA values with their appropriate agency names has been reduced, this small set of reports where it continues calls into question the timeliness or efficacy of any edit checks that were implemented to address this issue.

To assess the congruence between the summary values of selected data fields reported on Recovery.gov and the sums derived from those same data fields using the downloaded reports, we calculated the overall sum and sum by states for number of FTEs reported, award amount, and amount received. We found that the FTE values matched the total reported on Recovery.gov. The award amount and amount received data fields corresponded closely with the values shown for the summary data shown on Recovery.gov if the values in these data fields for all reports that appear in either or both rounds of quarterly reports are added together. However, there is some basis for concern that the values being aggregated in this way may include some double counting.

The Board has noted that despite improvements in this round, they are experiencing difficulties cross-referencing reports from the first and second submission of reports because of inconsistencies in the way recipients entered award identifiers. For example, in some cases recipients used hyphens in their award key in round one but not in the second round. Based on a match we performed between first and second round reports on the basis of an award key data field,<sup>92</sup> we identified a subset of reports that appeared in the first round of quarterly reports but

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<sup>92</sup>An award key is a derived field that identifies an award. This field is derived using a distinct combination of the following component fields: Award\_type, Prime\_DUNS, Award\_id and Order\_number. Board representatives indicated that while the same award\_key value for a specific project could be assigned from one quarter to the next, it could not be presumed that this would always be the case.

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not in the second round, a subset of reports that appeared in the second round for the first time, and a subset of reports that appeared in both rounds. When we further analyzed the 13,506 reports that only appeared in the first round but not the second round, we found that 85 percent of them did not have the final report data field marked as showing that this first round report was to be the final report and that there would be no further quarterly reports.<sup>93</sup> Sixty-eight percent indicated in the project status field that the project was either “Not Started” or “Less Than 50% Completed.” Forty-eight percent showed the date of award as being in the last half of the 2009 calendar year. In OMB’s comments, the Controller noted that OMB conducted a line-by-line review of the 13,506 reports that had been identified from round one that did not appear to have a matching report in round two. According to the Controller, preliminary indications are that “approximately 93 percent of the 13,000 reports were filed in the second round of reporting but, due to a technical issue, were not “matched” with the corresponding prior-quarter report ...” Overall, OMB believes that the actual number of unmatched reports is fewer than 100 that should have had a corresponding report from the most recent reporting quarter but did not.

In addition, we note that 5,422 of the 22,337 reports (24 percent) that appeared for the first time in the second round of recipient reports, showed an award date as occurring in the first half of the 2009 calendar year. It seems unlikely that, for at least some of these 5,422 reports, there would not have been first round quarterly reports submitted given the early award date.

To the extent that these first-round-only reports and second-round-only reports comprised records that should have been linked, summing the dollar amounts in the way noted above to obtain the overall totals will result in some double counting of the amounts reported. For example, for a first-round-only report and a second-round-only report that should have been linked but was not, the amount received value submitted in the first round, assuming it was a value greater than zero, will also constitute part of the cumulative amount received value shown in the unlinked second-round-only report. However, since each report was treated as a separate project, both amount received values were included in calculating the overall total with the amount reported for the first round being counted

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<sup>93</sup>The final report key shows the status as a final report. It indicates that this is the final report and there will be no further quarterly reports.

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twice. Moreover, it appears that the downloadable records do not provide a way to track some projects' recipient reports from one quarter to the next.

As part of our review of the second round of quarterly reports, we examined further the apparent consistency or coherence between the final report data field and other report data fields for all second round reports. For those reports indicating that they were final reports, we looked at the project status data field and whether the dollar amount shown for Recovery Act funds received or Recovery Act funds expended was close to the award amount. A total of 5,184 prime recipient reports, roughly 8 percent of all prime recipient reports, indicated that the current report was to be the final report. Although almost all of those reports showed a "Completed" project status, there were 279 reports where project status was either "Not Started" or "Less Than 50% Completed." For all recipient reports marked as final, we also conducted an analysis to identify those reports where the amount reported for both Recovery Act funds received or expended was less than 75 percent of the award amount or exceeded the award amount by 10 percent or more. We did not find any reports where both the amount shown as received or expended exceeded the award amount by 10 percent or more. We identified 453 reports, about 9 percent of reports marked as final, where neither the value for amount received or expended was within 75 percent of the award amount. The project status for these 453 final reports showing less than 75 percent of funds received or expended is shown in table 10.

**Table 10: Project Status of Fourth Quarter, 2009 Prime Recipient Reports Marked As Final Report with Less Than 75 Percent of Funds Received or Expended**

Project status	Number of reports	Percentage
Not started	90	20
Less than 50 percent completed	98	22
More than 50 percent completed	87	19
Completed	178	39
<b>Total</b>	<b>453</b>	<b>100</b>

Source: GAO analysis of prime recipient reports for fourth quarter 2009 from Recovery.gov as of January 30, 2010.

The apparent incongruence between the reported project status and funding may warrant further examination or follow up with these reports if the designation of final report status is determined not to be in error and no further reports will be made. Identifying the reasons for the occurrence of recipient reports with the particular characteristics just described could

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help ensure that reports marked as final are complete and account fully for the expenditure of funds.

A potential problem area we identified previously was the inconsistent provision of data on the number and total amount of small subawards of less than \$25,000. There are data fields that collect information on small subawards, small subawards to individuals, and small subawards to vendors. We previously noted that there were 380 prime recipient report records where we observed the same values being reported in both small subawards and small subawards to individuals, and we established that there were many more records where these values were being reported separately. For this second round of quarterly reports, we found 485 reports showing this pattern of the same values being reported in both data fields. Similarly, we noted 152 reports in the previous quarter's reports where, in either the subawards or subawards to individuals data fields, the value for the number of subawards and the total dollar value of subawards were exactly the same and, as such, most likely erroneous. In this second round of reports, there were 141 such records. These reports are not likely to be conveying accurate information on the amount and dispersion of subawards.

Overall, while most recipient report records were not identified as potential problems in our second round of edit checks and analyses, and some areas of concern and error appear to have been addressed, our results continue to indicate a need for further data quality efforts. Further improvements in those areas of concern we are able to identify could potentially yield a broader sense of assurance about the quality of information reported in data fields or relationships not as amenable to the type of edit checks and analyses we are able to perform. According to OMB's Controller, OMB recently transmitted a data file to the Board that reflects the analysis of the OMB-led review and is working with the Board to appropriately link reports and to make additional data corrections. We will request further information from OMB about this data file to understand how OMB and the Board are using it to address the report issues that we identified.

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## State Officials Reported That OMB's Updated Guidance Improved the Round Two Recipient Reporting Process

In response to concerns raised by recipients including states and localities, issues identified by GAO, and lessons learned from the first round of reporting, OMB issued revised guidance on December 18, 2009 for calculating FTEs and estimating jobs created or retained. OMB's responsiveness to incorporate feedback and issue new guidance a month after we issued our recommendations represents progress in moving

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toward more transparency and accountability for federal funds. However, with the compressed time frame, demands of the quarterly reporting schedule, and the national scale of the recipient reporting exercise, some state officials reported that the issuance of guidance approximately two weeks before recipients were to begin reporting presented challenges for them. For example, several Texas state agencies acknowledged that OMB's FTE calculation simplified the methodology for determining the jobs created or retained data element. A number of them commented, however, that receiving the updated guidance late in December strained their resources. Education state officials reported that the timing of the guidance was particularly challenging for them because its release coincided with the closing of schools and universities for the winter break. As a result, the calculation and reporting of FTE varied in the education area across and even within some states. These issues are discussed in detail later in this section.

In the updated guidance, OMB advised recipients that they should implement the updated methodology to the greatest extent possible for the January reporting period. OMB alerted state representatives in teleconferences in November and early December that new guidance was forthcoming. State agencies' responses to the release of the updated guidance included actions such as disseminating their own updated guidance, hosting trainings, and participating in Webinars to address the challenges with the transition to the new guidance. Even with the outreach efforts by state agencies, some recipients, however, did not use the updated OMB guidance for the second reporting round. Other recipients were planning to use the continuous editing process to bring their reports into compliance.

OMB's guidance is essential to recipients' understanding of the reporting requirements, which correlates directly with the quality of the data reported by states. State officials in many of our selected jurisdictions noted that the second round of recipient reporting was easier because of OMB's updated guidance on the FTE calculation or their familiarity with the reporting process. Under the old guidance, recipients reported being confused about counting a job created or retained even though they knew the number of hours that were paid for with Recovery Act funds. For example, officials in the Pennsylvania State Office of Accountability reported that during a national conference call of state reporting leads in December, many participants expressed their concern that neither federal agencies nor recipients of Recovery Act funds truly understood how the previous guidance worked and that the new instructions on job reporting were much easier to follow. Pennsylvania's Accountability Office noted

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that the changes in the guidance significantly reduced the number of pages of instructions for subrecipients and vendors. As another example, officials from the Ohio Office of Budget and Management said that the second round of reporting was a smoother process, recipients collaborated with their office, and they were more accustomed to the process. Likewise, Illinois state officials in the Department of Commerce and Economic Opportunity stated the determination of the denominator in the FTE calculation was much easier in the second round because it was less subjective and less time was needed to do the reporting due to prior experience.

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**Although State Officials Reported Improvements in the Reporting Process, Some New Technical Glitches Surfaced**

New edit checks were introduced for the second submission of recipient reports to prevent recipients from making certain errors, particularly those that received public attention in the first submission of reports. Table 11 shows the complete list of edits. On December 23, 2009, the Board conducted a Webcast to educate recipients about reporting system changes for the second submission of recipient reports. The data entry system for recipients issued “soft error” messages to flag questionable data and allowed recipients to move forward with their answers or correct the fields before they submitted their record. The system issued “hard error” messages when the recipient entered certain inconsistent data, such as a ZIP code that conflicted with the congressional district entered for a project, or if the funds expended exceeded the funds awarded. Recipients would have to correct these fields before the system would accept their submissions.

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**Table 11: FederalReporting.gov Edit Checks for January 2010 Recipient Reporting**

<b>Hard edit checks—entries not allowed</b>	<ul style="list-style-type: none"><li>• Total Recovery Act Funds Received/Invoiced cannot be more than the Amount of Award.</li><li>• If Project Status is “Fully Completed,” Total Recovery Act Expenditures cannot be more than the Amount of Award or Total Recovery Act Funds Received/Invoiced.</li><li>• If Project Status is “Fully Completed,” Total Recovery Act Infrastructure Expenditures cannot be more than Amount of Award, Total Recovery Act Funds Received/Invoiced, or Total Recovery Act Expenditures.</li><li>• Congressional District must match ZIP code+4. A valid congressional district must be entered.</li><li>• ZIP code must match State.</li><li>• Sub Award Amount must be greater than or equal to Sub Award Disbursed.</li></ul>
<b>Soft edit checks—provides alert only</b>	<ul style="list-style-type: none"><li>• Amount of Award and Total Recovery Act Funds Received/Invoiced is \$500,000 or more, but Number of Jobs created is less than 1.</li><li>• Project Status is “Fully Completed,” Total Recovery Act Funds Received/Invoiced, Total Recovery Act Expenditures, and Amount of Award equal, and Number of Jobs equals zero (0).</li><li>• If Number of Jobs is greater than zero (0), then the Number of Jobs cannot equal Amount of Award, Total Recovery Act Funds Received/Invoiced, Total Recovery Act Expenditures, or Total Recovery Act Infrastructure Expenditures.</li><li>• Project Status cannot have a “Fully Completed” status where Total Recovery Act Funds Received/Invoiced equals zero (0).</li><li>• Project Status cannot have a “Fully Completed” status where Total Recovery Act Expenditures equals zero (0) and Date of Award is greater than 30 days from the date of final submission.</li><li>• Number of Jobs multiplied by \$15,600 cannot exceed Amount of Award.</li><li>• Amount received equals zero (0), jobs created/saved is more than 50.</li><li>• Total Recovery Act Expenditures cannot be more than the Amount of Award or Total Recovery Act Funds Received/Invoiced.</li><li>• Total Recovery Act Infrastructure Expenditures cannot be more than Amount of Award, Total Federal Amount ARRA Funds Received/Invoiced, or Total Federal Amount of ARRA Expenditures.</li></ul>

Source: Recovery Accountability and Transparency Board.

A number of recipients reported difficulties with hard errors related to congressional districts and ZIP codes. According to the Board, FederalReporting.gov was programmed using the U.S. Postal Service’s (USPS) database of ZIP codes and congressional districts. This database was chosen in part because it is used by Congress for constituent mailings. According to the Board, the USPS acknowledged that some districts’ ZIP codes matches to the correct congressional district were still being corrected and resolved. Recipients who failed the congressional district edit check were using a variety of source data, not the USPS data which were provided on FederalReporting.gov and through the error messages, which specified both the recipient record and the congressional district



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(or range of districts) that corresponded to the ZIP code provided. To help ensure accountability, FederalReporting.gov confirms each recipient's business identification through a Dun & Bradstreet DUNS number and Central Contractor Registration (CCR).<sup>94</sup> According to the Board, many recipients found that they had errors in the ZIP codes in their CCR registration. When recipients tried to enter their congressional districts, if they did not match the ZIP codes they had entered in CCR, they failed this edit check. Officials in Massachusetts reported that they received information from federal agencies, which led them to change some award numbers and DUNS numbers before submission, preventing error flags later on. According to these officials, the Department of Health and Human Services and the Department of Energy listed business identification information for each grant on their Web sites, a practice they would like to see other federal agencies adopt.

Only recipients could edit their data submissions. However, federal agencies could attach correction flags when they were reviewing individual recipient reports. We interviewed a number of recipients whose first round data were incorrect. Some of these recipients did not report having a correction flag or any notification from their agency that they needed to review their data. One Head Start agency, with a recipient report that contained a high number of FTEs because of a misplaced decimal, posted a notice on its Web site but was told there was no way to correct the information posted in its recipient report. With the new features on FederalReporting.gov, recipients will be able to update their data for six weeks after the end of the reporting period.

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## Department of Education Recipients Illustrate the Successes and Challenges of the Second Reporting Period

A number of state and local education officials we interviewed said that, with the exception of the timing of the release of the guidance, the recipient reporting process had been smoother during the second reporting period and that the new jobs guidance will ultimately simplify FTE calculations. Specifically, several state and local education officials said that data collection from subrecipients had been much easier in the second round of reporting. For example, an Iowa state official told us that during the first round of reporting the volume of calls for assistance from LEAs had been very high, but he had received far fewer calls during the

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<sup>94</sup>A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of 100 million businesses worldwide. The Central Contractor Registration (CCR) system is a secure, single repository of vendor data used governmentwide.

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second round. Regarding the new jobs calculation methodology, a number of state officials said that the new methodology, which directs recipients to calculate FTEs based on the hours worked and funded by the Recovery Act, is clearer than the previous formula.<sup>95</sup> The new calculation does not require the subrecipient to make a subjective judgment about whether a job would have existed in the absence of Recovery Act funds, and a local official described the new methodology as more objective. These results are encouraging, because funding for education is a significant share of the Recovery Act with three programs—the State Fiscal Stabilization Fund, Title I, and IDEA—receiving nearly \$80 billion in new funding under the act and because approximately two thirds of the jobs reported by recipients during both reporting periods have been attributed to education funds, including funds for government services included in the State Fiscal Stabilization Fund administered by the Department of Education.

While a number of education officials said the new guidance simplified the jobs calculations, they also said that the release of the guidance on December 18, 2009, was problematic, particularly because the release coincided with the closing of schools and universities for the holiday break. Specifically, the timing made it harder for state officials to communicate new expectations to districts and limited the amount of time available to gather revised data from LEAs and IHEs. Officials in several states told us that data collection from LEAs was already well under way when the new guidance was issued. For example, Pennsylvania allowed certain subrecipients that were scheduled to be closed during the holidays to submit reports by December 17, 2009, and then recertify the reports after the holidays if anything changed. This deadline was one day before OMB released the new guidance, and, therefore, Pennsylvania had to go back to certain subrecipients to ask for new information to follow the revised job guidance. Similarly, state officials in Iowa told us that by December 18, 2009, over 90 percent of the Education subrecipient reports in their state had already been submitted to the state and verified by program staff. When schools reopened on January 4, 2010, state officials sent an e-mail to all subrecipients explaining the new requirements and asking them to resubmit corrected data by January 8. Overall, state education officials in 9 of our 17 jurisdictions told us they had required

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<sup>95</sup>Last quarter LEAs were generally required to calculate a baseline number of hours worked, which was a hypothetical number of hours that would have been worked in the absence of Recovery Act funds. LEA officials were to use this baseline number to determine the number of hours created or retained and to subsequently derive the number of FTEs for job estimates.

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LEAs to submit their data in December. In some of these states, officials asked LEA officials to resubmit new data to follow the newly released guidance.

In addition to having to resubmit reports, the fact that a number of states required districts to submit data prior to the close of the reporting period could affect data or the comparability of data across states. Some, such as Iowa and New Jersey,<sup>96</sup> asked LEAs to project figures through the end of the quarter. In contrast, officials in Massachusetts and the District of Columbia told subrecipients to report data from the start of the quarter until submission to the state or District (December 24 in Massachusetts and December 14 in the District), to retain information on the intervening period (between the cut-off date and December 31, 2009), and to include data on this period in the third round of recipient reports. Officials in California instructed LEAs that if good estimates were available for funds expended or obligated through the end of their reporting period, they should use them. However, if they did not estimate, but cut off at the end of the previous month, they should do so for both jobs created or retained and funds expended or obligated. Education officials in Georgia told us that they anticipate setting an early cut-off date for the round three reports since the deadline coincides with spring break and the Easter holiday, and officials in Massachusetts said they hope to have the reporting deadline in Massachusetts be the last Friday of the month, at the end of the reporting cycle.

Although they faced challenges, several states were able to obtain jobs data and report it following the updated OMB guidance. During a joint conference call on January 11, 2010, OMB and Education officials said prime recipients could use the corrections period in January to clarify and refine numbers in light of the timing of the guidance. Specifically, in Florida, Georgia, Iowa, Michigan, North Carolina, and Pennsylvania, the prime recipients told LEAs to submit information based on the updated OMB guidance or to resubmit such data if LEAs had already submitted data using the old guidance. Further, officials in Massachusetts<sup>97</sup> and the

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<sup>96</sup>New Jersey officials told us they plan to submit finalized figures during the continual correction period.

<sup>97</sup>Massachusetts' reported data also reflect the updated guidance shift to the quarterly reporting of jobs data even though the LEAs had reported cumulative data on FTEs funded by the Recovery Act. The Massachusetts Department of Education subtracted out FTEs reported in the first quarter to compute a quarterly figure.

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District of Columbia told us they had been able to report following OMB's December 18 guidance using the information they had already collected from LEAs. Illinois officials told us they had incorporated corrections for some, but not all of Illinois' LEAs in January, and therefore submitted Education-related recipient reports that included FTE counts generated using both the new and old guidance. Specifically, Illinois asked the six districts with the largest Recovery Act allocations in the state to recalculate jobs data based on OMB's guidance in January and included these revised figures in the state's Education recipient report.

Other states did not use OMB's updated guidance, but instead reported following the old guidance for at least some of their education program recipient reports. Officials in three of these states—Arizona,<sup>98</sup> California, and New Jersey—said they planned to have LEAs submit updated figures during the continual corrections period in February or March. However, officials in two other states—Colorado<sup>99</sup> and New York—said they did not plan on updating the numbers to reflect the new guidance, but plan on implementing the new guidance during the next reporting cycle. Officials in Arizona and Colorado told us they had followed the updated guidance for State Fiscal Stabilization Fund recipient reports.

Despite the updated guidance, some state and local officials still have questions about how to calculate FTEs. A number of state and local officials, including officials from the Pennsylvania Department of Education, told us that they were unsure about how to calculate FTEs for teachers during the quarters spanning the summer months and that additional guidance would be useful. OMB's updated guidance allows districts to define the number of hours in a full-time schedule for a particular position (the number of hours in the denominator) to account for differences in work schedules, but does not offer an example of how to

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<sup>98</sup>Officials at the Arizona Department of Education told us they did not follow OMB's December 18 guidance for the IDEA Part B and ESEA, Title I recipient reports, but planned to ask LEAs to submit corrections during February or March. Officials at the Governor's Office of Economic Recovery in Arizona, the prime recipient for SFSF, told us they had followed the December 18 guidance for SFSF recipient reports.

<sup>99</sup>Colorado Department of Education officials determined, due to the lateness of the December 18 guidance, it was not possible to perform another statewide collection of FTE data prior to the submission deadlines. Department officials said they are following the December guidance for the third reporting round and believe the new guidance will increase the consistency of state data. Colorado is directing its SFSF funds to institutions of higher education and not LEAs. The SFSF recipient reports were prepared using OMB's December 18th guidance.

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adjust this denominator in quarters when school is not in session or provide guidance as to how to apply the numerator, “hours worked and paid for with Recovery Act funds,” to an education context. While teachers typically work 10 months out of the year, in some districts they are paid year round and are considered full-time employees. Local officials we spoke to varied in whether they expected to report FTEs for teachers during the summer months. For example, one official told us he was concerned that if he reported actual hours worked for teachers during the summer months he would not show any FTEs, even though there would be salary expenditures. In contrast, local officials in another district indicated that they would report FTEs during the summer months for teachers because teachers are paid 12 months out of the year.

State education officials reported implementing a number of strategies to improve the reliability of data and to validate jobs or expenditure data submitted by LEAs. For instance, Arizona, Georgia, Iowa, North Carolina and New Jersey indicated that they pre-populated a number of fields for LEAs, such as by inserting DUNS numbers or the amount of the grant award, which reduced the fields LEAs must complete. In addition, officials from Arizona, Iowa, and Georgia said that they compared data with information in their financial and budget planning systems. Iowa, Michigan, and New York state officials also said they compare an LEA’s reported FTE calculation to the approved budget or application for that district to see if the reported figure is reasonable. Officials from Florida and Georgia said that they review reported numbers for anomalies, such as FTE numbers greater than zero with no related expenditures or expenditures greater than zero with no related FTEs. Finally, many officials told us they check the data for basic reasonableness.

State education officials told us they had taken steps to try to ensure the completeness of their required recipient reports. For instance, officials in Pennsylvania said they had compared reports of recipients that had reported to the list of LEAs in the state who were required to report and followed up with districts that had not submitted reports. Officials in the District of Columbia told us that their data collection method creates an added incentive for LEAs to report—the data collection tool for the recipient reports is part of the LEA’s process to request reimbursement. In contrast, an Iowa official reported that at least seven subrecipients had not reported data for this reporting period, and as a result, the official had entered zeros for these districts for jobs and expenditures. When we followed up with the districts, two districts told us they thought they had submitted the required information, three said they had submitted initial reports during December but had missed the request for updated data in

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January, and two districts, under the same superintendent, had not reported because the superintendent had difficulty accessing the system. Of these seven districts, two had not yet spent any funds. We followed up with the Iowa official and he said that he did not know why a report would not have been recorded if it had been submitted, that even districts that had not spent funds were required to submit reports, and that he did not plan to submit corrections on the data.

**Recommendation for Executive Action**

To improve the consistency of FTE data collected and reported, we recommend that the Secretary of the Department of Education (Education) and the Director of the Office of Management and Budget (OMB) provide clarifying guidance to recipients on how to best calculate FTEs for education employees during quarters when school is not in session.

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**OMB's Updated Guidance Emphasizes Federal Data Quality Checks on Recipient Reports**

Recipient reporting data quality is integral as part of the effort to bring transparency and accountability to the Recovery Act funds. While recipients we contacted during the first round of recipient reporting appeared to have made good faith efforts to ensure complete and accurate reporting, our fieldwork and analysis of first round data indicated that there were a range of significant reporting and quality issues that needed to be addressed. Collecting information from such a large and varied number of entities in a compressed time frame, as required by the Recovery Act will continue to be a huge task, and developing systems to check the data submitted under these circumstances takes on increased importance.

OMB's updated December 2009 guidance outlined steps to address the issue of federal agency data quality checks on recipient reported data. The guidance lays out ways in which agencies can help recipients report better data. OMB reinforces that agencies, at a minimum, are to establish data quality plans that articulate their review process to focus on significant reporting errors and material omissions and ensure complete, accurate, and timely reporting of all amounts funded by the Recovery Act. In addition, agencies are now advised to provide recipients with key award information, such as recipient name and award amount. The agencies also are instructed to have recipients examine their reports for logical inconsistencies, such as if a recipient indicates that the project is fully completed but the funds received are minimal compared to the award amount.

Federal agencies' recipient reporting data quality review efforts continue to develop. In particular, from the federal agencies we reviewed, various processes were in place for outreach, identifying nonreporters, monitoring compliance, and identifying errors in reporting. The prime recipient report records include data on whether or not the federal agency reviewed the record during the data quality review time frames. In addition, the report includes a flag as to whether or not a correction was initiated. A correction could be initiated by either the prime recipient or the reviewing agency. In our review of the prior quarter reports, we examined the number and percentage of prime recipient records that were marked as having been reviewed by the federal agency. We repeated that analysis for the most current quarter—table 12 below shows the results.

**Table 12: Fourth Quarter 2009 Prime Recipient Reports Reviews and Corrections**

Reviewed by agency	Correction	Percentage	Number of prime recipient reports
No	No	23	15,178
No	Yes	11	7,464
Yes	No	54	35,269
Yes	Yes	12	7,916
<b>Total</b>		<b>100</b>	<b>65,827</b>

Source: GAO analysis of prime recipient reports for fourth quarter 2009 from Recovery.gov as of January 30, 2010.

Relative to the prior quarter, both the percent and number of prime reports marked as reviewed by agency were lower in the 2009 fourth quarter. In the prior quarter, 80 percent (45,825 records) of the prime recipient reports were marked as having been reviewed by the agency. As shown above in table 12, 66 percent (43,185 records) of the prime recipient reports were marked.

Department of Education

Education's efforts to facilitate jobs reporting and data quality include coordinating with OMB, hosting conference calls, monitoring recipients, and conducting data quality reviews. Education provided guidance and technical assistance to states. As part of its guidance and technical assistance efforts, Education hosted three conference calls before and after the updated guidance was released to address reporting changes.

Education developed a quality review plan that included processes for identifying errors through various cross-checking mechanisms. According to Education officials, one example of such a mechanism is a series of comparisons of second round data to data reported in the first quarter by

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using data elements such as number of jobs and job descriptions. Similarly, Education compares various data elements in recipient reports, such as award number and CFDA numbers, with information in its grant management system to identify incorrect data elements that could make it appear that a recipient had not submitted a report. Before the federal agency review period began, officials ran daily reports and compared these reports to first quarter reports to check data, such as project status. According to a program official, these reports were invaluable to the program offices because they made it easier for them to assist state officials in fixing errors before the actual corrections period.

To aid in identifying nonreporters, Education has implemented, through a monitoring questionnaire sent to state officials for Title I and SFSF, compliance measures, which in some circumstances also allow Education officials to identify errors before the reporting deadline. For example, Education officials we interviewed noted a situation in Illinois where LEA reporting was lower than they expected. Illinois officials also told us that they had observed that the number of LEAs shown in the system was too low, that this error was due to an incomplete upload of their report, and that they had subsequently resubmitted the report. Finally, officials told us that the department plans to do a reasonableness check on subrecipient reports from the second quarter across programs. As part of this check, officials will observe whether the number of reports for each grant appear to be consistent with the number of LEAs they expect to see and will contact state officials to discuss inconsistencies that arise.

Education officials said that the recipient reporting process has improved their knowledge of states' cash management practices and that this information will help them to monitor states and offer them targeted technical assistance. For example, a department official told us that as a result of the Recovery Act, program officials have learned in more detail how funds flow from SEAs to LEAs in each state, and that this information has been very important in helping program staff interpret the expenditure numbers they see on the recipient reports in their monitoring efforts. For instance, a state's reported expenditures might appear low because the state operates on a quarterly reimbursement basis and districts have been spending their own funds expecting reimbursement—without the knowledge of the state's cash management practices such numbers could be misinterpreted. This official told us that her specific program office will use this information to train program office staff in how to use this information in their monitoring efforts. The official added that the financial management information they have learned through the recipient reporting process adds another layer to the information gathered through



Department of Housing and Urban Development

broader, systems-based questions they have asked during IDEA monitoring visits over the last 5 years. Further, she believes that this more nuanced understanding of how state finances work will help department officials provide more tailored technical assistance to states.

In response to OMB’s guidance, HUD has engaged in efforts to facilitate timely and accurate jobs reporting. HUD’s efforts included outreach to recipients, developing processes for error detection, and identifying nonreporters. According to officials, HUD contacted recipients by e-mail with reminders to report and provided key information that should be included in certain data fields. In addition, HUD provided technical assistance to walk unfamiliar recipients through the reporting process.

HUD also developed data quality review processes with cross-checking mechanisms to detect errors. For example, the Recovery Act Management and Performance System (RAMPS) compared data in four key fields from FederalReporting.gov against parameters HUD established to identify potential significant errors (see table 13).<sup>100</sup> RAMPS also flagged duplicate entries, awards entered incorrectly as contracts, and reports entered with invalid award ID numbers.

**Table 13: Parameters HUD Established to Identify Significant Errors for the Capital Fund**

Data field	Parameter for determining significant error
Award amount	Compared directly to Office of the Chief Financial Officer (OCFO) obligation, with a 0% variance allowed. <sup>a</sup>
Total received	Compared directly to OCFO disbursement, with a +/-10% variance allowed.
Total spent	May not exceed OCFO obligation.
Jobs	Related to OCFO obligation. The number of jobs may not exceed a +50% variance from the following: OCFO obligation/\$205K.

Source: HUD officials.

<sup>a</sup>For the first round of recipient reports, this parameter allowed a +/-10 percent variance.

<sup>100</sup>HUD’s data quality process proposal defines a significant error in the fields award amount, total received, total spent, and jobs as any entry that varies from a HUD comparison source value taken from corresponding HUD Office of Chief Financial Officer award records for obligations and disbursements.

Moreover, for the second cycle HUD officials told us they further incorporated suggestions from OMB’s guidance to agencies to improve the data quality review process. The department identified some material omissions by examining fields with narrative responses to determine whether they contained a minimum number of characters as an indicator of whether the responses adequately addressed requirements for those fields. HUD officials said that the most prevalent errors in reported data were in the number of jobs field. They said that confusion persists among public housing agency officials regarding how to calculate and count jobs, which is reflected in the number of potential errors identified by the data quality review process. HUD officials said they first followed up on the most egregious errors—large overcounting or undercounting—that remained uncorrected after their initial review of the data before addressing other errors. Table 14 identifies the number of potential significant errors identified by HUD in each field for Public Housing Capital Fund formula grants and competitive grants for each quarterly reporting cycle.

**Table 14: Number of Potential Significant Errors Identified by Field for the October 2009 and January 2010 Reporting Cycles**

<b>Data field</b>	<b>Number of potential errors, October reporting cycle</b>	<b>Number of potential errors, January reporting cycle</b>
Award amount	55	28
Amount received	639	730
Total spent	5	1
Jobs	1,437	1,118
<b>Total</b>	<b>2,136</b>	<b>1,877</b>

Source: GAO analysis of HUD data.

Note: A single report can have multiple significant errors identified.

HUD’s data quality process proposal defines material omissions as any grantee that failed to report at all. HUD developed a Recovery Act Non-Reporting Enforcement Plan in September 2009, which states that all recipients who fail to report in FederalReporting.gov by the end of their first applicable reporting cycle will receive a warning letter from HUD program staff. If recipients fail to report a second time, HUD will initiate further enforcement actions which can include formal or informal hearings, suspension of access to funds, or other actions. In the first recipient reporting cycle, HUD identified 152 Capital Fund formula and competitive grants for which a report was required but none was found,

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according to HUD officials. Officials told us HUD provided technical assistance to housing agencies on its nonreporter list, including walking them systematically through the reporting process. HUD officials told us they also sent reminder e-mails on December 4, 2009 to the 152 nonreporting housing agencies reminding them to report in the second reporting period and warning them that HUD may take additional action if they failed to report in the next reporting period. In the second reporting cycle, HUD identified 27 grants for which a report was required but none was found, including 6 grants for which no report was found for either cycle. HUD officials told us they followed up by phone with all housing agencies for which no report was found for either cycle.

HUD officials questioned the accuracy and validity of the data submitted through recipient reports and said they were not yet comfortable relying on these data because of the level of confusion expressed by housing agency officials regarding jobs reporting and the large number of potential errors HUD identified in the “number of jobs” field. In addition, they said HUD already has most of the information collected through the recipient reports—jobs information and project status were two exceptions—and uses other systems for that information because HUD officials believe the data are more reliable than the recipient-reported data. Although HUD has received feedback from housing agencies that are confused or frustrated over the reporting process, it has not received substantive feedback from external stakeholders, such as OMB, the HUD IG, interest groups, or the media on recipient data for the Capital Fund grant program.

For the first submission of recipient reports, we noted that public housing agencies experienced problems with the process of recipient reporting and the FTE calculation. These problems appeared to continue in round two. For example, officials at one Mississippi housing authority reported the same 6 jobs in round two that they reported in round one. We determined their calculations did not conform to the OMB guidance of December 18, and they did not recall receiving guidance from HUD or OMB on job calculations for round two. However, HUD officials told us HUD sent several e-mails to each grantee between December 23 and the end of the reporting period that included a link to HUD’s explanation of the job count and the change in job count guidance from OMB.

Officials from a Mississippi and a Pennsylvania housing authority reported using a jobs calculator produced by HUD to calculate the number of jobs they reported in the second round. HUD had posted a jobs calculator for the first round of recipient reporting, which was designed to calculate jobs cumulatively across reporting periods, but removed it prior to the second

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round of reporting after OMB changed the guidance for calculating jobs. According to a HUD official, their jobs calculator for the second round—which reflected the changes in OMB guidance for calculating jobs—was posted for about 1 week in December 2009 before OMB requested that it be taken down in order to review it further. After reviewing the HUD guidance to housing agency officials, it appears that HUD did not take steps to instruct housing agencies not to use the jobs calculator from the first round. As a result, housing agencies may have incorrectly used the jobs calculator from the first round to calculate the number of jobs for the second round.

**Recommendation for Executive Action**

We recommend that the Secretary of Housing and Urban Development instruct housing agencies to discontinue use of the jobs calculator provided by HUD in the first round of recipient reporting for subsequent rounds of reporting to ensure the correct job calculation is used.

**Department of Transportation**

DOT officials noted that the combination of information sharing among the operating administrations (OA),<sup>101</sup> prior knowledge of reporting by the recipients, and the dissemination of training and guidance helped the department and recipients comply with reporting in the second submission of reports. DOT's OAs engaged in several efforts of outreach to assist in accurate recipient reporting. The OAs conducted Webinars and meetings, sent e-mails, and made telephone calls to brief and train their program recipients. According to officials, they wanted to ensure that, along with keeping recipients updated on requirement changes, first-time recipients would be successful in reporting. In addition, during the first reporting period, DOT learned that the OAs, working together as a group, allowed sharing of information and mediation of reporting challenges.

To identify the nonreporters, the OAs compared the list of recipients with reports found in FederalReporting.gov. As a result, they identified 64 recipients that failed to report during the first reporting period. The OAs worked one-on-one with these recipients and received assurances from these nonreporters that they would comply with future reporting requirements.

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<sup>101</sup>The department's operating administrations overseeing the implementation of the Recovery Act include the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Federal Transit Administration, and Maritime Administration.

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According to officials, DOT and its OAs took numerous steps to address the quality of the recipient reported data and identify errors. To address reporting, DOT modified contract terms and conditions to include recipient reporting requirements and warnings that were sent to recipients reminding them that reporting data is a condition of the Recovery Act funding. Further, officials reported that each OA has developed a written process to conduct data quality reviews. To understand the reasons for identified inaccuracies in reported data, DOT relied on direct contact and follow-up with its recipients. When asked how DOT planned to use the recipient reported data, officials said they did not have plans to use the information from recipient reports in future decision making. Instead, they planned to rely on other department data collection methods.

DOT took steps to promote consistency between OMB definitions and the unique nature of FHWA programs. However, guidance provided by FHWA raised concerns with some state and local officials we interviewed. OMB encouraged federal agencies to provide supplementary reporting guidance to their recipients. To improve consistency in the guidance recipients receive, OMB requires agencies to clear any supplemental guidance through OMB. FHWA approached OMB to clarify the number recipients should report for total federal Recovery Act funds received. To meet the statutory requirement of reporting at the project or activity level, OMB and FHWA determined that recipients should report the amount awarded and the amount received as the same regardless of expenditures, since recipients report expenditures in a subsequent field.

Some state officials stated that the supplementary guidance from FHWA raised definitional and transparency issues. We also found that the states we reviewed differed in the application of the guidance. In some cases, states did not report the same number in the amount awarded and amount received column. In one case, the state response was that funding values for all amounts were taken from the state accounting system and were consistent across all of the state recipient reports. A few other states made the changes to conform to the guidance, but expressed concerns about the definition of this field and the transparency of the reporting. FHWA and OMB officials are aware that some state officials have raised concerns with this guidance and are working with state officials to try to resolve this issue. However, as OMB clearly states in its guidance, although federal agencies are able to comment and suggest changes to the reports, prime recipients are ultimately responsible for the data reported into FederalReporting.gov. We will continue to monitor this matter.

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Department of Energy

DOE made several outreach efforts to their program recipients to ensure timely reporting. These efforts included e-mail reminders for registration and Webinars that provided guidance on reporting requirements. For the first round of reporting, DOE developed a quality assurance plan to ensure all prime recipients filed quarterly reports, while assisting in identifying errors in reports. The methodology for the quality assurance review included several phases and provided details on the role and responsibilities for DOE officials.

According to DOE officials, the data quality assurance plan was also designed to emphasize the avoidance of material omissions and significant reporting errors. More specifically, as reported by the OIG and DOE officials, the plan outlined a qualitative comparison of recipient data obtained from FederalReporting.gov to agency data obtained from the department's financial and procurement systems. To aid in the comparative analysis, DOE established threshold deviations for the first round of recipient reporting. More specifically, the jobs creation or retention thresholds were originally established by the Political Economy Research Institute (PERI) at the University of Massachusetts-Amherst, acting as a consultant to DOE. According to DOE officials, PERI was able to create this list of expected job creation from the project operation plan provided by DOE and used them in their quality assurance analysis. DOE plans to adjust these thresholds based on the first and second round of recipient reporting. OIG officials noted that, based on their October review, DOE officials are instructing programs to use information from the quality assurance analysis when considering future funding and for management purposes.

Department of Health and Human Services

To address data quality, HHS operating agencies engaged in various efforts of outreach, reporting error detection, and identifying nonreporters. HHS officials stated that they contacted recipients to determine the cause of errors, correct errors, and offer assistance. HHS was able to identify areas for improvement for the January reporting period through their series on lessons learned within the agency. Because of these efforts, HHS provided guidance to recipients on how to correct the key award information when using the copy forward feature in FederalReporting.gov during the January reporting period. Lastly, during the first reporting period, HHS developed a Web site, that provides recipients with award information needed to complete their reports, such as award amount, award ID, and date of award. Additionally, to aid with correcting errors, HHS reports that the Health Resources and Services Administration has sent e-mail notifications and initiated technical assistance calls emphasizing the importance of correcting fields with identified errors during the January

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reporting period. HHS reports that programs have been reaching out to recipients that made errors to determine the cause of those errors and to develop a strategy for correcting them.

Nonreporters are tracked by HHS on a master list that includes recipients from their Operating Divisions. HHS relied on individual Operating Divisions to provide information on the number of recipients who did not report. According to HHS staff, these programs compared the list of reports that they expected to receive with the list of reports that they actually received in order to identify nonreporters. HHS reports that each HHS Operating Division, or agency, is responsible for contacting the recipient and providing technical assistance as needed. Each Operating Division contacted all recipients who did not report to identify the reasons for noncompliance. The HHS Office of Recovery Act Coordination compiled these reasons in a master spreadsheet and sent it to OMB.

A number of press articles in November 2009 discussed concerns with the jobs reporting done by HHS Head Start grantees. During round two, we followed up with two Head Start grantees in Georgia, who reported that guidance from the Office of Head Start program after the last round of reporting improved their understanding of the recipient reporting process. While the grantees complied with OMB's new guidance for reporting FTEs, there were a few errors in the recipient report that one of the grantees initially submitted, resulting in revisions to the ZIP code, congressional district, and award number.

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### Agency Officials Are Unclear about the Federal Agency Role during the Continual Review Period

Following the first round of recipient reporting, the Board made several major reporting changes that took effect in the second round. One of these changes allows recipients to correct reporting mistakes on a continual basis. This new process began on February 2 and will last until March 15 for the second submission of recipient reports. According to Recovery.gov, recipients can change or correct their reports multiple times during this extended review period. In conjunction with this, OMB's December 18 guidance instructed federal agencies to evaluate on a continuous basis recipient and subrecipient reports. This differs from the framework of the initial review of submissions during which agencies had 8 calendar days to review and comment on submissions. During the initial review period, the reports were locked and only the federal agency could unlock reports for recipients to make changes. In contrast, during the continual review period, recipients can make multiple changes up to midnight Monday the week the data are posted on Recovery.gov. Federal agencies have a one-day period to review the final submissions before the

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data are downloaded and posted on Recovery.gov. This shortened period for agency review of “final” reports may not allow for the same quality assurance as in the initial review period. The Board released the first updated data set on February 10 on Recovery.gov, and it anticipates that the updates will occur every other Wednesday, with the final update for the quarter ending December 31, 2009, occurring on March 17, 2010.

Federal agency officials we spoke with are concerned about fulfilling OMB’s directive to evaluate recipient data on a continuous basis. OMB’s December 18 guidance states simply “federal agencies are required to make reasonable efforts to monitor such corrections...” For example, Education officials said that there is a need for more guidance on how the new review period will work. They added that developing monitoring plans or drafting policies and procedures is difficult until guidance has been issued. Education officials told us that during a conference call on February 3, 2010, OMB raised the topic of creating agency guidance for the continuous corrections process and that a number of Education officials had offered to help develop the guidance. Education officials later told us that this topic has been revisited during subsequent working group calls, and that agencies and OMB concluded that more experience with this new process was needed before meaningful guidance could be developed. HUD officials told us that the department does not have a plan in place to address the new period of continuous corrections and is waiting for guidance from OMB and potentially the Board on what the expectations are for federal agencies. HUD has had internal discussions regarding monitoring corrections, but officials were not sure what types of changes would be possible for a recipient to make during the second round of reporting. HUD officials expressed concern that the new continual corrections period for recipients may pose monitoring issues for both HUD and prime recipients. DOT officials expressed similar concern with the lack of formal guidance regarding the department’s role in reviewing recipient data during the continual update phase. DOT continues to monitor the data submitted on a daily basis in anticipation of OMB or the Board implementing a formalized process. Officials also noted that keeping track of changes made by recipients could be challenging due to the staff effort required to monitor the changes and the fact that recipients can make multiple changes throughout the period. In addition, a senior DOE official in the department’s Recovery Operations Group noted that without understanding the Board and OMB’s expectations for federal agencies during the recipients’ continual review period, agencies have had difficulty developing their monitoring efforts. According to the official, the continual edit capability now requires agencies to inquire daily on what has changed in order to monitor the recipient reports. DOE officials also



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expressed concern regarding the amount of staff time required to maintain this level of review on a daily basis for thousands of reports.

A senior Board official explained that they designed the new process to address the concerns of state officials that under the old process, they had limited opportunities to correct erroneous data. Under the approach used in the first round of recipient reporting, recipients could only correct data prior to their public release on Recovery.gov; recipients were concerned that they could not address mistakes in the data until the next official reporting cycle. During the first round initial review period, only the federal agency could unlock reports for recipients to make changes. According to FederalReporting.gov, federal agencies under the new process are to identify errors in recipient reports and add comments addressing those errors through the entire continual review period. The senior Board official acknowledged that this change was not one that many federal agencies' officials agreed with because of the difficulty in tracking changes, but he stressed that the states—often the prime recipients—had the most accountability for the data, and that they needed more flexibility in correcting data. The official said that he expected that the Board, OMB, and federal agencies would discuss this issue at an upcoming “lessons learned” session covering the second round of recipient reporting and at weekly working group meetings that OMB has with federal agency recipient reporting teams.

**Recommendation for Executive Action**

OMB should work with the Board and federal agencies, building on the lessons learned, to establish a formal and feasible framework for review of recipient changes during the continual update period and consider providing more time for agencies to review and provide feedback to recipients before posting updated reports on Recovery.gov.

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**The Board Is Working with Federal Inspectors General to Establish a Multiphased Recipient Data Federal Agency Review Process**

In light of the importance of the quality of the Recovery Act data, the Board is working with Federal Inspectors General to establish a multiphased federal agency review process to look at the quality of the data submitted by Recovery Act recipients. Over the coming months, the Board and the Federal Inspectors General plan to issue subsequent reports that look at the causes of inaccurate reporting, the effectiveness of the agency data quality review processes, and, in some cases, Federal Inspectors General will review the accuracy of specific recipient reports.

The Board's Recovery Funds Working Group, which includes representatives from the 29 inspectors general, meets monthly to discuss issues related to oversight of Recovery Act funds. In addition, the Board's

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Working Group has taken steps to assess federal agencies' efforts to review the quality of recipient reported data. In December 2009, the 21 inspectors general reported that 17 federal agencies had processes to perform limited data-quality reviews for identifying material omissions or significant errors in the recipient reported information and to notify recipients of the need to make any changes, while 4 federal agencies—the Departments of Agriculture, Defense, and Homeland Security, and the Small Business Administration—had weaknesses in their respective processes.<sup>102</sup>

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## Providing Information and Access to the Public

The Board is responsible for providing information about Recovery Act spending via Recovery.gov. This Web site promotes official data for use in public debate, assists in providing fair and open access to Recovery Act opportunities, and promotes an understanding of the local impact of Recovery Act funding. Data reported by recipients of Recovery Act funds through the nationwide data collection system at FederalReporting.gov are available to the public for viewing and downloading on Recovery.gov.

To increase the public's access to data, OMB encouraged states to post information about the impact of Recovery Act funds on a state Recovery Act Web site. These Web sites vary in content between states. For example, Pennsylvania and Massachusetts presented information targeted at citizens, including analysis of local impacts of the Recovery Act, detailed explanations of FTE counts, ongoing project updates, instructions in applying for Recovery Act funds, and definitions of terms used to describe Recovery Act funding. Some states posted information targeted at recipients, with basic FTE calculations or links to reporting guidance. Many state Recovery Act Web sites also encourage reporting of fraud and abuse of Recovery Act funds. Eight states in our 17 jurisdictions—Arizona, California, Colorado, Illinois, New Jersey, North Carolina, Pennsylvania and Texas—included information about fraud reporting hotlines on their Recovery Web sites. Michigan and Iowa instead posted links to federal fraud reporting Web sites.

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<sup>102</sup>U.S. Department of Health and Human Services, Office of Inspector General, *Summary of Inspectors General Reports on Federal Agencies' Data-quality Review Processes*, No. A-09-10-01002 (November 2009).

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## Oversight and Accountability Efforts in the First Year

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### OMB Has Taken Steps toward Implementing GAO Recommendations for Improving the Single Audit Process for Recovery Act Programs, and Actions Are Ongoing

Since our first bimonthly report in April 2009, we have made recommendations to OMB for improving the accountability and oversight of Recovery Act funds. These recommendations were intended to help mitigate risks related to Recovery Act funds and to strengthen internal controls over the use of those funds through the Single Audit Act and OMB Circular No. A-133 for Single Audits.<sup>103</sup> OMB has taken steps to implement our recommendations. However, these efforts do not yet fully address the significant risks related to Recovery Act funds. In October 2009, in response to our recommendations, OMB implemented a Single Audit Internal Control Project (project), which is under way. The project is a collaborative effort between the states receiving Recovery Act funds that volunteered to participate, their auditors, and the federal government. One of the project's goals is to achieve more timely communication of internal control deficiencies for higher-risk Recovery Act programs so that corrective action can be taken. The project required the auditors for each of the 16 volunteer states to issue interim reports on internal control of major Recovery Act programs as of November 30, 2009. These reports were to be presented to auditee management prior to December 31, 2009 (3 months sooner than the 9-month time frame required by OMB Circular No. A-133). Under the project, auditee management was to provide the report and a corrective action plan to the appropriate federal agency by January 31, 2010. When OMB completes the project, we plan to analyze the results and other actions that OMB has taken to more fully implement our recommendations to achieve improved and timelier oversight of Recovery Act funds.

### OMB Has Taken Steps to Implement GAO Recommendations

OMB has taken several steps in response to our recommendations. However, additional actions are needed to sufficiently address the risks leading to our recommendations. As we previously reported, Recovery Act

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<sup>103</sup>OMB 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.

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funds engender unique risks that were not addressed in OMB Circular No. A-133. The most significant of these risks are associated with

- new programs that may not have the internal 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 increases for existing programs that may exceed the capacity of existing internal controls and accounting systems,
- the more extensive accountability and transparency requirements for Recovery Act funds that require the implementation of new controls and procedures, and
- increased risks because of the need to spend funds quickly.

To help mitigate risks relating to Recovery Act programs, in our April, July, and September 2009 reports, we recommended that OMB adjust the current Single 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 over programs to receive Recovery Act funding during 2009, before significant expenditures in 2010; and
- evaluate options for providing relief related to audit requirements for low-risk programs to help balance new audit responsibilities associated with the Recovery Act.

Below is a summary of OMB's efforts to implement the recommendations from our bimonthly reviews. We will continue to report on these actions and subsequent OMB efforts, including the project's results.

- To focus auditor risk assessments on Recovery Act-funded programs and to provide guidance on internal control reviews for Recovery Act programs, OMB worked within the framework defined by existing mechanisms—Circular No. A-133 and the Circular No. A-133 Compliance Supplement (Compliance Supplement).<sup>104</sup> In this context, we reported in September 2009 that OMB had made limited adjustments to its Single Audit guidance. OMB issued the Compliance Supplement in May 2009, which focused risk assessments on Recovery

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<sup>104</sup>The Compliance Supplement is issued annually to guide auditors on what program requirements should be tested for programs audited as part of the Single Audit.

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Act-funded programs. In August 2009, OMB issued the Circular No. A-133 Compliance Supplement Addendum I, which provided additional guidance for auditors and modified the Compliance Supplement to, among other things, focus on new Recovery Act programs and new program clusters.

- We reported in April and July 2009 that the Single Audit reporting deadline is too late to provide audit results in time for the auditee to take action on deficiencies noted in Recovery Act programs prior to the expenditure of significant funds under those programs.<sup>105</sup> The timing problem was exacerbated by the extensions to the 9-month deadline that were routinely granted by the awarding agencies, consistent with OMB guidance. The Department of Health and Human Services, the cognizant agency<sup>106</sup> for the 16 states participating in the project, adopted a policy of no longer approving requests for such extensions. OMB officials have stated that they plan to eliminate allowing extensions across all agencies and programs but have not yet issued any official guidance to this effect. In February 2010, OMB officials stated that they plan to discuss this issue with federal agencies for governmentwide implementation.
- In our September 2009 report, we reported that OMB noted the increased responsibilities falling on those responsible for performing Single Audits. OMB issued two separate memoranda that allowed state and local governments to more timely recover administrative costs (including oversight, reporting and audit costs) related to Recovery Act programs.<sup>107</sup>

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<sup>105</sup>Single Audit Act requires that recipients submit their financial reporting packages, including the Single Audit report, to the federal government no later than 9 months after the end of the period being audited. As a result, an audited entity may not receive feedback needed to correct an identified internal control or compliance weakness until the latter part of the subsequent fiscal year.

<sup>106</sup>Each award recipient expending more than \$50 million is assigned a cognizant agency for audit. Generally, the cognizant agency for audit is the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB assigns this responsibility to another agency. Some of the responsibilities of the cognizant agency include performing quality control reviews, considering auditee requests for extensions, and coordinating a management decision for audit findings that affect federal programs of more than one agency.

<sup>107</sup>OMB, *Payments to State Grantees for Administrative Costs of Recovery Act Activities*, M-09-18 (Washington, D.C.: May 11, 2009), and OMB, *Payments to State Grantees for their Administrative Costs for Recovery Act Funding – Alternative Allocation Methodologies*, M-10-03 (Washington, D.C.: Oct. 13, 2009).

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### OMB Has Made Progress in Implementing Its Single Audit Internal Control Project

- In addition, states that volunteered to participate in the project were eligible for some relief in their workloads because OMB modified the requirements under Circular No. A-133 to reduce the number of low-risk programs that must be included in the Single Audits.
- In December 2009, we reported that OMB implemented the project to encourage timelier reporting by auditors to identify and communicate deficiencies in internal control and corrective action by the auditee. The project's scheduled completion is early spring 2010. While its coverage could be more comprehensive, OMB's analysis of the project's results could provide meaningful information for improving future use of the Single Audits for oversight of Recovery Act programs.

OMB has made progress in implementing the project since we last reported in December 2009. One of the project's goals is to encourage auditors to identify and communicate significant deficiencies and material weaknesses in internal control over compliance for selected major Recovery Act programs 3 months sooner than the 9-month time frame currently required under statute. If effective, the project should allow auditee program management to expedite corrective action and help mitigate the risk of improper Recovery Act expenditures. In December 2009, we reported that OMB officials met their goals for the scope of the project, stating that overall they were satisfied with the range of populations and geographic diversity of the 16 states that volunteered for the project.<sup>108</sup> The project's first interim milestone was scheduled for December 31, 2009. Under the project, the auditors were required to issue, in writing based on OMB Circular No. A-133, an early communication by that date of significant deficiencies and material weaknesses in internal control over compliance in effect for the period ended June 30, 2009, to auditee management.

For the 16 states participating in the project, 12 auditors submitted the required reports, which identified significant deficiencies, material weaknesses, or both. In addition, an auditor for another state provided a report but did not indicate whether the findings were material weaknesses or significant deficiencies as required under the project's guidelines. Auditors for 2 other states reported that while they performed interim procedures as required, they did not identify any significant deficiencies or

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<sup>108</sup>The following 16 states volunteered to participate in the Project: Alaska, California, Colorado, Florida, Georgia, Louisiana, Maine, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Virginia.

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material weaknesses and therefore did not issue written reports. One state, with a fiscal year ending on August 31, 2009, had until March 1, 2010, to report. OMB granted the extension so that the auditor would have the same amount of time to complete their test work as the auditors for the other project participants. The project's second milestone required that auditee management provide the interim communication report and a corrective action plan to the cognizant federal agency by January 31, 2010. For 10 of the 13 states that submitted the required internal control report, the corrective action plans were included in the interim communication report. In three instances, the plans were provided in a separate report.

We reviewed the internal control reports provided to OMB by the auditors of the project's participants by December 31, 2009, and noted that auditors for 13 of the 16 states reporting deficiencies had identified over 70 instances where internal controls over compliance were insufficient to prevent or detect noncompliance with federal regulations over Recovery Act funding. Moreover, auditors for 5 states identified findings that were of a more serious nature and qualified as material weaknesses.<sup>109</sup> In some instances, the state auditors had previously reported the same deficiencies, including a material weakness, but corrective action had not yet been taken or was insufficient to resolve these issues.

Most of the deficiencies reported under the project varied by program and state, but there were several that were similar across a number of programs and states. Specifically, a number of auditors reported concerns with (1) the auditees' ability to reliably report under the financial reporting requirement on federal expenditures and awards of Recovery Act funds, (2) the lack of documentation to determine whether the federal expenditure was allowed based on federal requirements, and (3) the lack of documentation to support whether payments of Recovery Act funding were made to eligible recipients. For example, one auditor reported that some documents required to determine eligibility for child care subsidies were not in the case files, and the responsible state agency did not have assurance that only eligible households are receiving child care subsidies. For this finding, the state agreed in October 2009 to implement a corrective action plan with full implementation by November 2010 to help ensure that verification documents are completed and maintained

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<sup>109</sup> A material weakness is a significant deficiency or combination of significant deficiencies, which results in more than a remote likelihood that a material misstatement of the subject matter will not be prevented or detected.

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regarding family eligibility for child care subsidies. The state agreed that a monthly audit on a random sample of files would be conducted and that reimbursement of questioned costs would be requested.

An example of a material weakness reported by one auditor was that a state workforce commission paid about \$21 million in Unemployment Insurance benefits to other states during fiscal year 2009 without recouping the cost of these claims from employers in the state. The auditor also reported that the workforce commission had not implemented procedures to determine if claimants filing in other states were working in the audited state at the time the claims were filed and during the duration of the claims. Effective internal controls did not exist to help ensure that the workforce commission notified employers of interstate claims and verified the work status of claimants to reduce the risk of payments on fraudulent claims.

OMB said that it will determine the success of the project by evaluating whether

- there has been sufficient participation from the auditees, auditors, and federal agencies;
- the early communication process provides auditee and federal program management with useful information regarding internal control deficiencies in the Recovery Act programs administered by the states, thus resulting in expedited correction of deficiencies and reduced risk to Recovery Act programs; and
- the process accelerates the audit resolution by the federal agencies and therefore provides auditee management with early feedback to assist in correction of the high-risk deficiencies in the most expeditious manner.

OMB has decided to use the Single Audit process as the key accountability tool because a significant portion of Recovery Act expenditures are in the form of federal grants and awards. However, the Single Audit Act and related OMB Circular No. A-133 did not reflect the risks associated with the current environment where large amounts of federal awards are being expended quickly through new, greatly expanded, and existing programs. Since significant disbursements of Recovery Act funding are planned for fiscal years 2010 and 2011, effective internal controls over the use of these funds and early notification and correction of internal control weakness are critical to help (1) ensure effective and efficient use of resources, (2) comply with laws and regulations, (3) achieve accountability, and (4) mitigate risks over Recovery Act programs. Thus, it is essential that OMB



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continue its efforts for improving the use of Single Audits to provide better safeguards over subsequent Recovery Act disbursements. If OMB concludes that it is unable to take the necessary steps under the current framework to adequately address accountability for the Recovery Act programs and related risks and to provide for more timely reporting, legislative changes may be necessary.

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### States and Federal Agencies Continue to Implement and Modify Controls to Mitigate Risk and Oversee Use of Recovery Act Funds

Since the Recovery Act was enacted in February 2009, states and federal agencies have taken and continue to take various actions to oversee the use of Recovery Act funds and to address the quality of data that states and other recipients maintain and report regarding their use of funds. Among other actions, states have established or modified existing internal controls and systems and provided guidance to recipients of Recovery Act funds. State and federal oversight has identified weaknesses and program issues and has made states and federal agencies focus on those weaknesses and issues and plan corrective actions.

Control over Recovery Act funds is critical to help ensure effective and efficient use of resources and compliance with laws and regulations. Further, controls are important to address the risks inherent in implementing the Recovery Act's recipient reporting requirements to help ensure the completeness, accuracy, and reliability of the reported data. Although the specifics of states' internal control processes varied depending on factors such as a state's statutory requirements, organizational structure, and whether the state took a centralized or decentralized approach to reporting, the internal control processes were aimed at helping to ensure accountability and transparency of Recovery Act funds.

In our previous reports on Recovery Act implementation, we found that the 16 states and the District of Columbia were taking various approaches to manage and mitigate risk. For example, officials in 8 states told us they would use existing systems of internal control with some modifications, and all 16 states and the District took steps, such as using unique codes in their accounting systems, to identify and track the use of Recovery Act funds, as required. As the states and the District gained more experience in implementing the act during the past year, officials in 6 states told us they have more recently taken actions to revise or update their controls and guidance related to Recovery Act funds.

- California Department of Education officials told us they added data quality checks in its system to ensure timely reporting and accuracy

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and completeness of reported data.

- Illinois Department of Transportation officials told us they hired three consultants to assist in the monitoring of subrecipients.
- Officials in two Mississippi state agencies responsible for oversight—the Office of the State Auditor and the Department of Finance and Administration’s Office of Fiscal Policy—told us they have contracted with accounting firms to review internal controls and operations of programs receiving Recovery Act funds. The reviews are to result in reports that could contain recommendations to improve or strengthen internal controls.
- Massachusetts officials told us an accounting firm conducted a risk assessment in late summer 2009 and found that prevention and detection of fraud, waste, and abuse was an area needing attention. The Comptroller’s office asked state departments to update their internal control procedures in response to the findings of the risk assessment.
- In Michigan, officials administering Workforce Investment Act programs said they are strengthening controls over payroll distribution processes for the Summer Youth Program in Detroit. Officials from Michigan’s Office of Internal Audit Services (OIAS) told us that the office assigned two of its internal audit staff to work full time on programs funded by the Recovery Act. In addition, OIAS officials told us they selected programs for detailed review based on an assessment of the control risks posed by the programs and planned to conduct further reviews of the selected programs as spending occurred.
- An official from Ohio’s Office of Internal Audit (OIA) told us that the office increased its internal audit staff from 9 to more than 25. Also, in December 2009, OIA issued audit reports assessing the adequacy and design of internal controls for six Recovery Act related programs and has ongoing audit work to assess the design or effectiveness of seven other Recovery Act related programs.

As shown in the following examples, federal offices of inspector general (OIG) continue to provide oversight of Recovery Act funds, including monitoring and reviewing aspects of state and federal programs, and state and federal agencies are taking actions to address issues found by the OIGs.

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- The Department of Energy's OIG reported that it is reviewing and evaluating internal control structures related to the weatherization program at both the federal and state levels. In December 2009, Energy's OIG reported that it identified significant internal control deficiencies in Illinois's weatherization program, including problems with on-site monitoring and inspection. The OIG also reported that state and local officials took action to address the immediate problems and that the department has developed corrective actions to prevent future issues.
  - As previously mentioned, in October 2009, the Department of Education's OIG reported that it had identified issues with cash management practices in five states. Specifically, the OIG identified a number of instances where state educational agencies disbursed Recovery Act funds without adequate information on whether local educational agencies (LEA) were ready to spend the funds and did not ensure that LEAs remitted interest earned on funds received in advance. The OIG noted that Education had provided guidance in April 2009 that included cash management requirements and was providing technical assistance related to cash management to state and local agencies.

States and federal agencies are likely to continue to modify and revise their controls and guidance as necessary to provide oversight for Recovery Act funds and to help ensure the completeness and accuracy of reported data. Further, as states and federal agencies identify issues through their monitoring and oversight activities, it is important that they address the issues. We will continue to review states' and federal agencies' actions related to their oversight of Recovery Act funds, including reviewing selected payments and analyzing Single Audit reports for programs with identified internal control weaknesses.

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## Fraud, Waste, and Abuse Allegations GAO Has Received That Are Related to the Recovery Act

As of December 30, 2009, we have received 179 allegations of Recovery Act wrongdoing from the public. The allegations relate to a wide range of federal spending, including rail work; renovation and repair of public buildings; education programs and entities, such as Head Start, public schools systems, and universities; tax credits and weatherization for homes; job creation; and health benefits. Specifically, they include alleged conflicts of interest, misallocation of funds, and ineligible recipients receiving Recovery Act money. As with all allegations received through

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FraudNet,<sup>110</sup> we have carefully reviewed those related to Recovery Act funding and pursued or referred those that warrant further attention.

Most of the 179 allegations have been closed: 117 were nonspecific or lacked information about fraud, waste, or abuse; 32 were investigated further and closed by us or an agency inspector general (IG) when no violations were found. Of those allegations that are open and currently under investigation, 13 are being handled by us and 17 by an IG. We generally refer allegations to an IG when that office is already pursuing the same or a similar complaint. We periodically contact the IGs to determine the status of our referrals. Table 15 shows the status of the Recovery Act allegations we have received.

**Table 15: Status of FraudNet Allegations**

Investigation	Percentage
Closed because of nonspecific or unrelated information	66
Closed after GAO or IG investigation	18
Open with IGs	9
Open with GAO	7

Source: GAO.

**Investigations closed because of nonspecific or unrelated information.** Most of these cases were complaints about the allocation of funds, the decisions and actions of local officials, and the location of such infrastructure projects as rest stops or interchanges. These cases were closed because they contained no specific information or were unrelated to fraud, waste, or abuse of federal funds.

**Investigations closed after GAO or IG investigation.** These allegations were specific enough to warrant an investigation by us or an IG but could not be substantiated. For example, a church was claimed to be shown erroneously on [www.recovery.gov](http://www.recovery.gov) (Recovery.gov) as having received Recovery Act funds. Our investigation found that the church previously owned real estate that qualified for Section 8 housing

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<sup>110</sup>FraudNet is a hotline GAO created in 1979 to solicit help from the public in combating fraud, waste, abuse, mismanagement, and criminal activities occurring in federal programs. We have specifically urged private citizens, government workers, contractors, and others to use FraudNet to report concerns about Recovery Act spending. FraudNet is primarily an Internet-based operation that provides a secure means for individuals to confidentially communicate such concerns.

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assistance payments but had sold the property. HUD was subsequently notified and updated its records. Recovery.gov was also updated.

**Open investigations with GAO.** It is too early to determine whether these investigations will result in substantiated claims of fraud, waste, or abuse. However, at this point the allegations appear to be credible, and we will determine the extent of any possible violations. One investigation involves a large water project alleged to improperly include Recovery Act funding. The allegation claims the project cannot fulfill its intended purpose and will require additional funding and infrastructure improvements before getting under way.

**Open investigations with IGs.** Similarly, results for these investigations are not yet available. We are working closely with the appropriate IGs to monitor the status of their investigations. In one investigation, a laboratory operated for the Department of Energy allegedly used Recovery Act funds to award a contract to an entity that is claimed to be an “inverted domestic corporation”—that is, incorporated in a foreign country or a subsidiary of a foreign company. In another, a Head Start grantee is alleged to be planning not to provide a cost-of-living adjustment to its staff despite receiving Recovery Act funds designated for that purpose. Instead, the claim suggests the money will be used for other initiatives related to the grantee’s Head Start program.

We will continue to evaluate all Recovery Act allegations received through FraudNet and provide updates in future reports.

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## Recovery Accountability and Transparency Board Oversight of Federal Contract Spending

The Recovery Accountability and Transparency Board (the Board) has launched a number of oversight initiatives on Recovery Act funds since it began meeting in March 2009. These initiatives include the establishment of a public Web site and the Recovery Board Fraud Hotline. The Board’s initiatives are being executed by the Board’s executive staff, as well as by the 29 inspectors general responsible for Recovery Act oversight. The initiatives include reviewing federal contracts and grants to help ensure they meet applicable standards, follow OMB guidance, and satisfy applicable competition requirements; the initiatives also are aimed at identifying risk areas for fraud, waste, and abuse. The Board, with the help of the inspectors general, is assessing the capacity of federal agency acquisition workforces to determine if they have sufficient numbers of trained acquisition and grants personnel to manage the Recovery Act workload. Because many of the initiatives are in their early stages of

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Providing Information to and  
Access for the Public

implementation, it is too soon to evaluate their success or shortcomings for providing sound oversight.

The Board is responsible for providing information about Recovery Act spending via [www.recovery.gov](http://www.recovery.gov) (Recovery.gov). This Web site was created to provide accurate, user-friendly information to the public related to spending on Recovery Act programs. Recovery.gov is the official source of information related to the Recovery Act, and it contains official data for use in public debate, assists in providing fair and open access to Recovery Act opportunities, and promotes an understanding of the local impact of Recovery Act funding.

On September 28, 2009, the Board established the Recovery Board Fraud Hotline for the public to report potential cases of fraud, waste, and abuse via telephone, facsimile, Recovery.gov, or postal mail. This hotline service maintains a database of all reported incidents to identify recurring issues, companies, or participants related to potential cases.<sup>111</sup> The Board reviews the complaints and refers potential cases to the respective inspector general or agency for further review. As of January 19, 2010, the Board had received 948 complaints and has referred 79 cases to various inspectors general.<sup>112</sup>

Monitoring Federal Recovery  
Act Contracts and Identifying  
Areas Vulnerable to Risk

The Board uses several approaches to monitor federal contracts, including a manual review performed on the contract solicitations and awards posted daily on the Federal Business Opportunities Web site ([FedBizOpps.gov](http://FedBizOpps.gov)) to ensure that Recovery Act-related Federal Acquisition Regulation requirements are followed and to identify any contracts that were awarded to contractors that might be in the Excluded Parties List System.<sup>113</sup> In addition, Board staff review data on Recovery Act-funded

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<sup>111</sup>According to Board staff, the government-managed hotline was set up using a previously established cooperative agreement between the Department of Justice and Louisiana State University.

<sup>112</sup>According to the Board staff, the majority of the complaints received via the fraud hotline did not contain any actionable information; for example, some complaints contained a generalized comment on the Recovery Act rather than any specific allegation of wrongdoing. The Board refers those that are actionable to the appropriate inspector general when there is a specific allegation of wrongdoing or multiple factors indicate a possible area of risk.

<sup>113</sup>The Excluded Parties List System, which is maintained by the General Services Administration, is a database listing the parties suspended, proposed for debarment, debarred, declared ineligible, or excluded or disqualified from government contracting.

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contracts from the Federal Procurement Data System-Next Generation to identify the reasons for the noncompeted contracts.

The Board also established a Recovery Operations Center, which became operational the last week of October 2009, and supports a three-tiered system to identify potential risk areas related to Recovery Act spending for oversight purposes. The first tier of the system uses screening models to analyze volumes of data to isolate potential high-risk recipients. The second tier uses a link-analysis tool to uncover nonobvious relationships between entities. The third tier uses the results of the first two tiers, along with historical risk factors and present-day trends, to create risk-based resource management tools for the oversight community. The results of these analyses are shared with the inspectors general to provide information for (1) investigations or audits of federal programs and recipients of Recovery Act funds and (2) decisions related to expanding or helping focus oversight resources. According to a Board representative, Board staff started identifying high-risk areas at the end of 2009 and have provided information to the inspectors general that is being used in active investigations.

#### Oversight and Coordination of Inspectors General Efforts

The Board's Recovery Funds Working Group, which includes representatives from the 29 inspectors general, meets monthly to discuss issues related to oversight of Recovery Act funds. The working group representatives identify specific initiatives that the inspectors general are expected to carry out to support the Board's oversight of Recovery Act funds. In August 2009, for example, 28 of the 29 inspectors general on the working group administered a survey to their respective agencies to assess their overall workforce capacity for handling the management and oversight of contracts and grants being awarded with Recovery Act funds. The results of the survey are expected to be issued by the end of April 2010.

The inspectors general also report monthly to the Board on the number and status of Recovery Act-related audits and investigations they have initiated. As of December 31, 2009, the inspectors general reported they had 141 investigations and 457 audits, inspections, evaluations, or reviews in process. They also reported they have issued 324 reports on Recovery Act-related issues since the act was passed. The scope of the inspectors general reports varied and ranged from compliance with program requirements at individual states or localities within a given program to assessments of internal controls across entire programs or agencies. Many of the reports did not identify wrongdoing or systematic weaknesses in management but did make recommendations to improve the

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implementation and oversight of programs using Recovery Act funds. For example, the Department of Energy Inspector General had published 13 reports on Recovery.gov as of February 2010 that addressed aspects of Recovery Act issues—one issued in December 2009 identified the department’s efforts and challenges in implementing the Recovery Act in selected program offices. The report contained a number of recommendations aimed at addressing the department’s remaining challenges, including the need to revise financial assistance guidelines to incorporate additional Recovery Act requirements for monitoring and oversight and the need to perform staffing reviews to determine the level of personnel needed to oversee Recovery Act projects. As another example, the General Services Administration Inspector General has published two reports since the Recovery Act was passed.<sup>114</sup> A September 2009 report provided observations related to the use of project plans on the Public Building Service’s major construction and modernization projects being funded under the Recovery Act. Additional information about program-specific audit work of the inspectors general is located in the program sections of this report.

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## Federal, State, and Local Audit Communities Have Been Coordinating Audit Efforts

Multiple audit organizations that span audit communities have taken steps to enhance communication and coordination of audit efforts in relation to Recovery Act Programs. The frequency of communication and depth of information sharing across all levels of government have strengthened the ability of the overall audit community to fulfill its responsibilities in relation to accountability for Recovery Act funds.

Both the annual meeting of the National Intergovernmental Audit Forum and quarterly Regional Intergovernmental Audit Forum meetings have routinely included presentations concerning Recovery Act issues. These forums, attended by key state and local auditors, representatives of the inspectors general (IG) community, and others, including GAO officials, have always been a setting for dialogue concerning accountability issues. Since passage of the Recovery Act, these meetings have provided an opportunity for us to update the audit community concerning our Recovery Act work in selected states and the District of Columbia (the District).

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<sup>114</sup>The General Services Administration Inspector General has issued 38 reports on Recovery Act-related issues as of December 2009; however, 36 of the 38 reports were not published on Recovery.gov because they contain proprietary information.



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The depth and frequency of the discussion of Recovery Act issues among members of the audit community have been enhanced by weekly and monthly telephone conferences. The National Association of State Auditors, Comptrollers and Treasurers (NASACT) has coordinated a weekly teleconference to provide state associations with updates on the status of OMB guidance on reporting requirements for Recovery Act funds.<sup>115</sup> Participants in this call include representatives from OMB, the Board, GAO, the National Governors Association, the National Association of State Budget Officers (NASBO), and state stimulus czars, as well as NASACT. These teleconferences have afforded the opportunity for information sharing and problem solving and have involved over 40 people. For example, discussions of the full-time equivalent (FTE) calculation for recipient reporting led to in part a recommendation that has clarified the calculation. In addition to this teleconference, NASACT, through its associate organization the National State Auditors Association, convenes a monthly conference call that includes OMB, the Board, GAO, inspectors general, and representatives from the state and local audit communities. The Association of Government Accountants and the Association of Local Government Auditors have also been active participants in discussions of Recovery Act auditing issues. In an effort to ensure information sharing about allegations of fraud, we are also working with state and local auditors to develop plans for routine sharing of information.

## Oversight and Audit of Recovery Act Programs at the State and Local Levels

Across our 16 selected states, and in the District of Columbia, a wide variety of entities are responsible for, and involved in, oversight and audit of Recovery Act Programs. Each state is unique in its configuration of oversight and audit agencies, yet some common features span many jurisdictions. Cities and towns, housing and transit authorities, and other units of government also differ widely in capacity and structure for oversight and auditing activities.

Many states created new positions and/or task forces to specifically manage and oversee Recovery Act programs. California, Colorado, Georgia, Iowa, Massachusetts New Jersey, New York, Pennsylvania, and Texas are among the states that are using this strategy as part of their management and oversight efforts. Inspector general offices in some of

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<sup>115</sup>The National Association of State Auditors, Comptrollers and Treasurers is an organization of state auditors, comptrollers, and treasurers in the 50 states, the District of Columbia, and U.S. territories who deal with the financial management of state government.

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our selected states investigate cases of alleged fraud, waste, or abuse.<sup>116</sup> Internal auditors across state agencies, such as state departments that manage transportation and education, are engaged to various degrees in the oversight and auditing of Recovery Act funds.

All selected states have multiple offices engaged to some extent in the oversight and audit of Recovery Act programs. For example, in Ohio the State Audit Committee, the Office of Budget and Management (OBM), OBM's Office of Internal Audit (OIA), the Auditor of State (AOS), and the state-appointed Deputy Inspector General all share responsibility for oversight and auditing of Recovery Act programs. OIA has completed six audit reports on programs through which the Recovery Act provided funds for weatherization, foster care, job training, law enforcement, addressing violence against women, and highways as well as on Recovery Act central reporting. OIA found, for example, that the weatherization and job training programs need additional identification and documentation of key Recovery Act-related risks and mitigating internal controls. In contrast, the OIA audit of the adequacy and design of internal controls for the Highway Infrastructure Investment Recovery Act Program had no findings.

The Ohio Auditor of State is responsible for audit activities at housing authorities and other grantees that receive funding directly from the federal government rather than through the state. Additionally, the Ohio Auditor of State is conducting the state's Single Audit for fiscal year 2009, which will include some programs that receive Recovery Act funds. The Deputy Inspector General holds a position that was specifically created to monitor state agency distribution of Recovery Act funds. Investigations of potential criminal activities related to Recovery Act programs are handled by the Ohio Office of Inspectors General. This office has completed two investigations and has three ongoing. Both completed investigations involved funds to be overseen by the Ohio EPA. In one case the funds were found not to be Recovery Act funds, in the other case the IG found no wrongful act had occurred.

In Georgia, oversight and auditing responsibilities rest with the Office of Planning and Budget, State Accounting Office, State Auditor, State Inspector General, and agencies' internal audit departments. For example, the State Auditor included audits of Recovery Act programs administered

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<sup>116</sup>In the District of Columbia, the Inspector General conducts program audits as well as investigating allegations of waste, fraud, and abuse.

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by the Georgia Department of Education, Georgia Department of Human Services, Georgia Department of Labor, and Georgia Department of Transportation (GDOT) in the 2009 Single Audit. The Single Audits for fiscal years 2010 and 2011 are expected to include audits of Recovery Act funding awarded to all 157 local education agencies (LEA). The State Inspector General's office has responded to complaints concerning Recovery Act programs. The State Inspector General's office has received two complaints concerning Recovery Act programs. One was a complaint about Recovery Act funds being used to purchase road signs for GDOT projects funded by the Recovery Act; GDOT has discontinued the practice of posting these signs. The Inspector General's investigation of the second complaint, which involves issues with funds received by the Georgia National Guard, has just begun. Internal auditors for the Georgia Environmental Facilities Authority, GDOT, and the Georgia Department of Human Services all plan to audit Recovery Act programs.

In a few cases, the auditing of Recovery Act programs is melded into the general audit of an overall program that includes Recovery Act funds along with other funds. For example, an audit of spending for a highway construction project may include a review of Recovery Act funds as part of the audit of all funding for the project. In New Jersey, for example, the Office of the State Auditor is or will be surveying agencies about their internal controls for Recovery Act funds as part of already planned audits; these include audits related to community service block grants, bridge maintenance contracts, regular school district audits, and clean water state revolving funds.

Many of our selected states, including Ohio and Georgia, discussed above, are including some Recovery Act funding in their Single Audits. Officials at the Arizona Auditor General's office told us that Recovery Act-specific reviews will be part of the Single Audit work. Illinois officials said that their Single Audit covers only the state government and does not include component units. The programs to be included in their Single Audit will be selected in part on the basis of funding levels, and Recovery Act funds would be included in the scope of the audit. However, Illinois officials stated that, following the requirements set forth in OMB Circular A-133, the programs included in the audit are selected based on factors such as amount of funding; therefore, not all programs that received Recovery Act funding will be included in the audit's scope. GAO has recommended to OMB that it evaluate options for providing relief related to audit requirements for low-risk programs to help balance the new audit responsibilities associated with the Recovery Act. Seven out of our 16

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Some Local Communities Have Also Initiated Recovery Act Audit Activities

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selected states volunteered to participate in the OMB Single Audit pilot project discussed in the Single Audit section of this report.<sup>117</sup>

A number of cities and counties have included auditing of Recovery Act funds in their current audit plans. Austin, Texas, for example, has specifically designated some resources for Recovery Act auditing. Denver, Colorado, has completed two Recovery Act-specific nonaudit services, known as Audit Alerts, and will issue an audit report later in 2010; the city auditor in Atlanta, Georgia, will issue a Recovery Act audit report within the next few months and is considering additional work; and Jackson, Mississippi, is initiating an audit of Recovery Act funds awarded to city agencies in the near future. According to county officials, Maricopa County, Arizona, has multiple levels of review to monitor Recovery Act programs. At the local level, local governments plan to incorporate Recovery Act auditing into their Single Audit reviews.

Officials in a number of communities, however, told us that they have not initiated specific Recovery Act audit activities. This is particularly the case with small communities in our sample. Officials in these communities told us that in part, this is because they have only recently received funds, or are anticipating that the amount of funds they will receive is small. Plano, Texas, is a small community that is not planning to audit Recovery Act programs for these reasons. A few jurisdictions also indicated that they did not have the resources to conduct audit work. The City of Macon and Tift County, in Georgia, are examples of other local governments that are not planning audit activities related to Recovery Act programs.

Other government entities are also planning audit activity related to Recovery Act funds. For example, the New York Metropolitan Transportation Authority Audit Services Department is planning to include all 22 Recovery Act projects within its jurisdiction in its 2010 audit plans. Greater Glens Falls Transit's (New York State) Single Audit for calendar years 2009 and 2010 will include Recovery Act-funded projects.

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<sup>117</sup>The following 16 states volunteered to participate in the project—Alaska, California, Colorado, Florida, Georgia, Louisiana, Maine, Missouri, Nevada, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Virginia.

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## Recovery Act Funds Alleviate Some Fiscal Pressures as State and Local Governments Respond to the Current Recession and Confront Long-Term Challenges

Recovery Act funds began flowing as state and local governments faced steep revenue declines in 2009. States' revenue declines have been cushioned by the temporary infusion of Recovery Act funds. The results from our March 2010 State and Local Fiscal Model Update provide additional detail regarding these and other trends in state and local fiscal conditions.<sup>118</sup> The fiscal model update includes the increased federal grant funding made available to state and local governments through the Recovery Act. It also shows that the state and local government sector is facing short-term declines in its operating balance while also confronting long-term fiscal challenges, which have been growing over time. Specifically, the model projects operating deficits of about \$39 billion for 2010 and \$124 billion for 2011. The cumulative 2-year projected operating deficit totals approximately \$163 billion. The operating deficit projections in our model reflect the pressures facing the sector in the aggregate and provide a sense of the magnitude of policy actions necessary for these governments to balance their operating budgets.<sup>119</sup> Reports from associations representing state and local officials corroborate these findings. The National Association of State Budget Officers' most recent fiscal survey of the states noted that states will have faced \$256 billion in budget gaps between fiscal years 2009 and 2011 and an average decline in state general fund spending of 5.4 percent for fiscal year 2010—the largest margin ever shown through this survey. The National Association of Counties reported that 56 percent of counties responding to its survey reported starting their most recent fiscal years with projected shortfalls. A National League of Cities' (NLC) survey showed that 88 percent of city finance officers reported that their cities were less able to meet fiscal needs in 2009 than in the previous year, and the pessimism about the ability to meet city fiscal needs is at its highest level in the history of NLC's 24-year survey.

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<sup>118</sup>See GAO, *State and Local Governments' Fiscal Outlook March 2010 Update*, [GAO-10-358](http://gao.gov/special.pubs/longterm/longterm.html) (Washington, D.C.: Mar. 2, 2010). This and related products can be found at <http://gao.gov/special.pubs/longterm/longterm.html>. Our update of the state and local model uses data from the National Income and Product Accounts of the Bureau of Economic Analysis as the primary data source for projections of the level of receipts and expenditures for the sector until 2060, based on current and historical spending and revenue patterns. We assume that the current set of policies in place across federal, state, and local governments remains constant. Actual amounts will reflect policy actions taken by state and local governments to balance their budgets. Years are calendar years.

<sup>119</sup>Because the model covers the sector in the aggregate, the fiscal outcomes for individual states and localities cannot be captured.

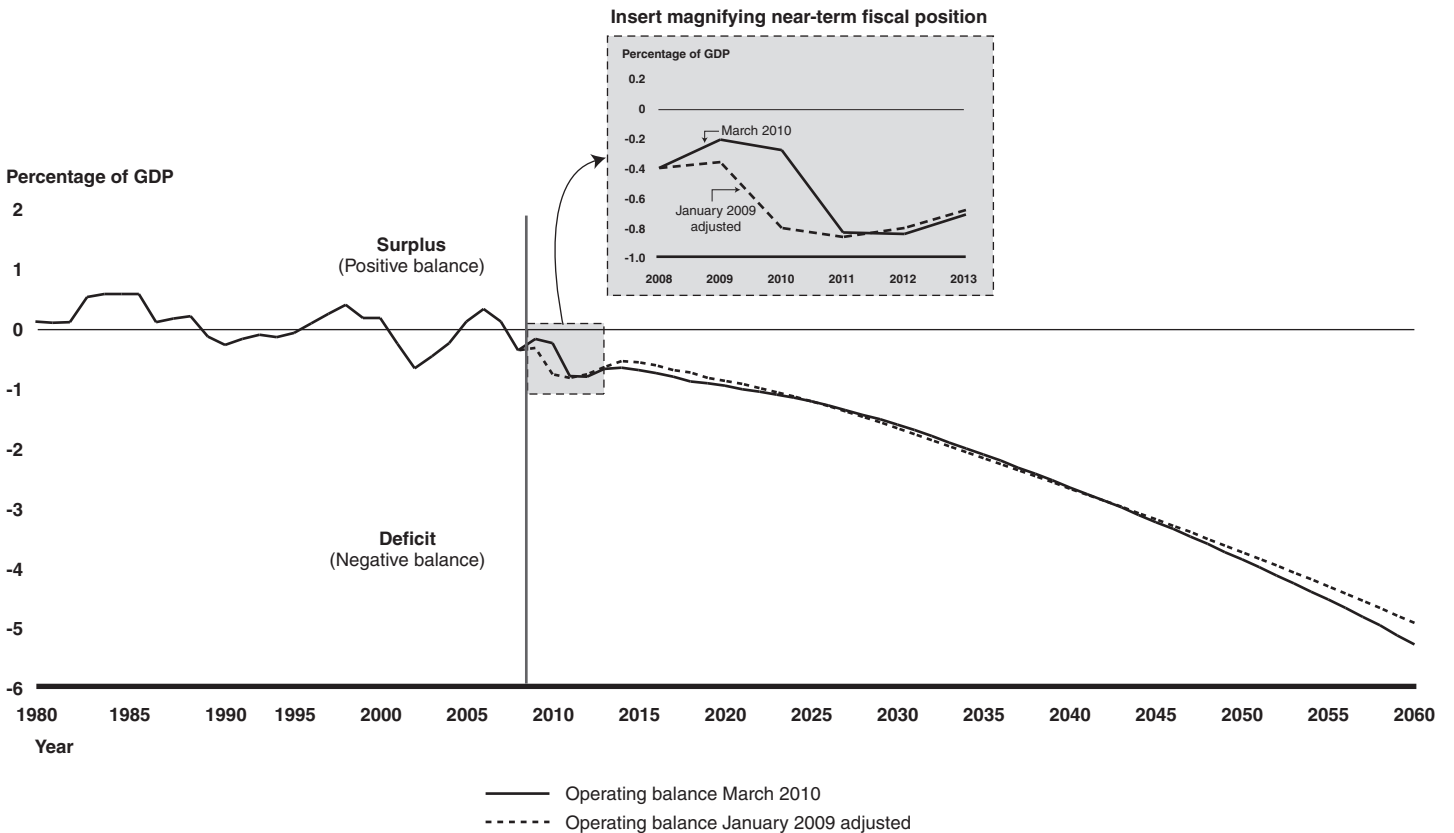
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The updated simulations in our state and local fiscal model also show that the sector continues to face growing long-term fiscal challenges over time, which have been exacerbated by the current recession. Our state and local sector fiscal model uses the operating balance as a measure of fiscal balance for the sector for each year until 2060.<sup>120</sup> The operating balance is a measure of the sector's ability to cover its current expenditures out of current receipts. As illustrated in figure 15, the operating balance measure generally was positive in the past except during and after recent recessions. This suggests that in the aggregate the sector has been able to cover its expenses with incoming receipts.

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<sup>120</sup>The explicit definition of our operating balance measure is all receipts, excluding funds used for long-term investments, minus current expenditures. To develop this measure, we subtract funds used to finance longer-term projects—such as investments in buildings and roads—from receipts since these funds would not be available to cover current expenses.

**Figure 15: State and Local Model Operating Balance Measure, as a Percentage of Gross Domestic Product (GDP)**



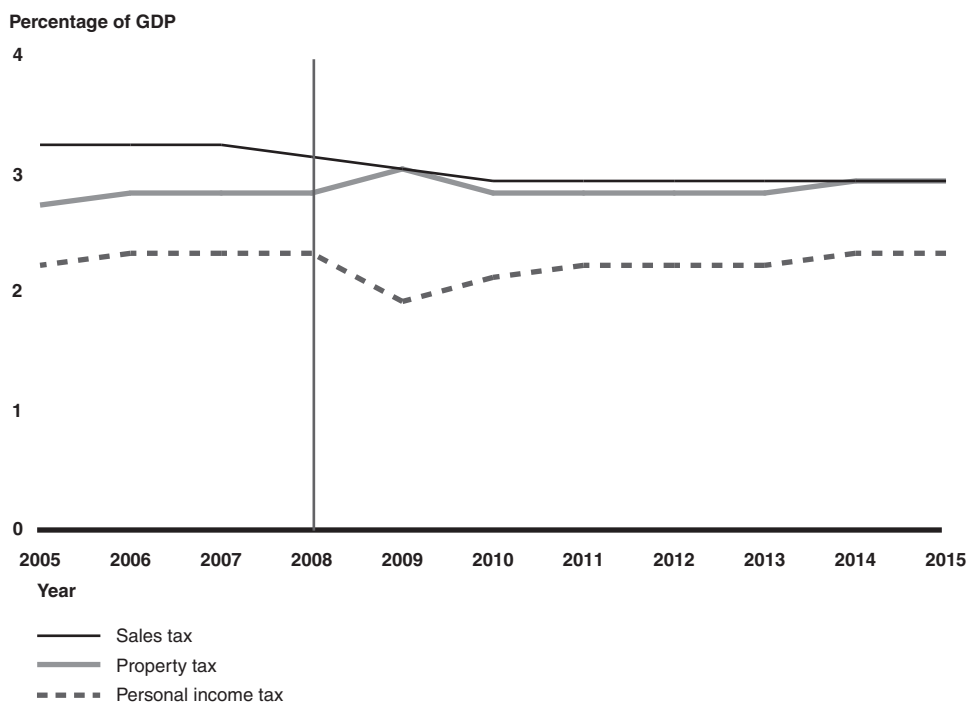
Source: GAO simulations, updated March 2010 and January 2009 adjusted.

Notes: Historical data are from the Bureau of Economic Analysis's National Income and Product Accounts from 1980 to 2008. Data in 2009 are GAO estimates aligned with published data where available. GAO simulations are from 2010 to 2060, using many Congressional Budget Office projections and assumptions, particularly for the next 10 years. Simulations are based on current policy.

While our state and local model continues to illustrate the long-term pressures facing the sector, recent economic fluctuations also resulted in shifts in the model's short-term results. The temporary growth in federal grant funding provided by the Recovery Act helped offset the sector's tax receipt declines. As a percentage of GDP, state and local personal income tax declines exceeded revenue shifts from sales and property tax, as shown in figure 16. Total tax receipts for the sector declined from about 9.25 percent of GDP in 2008 to 8.8 percent of GDP in 2009. We project a slight increase in total tax receipts to 8.82 percent of GDP in 2010. Personal income tax receipts declined from about 2.3 percent of GDP in

2008 to 1.9 percent of GDP in 2009. We project a slight increase in total tax receipts in 2010.

**Figure 16: State and Local Government Taxes, as a Percentage of GDP**



Source: GAO simulations, updated March 2010.

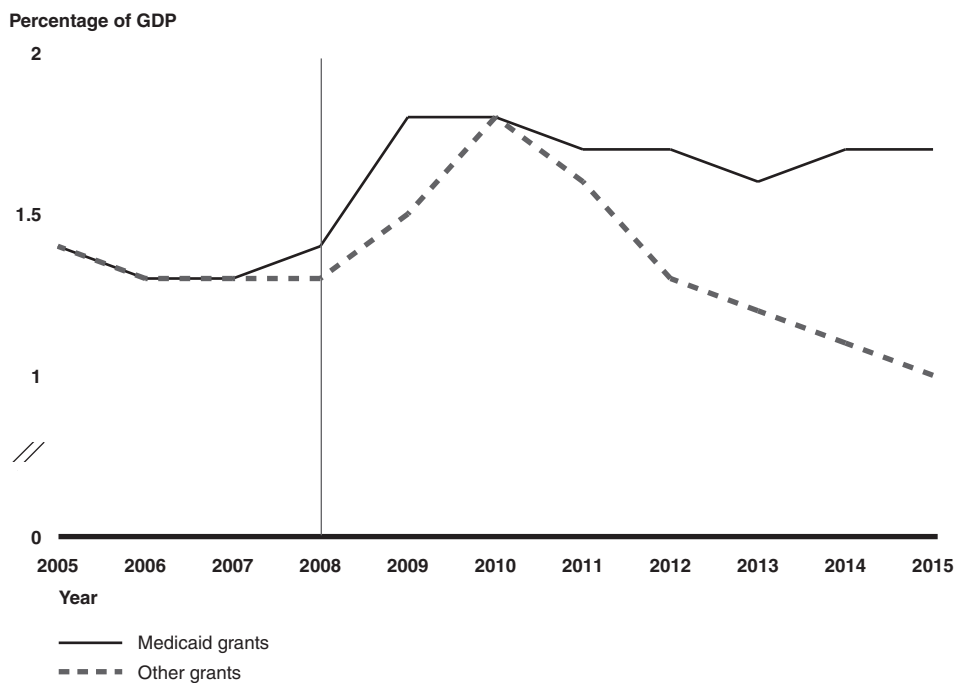
Notes: Historical data are from the Bureau of Economic Analysis’s National Income and Product Accounts from 1980 to 2008. Data in 2009 are GAO estimates aligned with published data where available. GAO simulations are from 2010 to 2060, using many Congressional Budget Office projections and assumptions, particularly for the next 10 years. Simulations are based on current policy.

The recent update of the model shows short-term declines in the fiscal position of the sector, even after the inclusion of National Income and Product Accounts data—which reflect Recovery Act grant funds received by state and local governments for programs such as Medicaid, highways, and education that are discussed in this report. Federal Recovery Act grants to state and local governments did help offset declines in state and local tax receipts between our January 2009 and March 2010 simulations. Federal Medicaid and other grants grow as a share of GDP through 2010 (see fig. 17). Federal grants-in-aid comprised the second largest source of



receipts for the sector in 2008, providing about \$392 billion, or about 20 percent of current receipts for the sector.<sup>121</sup> In 2009, this amount increased to \$477 billion as Recovery Act funds flowed to these governments through intergovernmental grant programs.

**Figure 17: State and Local Government Grants, as a Percentage of GDP**



Source: GAO simulations, updated March 2010.

Notes: Historical data are from the Bureau of Economic Analysis's National Income and Product Accounts from 1980 to 2008. Data in 2009 are GAO estimates aligned with published data where available. GAO simulations are from 2010 to 2060, using many Congressional Budget Office projections and assumptions, particularly for the next 10 years. Simulations are based on current policy.

## State and Local Officials' Use of Recovery Act Funds Helps Address Budget Gaps

State officials we contacted acknowledged the Recovery Act's contributions to easing immediate fiscal pressures in the selected states but remain wary of fiscal pressures likely to continue after federal assistance ends. Local officials also cautioned that their reduced tax receipts exceed the influx of Recovery Act funds. Officials in all of our

<sup>121</sup>The sector's current tax receipts, including income, sales, and property tax, totaled \$1.3 billion, or about 68 percent of the sector's receipts in 2008.

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selected states indicated that they were able to reduce or eliminate current and anticipated budget shortfalls through a variety of budget actions, including the incorporation of Recovery Act funds in their budgets for fiscal years 2009 and 2010. The use of Recovery Act funds affected the size and scope of some states' budgeting decisions, and many of the selected states reported that they would have had to make further cuts to services and programs had they not received Recovery Act funds.

State officials reported that their efforts to balance their budgets while using Recovery Act funds focused on maintaining current services rather than creating new programs or staff positions that could extend their state's financial liabilities beyond the end date for Recovery Act funds. Despite the infusion of Recovery Act funds into state budgets, some state officials reported that the current fiscal situation still required action to maintain balanced budgets. These actions included staff layoffs, furloughs, program cuts, fee increases, and scaling back of state rebates of local property taxes. For example, in Georgia, for fiscal year 2009, officials amended the state budget by reducing revenue estimates, using reserves, and cutting program funding. In New Jersey, the largest cuts came from scaling back state rebates of local property taxes and reducing payments to the state's pension funds. To balance the fiscal year 2010 budget, North Carolina officials incorporated \$1.4 billion of Recovery Act funds, cut \$2 billion from the budget, and included \$1.4 billion in tax and fee increases. In addition to these budget actions, some states also reported accelerating their use of Recovery Act funds to stabilize deteriorating budgets. In Massachusetts, state officials said that accelerating their use of Recovery Act and state rainy-day funds presented the most viable solution to balance their budget. California's dire fiscal condition also prompted the state to accelerate the initial use of its Recovery Act funds, along with the use of a number of additional measures to reduce the state's fiscal year 2008-2009 budget gap. More than half of the selected states also tapped into their reserve funds in fiscal year 2009, fiscal year 2010, or both.<sup>122</sup>

### Recovery Act Funds Flow to Local Governments and Cushion Some Fiscal Challenges

Most Recovery Act funds to local governments flow through existing federal grant programs. The use of Recovery Act funds helped to fund existing programs for some local governments for nonrecurring projects, while some governments did not apply for grants that would result in long-term financial obligations. In addition to Recovery Act funds for which local governments were prime recipients, several local government

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<sup>122</sup>All of the selected states and the District have at least one rainy-day or reserve fund.

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Approaches to Developing Exit Strategies for the End of Recovery Act Funding Reflect the Nature of Funding and Balanced Budget Requirements

officials reported that additional Recovery Act funds were received by other entities within their local jurisdictions.<sup>123</sup> These entities included housing authorities, transit authorities, nonprofit organizations, and school systems. Some local governments reported experiencing challenges in applying for and administering Recovery Act grants, including insufficient staff capacity, lack of guidance, budget constraints, short application timetables, and matching requirements. Local government officials reported that use of Recovery Act funds helped to support local services, but recent revenue declines still resulted in midcycle budget shortfalls. Recovery funds plugged gaps in program funding, but budget challenges continued despite the receipt of these funds.

States' and localities' approaches to developing exit strategies for continuing services after their use of temporary Recovery Act funds ends reflect the balanced budget requirements in place for the selected states, the District, and selected local governments included in our work. State budget officials referred to the temporary nature of the funds and the fiscal challenges that are expected to extend beyond the timing of funds provided by the Recovery Act. Officials discussed a desire to avoid what they referred to as the "cliff effect" associated with the dates when Recovery Act funding ends for various federal programs. Budget officials in some of the selected states reported that they were preparing for the end of Recovery Act funding by using funds for nonrecurring expenditures and hiring personnel to fill limited-term positions to avoid creating long-term liabilities. Some local officials also said that because Recovery Act funds were generally used for one-time projects, which will not result in long-term liabilities, they did not plan to develop exit strategies. On the other hand, a number of local governments reported that they were developing plans to sustain current Recovery Act projects after Recovery Act funding ends. Other local governments reported developing more general exit strategies consisting of reductions in expenditures or possible increases in revenue to prepare for the end of Recovery Act funding. Some local government officials reported that their governments did not need exit strategies because of the limited effect of the use of Recovery Act funds. However, officials reported that they were still planning for the end of specific grant periods.

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<sup>123</sup>For our December 2009 Recovery Act report, we expanded our focus on the use of Recovery Act funds to include 44 local governments.

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## New, Implemented, and Open Recommendations; Matters for Congressional Consideration

For this report, GAO both updates the status of agencies' efforts to implement GAO's previous 23 recommendations and makes 5 new recommendations to the Office of Management and Budget (OMB) and the Departments of Transportation (DOT), Housing and Urban Development (HUD), and Education to improve accountability for Recovery Act funds.<sup>124</sup> Lastly, we update the status of our Matters for Congressional Consideration.

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### Department of Transportation

#### New Recommendation

The Secretary of Transportation should gather timely information on the progress states are making in meeting the maintenance-of-effort requirement and report preliminary information to Congress within 60 days of the certified period (Sept. 30, 2010), (1) on whether states met required program expenditures as outlined in their maintenance-of-effort certifications, (2) the reasons that states did not meet these certified levels, if applicable, and (3) lessons learned from the process.

#### Implemented Recommendation

Recipients of highway and transit Recovery Act funds, such as state departments of transportation and transit agencies, are subject to multiple reporting requirements. Both the Department of Transportation and OMB have issued implementation guidance for recipient reporting. Despite these efforts, state and local highway and transit officials expressed concerns and challenges with meeting the Recovery Act reporting requirements. We recommended in our September 2009 report that the Secretary of Transportation should continue the department's outreach to state departments of transportation and transit agencies to identify

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<sup>124</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, [GAO-09-580](#) (Washington, D.C.: Apr. 23, 2009); *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*, [GAO-09-829](#) (Washington, D.C.: July 8, 2009); *Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed*, [GAO-09-1016](#) (Washington, D.C.: Sept. 23, 2009); *Recovery Act: Recipient Reported Jobs Data Provide Some Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention*, [GAO-10-223](#) (Washington, D.C.: Nov. 19, 2009); *Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability*, [GAO-10-231](#) (Washington, D.C.: Dec. 10, 2009).

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common problems in accurately fulfilling reporting requirements and provide additional guidance, as appropriate.

#### Agency Actions

In September 2009, in responding to our recommendation, DOT said that it had conducted outreach, including providing technical assistance, training, and guidance to recipients, and will continue to assess the need to provide additional information. For example, in February 2010, FTA continued three training webinars to provide technical assistance in complying with reporting requirements under section 1201(c) of the Recovery Act. In addition, on February 1, 2010, FTA issued guidance to transit agencies instructing them to use the same methodology for calculating jobs retained through vehicles purchased under section 1201 as they had been for the recipient reporting. This reversed previous guidance that had instructed transit agencies to use a different methodology for vehicle purchases under sections 1201 and recipient reporting.

#### Implemented Recommendation

The Department of Transportation and the Federal Highway Administration (FHWA) have yet to provide clear guidance regarding how states are to implement the Recovery Act requirement that economically distressed areas (EDA) are to receive priority in the selection of highway projects for funding. We found substantial variation both in how states identified EDAs and how they prioritized project selection for these areas. To ensure states meet Congress's direction to give areas with the greatest need priority in project selection, we recommended in our July 2009 report that the Secretary of Transportation develop clear guidance on identifying and giving priority to economically distressed areas that are in accordance with the requirements of the Recovery Act and the Public Works and Economic Development Act of 1965, as amended, and more consistent procedures for the Federal Highway Administration to use in reviewing and approving states' criteria.

#### Agency Actions

In August 2009, in response to our recommendation, FHWA, in consultation with the Department of Commerce, developed guidance that addresses our recommendation. In particular, FHWA's August 2009 guidance defines "priority," directing states to give priority to projects that are located in an economically distressed area and can be completed within the 3-year time frame over other projects. In addition, FHWA's guidance sets out criteria that states may use to identify economically distressed areas based on "special need." The criteria align closely with special need criteria used by the Department of Commerce's Economic Development Administration in its own grant programs, including factors such as actual or threatened business closures (including job loss thresholds), military base closures, and natural disasters or emergencies.

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## Department of Housing and Urban Development

New Recommendation	To help HUD achieve Recovery Act objectives and address challenges with its continued administration of Recovery Act funds, we recommend that the Secretary of Housing and Urban Development develop a management plan to determine the adequate level of agency staff needed to administer both the Recovery Act funds and the existing Capital Fund program going forward, including identifying future resource needs and determining whether current resources could be better utilized to administer these funds.
New Recommendation	We recommend that the Secretary of Housing and Urban Development instruct housing agencies to discontinue use of the jobs calculator provided by HUD in the first round of recipient reporting for subsequent rounds of reporting to ensure the correct job calculation is used.
Implemented Recommendation	To enhance HUD's ability to prevent, detect, and correct noncompliance with the use of Recovery Act funds, we recommended in September 2009 that the Secretary of the Department of Housing and Urban Development expand the criteria for selecting housing agencies for on-site reviews to include housing agencies with open Single Audit findings that may affect the use of and reporting on Recovery Act funds.
Agency Actions	In October 2009, HUD expanded its criteria for selecting housing agencies for on-site reviews to include all housing agencies with open 2007 and 2008 Single Audit findings as of July 7, 2009, relevant to the administration of Recovery Act funds. HUD has identified 27 such housing agencies and planned to complete these on-site reviews by February 15, 2010.

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## Department of Education

New Recommendation	To improve the consistency of FTE data collected and reported, we recommend that the Secretary of the Department of Education (Education) and the Director of the Office of Management and Budget (OMB) provide clarifying guidance to recipients on how to best calculate FTEs for education employees during quarters when school is not in session.
Implemented Recommendation	We recommended in September 2009 that the Secretary of Education take further action such as collecting and reviewing documentation of state monitoring plans to ensure that states understand and fulfill their

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responsibility to monitor subrecipients of SFSF funds and consider providing training and technical assistance to states to help them develop and implement state monitoring plans for SFSF.

Agency Actions

In February 2010, Education instructed states to submit to Education for review their plans and protocols for monitoring subrecipients of SFSF funds. Education also issued its plans and protocols for monitoring state implementation of the SFSF program. The plan includes on-site visits to about half the states and desk reviews of the other states to be conducted over the next year.

Open Recommendation

We recommended in November 2009 that the Secretary of Education take further action to enhance transparency by requiring states to include an explanation of changes to MOE levels in their State Fiscal Stabilization Fund application resubmissions.<sup>125</sup>

Agency Actions

Education has not taken action on this recommendation, but GAO is continuing to work with Education to ensure actions are taken to enhance transparency of state maintenance-of-effort changes. In its response to the recommendation, Education reported that it has always required states seeking to amend the maintenance-of-effort information in their SFSF applications to provide the basis for such amendments. Once approved, the amended applications are posted to Education's Web site. However, the approved and publicly available applications do not always provide a complete explanation of the basis for the amendments. For example in August 2009, California changed its maintenance-of-effort level from an aggregate measure to a per-pupil basis. California's resubmitted application did not state why the change to a per-pupil basis was made.

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Department of Labor

Open Recommendation

Our September 2009 bimonthly report identified a need for additional federal guidance in two areas—measuring the work readiness of youth and defining green jobs—and we made the following two recommendations to the Secretary of Labor:

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<sup>125</sup>For more details on the maintenance-of-effort requirements, see GAO, *Recovery Act: Planned Efforts and Challenges in Evaluating Compliance with Maintenance of Effort and Similar Provisions*, [GAO-10-247](#) (Washington, D.C.: Nov. 30, 2009).

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- To enhance the usefulness of data on work readiness outcomes, provide additional guidance on how to measure work readiness of youth, with a goal of improving the comparability and rigor of the measure.
  - To better support state and local efforts to provide youth with employment and training in green jobs, provide additional guidance about the nature of these jobs and the strategies that could be used to prepare youth for careers in green industries.

## Agency Actions

Labor agreed with both of our recommendations and has already begun to take actions to implement them. With regard to the work readiness measure for WIA Youth summer employment activities, Labor acknowledged that a lack of comparability in the way work readiness gains were measured across local areas has led to a less meaningful outcome measure at the state and national level. Labor indicated that, through its WIA Youth Recovery Act process evaluations and regional monitoring visits, it will continue to assess the methodologies used to measure work readiness and plans to further refine the work readiness indicator and determine a more effective way to measure it. In the event that a significant number of local areas have Recovery Act funds available for summer employment in 2010, or if Labor receives funds for future summer employment activities where the work readiness measure is used to gauge effectiveness, Labor indicated that it will issue further guidance that provides for reporting of more consistent and meaningful data.

Regarding our recommendation on the green jobs, Labor indicated that it recognizes the need to provide assistance to states and local areas to help them prepare youth for careers in green industries and is taking several steps to better understand and define green jobs. First, Labor held two technical assistance forums in November and December 2009 that focused on strategies for creating green educational and career pathways. The forums offered training workshops in areas such as identifying green industrial sectors and job opportunities and appropriate work experiences to assist youth in green career pathways. Second, Labor reported that the Bureau of Labor Statistics is developing a definition for green industries and jobs to ensure consistent surveying and counting of these jobs. Officials hope this will inform state and local workforce development efforts to identify and target green jobs and their training needs. Third, Labor noted that it has supported an Occupational Information Network project that resulted in research that can be used as a starting point for identifying green industries and occupations and informing the development of training and job placement programs. Labor also plans to



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leverage the results of Recovery Act-funded competitive grants for green job training to provide insights on delivering services to youth, and others, along green career pathways. Additionally, Labor officials told us that once these grants are under way, it intends to gather and share examples of effective strategies and training models through technical assistance efforts.

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Executive Office of the  
President: Office of  
Management and Budget  
(OMB)

New Recommendation

OMB should work with the Recovery Accountability and Transparency Board and federal agencies, building on lessons learned, to establish a formal and feasible framework for review of recipient changes during the continual update period and consider providing more time for agencies to review and provide feedback to recipients before posting updated reports on Recovery.gov.

Open Recommendation

To leverage Single Audits as an effective oversight tool for Recovery Act programs, we recommended from April to December 2009 that the Director of OMB should

- (1) provide more direct focus on Recovery Act programs through the Single Audit to help ensure that smaller programs with higher risk have audit coverage in the area of internal controls and compliance;
- (2) develop requirements for reporting on internal controls during 2009 before significant Recovery Act expenditures occur, as well as for ongoing reporting after the initial report;
- (3) evaluate options for providing relief related to audit requirements for low-risk programs to balance new audit responsibilities associated with the Recovery Act;
- (4) develop mechanisms to help fund the additional Single Audit costs and efforts for auditing Recovery Act programs; and
- (5) take steps to achieve sufficient participation and coverage in a Single Audit program—the Single Audit Internal Control Project—that provides

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for early written communication of internal control deficiencies to achieve the objective of more timely accountability over Recovery Act funds.

To reduce the impact of untimely Single Audit reporting, we further recommended that the Director of OMB should

(6) formally advise federal cognizant agencies to adopt a policy of no longer approving extensions of the due dates of Single Audit reporting package submissions beyond the 9-month deadline, and

(7) widely communicate this revised policy to the state audit community and others who have responsibility for conducting Single Audits and submitting the Single Audit reporting package.

## Agency Actions

OMB has taken several steps in response to our recommendations. Its efforts, however, are ongoing, and further actions are needed to fully implement our recommendations to help mitigate risks related to Recovery Act funds. We include a summary of OMB's efforts to implement these recommendations from our bimonthly reviews.

To focus auditor risk assessments on Recovery Act-funded programs and to provide guidance on internal control reviews for Recovery Act programs, OMB worked within the framework defined by existing mechanisms—Circular No. A-133 and the Circular No. A-133 Compliance Supplement (Compliance Supplement).<sup>126</sup> In this context, OMB has made limited adjustments to its Single Audit guidance. OMB issued the Compliance Supplement in May 2009, which focused risk assessments on Recovery Act-funded programs. In August 2009, OMB issued the Circular No. A-133 Compliance Supplement Addendum I, which provided additional guidance for auditors and modified the Compliance Supplement to, among other things, focus on new Recovery Act programs and new program clusters.

In October 2009, OMB began a Single Audit Internal Control Project (project), which is currently under way. One of the project's goals is to encourage auditors to identify and communicate significant deficiencies and material weaknesses in internal control over compliance for selected major Recovery Act programs 3 months sooner than the 9-month time

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<sup>126</sup>The Compliance Supplement is issued annually to guide auditors on what program requirements should be tested for programs audited as part of the Single Audit.

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frame currently required under statute. According to OMB, the project remains on schedule for completion in early spring 2010, when OMB plans to analyze the results to identify the need for potential modifications to improve OMB guidance related to Recovery Act-funded programs.

Although OMB noted the increased responsibilities falling on those responsible for performing Single Audits, it has yet to issue proposals or plans to address this issue. States that volunteered to participate in the project were eligible for some relief in their workloads because OMB modified the requirements under Circular No. A-133 to reduce the number of low-risk programs for inclusion in the Single Audits.

**Implemented Recommendation** States have been concerned about the burden imposed by new requirements, increased accounting and management workloads, and strains on information systems and staff capacity at a time when they are under severe budgetary stress. We recommended in April 2009 that the Director of OMB 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.

**Agency Actions** On May 11, 2009, OMB released M-09-18, Payments to State Grantees for Administrative Costs of Recovery Act Activities, clarifying how state grantees could recover administrative costs of Recovery Act activities.

**Implemented Recommendation** States and localities are expected to report quarterly on a number of measures, including the use of funds and an estimate of the number of jobs created and the number of jobs retained as required by section 1512 of the Recovery Act. We recommended in our July 2009 report that to increase consistency in recipient reporting of jobs created and retained, the Director of OMB should work with federal agencies to have them provide program-specific examples of the application of OMB's guidance on recipient reporting of jobs created and retained.

**Agency Actions** OMB has issued clarifications and frequently asked questions (FAQ) on Recovery Act reporting requirements. During the first reporting period, OMB also deployed regional federal employees to serve as liaisons to state and local recipients in large population centers and established a call center for entities that did not have an on-site federal liaison. In addition, federal agencies issued additional guidance that builds on the OMB June 22 recipient reporting guidance for their specific programs. This guidance is in the form of FAQ, tip sheets, and more traditional guidance that builds on what was provided on June 22. Federal agencies have also taken steps to provide additional education and training opportunities for state and

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local program officials on recipient reporting, including web-based seminars.

**Implemented Recommendation** To foster timely and efficient communications, we recommended in April 2009 that the Director of OMB should continue to develop and implement an approach that provides easily accessible, real-time notification to (1) prime recipients in states and localities when funds are made available for their use, and (2) states—where the state is not the primary recipient of funds but has a statewide interest in this information.

**Agency Actions** In response to our recommendation, OMB has made important progress in notifying recipients when Recovery Act funds are available, communicating the status of these funds at the federal level through agency Weekly Financial Activity reports, and disseminating Recovery Act guidance broadly while actively seeking public and stakeholder input. OMB has taken the additional step of requiring federal agencies to notify Recovery Act coordinators in states, the District of Columbia, commonwealths, and territories within 48 hours of an award to a grantee or contractor in their jurisdiction.

**Implemented Recommendation** Responsibility for reporting on jobs created and retained falls to nonfederal 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. 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, we recommended in April 2009 that the Director of OMB continue OMB's efforts to identify appropriate methodologies that can be used to: (1) assess jobs created and retained from projects funded by the Recovery Act; (2) determine the impact of Recovery Act spending when job creation is indirect; and (3) 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. We also recommended that the Director of OMB consider whether the approaches taken to estimate jobs created and retained in these cases can be replicated or adapted to other programs.

**Agency Actions** On June 22, 2009, OMB issued additional implementation guidance on recipient reporting of jobs created and retained, (OMB memoranda, M-09-21, Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009). This guidance is responsive to much of what we recommended. The June 2009 guidance provided detailed instructions on how to calculate and report jobs as full-time equivalents (FTE). It also describes in detail the data model and

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reporting system to be used for the required recipient reporting on jobs. It clarifies that the prime recipient and not the subrecipient is responsible for reporting information on jobs created or retained. Federal agencies have issued guidance that expanded on the OMB June 22 governmentwide recipient reporting guidance and provided education and training opportunities for state and local program officials. Agency-specific guidance includes FAQs and tip sheets. Additionally, agencies are expected to provide examples of recipient reports for their programs, which is also consistent with what we recommended. In addition to the federal agency efforts, OMB has issued FAQs on Recovery Act reporting requirements. The June 22 guidance and subsequent actions by OMB are responsive to much of what we said in our recommendation.

#### Implemented Recommendation

We have noted in prior reports that in order to achieve the delicate balance between robust oversight and the smooth flow of funds to Recovery Act programs, states may need timely reimbursement for these activities. We recommended in September 2009 that to the extent that the Director of OMB has the authority to consider mechanisms to provide additional flexibilities to support state and local officials charged with carrying out Recovery Act responsibilities, it is important to expedite consideration of alternative administrative cost reimbursement proposals.

#### Agency Actions

In response to this recommendation, OMB issued a memorandum on October 13, 2009, to provide guidance to address states' questions regarding specific exceptions to OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments. In the memorandum, OMB provided clarifications for states regarding specific exceptions to OMB Circular A-87 that are necessary in order for the states to perform timely and adequate Recovery Act oversight, reporting, and auditing. We believe the October 2009 OMB guidance provides the additional clarification needed for states and localities to proceed with their plans to recoup administrative costs.

#### Implemented Recommendation

To improve the consistency of FTE data collected and reported, we recommended in November 2009 that OMB clarify the definition and standardize the period of measurement for the FTE data element in the recipient reports.

#### Agency Actions

After the first round of reporting by states on their use of Recovery Act funds in October 2009, OMB updated the recipient reporting guidance on December 18, 2009. According to the agency, this guidance aligns with GAO's recommendation by requiring recipients to report job estimates on a quarterly rather than a cumulative basis. As a result, recipients will no

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longer be required to sum various data on hours worked across multiple quarters of data when calculating job estimates. The December guidance incorporated lessons learned from the first round of recipient reporting and also addressed recommendations we made in our November 2009 report on recipient reporting. According to OMB, the December guidance is intended to help federal agencies improve the quality of data reported under Section 1512 and simplifies compliance by revising the definitions and calculations needed to define and estimate the number of jobs saved.

Implemented Recommendation	To improve the consistency of FTE data collected and reported, we also recommended in November 2009 that OMB consider being more explicit that “jobs created or retained” are to be reported as hours worked and paid for with Recovery Act funds.
Agency Actions	In response to our recommendation, OMB issued guidance on December 18, 2009, that no longer requires recipients make a subjective judgment of whether jobs were created or retained as a result of the Recovery Act. Instead, recipients will more easily and objectively report on jobs funded with Recovery Act dollars.
Implemented Recommendation	To improve the consistency of FTE data collected and reported, we also recommended in our November 2009 report that OMB continue working with federal agencies to provide or improve program-specific guidance to assist recipients, especially as it applies to the full-time equivalent calculation for individual programs.
Agency Actions	In response to our recommendation, OMB issued guidance on December 18, 2009, that required federal agencies to submit their guidance documents to OMB for review and clearance to ensure consistency between federal agency guidance and the guidance released by OMB.
Implemented Recommendation	To improve the consistency of FTE data collected and reported, we recommended in November 2009 that OMB work with the Recovery Accountability and Transparency Board and federal agencies to re-examine review and quality assurance processes, procedures, and requirements in light of experiences and identified issues with the initial round of recipient reporting and consider whether additional modifications need to be made and if additional guidance is warranted.
Agency Actions	In response to our recommendation, on December 18, 2009, OMB issued updated guidance on data quality, nonreporting recipients, and reporting of job estimates. The agency stated that the updated guidance incorporates lessons learned from the first reporting period and further

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addresses GAO's recommendations. The guidance also provides federal agencies with a standard methodology for effectively implementing reviews of the quality of data submitted by recipients.

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## Matters for Congressional Consideration

### Matter

To the extent that appropriate adjustments to the Single Audit process are not accomplished under the current Single Audit structure, Congress should consider amending the Single Audit Act or enacting new legislation that provides for more timely internal control reporting, as well as audit coverage for smaller Recovery Act programs with high risk.

GAO continues to believe that Congress should consider changes related to the Single Audit process.

### Matter

To the extent that additional coverage is needed to achieve accountability over Recovery Act programs, Congress should consider mechanisms to provide additional resources to support those charged with carrying out the Single Audit Act and related audits.

GAO continues to believe that Congress should consider changes related to the Single Audit process.

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## Agency Comments and Our Evaluation

We provided a draft of sections of this report to the Director of the Office of Management and Budget (OMB); the Secretaries of the Departments of Education, Energy, Housing and Urban Development (HUD), Labor, and Transportation; and officials from the Centers for Medicare & Medicaid Services. OMB generally agreed with the recommendations in the report and provided written comments, which we incorporated as appropriate. OMB's letter is reproduced in appendix II. The Departments of Education, Energy, Labor, and Transportation provided technical comments, which we incorporated as appropriate. The Department of Education agreed with our recommendation. HUD did not concur with our recommendation, which is discussed in the Public Housing Capital Fund section of this report. HUD also provided technical comments on the recipient report section, which we incorporated. The Department of Transportation is considering our recommendation. Officials from the Centers for Medicare & Medicaid Services did not provide any comments.

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We are sending copies of this report to the Office of Management and Budget; the Centers for Medicare & Medicaid Services; the Departments of Education, Energy, Housing and Urban Development, Labor, and Transportation; and the Recovery Accountability and Transparency Board. The report is 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 IV.

A handwritten signature in black ink that reads "Gene L. Dodaro". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Gene L. Dodaro  
Acting Comptroller General of the United States



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*List of Addressees*

The Honorable Nancy Pelosi  
Speaker of the House of Representatives

The Honorable Robert C. Byrd  
President Pro Tempore of the Senate

The Honorable Harry Reid  
Majority Leader  
United States Senate

The Honorable Mitch McConnell  
Republican Leader  
United States Senate

The Honorable Steny Hoyer  
Majority Leader  
House of Representatives

The Honorable John Boehner  
Republican Leader  
House of Representatives

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

The Honorable Dave Obey  
Chairman  
The Honorable Jerry Lewis  
Ranking Member  
Committee on Appropriations  
House of Representatives

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

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# Appendix I: Objectives, Scope, and Methodology

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This appendix describes our objectives, scope, and methodology for this review of the Recovery Act. A detailed description of the criteria used to select the core group of 16 states and the District of Columbia (District) and programs we reviewed is found in appendix I of our April 2009 Recovery Act bimonthly report.<sup>1</sup>

This report, the fifth in response to the Recovery Act's mandate, updates and adds new information on the following: (1) selected states' and localities' use of Recovery Act funds for specific programs, (2) the approaches taken by selected states and localities to ensure accountability for Recovery Act funds, and (3) state activities to evaluate the impact of the Recovery Act funds they receive. We selected programs for review primarily because they have begun disbursing funds to states or because they have known or potential risks. The risks can include existing programs receiving significant amounts of Recovery Act funds or new programs. In some cases, we have also collected data from all states, and from a broader array of localities, to augment the in-depth reviews.

The act requires that nonfederal recipients of Recovery Act-funded grants, contracts, or loans submit quarterly reports on each project or activity including information concerning the amount and use of funds and jobs created or retained.<sup>2</sup> The first of these recipient reports covered cumulative activity since the Recovery Act's passage through the quarter ending September 30, 2009. The Recovery Act requires us to comment on the estimates of jobs created or retained after the recipients have reported. We issued our initial report related to recipient reporting, including recommendations for recipient report improvements, on November 19, 2009.<sup>3</sup> A second major focus of the current report is to provide updated

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<sup>1</sup>GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, [GAO-09-580](#) (Washington, D.C.: Apr. 23, 2009).

<sup>2</sup>Recovery Act, div. A, §1512, 123. We will refer to the quarterly reports required by section 1512 as recipient reports.

<sup>3</sup>GAO, *Recovery Act: Recipient Reported Jobs Data Provide Insights into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention*, [GAO-10-223](#) (Washington, D.C.: Nov. 19, 2009).

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information concerning recipient reporting in accordance with our mandate for quarterly reporting.<sup>4</sup>

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## States' and Localities' Uses of Recovery Act Funds

Using criteria described in our earlier bimonthly reports, we selected the following streams of Recovery Act funding flowing to states and localities for review during this report: increased Medicaid Federal Medical Assistance Percentage (FMAP) grant awards; the Federal-Aid Highway Surface Transportation Program; the Transit Capital Assistance Program, the State Fiscal Stabilization Fund (SFSF); Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA); Parts B and C of the Individuals with Disabilities Education Act (IDEA); the Public Housing Capital Fund; the Weatherization Assistance Program; and the Workforce Investment Act of 1998 (WIA) Youth Program. We also reviewed how Recovery Act funds are being used by states and localities. In addition, we analyzed [www.recovery.gov](http://www.recovery.gov) data on federal spending.

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## Federal Medical Assistance Percentage

For the increased FMAP grant awards, we obtained increased FMAP grant and drawdown figures for each state in our sample and the District from the Centers for Medicare & Medicaid Services (CMS). To examine Medicaid enrollment, states' efforts to comply with the provisions of the Recovery Act, and related information, we relied on interviews with states and our 4 prior web-based surveys, which asked the 16 states and the District to provide information as well as to update information they had previously provided to us. When necessary, we interviewed Medicaid officials from certain states to clarify survey responses. We also interviewed CMS officials regarding the agency's oversight of increased FMAP grant awards and its guidance to states on Recovery Act provisions. To assess the reliability of increased FMAP drawdown figures, we interviewed CMS officials on how these data are collected and reported. To establish the reliability of our Web-based survey data, we pretested the survey with Medicaid officials in several states and also conducted consistent follow-up with all sample states to ensure a high response rate. Based on these steps, we determined that the data provided by CMS and

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<sup>4</sup>The Recovery Act requires recipients of funding from federal agencies to report quarterly on jobs created or retained with Recovery Act funding. The first recipient reports filed in October 2009 cover activity from February through September 30, 2009. This bimonthly report incorporates second quarterly recipient report covering activity through December 31, 2009.

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submitted by states were sufficiently reliable for the purposes of our engagement.

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**Federal-Aid Highway Surface Transportation**

For highway infrastructure investment, we reviewed status reports and guidance to the states and discussed these with the U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA) officials. We obtained data from FHWA on obligations and reimbursements, and the numbers and types of projects funded with Recovery Act highway infrastructure funds nationally. We also interviewed DOT and FHWA officials on the status of the states' maintenance of effort certifications and economically distressed area designations. From state DOT officials, we obtained information on the status of projects and contracts and the progress in meeting the 1-year obligation deadline. We obtained data on some highway project cost estimates and contract awards and analyzed these data to determine the savings from awarding contracts for less than the estimated costs and the estimated amounts to be deobligated. Finally, we also interviewed state officials regarding the progress of project and highway development in metropolitan areas.

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**Transit Capital Assistance Program**

For public transportation investment, we reviewed information on the Federal Transit Administration's (FTA) Transit Capital Assistance Program and examined the Fixed Guideway Infrastructure Investment Program. We reviewed status reports and guidance to the states and discussed these with FTA officials as well as the amount of Recovery Act funds transferred from FHWA. To determine the current status of public transportation funding, we obtained data from FTA on obligations and reimbursements for Recovery Act grants nationally and the numbers and types of grants funded. We interviewed and reviewed information from transit agencies to include how projects were chosen, how funds were used and how progress was reported and we compared that to project schedules and milestones, when available. Finally, to ensure the accountability of funds and address reporting requirements, we interviewed FTA, state, and transit agency officials and reviewed guidance these officials used to meet reporting requirements, including reporting on project status, subcontracts, and estimated jobs created.

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**SFSF, ESEA Title I, and IDEA**

To obtain national and selected state-level information on how Recovery Act funds made available by the U.S. Department of Education (Education) under SFSF, ESEA Title I, and IDEA are being used at the local level, we designed and administered a Web-based survey of local

education agencies (LEA) in the 50 states and the District of Columbia. We surveyed school district superintendents across the country to learn if they have received or expect to receive Recovery Act funding and how these funds are being used. We conducted our survey from August to October 2009, with a 73 percent final weighted response rate at the national level. We selected a stratified random sample of 2,101 LEAs from the population of 16,028 LEAs included in our sample frame of data obtained from the Common Core of Data (CCD) in 2006 and 2007. In order to make estimates for each of the 16 states and the District of Columbia, we stratified the sample based on those specific states. With the exception of the District of Columbia, all of our sample states had a response rate that exceeded 70 percent, with final weighted response rates ranging from 71 percent for Iowa to 90 percent for Georgia.

We took steps to minimize nonsampling errors by pretesting the survey instrument with officials from five LEAs in July and August 2009. Because we surveyed a sample of LEAs, survey results are estimates of a population of LEAs and thus are subject to sampling errors that are associated with samples of this size and type. Our sample is only one of a large number of samples that we might have drawn. As each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval (e.g., plus or minus 10 percentage points). We excluded 14 of the sampled LEAs for various reasons—because they were no longer operating in the 2009-2010 school year, were a duplicate entry, or were not an LEA—and therefore were considered out of scope. All estimates produced from the sample and presented in this report are representative of the in-scope population and have margins of error of plus or minus 5 percentage points or less for our overall sample and 12 percentage points or less for our 16 state samples, excluding the District, unless otherwise noted.

To understand how Education is implementing SFSSF, ESEA Title I, and IDEA under the Recovery Act and monitoring states' use of Recovery Act funds, we reviewed relevant federal laws, regulations, guidance, and communications to the states and interviewed Education officials. For SFSSF, ESEA Title I, and IDEA, we obtained data from Education on the amount of funds made available to the 16 states and the District covered by our review and the amount of funds these states have drawn down from their accounts with Education. To obtain specific examples of how LEAs are using Recovery Act funds, we visited LEAs in selected states and interviewed LEA officials. To learn about issues related to Recovery Act

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funds for education, we interviewed officials in the District and state officials in each of the 16 states covered by our review.

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**Public Housing Capital Fund**

For Public Housing, we obtained data from HUD's Electronic Line of Credit Control System on the amount of Recovery Act funds that have been obligated and drawn down by each housing agency in the country that received public housing capital funds. To monitor progress on how housing agencies are using these funds, we visited 47 housing agencies in 16 states and the District of Columbia for our longitudinal study, as well as 2 additional agencies.<sup>5</sup> At the selected agencies, we interviewed housing agency officials and conducted site visits of Recovery Act projects. We also selected at least one Capital Fund Recovery Competition grant in all but one of the 16 states and the District and collected information on the housing agencies' use of those funds. We also interviewed HUD officials to understand their procedures for assisting and monitoring public housing agencies in obligating Recovery Act funds and to understand HUD's capacity to administer Recovery Act funds. In addition, we interviewed public housing industry officials to understand the challenges that their members faced in meeting the obligation deadline and reporting to [FederalReporting.gov](http://FederalReporting.gov).

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**Weatherization Assistance Program**

For the Weatherization Assistance Program, we reviewed relevant regulations and federal guidance and interviewed Department of Energy officials who administer the program at the federal level. In addition, for this report, we collected information from selected states and the District of Columbia on their weatherization programs. We conducted semistructured interviews of officials in the states' agencies that administer the weatherization program and with local service providers responsible for weatherization production. These interviews covered updates on the use of funds, the implementation of the Recovery Act's Davis-Bacon provisions, accountability measures, and impacts of the Recovery Act Weatherization program. We also conducted site visits to interview local providers of weatherization and to witness weatherization production. We continued to collect data about each state's total

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<sup>5</sup>The states we visited are Arizona, California, Colorado, District of Columbia, Florida, Georgia, Illinois, Iowa, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas.

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allocation for weatherization under the Recovery Act, as well as the allocation already provided to the states and the expenditures-to-date.

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## Workforce Investment Act of 1998 Youth Program

We analyzed national data that we received from the Department of Labor (Labor) on the extent to which Recovery Act WIA youth funds have been drawn down, the characteristics of youth that participated in Recovery Act-funded WIA youth activities, and program participation and outcomes. We did not assess the reliability of Labor's data. However, we interviewed Labor officials about the limitations of its data and determined that the data were sufficient for our purposes. We also reviewed the statement of executive action that Labor provided us in response to the recommendations we made in our September 2009 bimonthly report.

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## Recipient Reporting

The recipient reporting section of this report responds to the Recovery Act's mandate that we comment on the estimates of jobs created and retained by direct recipients of Recovery Act funds. For our review of the second submission of recipient reports, we built on findings from our first review of the reports. We performed edit checks and basic analyses on the second submission of recipient report data that became publicly available at Recovery.gov on January 30, 2010. We calculated the overall sum, as well as sum by states, for the number of full-time equivalents (FTE) reported, award amount, and amount received and found that they corresponded closely with the values shown for these data on Recovery.gov. We also reviewed the Office of Management and Budget's (OMB) updated December 2009 guidance on recipient reporting to determine the extent of changes and clarifications for the second submission of recipient reports. We had discussions about the updated guidance and recipient reporting changes with representatives from OMB and the Recovery Accountability and Transparency Board (Board). In addition, we examined reports from federal inspectors general on Recovery Act data quality reviews and interviewed federal agency officials who have responsibility for ensuring a reasonable degree of quality across their program's recipient reports.

From the second submission of recipient reports, we reviewed reports for transportation, transit, and education programs, as we did for the first submission of reports. In addition to those areas, we also reviewed selected recipient reports for Department of Energy, Department of Health and Human Services, and Department of Housing and Urban Development programs. These areas of focus cover a wide range of recipients, types of funding, and diverse activities. Our teams in the 16 states and the District



interviewed both recipients that filed reports in October 2009 and new recipients of Recovery Act funding. In total, our teams reviewed approximately 250 reports and interviewed the recipients responsible for those reports. Each team made a nonstatistical selection of approximately 12 recipient reports from our program areas to review and interviewed recipients regarding OMB's guidance and processes for the first and second rounds of reporting, or in some cases, only the second round of reporting. We visited the 16 selected states and the District of Columbia during late January and early February 2010 and discussed with recipients the numbers used in the FTE calculation and investigated the application of the new FTE calculation. We gathered and examined issues raised by recipients in these jurisdictions regarding reporting and data quality and interviewed recipients on their experiences using the FederalReporting.gov Web site. We also interviewed state officials regarding state plans for managing, tracking, and reporting on Recovery Act funds and activities.

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## Assessing Safeguards and Internal Controls

To determine how states, federal agencies, and OMB are overseeing the use of Recovery Act funds and the quality of data states and other recipients maintain and report regarding their use of funds, we relied on our previous work, and we followed up with cognizant state officials to learn of any changes they have made to their internal controls or guidance since we last reported. We also reviewed federal agency inspector general reports and OMB's updated guidance related to recipient reporting. To perform audit work relating to Single Audits, we discussed with OMB their efforts toward implementing our recommendations related to Single Audits that we reported in prior Recovery Act reports. We examined relevant documentation that supported those efforts. We reviewed internal control reports dated December 31, 2009, that were prepared by the auditors of the states participating in OMB's Single Audit Internal Control Project. We also reviewed the corrective action plans to resolve internal control deficiencies that were dated January 31, 2010. The management of the states participating in the project provided these plans to the cognizant federal agencies as required by the project's guidelines.

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## Accountability

To assess actions taken by the state and local audit community to monitor the use of Recovery Act funds, we have interviewed state and local auditors and state inspectors general about their ongoing and planned audit activities. We have also reviewed state and local audit reports. In addition, in an effort to update the audit community concerning our Recovery Act work and participate in information sharing about Recovery

Act issues, we are working with state and local auditors and their associations to facilitate routine telephone conference calls to discuss Recovery Act issues with a broad community of interested parties. The conference call participants include the Association of Government Accountants; the Association of Local Government Auditors; the National Association of State Auditors, Comptrollers, and Treasurers; OMB; the Recovery Accountability and Transparency Board; federal inspectors general; the National Governors Association; the National State Budget Officers Association; and state stimulus czars. In an effort to ensure information sharing about allegations of fraud, we are also working with state and local auditors to develop plans for routine sharing of information.

To determine the actions taken by the Board, we met with representatives of the Board to discuss the initiatives they have taken to monitor the number and types of contracts issued by federal agencies for the Recovery Act and their plans to assess the extent to which laws and regulations are being complied with or circumvented. We reviewed available documentation related to the Board's initiatives.

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## State and Local Budget

The state and local budget section of this report focuses on two areas: first, our long-term fiscal simulations (or model) for the state and local government sector; and, second, our continued review of the use of Recovery Act funds by the 16 selected states and the District.

For the long-term fiscal simulations we use the U.S. Bureau of Economic Analysis's National Income and Product Accounts (NIPA) as the primary data source. Our model projects the level of receipts and expenditures for the sector until 2060 based on current and historical spending and revenue patterns. We assume the current set of policies in place across federal, state, and local governments remains constant. This update incorporates NIPA data including increased federal grant funding made available to the sector through the Recovery Act. The model simulates the long-term fiscal outlook for the state and local sector as a whole and, while the model incorporates the Congressional Budget Office's (CBO) economic projections, adjustments are made to capture the budgetary effects of short-term cyclical swings in the economy. Because the model covers the sector in the aggregate, the fiscal outcomes for individual states and localities cannot be captured. This product is part of a body of work on the long-term fiscal challenge. Related products can be found at <http://www.gao.gov/special.pubs/longterm>.

For our continued review of the use of Recovery Act funds for the 16 states and the District, we conducted interviews with state budget and legislative officials to determine how states are using Recovery Act funds to avoid reductions in essential services, using “rainy day” funds, closing budget gaps, and developing exit strategies to plan for the end of Recovery Act funding. To gain an understanding of local governments’ use of Recovery Act funds, we met with the chief executives, recovery coordinators, auditors, and finance officials at the selected local governments.

To select local governments for our review, we identified localities representing a range of types of governments (cities and counties), population sizes, and economic conditions (unemployment rates greater than or less than each state’s average). We balanced these selection criteria with logistical considerations including other scheduled Recovery Act work, local contacts established during prior reviews, and the geographic proximity of the local government entities. We reported the latest unemployment rates and population counts that were available in the December report.

Due to the small sample size and judgmental nature of the selection, our findings are not generalizable to all local governments. The list of local governments selected in each state is found in appendix III of our December report.<sup>6</sup>

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## Data and Data Reliability

We collected funding data from [www.recovery.gov](http://www.recovery.gov) and federal agencies administering Recovery Act programs for the purpose of providing background information. We used funding data from [www.recovery.gov](http://www.recovery.gov)—which is overseen by the Board—because it is the official source for Recovery Act spending. Based on our limited examination of this information thus far, we consider these data sufficiently reliable with attribution to official sources for the purposes of providing background information on Recovery Act funding for this report.<sup>7</sup> Our sample of states, localities, and entities has been purposefully selected and the results of

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<sup>6</sup>GAO, *Recovery Act: Status of State’s and Localities’ Use of Funds and Efforts to Ensure Accountability*, [GAO-10-231](#) (Washington, D.C.: Dec. 10, 2009).

<sup>7</sup>See GAO, *Recovery Act: Recipient Reported Jobs Data Provided Some Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention*, [GAO-10-223](#) (Washington, D.C.: Nov. 19, 2009), for an assessment of recipient report data.

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our reviews are not generalizable to any population of states, localities, or entities.

We conducted this performance audit from December 5, 2009, to March 3, 2010, 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.

# Appendix II: Comments from the Office of Management and Budget



THE CONTROLLER

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

March 01, 2010

Mr. Gene L. Dodaro  
Acting Comptroller General  
Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Acting Comptroller General Dodaro:

Thank you for sharing a draft Government Accountability Office (GAO) report entitled, *Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability* ("Draft Report"). Over the past year, your insights and recommendations have yielded important enhancements to the implementation of the Recovery Act.

The Office of Management and Budget (OMB) appreciates GAO's recognition of the progress we have made in addressing each GAO recommendation. Specifically, we are pleased that GAO acknowledges the numerous improvements in the recipient reporting process, data quality, and the Single Audit. In addition, we generally agree with the latest set of recommendations included in the Draft Report. However, there are several findings in the Draft Report regarding recipient-reported data that warrant additional emphasis and clarification.

In the fourth quarter of 2009, more than 98 percent of Recovery Act recipients successfully submitted required reports. This represents a 76 percent reduction in non-filers from the previous quarter and is due, in large part, to efforts Federal agencies have undertaken since then to eliminate cases of non-filing. While we are pleased with the increased compliance, we share GAO's concerns about the remaining recipients who are failing to uphold their legal obligation to report on Recovery Act funds they were awarded. No rate of non-compliance is acceptable. That is why OMB is requiring Federal agencies to actively address each and every case of non-compliance. We have also directed agencies to look at imposing penalties on non-filers, where appropriate. A list of non-compliant filers has been provided to the Recovery Accountability and Transparency Board (Recovery Board) and is available publicly at <http://www.recovery.gov/Transparency/RecipientReportedData/Pages/ErrorsandOmissions.aspx>.

OMB and the Vice President's Office have been working aggressively with the Recovery Board to address concerns regarding initial estimates from the Recovery Board, who flagged about 13,000 reports filed in the first round of reporting as not have a matching report in the second round. However, preliminary indications from an OMB-led line-by-line review of these 13,000 reports show that:

- Approximately 93 percent of the 13,000 reports were filed in the second round of reporting but, due to a technical issue, were not "matched" with the corresponding prior-quarter report;

Appendix II: Comments from the Office of  
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- Most of the remaining reports of the 13,000 flagged by the Recovery Board were either new reports and therefore did not have a link to any prior quarter report, reports that recipients entered into the system twice in the same quarter, reports that did have a clear match with a prior quarter report, reports where work was completed and no follow-up report was required, or reports that have unique complexities that are still being investigated; and
- Only fewer than 0.5 percent of the 13,000 reports were ultimately identified as "missing," meaning they were reports from the first round of reporting that should have had a corresponding report for the most recent reporting quarter but did not.

Hence, while the current draft report may lead readers to believe that there were 13,000 reports filed in the quarter ending September 30, 2009 that did not have follow-up reports in the subsequent quarter, we believe that the actual number is fewer than 100. And, overall, we believe that there were only approximately 1,000 non-compliant filers in total for the latest quarter.

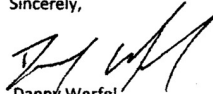
We recently transmitted a data file to the Recovery Board that reflects the analysis described above and are working with it to appropriately link reports and to make additional data corrections. Given the unprecedented nature of this reporting effort and in an effort to match every report in future rounds of recipient reporting, OMB and federal agencies will continue to work with the Recovery Board to examine this data for inconsistencies or errors to ensure that the information being reported to the American people is as accurate and reliable as possible.

In our continuing discussions with agencies, we are implementing lessons learned and best practices, as OMB is preparing to gather supplemental information from the agencies and implement new procedures that will reduce both non-compliance in the next quarter and mis-matched reports from quarter to quarter in the future. Again, we appreciate GAO's constructive observations about the Recovery Act's implementation.

We have set a high bar for success in providing the unprecedented levels of transparency and accountability that the President promised when he signed the Recovery Act, and, with the help of Congress, the Recovery Board, GAO, Federal agencies, funding recipients, and the American people, we will continue to deliver on that promise. We look forward to continuing to work with you to implement the Recovery Act quickly and effectively.

Thank you for your commitment to the success of the Recovery Act.

Sincerely,



Danny Werfel  
Controller, Office of Management and Budget

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# Appendix III: Program Descriptions

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Following are descriptions of selected grant programs discussed in this report.

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## Medicaid 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 Centers for Medicare & Medicaid Services, within the Department of Health and Human Services, approves state Medicaid plans, and the amount of federal assistance states receive for Medicaid service expenditures is known as the Federal Medical Assistance Percentage (FMAP). The Recovery Act's temporary increase in FMAP funding will provide states with approximately \$87 billion in assistance.

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## Highway Infrastructure Investment Program

The Recovery Act provides funding to states for restoration, repair, and construction of highways and other activities allowed under the Federal Highway Administration's Federal-Aid Highway Surface Transportation Program and for other eligible surface transportation projects. The Recovery Act requires that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow existing program requirements. While the maximum federal fund share of highway infrastructure investment projects under the existing federal-aid highway program is generally 80 percent, under the Recovery Act, it is 100 percent.

Funds apportioned for highway infrastructure spending must be used in accordance with Recovery Act requirements. States should ensure that all apportioned Recovery Act funds—including suballocated funds—are obligated<sup>1</sup> within 1 year. The Secretary of Transportation is to withdraw and redistribute to eligible states any amount that is not obligated within that time frame.<sup>2</sup> Additionally, the governor of each state must certify that

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<sup>1</sup>For the Highway Infrastructure Investment program, the U.S. Department of Transportation has interpreted the term "obligation of funds" to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a project agreement.

<sup>2</sup>Recovery Act, div. A, title XII, 123 Stat. 206.

the state will maintain its level of spending for the types of transportation projects funded by the Recovery Act it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.<sup>3</sup>

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## Public Transportation Program

The Recovery Act appropriated \$8.4 billion to fund public transportation throughout the country through existing Federal Transit Administration (FTA) grant programs, including the Transit Capital Assistance Program, and the Fixed Guideway Infrastructure Investment program. Under the Transit Capital Assistance Program's formula grant program, Recovery Act funds were apportioned to large and medium urbanized areas—which in some cases include a metropolitan area that spans multiple states—throughout the country according to existing program formulas. Recovery Act funds were also apportioned to states for small urbanized areas and nonurbanized areas under the Transit Capital Assistance Program's formula grant programs using the program's existing formula. Transit Capital Assistance Program funds may be used for such activities as vehicle replacements, facilities renovation or construction, preventive maintenance, and paratransit services. Recovery Act funds from the Fixed Guideway Infrastructure Investment program<sup>4</sup> were apportioned by formula directly to qualifying urbanized areas, and funds may be used for any capital projects to maintain, modernize, or improve fixed guideway systems.<sup>5</sup> As they work through the state and regional transportation planning process, designated recipients of the apportioned funds—typically public transit agencies and metropolitan planning organizations

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<sup>3</sup>Recovery Act, div. A, title XII, § 1201(a).

<sup>4</sup>Fixed guideway systems use and occupy a separate right-of-way for the exclusive use of public transportation services. They include fixed rail, exclusive lanes for buses and other high-occupancy vehicles, and other systems.

<sup>5</sup>Generally, to qualify for funding under the applicable formula grant program, an urbanized area must have a fixed guideway system that has been in operation for at least 7 years and is more than one mile in length.



(MPO)—develop a list of transit projects that project sponsors (typically transit agencies) submit to FTA for approval.<sup>6</sup>

Funds appropriated for the Transit Capital Assistance Program and the Fixed Guideway Infrastructure Investment program must be used in accordance with Recovery Act requirements. States should ensure that all apportioned Recovery Act funds are obligated<sup>7</sup> within 1 year. The Secretary of Transportation is to withdraw and redistribute to each state or urbanized area any amount that is not obligated within that time frame.<sup>8</sup> Additionally, governors must certify that the state will maintain the level of state spending for the types of transportation projects funded by the Recovery Act it planned to spend the day the Recovery Act was enacted. As part of this certification, the governor of each state is required to identify the amount of funds the state plans to expend from state sources from February 17, 2009, through September 30, 2010.<sup>9</sup>

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## Education

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### State Fiscal Stabilization Fund

The State Fiscal Stabilization Fund (SFSF) included approximately \$48.6 billion to award to states by formula and up to \$5 billion to award to states as competitive grants. The Recovery Act created the SFSF in part to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other essential government services, such as public safety. Stabilization funds for education distributed under the Recovery Act must first be used to alleviate shortfalls in state support for

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<sup>6</sup>Metropolitan planning organizations are federally mandated regional organizations, representing local governments and working in coordination with state departments of transportation, that are responsible for comprehensive transportation planning and programming in urbanized areas. MPOs facilitate decision making on regional transportation issues, including major capital investment projects and priorities. To be eligible for Recovery Act funding, projects must be included in the region's Transportation Improvement and State Transportation Improvement Programs.

<sup>7</sup>For the Transit Capital Assistance Program and Fixed Guideway Infrastructure Investment program, the U.S. Department of Transportation has interpreted the term "obligation of funds" to mean the federal government's commitment to pay for the federal share of the project. This commitment occurs at the time the federal government signs a grant agreement.

<sup>8</sup>Recovery Act, div. A, title XII, 123 Stat. 210.

<sup>9</sup>Recovery Act, div. A, title XII, § 1201(a).

education to local educational agencies (LEA) and public institutions of higher education (IHE). States must use 81.8 percent of their SFSF formula grant funds to support education (these funds are referred to as education stabilization funds) and must use the remaining 18.2 percent for public safety and other government services, which may include education (these funds are referred to as government services funds). For the initial award of SFSF formula grant funds, Education awarded at least 67 percent of the total amount allocated to each state,<sup>10</sup> but states had to submit an application to Education to receive the funds. The application required each state to provide several assurances, including that the state will meet maintenance-of-effort requirements (or will be able to comply with the relevant waiver provisions) and that it will implement strategies to advance four core areas of education reform, as described by Education: (1) increase teacher effectiveness and address inequities in the distribution of highly qualified teachers; (2) establish a pre-K-through-college data system to track student progress and foster improvement; (3) make progress toward rigorous college- and career-ready standards and high-quality assessments that are valid and reliable for all students, including students with limited English proficiency and students with disabilities; and (4) provide targeted, intensive support and effective interventions to turn around schools identified for corrective action or restructuring.<sup>11</sup> In addition, states were required to make assurances concerning accountability, transparency, reporting, and compliance with certain federal laws and regulations. After maintaining state support for education at fiscal year 2006 levels, states must use education stabilization funds to restore state funding to the greater of fiscal year 2008 or 2009 levels for state support to LEAs and public IHEs. When distributing these funds to LEAs, states must use their primary education funding formula, but they can determine how to allocate funds to public IHEs. In general, LEAs have broad discretion in how they can use education stabilization funds, but states have some ability to direct IHEs in how to use these funds. Applications for SFSF Phase II funds were due to Education by January 11, 2010. According to the Phase II application, in order to receive the remainder of their SFSF allocation, states must agree to collect and publicly report on more than 30 indicators and descriptors related to the

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<sup>10</sup>Beginning on July 1, 2009, Education awarded the remaining government services funds to states with approved applications.

<sup>11</sup>Schools identified for corrective action have missed academic targets for 4 consecutive years, and schools implementing restructuring have missed academic targets for 6 consecutive years.

four core areas of education reform described above. Additionally, states generally must, among other things, provide confirmation that they maintained support for education in 2009 at least at the level of such support in fiscal year 2006 and reaffirm or provide updated information that they will maintain state support in 2010 and 2011.

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ESEA Title I, Part A

The Recovery Act provides \$10 billion to help LEAs educate disadvantaged youth by making additional funds available beyond those regularly allocated through Title I, Part A of the Elementary and Secondary Education Act of 1965,<sup>12</sup> as amended. Title I funding is administered by the Office of Elementary and Secondary Education within the Department of Education. The Recovery Act requires these additional funds to be distributed through states to LEAs using existing federal funding formulas, which target funds based on such factors as high concentrations of students from families living in poverty. In using the funds, LEAs are required to comply with applicable statutory and regulatory requirements and must obligate 85 percent of the funds by September 30, 2010.<sup>13</sup> Education is advising LEAs to use the funds in ways that will build the agencies' long-term capacity to serve disadvantaged youth, such as through providing professional development to teachers.

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IDEA, Parts B and C

The Recovery Act provided supplemental funding for Parts B and C of the Individuals with Disabilities Education Act (IDEA), as amended—the major federal statute that supports early intervention and special education and related services for children, and youth with disabilities. Part B provides funds to ensure that preschool and school-aged children with disabilities have access to a free and appropriate public education and is divided into two separate grant programs—Part B grants to states (for school-age children) and Part B preschool grants. Part C funds programs that provide early intervention and related services for infants and toddlers with disabilities—or at risk of developing a disability—and their families.

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<sup>12</sup>For the purposes of this report, “Title I” refers to Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

<sup>13</sup>LEAs must obligate at least 85 percent of their Recovery Act ESEA Title I, Part A funds by September 30, 2010, unless granted a waiver, and must obligate all of their funds by September 30, 2011. This will be referred to as a carryover limitation.

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## Workforce Investment Act Youth Program

The Recovery Act provides an additional \$1.2 billion in funds for Workforce Investment Act (WIA) Youth Program activities, including summer employment.<sup>14</sup> Administered by the Department of Labor (Labor), the WIA Youth Program is designed to provide low-income in-school and out-of-school youth 14 to 21 years old, who have additional barriers to success, with services that lead to educational achievement and successful employment, among other goals. The Recovery Act also extended eligibility through age 24 for youth receiving services funded by the act. While the Recovery Act does not require all funds to be used for summer employment, in the conference report accompanying the bill that became the Recovery Act,<sup>15</sup> the conferees stated they were particularly interested in states using these funds to create summer employment opportunities for youth. While summer employment is a required component of the WIA Youth Program, Labor issued guidance indicating that local areas have the flexibility to implement stand-alone summer youth employment activities with Recovery Act funds.<sup>16</sup> Local areas may design summer employment opportunities to include any set of allowable WIA youth activities—such as tutoring and study skills training, occupational skills training, and supportive services—as long as it also includes a work experience component.

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## Public Housing Capital Fund

The Public Housing Capital Fund provides formula-based grant funds directly to public housing agencies to improve the physical condition of their properties; to develop, finance, and modernize public housing developments; and to improve management. Under the Recovery Act, the Office of Public and Indian Housing within the U.S. Department of Housing and Urban Development (HUD) allocated nearly \$3 billion through the Public Housing Capital Fund to public housing agencies using the same formula for amounts made available in fiscal year 2008 and obligated these funds to housing agencies in March 2009.

HUD was also required to award nearly \$1 billion to public housing agencies based on competition for priority investments, including investments that leverage private sector funding or financing for

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<sup>14</sup>For purposes of the Recovery Act funds, the period of “summer” is from May 1 through September 30.

<sup>15</sup>H.R. Rep. No. 111-16, at 448 (2009).

<sup>16</sup>Department of Labor, Training and Employment Guidance Letter No. 14-08 (Mar. 18, 2009).

renovations and energy conservation retrofitting. In September 2009, HUD awarded competitive grants for the creation of energy-efficient communities, gap financing for projects stalled due to financing issues, public housing transformation, and improvements addressing the needs of the elderly or persons with disabilities.

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## Weatherization Assistance Program

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program—which the Department of Energy (DOE) is distributing to each of the states, the District of Columbia, and seven territories and Indian tribes—to be spent over a 3-year period. The program, administered by the Office of Energy Efficiency and Renewable Energy within DOE, enables low-income families to reduce their utility bills by making long-term energy-efficiency improvements to their homes by, for example, installing insulation, sealing leaks, and modernizing heating equipment, air circulation fans, and air-conditioning equipment. Over the past 32 years, the Weatherization Assistance Program has assisted more than 6.2 million low-income families. By reducing the energy bills of low-income families, the program allows these households to spend their money on other needs, according to DOE. The Recovery Act appropriation represents a significant increase for a program that has received about \$225 million per year in recent years. DOE has approved the weatherization plans of the 16 states and the District of Columbia that are in our review and has provided at least half of the funds to those areas.

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## Head Start/Early Head Start

The Head Start program, administered by the Office of Head Start of the Administration for Children and Families within the Department of Health and Human Services, provides comprehensive early childhood development services to low-income children, including educational, health, nutritional, social, and other services, intended to promote the school readiness of low-income children. Federal Head Start funds are provided directly to local grantees, rather than through states. The Recovery Act provided an additional \$2.1 billion in funding for Head Start, including \$1.1 billion directed for the expansion of Early Head Start programs. The Early Head Start program provides services to low-income families designed to promote the development of very young children, as well as to enable their parents to fulfill their parental duties and move toward self-sufficiency.

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# Appendix IV: GAO Contacts and Staff Acknowledgments

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## GAO Contacts

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WIA Youth Program	Dianne Blank, Raun Lazier, and Andrew Sherrill

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**Appendix IV: GAO Contacts and Staff  
Acknowledgments**

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Texas	Fred Berry, Danny Burton, James Cooksey, K. Eric Essig, Erinn Flanagan, Ken Howard, Michael O'Neill, Gloria Proa, Bob Robinson, and Lorelei St. James

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# Related GAO Products

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*State and Local Governments' Fiscal Outlook March 2010 Update.* [GAO-10-358](#). Washington, D.C.: March 2, 2010.

*Recovery Act: Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors.* [GAO-10-383](#). Washington, D.C.: February 10, 2010.

*Recovery Act: IRS Quickly Implemented Tax Provisions, but Reporting and Enforcement Improvements Are Needed.* [GAO-10-349](#). Washington, D.C.: February 10, 2010.

*Status of the Small Business Administration's Implementation of Administrative Provisions in the American Recovery and Reinvestment Act of 2009.* [GAO-10-298R](#). Washington, D.C.: January 19, 2010.

*Recovery Act: States' Use of Highway and Transit Funds and Efforts to Meet the Act's Requirements.* [GAO-10-312T](#). Washington, D.C.: December 10, 2009.

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

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*Recovery Act: Recipient Reported Jobs Data Provide Some Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention.* [GAO-10-223](#). Washington, D.C.: November 19, 2009.

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