

December 2009

RECOVERY ACT

Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability (New York)



GAO

Accountability * Integrity * Reliability

Appendix XIII: New York

Overview

This appendix summarizes GAO's work on the fourth bimonthly review of American Recovery and Reinvestment Act of 2009 (Recovery Act) spending in New York. The full report on all of GAO's work in 16 states and the District of Columbia may be found at <http://www.gao.gov/recovery>.

What We Did

We reviewed four specific programs funded by the Recovery Act—the Highway Infrastructure Investment Program, the Transit Capital Assistance and Fixed Guideway Infrastructure Investment programs, and the Weatherization Assistance Program.¹ These programs were selected primarily because they are receiving or expect to receive significant amounts of Recovery Act funds, recently began disbursing funds to states, or both. We also updated information on three Recovery Act education programs that will receive significant Recovery Act funds: (1) the U.S. Department of Education (Education) State Fiscal Stabilization Fund (SFSF); (2) Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended; and (3) the Individuals with Disabilities Education Act (IDEA), as amended, Part B. We focused on how funds were being used, how safeguards were being implemented, and how results were being assessed.

Our work in New York also included understanding the state's fiscal condition and visiting four localities to gain insight into their use of Recovery Act funds. We visited Buffalo and New York City because they are the two largest cities in the state and their unemployment rates are above the state's rate.² We also selected Steuben County because it is a rural county with an unemployment rate above the state's rate, and Westchester County because it is a suburban county with an unemployment rate below the state's rate.

What We Found

Funds from the programs we reviewed are helping New York State and local governments stabilize their budgets, while also stimulating infrastructure development and expanding existing programs—thereby

¹For descriptions and requirements of the programs we covered, see app. XVIII of [GAO-10-232SP](#).

²The New York State September 2009 unemployment rate was 8.8 percent, as provided by the U.S. Department of Labor.

providing needed services and potential jobs. The following summarizes specific findings for the areas we examined.

- **Highway Infrastructure Investment Program:** The U.S. Department of Transportation's Federal Highway Administration (FHWA) apportioned \$1.12 billion in Recovery Act funds to the New York State Department of Transportation (NYSDOT) in March 2009. As of October 31, 2009, about \$833 million had been obligated and about \$94 million had been reimbursed by FHWA. NYSDOT officials report that state Recovery Act contracts are receiving bids that average 15 percent lower than estimated costs. As a result, New York's Governor recently announced that 34 new projects expected to cost about \$70 million will be funded with these savings. The federal www.recovery.gov Web site reports the number of jobs created by project for the recipients we reviewed. The Recovery Act contractor representatives we spoke with emphasized that they reported hours paid for by Recovery Act dollars, which they explained, is required by their contracts. Consistent with Office of Management and Budget (OMB) guidance, they did not identify or distinguish between the number of new jobs created or retained by their Recovery Act projects.
- **Transit Capital Assistance and Fixed Guideway Infrastructure Investment programs:** The U.S. Department of Transportation's Federal Transit Administration (FTA) apportioned over \$1.3 billion of Recovery Act funds to the state of New York and urbanized areas located in the state.³ As of November 5, 2009, FTA has obligated over \$1.1 billion. For example, FTA awarded a \$24.4 million Transit Capital Assistance grant to the Niagara Frontier Transportation Authority (NFTA) to replace 56 buses. FTA also apportioned over \$254.8 million in Fixed Guideway Infrastructure Investment program funds under the Recovery Act to two cities in New York—New York and Buffalo. As of November 1, 2009, FTA has obligated 100 percent of these funds. The Metropolitan Transportation Authority (MTA) is using its \$254.4 million grant for a variety of maintenance and safety improvement projects, while NFTA is using its \$409,946 grant to purchase batteries, including backup batteries for its Metro Rail stations. In October, MTA and Greater Glens Falls Transit (GGFT) submitted their first Recovery Act quarterly reports to OMB, which

³We followed up at the two New York transit agencies we reported on in September 2009—the Metropolitan Transportation Authority in New York City and Greater Glens Falls Transit in Glens Falls—and visited the Niagara Frontier Transportation Authority in Buffalo.

included jobs data. Both agencies, consistent with OMB guidance, reported the total number of full-time equivalents (FTE) paid for with Recovery Act funds; ultimately, the information for these two agencies was reported on www.recovery.gov as “jobs created.”⁴

- **Weatherization:** Many of the subgrantees implementing the Weatherization Assistance Program in New York delayed submitting their applications for Recovery Act funding to the New York State Division of Housing and Community Renewal (DHCR) until after the U.S. Department of Labor (Labor) established Davis-Bacon Act prevailing wage rates for weatherization workers on September 3, 2009. Because Recovery Act weatherization money has just begun to reach the subgrantees, DHCR has had little to report regarding the impact of the Recovery Act on its program.
- **Education:** Education awarded New York about \$4.98 billion in SFSF; ESEA Title I, Part A; and IDEA, Part B Recovery Act funds. However, only about 3 percent of these funds had been disbursed, as of November 16, 2009. According to New York State Education Department (NYSED) officials, the time it takes the agency to develop and process the applications necessary to distribute funds to local education agencies (LEAs) contributed to the slow disbursement. The NYSED estimates that these funds, or the anticipated receipt of these funds, saved or created 28,000 education jobs. The localities we visited noted that a share of those jobs would be at risk once these funds are phased out.
- **New York’s use of Recovery Act funds:** Because of continuing fiscal challenges, in October 2009, the Governor of New York proposed a Deficit Reduction Plan (DRP) to eliminate the state’s estimated \$3.2 billion current-year budget gap. The DRP, which is being considered by the state legislature, would result in about \$1.3 billion in across-the-board reductions in state aid to localities. The localities we visited plan to or are using Recovery Act funds for financing Medicaid, retaining

⁴In our November 2009 report, *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), we made 2 recommendations to the Director of OMB. One of these recommendations was as follows: to improve the consistency of FTE data collected and reported, OMB should continue to work with federal agencies to increase recipient understanding of the reporting requirements and application of the guidance. As part of this recommendation, we recommended 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.

teachers, upgrading infrastructure, and increasing housing services, among other things.

NYS DOT Funded Additional Highway Projects with Savings and Experienced Technical Difficulties with Its First Recovery Act Quarterly Report to OMB

FHWA apportioned \$1.12 billion in Recovery Act funds to New York in March 2009 for highway infrastructure and other eligible projects. As of October 31, 2009, about \$833 million had been obligated and about \$94 million had been reimbursed by FHWA.^{5,6,7} NYS DOT officials told us that they expect to have the state's entire apportionment obligated by the end of the calendar year. According to NYS DOT, as of October 31, 2009, FHWA had obligated funding for a total of about 368 projects. According to officials, \$642 million in contracts had been awarded for 279 authorized projects.

NYS DOT officials told us that as of October 2009, bids for state Recovery Act contracts have on average been 15 percent lower than the state's original estimated costs of the projects. In September, Governor Paterson announced that 34 new projects valued at about \$70 million were being funded with the savings. Officials told us that the savings result from a very competitive construction market and lower materials prices.

New York Highway Contract Reviews Generally Have Been Favorable

In previous reports, we commented on NYS DOT's internal controls and oversight of Recovery Act projects. For this report, we examined the contracts for the two state-awarded projects we visited and discussed them with state officials who confirmed that they followed recommended practices of competitive bidding and awarding fixed-price contracts.⁸ We also note that in October 2009, the Office of the State Comptroller (OSC), which reviews and approves NYS DOT highway contract awards, published

⁵For 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.

⁶States request reimbursement from FHWA as the states make payments to contractors working on approved projects.

⁷This does not include obligations associated with \$175.5 million of apportioned funds that were transferred from FHWA to FTA for transit projects. Generally, FHWA has authority pursuant to 23 U.S.C. § 104(k)(1) to transfer funds made available for transit projects to FTA.

⁸The projects visited were the bridge replacement project on Bartell Road over Interstate 81 in Cicero, New York, and the resurfacing of Route 77 project in Corfu, New York.

an audit of local highway Recovery Act projects that found local governments are following sound procurement procedures, including competitive bidding, and generally have made reasonable efforts to ensure that selected contractors are responsible. Also, in October FHWA officials said that they have not seen NYSDOT's contracting oversight suffer as a result of the high workload resulting from the Recovery Act contracts and current hiring freeze. However, in August, OSC announced that it rejected a Recovery Act highway contract, citing possible connections between the contractor and a debarred vendor. NYSDOT officials said this was the first time OSC rejected a Recovery Act contract, maintained that their review was thorough, and noted that the contractor in question currently has two state highway contracts and was not on the debarred list. NYSDOT officials said they have monitored one of these projects closely and have not found any issues. In response to the rejected contract, NYSDOT canceled all bids and postponed the project until the state Department of Labor rules on the case.

**NYSDOT Experienced
Technical Challenges with
Its First Recovery Act
Quarterly Report to OMB**

In October, NYSDOT submitted its first Recovery Act quarterly report to OMB's Web site—www.federalreporting.gov. To develop this report, NYSDOT collected data, including total work hours, from all contractors for Recovery Act projects and NYSDOT checked the data using certified payrolls from the contractors. The work hours were then converted to FTEs using FHWA guidelines. The federal www.recovery.gov Web site reports the number of jobs created by project for the recipients we reviewed. The two contractors whose representatives we spoke with emphasized that they report work hours paid for by the Recovery Act, which they explained, is required by their contracts. They noted they would have a very difficult time determining if these hours are associated with new or retained jobs. When it came time to submit the report, NYSDOT had planned to use batch processing that was being developed between FHWA and OMB to upload data on its almost 400 projects; however, the batch loading feature was not made available by OMB for this reporting round, requiring NYSDOT to upload data for each project

individually. NYSDOT officials reported spending a considerable amount of time on this process.⁹

Highway Infrastructure Funds Were Transferred from FHWA to FTA for the St. George Ferry Terminal Project

We visited the St. George Ferry Terminal on Staten Island, which in July 2009 was awarded \$175 million in Recovery Act highway funds, more than any other project in the state. Highway infrastructure investment funds were transferred from FHWA to FTA at the request of Governor Paterson. The project will rehabilitate eight vehicular ramps, one pedestrian bridge, and one parking lot that provide access to the ferry terminal. (See fig. 1 for a photo of one of the ramps.) The project is currently in the design phase and is administered by the New York City Department of Transportation and overseen by FTA. Construction is scheduled to begin in April 2010 and completed in June 2014.

⁹In our November 2009 report, *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), we made 2 recommendations to the Director of OMB. One of these recommendations was that OMB should work with the Recovery Board and federal agencies to reexamine review and quality assurance processes, procedures, and requirements in light of experiences and identified issues with this round of recipient reporting and consider whether additional modifications need to be made and if additional guidance is warranted.

Figure 1: One of the Ramps That Will Be Rehabilitated at the St. George Ferry Terminal Using Recovery Act Funds



Source: GAO.

New York Transit Agencies Are Using Recovery Act Funds for Fleet and Rail Improvements and Some Reported the Impact of These Funds in the First Recovery Act Quarterly Report to OMB

In March 2009, FTA apportioned over \$1.3 billion in Recovery Act Transit Capital Assistance funds to the state of New York and urbanized areas located in the state for transit projects.¹⁰ As of November 5, 2009, FTA obligated over \$1.1 billion (85.3 percent) of these funds. NFTA was awarded a \$24.4 million grant from Recovery Act Transit Capital Assistance funds to replace 56 life-expired 40-foot diesel buses.¹¹ According to officials, the buses are being procured through an existing contract, which was competitively awarded in April 2005, and NFTA expects to take delivery of all buses by November 30, 2010. According to officials, NFTA is unable to address its bus replacement needs through the existing Transit Capital Assistance program alone. NFTA would like to maintain an average fleet age of 6 years, consistent with FTA guidelines, but its current average fleet age is 10.4 years. NFTA reported that the buses purchased with Recovery Act funds will bring its average fleet age down to 7.8 years.

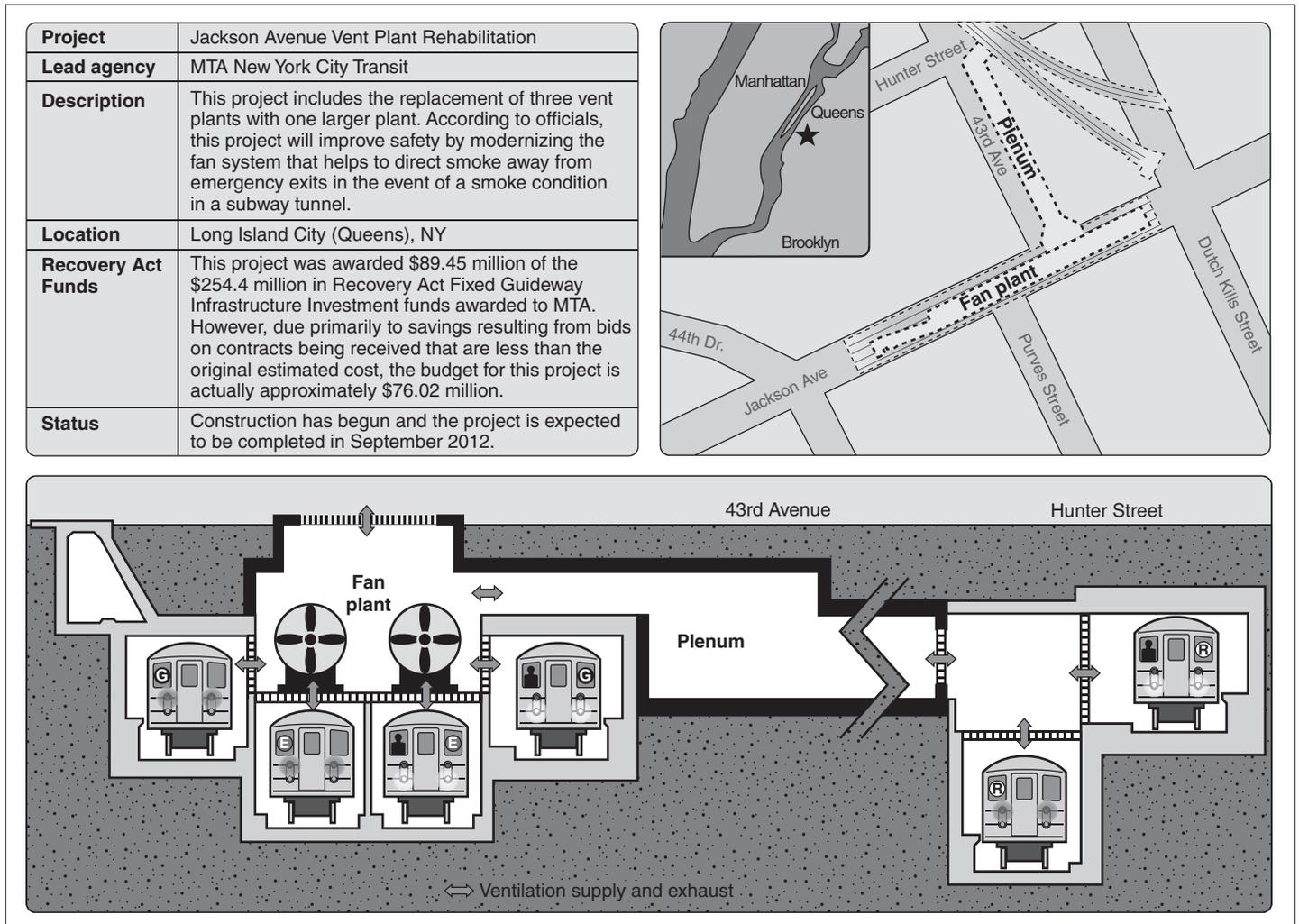
In March 2009, FTA apportioned about \$254.8 million in Recovery Act Fixed Guideway Infrastructure Investment funds to two cities in New York—Buffalo and New York City—for transit projects. As of November 1, 2009, FTA obligated 100 percent of these funds. NFTA was awarded a \$409,946 grant from Recovery Act Fixed Guideway Infrastructure Investment funds to buy batteries, including backup batteries for NFTA Metro Rail that power tunnel lighting, emergency station lighting, elevators, and the communication system. According to officials, these items will improve passenger safety because existing batteries are at the end of their useful life and starting to fail. The officials said that Recovery Act funding was needed to allow NFTA to address this issue in addition to the Metro Rail System's other pressing capital needs. MTA was awarded a

¹⁰As we reported in September 2009, MTA sought Recovery Act Transit Capital Assistance funding in two grants worth over \$660.2 million and plans to use these funds to pay for a series of maintenance and capital projects. GGFT received a \$1.2 million grant to purchase a hybrid expansion vehicle and for various capital projects. According to officials, as of November 15, 2009, MTA had awarded contracts valued at \$437.2 million for projects funded with its Recovery Act Transit Capital Assistance grants, and GGFT had awarded contracts valued at \$582,718.

¹¹Sound internal controls are important for managing Recovery Act funds. We reported on MTA's and GGFT's internal controls in September 2009. NFTA will use existing systems that have been reviewed by independent auditors and FTA to oversee Recovery Act grants. The 2008 and 2009 Single Audit reports for NFTA provided unqualified opinions on its financial statements and did not find any material weaknesses or significant deficiencies in internal controls over financial reporting or major programs. FTA's fiscal year 2009 Triennial Review of NFTA, however, found deficiencies in 3 of the 23 areas examined. NFTA submitted corrective action plans to FTA, which is reviewing them.

\$254.4 million grant from Recovery Act Fixed Guideway Infrastructure Investment funds for a variety of maintenance and safety improvement projects, including the Jackson Avenue Vent Plant Rehabilitation project in Long Island City. (See fig. 2.) The contractor’s bid for this project came in \$12.05 million (17.5 percent) less than the engineer’s estimate. MTA officials indicated that receiving lower-than-expected bids may enable it to fund additional projects at a later date.

Figure 2: MTA Jackson Avenue Vent Plant Rehabilitation Project



Sources: MTA and GAO.

In October, MTA and GGFT submitted their first Recovery Act quarterly reports to OMB, which included jobs data expressed as FTEs. Consistent with OMB guidance, MTA and GGFT reported the total number of FTEs paid for with Recovery Act funds. Ultimately, the information for these two agencies was reported on www.recovery.gov as “jobs created.” NFTA did not have any jobs data to report at that time because its Recovery Act-funded work had not begun.

With the Establishment of Davis-Bacon Act Wage Rates, Weatherization Assistance Program Recovery Act Funds Have Started to Flow to Subgrantees

The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, which the U.S. Department of Energy (DOE) is distributing to each of the states, the District of Columbia, seven territories and Indian tribes, to be spent over a 3-year period. This program enables low-income families to reduce their utility bills by making long-term energy efficiency improvements to their homes by, for example, installing insulation or modernizing heating or air conditioning equipment. On September 22, 2009, DOE obligated all the funds allocated to the states, but it has limited the states’ access to 50 percent of these funds.¹²

With the approval of the New York State weatherization assistance plan by DOE on June 26, 2009, DHCR began accepting contract applications for Recovery Act funding from its 65 subgrantees, the local agencies that operate the program. However, many subgrantees delayed submitting their applications until after Labor established Davis-Bacon Act prevailing wage rates for weatherization workers on September 3, 2009.¹³ As of November 15, 2009, DHCR had approved 60 contracts with subgrantees, the state had obligated \$194.3 million in Recovery Act weatherization funds, and about \$49 million had been disbursed by DHCR to fund weatherization activities under the Recovery Act.

¹²DOE currently plans to make the remaining funds available to the states once 30 percent of the housing units identified in the state plans are weatherized. New York State’s total allocation is \$394.7 million.

¹³Only weatherization activities funded by the Recovery Act are subject to Davis-Bacon wage rates.

Davis-Bacon Act Rates
Could Increase
Weatherization
Administration Costs and
Affect Work on High-rise
Housing Units

Generally, with some exceptions, the new Davis-Bacon Act rates were in line with what the subgrantees had been paying their workers; however, some subgrantees will incur increased administrative costs because of Davis-Bacon requirements, such as on-site verification of payrolls that ensure workers are paid the proper wage rates for their labor. However, in New York, these new rates only apply to buildings fewer than five stories. Specific weatherization rates were not established for buildings with more than four stories, so state officials stated that workers must be paid at the Davis-Bacon rates established for commercial construction. These rates are significantly higher than what local agencies paid previously.¹⁴ This issue primarily affects the state's urban areas, according to state officials, especially New York City where high-rise buildings are a prevalent form of residential housing. Two subgrantees we visited told us that they intend to subcontract out all weatherization work done on buildings with more than four stories funded by the Recovery Act. They could not pay their own workers vastly different wages depending on which building they were working on.

According to these officials and DHCR agency representatives, the higher wage rates for buildings with more than four stories mean that the cost of weatherizing these buildings will increase. One subgrantee estimated this increase to be from 20 to 30 percent. Also, according to DHCR officials, the higher commercial rates might reduce the weatherization activities eligible for funding.¹⁵ Because of higher wage rates, officials are concerned that some activities, such as window replacement, may no longer be eligible for weatherization funding. However, on November 10, 2009, DOE announced that the saving to investment ratio for buildings with more than four stories could be calculated using the Davis-Bacon residential wage rate established for buildings with fewer than five stories in lieu of the higher commercial rates.

¹⁴The newly established Davis-Bacon residential wage rate for a weatherization worker in New York County (Manhattan), including benefits, is \$30.61. For buildings with more than four stories, a weatherization worker is paid based on what he or she does. If the weatherization worker's activities fell under the classification of a carpenter, he or she would be paid that Davis-Bacon wage rate, which is \$92.69, including benefits.

¹⁵To be eligible for funding under the Weatherization Assistance Program, an activity must generally achieve a savings to investment ratio of at least one. That is, for each dollar invested, 1 dollar must be saved over the expected life of the activity performed.

State Officials Plan to Use a Variety of Accountability Approaches to Monitor the Use of Recovery Act Weatherization Funds

DHCR officials stressed that an extensive fiscal and program monitoring system was in place for the weatherization program before the passage of the Recovery Act. They indicated that DHCR intends to use some of the Recovery Act funds earmarked for administration to increase the resources available for on-site technical assistance provided to subgrantees as well as to add 13 additional staff members to the number of staff already monitoring the program.

DHCR's normal monitoring processes of its subgrantees include 9 to 12 site visits per year conducted by DHCR staff and an inspection of at least 10 percent of the units weatherized. Further, DHCR has established a weatherization database that allows it to monitor monthly production goals against actual work completed.

State Officials Are Preparing to Measure the Impact of Recovery Act Weatherization Funds and to Meet DOE's Reporting Requirements

DHCR intends to collect and report all data required by DOE for reporting purposes from the 65 subgrantees. DHCR officials said that they had already collected all of the information DOE requires except job creation and retention numbers. DHCR has issued guidance on reporting job creation figures to its subgrantees. In addition, DHCR officials intend to perform quality reviews of the data submitted by the subgrantees to ensure accuracy.

Because Recovery Act weatherization money has just begun to reach the subgrantees, DHCR has had little to report regarding the impact of the Recovery Act on its program. However, some agencies have begun weatherizing homes using Recovery Act funds, as illustrated in figure 3. In the future, in addition to the number of jobs created or retained, DHCR intends to report the number of units weatherized as well as the projected energy saving.

Figure 3: Community Environmental Center Workers Insulate a Home Being Weatherized in Queens, New York

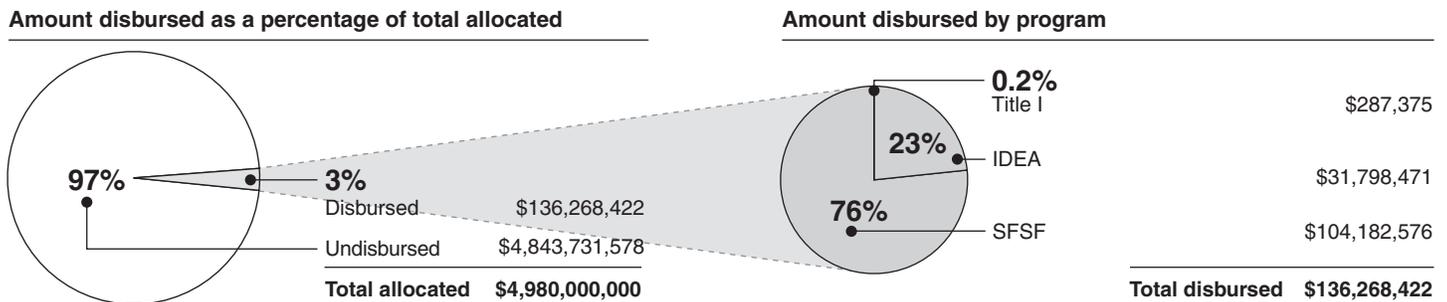


Source: Community Environmental Center of Long Island City, New York.

New York State Received Recovery Act Funds from Education but Has Disbursed Little to LEAs

As of November 16, 2009, New York had disbursed 3 percent of its \$4.98 billion education allocation for SFSF, ESEA Title I, and IDEA Recovery Act funds (see fig. 4).¹⁶ NYSED has approved 75 percent of LEAs' Recovery Act education applications¹⁷ necessary for disbursement, and officials said that the time they have taken to process and approve LEAs' applications for these three programs contributed to the slow disbursement of funds.¹⁸ We reviewed the rate of drawdowns of 16 states plus the District of Columbia and, as a result, found that New York is one of the states with the smallest share of Recovery Act education funds drawn down as of November 6, 2009. State education officials expect the flow of education funds to increase beginning in January 2010. Because the lengthy application approval process left them with little Recovery Act funding to draw down, LEAs have paid for Recovery Act education program expenses up front and expect to be reimbursed for allowable expenditures as they submit claims.

Figure 4: Amount of Education Funds Disbursed by New York, as of November 16, 2009



Source: GAO analysis of New York State Recovery and Reinvestment Cabinet and New York Office of the State Comptroller data.

In addition to meeting with NYSED officials to assess how LEAs plan to use Recovery Act funds, we revisited one LEA that we reported on in July 2009—the New York City School District—and, for contrast, visited a

¹⁶As of November 16, 2009, \$2.2 billion of the \$4.98 billion allocated has been approved by the state for disbursement to LEAs.

¹⁷As of November 16, 2009, NYSED had approved 134 of 612 applications received for ESEA Title I; approved 595 of 673 applications received for IDEA, Part B; and approved 907 of 909 applications received for SFSF.

¹⁸In this section, unless otherwise specified, Recovery Act SFSF funding includes education stabilization funds and government services funds; IDEA refers to IDEA, Part B; and ESEA Title I refers to ESEA Title I, Part A.

rural, high-poverty LEA, the Jasper-Troupsburg Central School District located south of Rochester.

The “funding cliff,” a reference to the temporary nature of Recovery Act education funds and anticipated fiscal challenges when New York runs out of these funds, is of paramount concern to state and local education officials. Local officials told us that Governor Patterson’s DRP, which includes a \$686 million cut in education aid, could lead to teacher layoffs and increased taxes. For example, according to LEA officials, the combined impact of the end of Recovery Act funding and the DRP could place teachers’ jobs in the New York City School District at risk and could result in a 15 percent increase in the school tax levy by the end of fiscal year 2011 at the Jasper-Troupsburg Central School District.¹⁹

NYSED Develops New Monitoring Plan and Enhances Existing Controls over Recovery Act Funds

In our September 2009 Recovery Act report, we addressed the need for states to monitor Recovery Act funds; and, at the time, NYSED lacked a monitoring plan for SFSF funds. However, since that report and a November 2009 audit by Education’s Office of Inspector General (OIG) that addressed similar concerns, NYSED developed a monitoring plan for SFSF Recovery Act funds and enhanced existing monitoring of ESEA Title I and IDEA Recovery Act funds.²⁰ In addition, the OIG report found deficiencies in NYSED’s current monitoring protocols. In particular, the OIG found that NYSED does not collect enough detail from LEAs on ESEA Title I and IDEA expenditure reimbursement forms, such as check amounts and payees, to sufficiently monitor use of funds. NYSED officials said that despite resource constraints that limit their ability to review additional documentation for non-Recovery Act ESEA Title I and IDEA reimbursements, they plan to request additional information before paying the full amounts of Recovery Act expenditure reimbursements. Also, NYSED officials said that they will select approximately 30 of the 68 LEAs they identified as high risk and conduct on-site reviews to assess the accuracy and allowability of pending and paid claims.

¹⁹Recovery Act funding comprised about 8 percent of the New York City School District’s operating budget of \$18 billion in fiscal year 2010, and 7 percent of the Jasper-Troupsburg School District’s operating budget of about \$10 million in fiscal year 2010.

²⁰Department of Education, Office of Inspector General, *New York State System of Internal Control over American Recovery and Reinvestment Act Funds*, Ed-OIG/A02J0006 (Washington, D.C., Nov. 10, 2009). We did not perform independent audit work to test and validate whether the control weaknesses reported by the OIG were appropriate and comprehensive.

With an Estimated 28,000 Education Jobs Saved or Created in New York, State and Local Officials Are Focused on Job Retention

Many LEAs in New York are planning to use more than half of their education funds to retain jobs. In particular, NYSED officials said that 28,000 education jobs were retained or created with Recovery Act funds, of which an estimated 14,728 jobs were retained and 93 FTEs were created in the New York City School District.²¹ Some LEAs noted that the positive impacts of the Recovery Act funds include maintaining smaller class sizes and after-school programs. For example, Jasper-Troupsburg Central School District officials mentioned that without Recovery Act funding, the average seventh grade class size would have increased from about 15 to 27 students per class. In addition to having the goals of saving and creating jobs, the Recovery Act also supports education reform. However, one LEA also suggested that when Recovery Act funding ceases, some gains made in education reform would be diluted. New York City School District officials told us how recently recruited math and science teachers, part of a reform initiative to support new schools that replaced low-performing schools, could be laid off.

One New York LEA Continues to Face Uncertainties about How to Use Recovery Act Funds

Jasper-Troupsburg Central School District officials said that they are unsure of how to spend the Recovery Act ESEA Title I funds on onetime expenses, rather than spending them on recurring services that would create unsustainable commitments after Recovery Act funding expires. The Jasper-Troupsburg Central School District typically spends ESEA Title I funds on teachers who instruct Title I-eligible students; however, adding more teachers would create a recurring cost that officials say they cannot afford once Recovery Act funding ceases. As a result, Jasper-Troupsburg officials said that they will probably not use most of their \$274,000 ESEA Title I Recovery Act allocation if they do not receive clarity from state or Education officials on allowable onetime uses of the funds.²²

²¹NYSED directed LEAs to Education's September 2009 guidance on calculating jobs retained or created. According to NYSED's Web site, a job retained or created is one that would not have been filled without Recovery Act funds, regardless of whether the employee filling that job is paid with Recovery Act funds.

²²LEAs must obligate 85 percent of ESEA Title I, Part A Recovery Act funds by September 30, 2010, unless granted a waiver to carry over additional funds. LEAs must obligate all ESEA Title I, Part A funds by September 30, 2011.

Recovery Act Funds Providing Temporary Relief to the Budgets of New York and Some Localities

As noted in our September report, New York State received about \$6 billion in Recovery Act funds that it used to help close its budget gaps for last fiscal year and the current fiscal year, 2009-2010. Based on the state's Mid-Year Financial Plan Update, New York's government is now facing a \$3.2 billion gap in its current-year \$54.6 billion General Fund budget. As identified in the Mid-Year Update, the gap is a result of continued declining state revenues, primarily from personal income tax. In October 2009, the Governor proposed a DRP that would eliminate the state's current-year budget gap. The DRP, which is being considered by the state legislature, would result in about \$1.3 billion in across-the-board reductions in state aid to localities. We visited the City of Buffalo, New York City, Steuben County, and Westchester County to gain a better understanding of New York State's localities' fiscal conditions and to determine how these local governments are using Recovery Act funds.²³

In December 2008, the Governor had proposed aid reductions to localities to balance its current-year budget. Based on the state's executive and enacted budgets for fiscal year 2009-2010, these cuts would have adversely affected programs, such as education. The Governor and the state legislature were able to avoid most of the reductions by balancing the state budget with higher taxes and Recovery Act funds. Recovery Act funds are providing short-term budget relief to three out of the four localities visited, allowing them to avoid taking further actions, such as layoffs, furloughs, and eliminating or reducing services. (See table 1 for background information on these localities.)

Table 1: Background on Selected Local Governments

Locality	Population	Locality type	Unemployment rate
City of Buffalo	270,919	City	10.8%
New York City	8,363,710	City	10.2%
Steuben	96,573	County	9.5%
Westchester	953,943	County	7.4%

Sources: U.S. Census Bureau and U.S. Department of Labor.

Notes: Population data are from July 1, 2008. Unemployment rates are preliminary estimates for September 2009 and have not been seasonally adjusted. Rates are a percentage of the labor force. Estimates are subject to revision.

²³The City of Buffalo, Steuben County, and Westchester County are not responsible for the operations of their local school districts. The City of Buffalo is also not responsible for administering its Medicaid program, which is managed by Erie County.

City of Buffalo

Officials from the City of Buffalo reported that they have received or will be receiving about \$29 million in Recovery Act funds for housing services, clean water, and street upgrades, among other things. These funds will have no direct impact on the city's operating budget since they will flow directly from the state agencies to local agencies, such as those for transportation and housing. In addition, while the City of Buffalo plans to balance its current- and out-year budgets using some of its reserves,²⁴ city officials are concerned about impending state aid cuts, since this aid makes up about 43 percent of its revenue base. According to the officials, the local agencies that are receiving Recovery Act funds have been hiring temporary workers to avoid recurring costs when Recovery Act funding ends.

New York City

New York City officials reported that the city will primarily use its \$4.9 billion in Recovery Act funds to avoid major teacher layoffs (\$2.1 billion) and for Medicaid (\$1.6 billion). In addition, New York City used funds from a \$5.5 billion surplus that it accumulated in better economic times to help close its current-year budget gap. New York City officials are developing a strategy to address the phaseout of Recovery Act funds, including any potential layoffs in education and social services that this funding had prevented.

Steuben County

Steuben County officials reported that the county will use the majority of its \$9.0 million in Recovery Act funds for Medicaid (\$6.7 million) and for highway infrastructure investment (\$845,000). Steuben County officials are concerned that future tax increases will be needed to address anticipated gaps after Recovery Act funds are spent and that they will need to tap into their reserve. County officials stated that they will need to reduce expenditures as well.

Westchester County

Westchester County officials reported that the county will use its \$97 million of Recovery Act funds primarily for financing Medicaid (\$30.2 million), upgrading its wastewater treatment plant (\$27.5 million), and purchasing buses (\$13.3 million). Westchester County officials are

²⁴As explained by officials, the Buffalo Fiscal Stability Authority Act requires the City of Buffalo to develop multiyear budgets that are balanced. The City of Buffalo plans to use restricted state aid and incentives to municipalities and unreserved fund balance to balance its budgets.

concerned that future tax increases may be needed to address anticipated gaps and that they may have to tap into their reserves after Recovery Act funds are spent.

State Comments on This Summary

We provided the Governor of New York with a draft of this appendix on November 18, 2009. A representative from the Governor's Office responded on November 19, 2009. We also provided various state agencies and local officials with the opportunity to comment. In general, they agreed with our draft and provided some clarifying and technical suggestions that were incorporated as appropriate.

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Staff Acknowledgments

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