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RECOVERY ACT

**California's Use of Funds
and Efforts to Ensure
Accountability**

Statement of Linda Calbom, Western Regional Director



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-10-467T](#), a testimony before the Committee on Government Oversight and Reform, House of Representatives

Why GAO Did This Study

The American Recovery and Reinvestment Act of 2009 (Recovery Act) specifies several roles for GAO, including conducting bimonthly reviews of selected states' and localities' use of funds made available under the act. This testimony is based on GAO's bimonthly work in California, where the Recovery Act provided more than \$85 billion—or about 10 percent of the funds available nationally—for program funding and tax relief. This testimony provides a general overview of: (1) California's use of Recovery Act funds for selected programs, (2) the approaches taken by California agencies to ensure accountability for Recovery Act funds, and (3) the impacts of these funds.

This testimony focuses on selected programs that GAO has covered in previous work including the use of Recovery Act funds by the state and two localities'—City of Los Angeles and County of Sacramento, Highway Infrastructure Investment, and the Weatherization Assistance Program. GAO also updated information on three education programs with significant Recovery Act funds being disbursed—the State Fiscal Stabilization Fund (SFSF), and Recovery Act funds for Title I, Part A, of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and Part B of the Individuals with Disabilities Education Act (IDEA). GAO provided a draft of this statement to California state and local officials and incorporated their comments where appropriate.

View [GAO-10-467T](#) or [key components](#). For more information, contact Linda Calbom at (206) 287-4809 or calboml@gao.gov.

RECOVERY ACT

California's Use of Funds and Efforts to Ensure Accountability

What GAO Found

State and Local Budgets

Despite the influx of Recovery Act funds, California continues to face severe budgetary pressures and estimates a current shortfall of as much as \$21 billion—roughly one-quarter of the state's annual budget expenditures. California's cities and counties are also struggling with budget problems. According to officials from the City of Los Angeles and County of Sacramento, Recovery Act funds are helping to preserve essential services and repair infrastructure but have generally not helped stabilize their base budgets.

Transportation Infrastructure

According to California officials, 100 percent of California's \$2.570 billion highway infrastructure Recovery Act apportionment has been obligated. The state has dedicated most of these funds for pavement improvements—including resurfacing and rehabilitating roadways.

Weatherization Assistance

As of January 25, 2010, California had awarded about \$66 million to 35 local service providers throughout the state for weatherization activities. State and federal requirements, such as prevailing wage rates, as well as the implementation of these requirements, have delayed weatherization and, as of February 26, 2010, the state had weatherized only 849 homes—less than 2 percent of the 43,000 homes that are estimated to be weatherized with Recovery Act funds.

Education

As of February 19, 2010, California had distributed approximately \$4.7 billion for three education programs, including the SFSF. Local education agencies plan to use more than half of these funds to retain jobs; however, a majority reported that they still expect job losses. Also, cash management issues, related to federal cash balances and the calculation and remittance of interest, remain, but the California Department of Education has taken preliminary steps to resolve them.

Accountability

California oversight entities and state agencies have taken various actions to oversee Recovery Act funds, including training, risk assessments, on-site monitoring, and audits. The Governor established the Recovery Task Force to ensure funds are spent efficiently and effectively, and the State Auditor and Inspector General also have key oversight roles.

Jobs Reporting

Recipients reported that 70,745 jobs were funded in California during the last quarter of 2009. However, about 70 percent of these jobs were in education and were not reported using the Office of Management and Budget's (OMB) latest guidance, and therefore were not calculated consistently with other jobs reported.

Mr. Chairman and Members of the full Committee, Madame Chairwoman and Members of the Subcommittee:

I am pleased to be here today to discuss our work in California examining the uses and planning for funds made available by the American Recovery and Reinvestment Act of 2009 (Recovery Act).¹ Congress and the administration have fashioned a significant response to what is generally reported to be the nation's most serious economic crisis since the Great Depression. The Recovery Act's combined tax provisions and spending are estimated to cost \$862 billion, including more than \$85 billion in tax relief and additional spending in California for investments in transportation infrastructure, education, weatherization assistance, and other programs.

The Recovery Act requires GAO, among other things, to conduct bimonthly reviews of selected states' and localities' use of funds made available under the act.² We issued our fifth bimonthly report on March 3, 2010, which summarized our work on a group of 16 states including California, the District of Columbia (the District), and selected localities.³ 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. We have issued individual summaries for California, other selected states, and the District four times. These summaries are accessible through GAO's recovery page at www.gao.gov/recovery. The Recovery Act also mandated GAO to comment quarterly on the estimates of jobs created or retained as reported by recipients of Recovery Act funding from federal agencies.⁴ We issued our initial report related to recipient reporting, including recommendations for recipient report improvements, on November 19, 2009,⁵ and our second report with updated information regarding the second round of recipient reports

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

²Recovery Act, div. A, title IX, §901, 123 Stat. 191.

³The states we are following as part of our analysis are Arizona, California, Colorado, Florida, Georgia, Illinois, Iowa, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas.

⁴Recovery Act, div. A, §1512, 123 Stat. 287–88. We will refer to the quarterly reports required by section 1512 as recipient reports.

⁵GAO, *Recovery Act: Recipient Reported Jobs Data Provide Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention*, [GAO-10-223](https://www.gao.gov/products/GAO-10-223) (Washington, D.C.: Nov. 19, 2009).

covering the period October 1, 2009 through December 31, 2009, on March 3, 2010.⁶

My statement today is based on our work in California and provides a general overview of (1) California's uses of Recovery Act funds for selected programs, (2) the approaches taken by California agencies to ensure accountability for Recovery Act funds, and (3) the impacts of these funds on creating and retaining jobs. My testimony focuses on selected programs that we have covered in our previous work including the use of Recovery Act funds by the state and two localities—City of Los Angeles and County of Sacramento—to help address their budget challenges, Highway Infrastructure Investment, and the Weatherization Assistance Program. In addition to these programs and issues, we updated information on three education programs with significant Recovery Act funds being disbursed—the State Fiscal Stabilization Fund (SFSF), and Recovery Act funds for Title I, Part A, of the Elementary and Secondary Education Act of 1965 as amended, (ESEA), and the Individuals with Disabilities Education Act (IDEA), Part B. Finally, I am discussing California's efforts to meet reporting requirements under section 1512 of the Recovery Act, and the information California recipients reported, which is publicly available on the www.recovery.gov (Recovery.gov) Web site.

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

Background

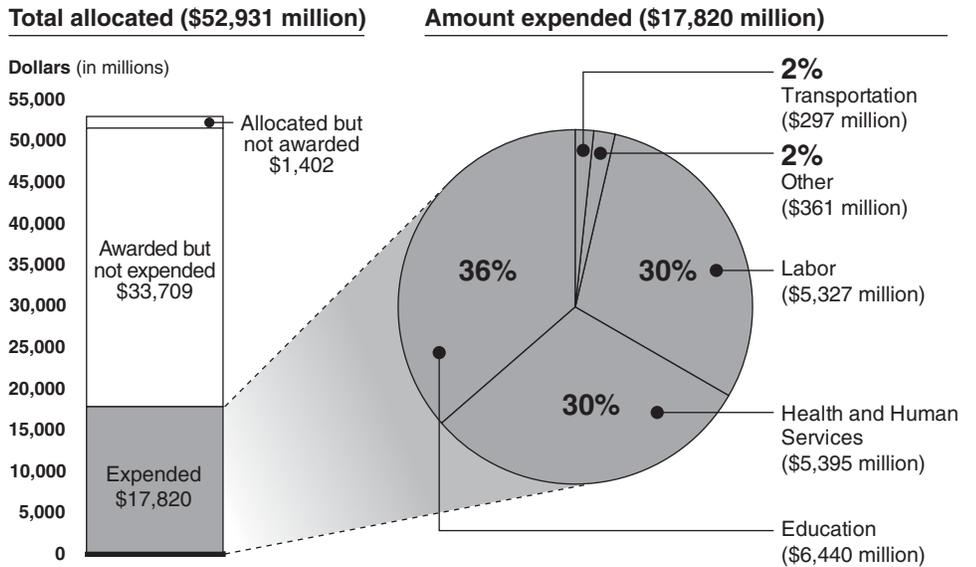
California is the nation's most populous state and the eighth-largest economy in the world. California is estimated to receive approximately \$85 billion in Recovery Act funds, or about 10 percent of the funds available nationally. Nearly 80 percent of Recovery Act funding to states and localities is projected to be distributed within the first 3 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. The California

⁶GAO, *Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability*, [GAO-10-437](#) (Washington, D.C.: Mar. 3, 2010).

Recovery Task Force (Task Force), which was established by the Governor in March 2009, has overarching responsibility for ensuring that the state's Recovery Act funds are spent efficiently and effectively and are tracked and reported in a transparent manner. The Task Force reports on the use and status of Recovery Act funds using the state's recovery Web site (www.recovery.ca.gov). In addition to the Task Force's efforts, other California entities with oversight responsibilities, including the State Auditor, have expanded the scope of their work to include a focus on state programs receiving Recovery Act funds.

As of December 9, 2009, the Task Force estimated that approximately \$53 billion has been allocated to California state agencies and local governments, nonprofits, local education agencies, and private companies through spending programs. The remaining portion, approximately \$30 billion, is being provided to individuals and businesses in the form of direct tax relief. Approximately \$33.7 billion has been awarded and \$17.8 billion has been expended. As shown in figure 1, health, education, and labor accounted for almost 96 percent of California's Recovery Act expenditures. The largest programs within these areas were the state Medicaid program and SFSP.

Figure 1: California Estimated Recovery Act Funding and Expenditures for Programs as of December 09, 2009



Source: GAO analysis of California Recovery Act Task Force data.

Note: Totals may not add to 100 percent due to rounding. The actual dollar amounts will vary as Recovery Act dollars move from allocation estimates by the federal government to the actual amount awarded to California and eventually made available to the various programs to be spent by those programs. This graphic does not include the approximately \$30 billion in estimated tax relief funds for California.

To help measure the impact of the Recovery Act, the act contains numerous provisions that require recipients of Recovery Act funding to report quarterly on several measures. Nonfederal recipients of Recovery Act funds, such as state and local governments, private companies, educational institutions, and nonprofits, are required to submit reports with information on each project or activity, including amounts and a description of the use of funds and an estimate of the jobs created or retained. To collect this information, the U.S. Office of Management and Budget (OMB) and the Recovery Accountability and Transparency Board created a nationwide data collection system to obtain data from recipients, www.federalreporting.gov (FederalReporting.gov), and another site for the public to view and download recipient reports, Recovery.gov. Shortly before recipients could begin entering data into FederalReporting.gov for

the second quarterly reporting period, OMB issued a memorandum⁷ for the heads of U.S. executive departments and agencies on December 18, 2009, updating its reporting guidance on the Recovery Act, in response to suggestions made by recipients, agencies, and our recommendations. The updated guidance focuses on issues related to data quality, nonreporting recipients, and reporting of job estimates, among other important reporting requirements.

We previously reported that the Task Force, with the assistance of the state's Chief Information Officer (CIO), created and deployed a central information technology system for state departments to report quarterly recipient report data. For the first two rounds of recipient reporting, California established a centralized reporting system, the California ARRA Accountability Tool (CAAT), which state agencies receiving Recovery Act funds used to report their data to the Task Force. California's CIO, on behalf of the Task Force, was responsible for collecting the data from state agencies and uploading the data to FederalReporting.gov.

California's State and Local Governments Continue to Grapple with Budget Problems, but Recovery Act Funds Have Helped Preserve Services

California used Recovery Act funds to help balance the state fiscal year 2009-2010 budget, when the state faced a nearly \$60 billion budget gap, and future budget shortfalls are expected.⁸ As discussed in our prior reports, California balanced its state fiscal year 2009-2010 budget by, among other things, making more than \$31 billion in cuts, increasing taxes by \$12.5 billion, and using over \$8 billion in Recovery Act funds. However, California's long-term fiscal prospects remain of concern. For example, in November 2009, the Legislative Analyst's Office (LAO) estimated the size of the 2009-2010 and 2010-2011 budget shortfall at about \$21 billion.⁹ According to the LAO, the main reasons for the budget gaps are: the inability of the state to achieve previous budget solutions in several areas, the effects of several adverse court rulings and, for 2010-2011, the expiration of various one-time and temporary budget solutions approved

⁷OMB Memoranda, M-10-08, *Updated Guidance on the American Recovery and Reinvestment Act—Data Quality, Non Reporting Recipients, and Reporting of Job Estimates* (Washington, D.C.: Dec. 18, 2009).

⁸See GAO, *State and Local Governments' Fiscal Outlook March 2010 Update*, GAO-10-358 (Washington, D.C.: Mar. 2, 2010). This and related products can be found at <http://gao.gov/special.pubs/longterm/longterm.html>.

⁹Included in the estimated \$21 billion budget shortfall is an estimated \$6.3 billion general fund deficit at the end of 2009-2010.

in 2009. The Governor's 2010-2011 budget proposal was somewhat more optimistic and identified a \$18.9 billion budget shortfall. Nonetheless, the budget gap constitutes roughly one-quarter of the state's annual budget expenditures.

The Governor declared a fiscal emergency on January 8, 2010, calling the legislature into special session to act on his proposed solutions to address the budget shortfall. Those proposed solutions include reductions in state programs, shifts of state funds to pay for general fund expenses, and requests for additional federal funds and greater flexibility. On January 22, 2010, the state Controller urged the state legislature and Governor to address the state's projected budget and cash shortfalls for the remainder of the current fiscal year, as well as the next fiscal year, in order to protect California's economic recovery, continue the financing of public works projects, and prevent even greater financial hardship. Further, the Controller stated that, if the budget situation is not resolved, the legislature and Governor will again face the prospect of a cash crisis beginning in July 2010.¹⁰

Local city and county governments in California are also struggling with declining revenues and budget problems. Additionally, local governments are affected by the fiscal situation of the state as a number of revenue sources—such as sales tax, gas tax, vehicle license, and many others—pass through the state. For example, in order to balance the California's fiscal year 2009-2010 budget, state leaders agreed to borrow almost \$2 billion in local property tax revenue and make \$877 million in local government transportation revenue available to the state general fund for transit debt service. Officials we met with in the City of Los Angeles (Los Angeles) and the County of Sacramento said that they face budget shortfalls this fiscal year due to declines in state funding for programs, tax revenues, and fees. (Fig. 2 highlights information about the two local governments we reviewed.) For example, a Los Angeles official told us that, for the remainder of fiscal year 2010, they are trying to close a deficit of \$212 million and have a projected \$485 million deficit for fiscal year 2011. Sacramento County officials reported that the county is facing a nearly \$14 million general fund budget shortfall for the remainder of fiscal year 2009-2010, and faces cuts of around \$149 million for next fiscal year.¹¹

¹⁰In July 2009, severe cash deficits forced the Controller's Office to issue registered warrants, called IOUs, to meet the state's payment obligations.

¹¹According to County of Sacramento officials, the health and human services area is the most impacted by the budget shortfall.

According to government officials in both localities, Recovery Act funds are helping to preserve the delivery of essential services and repair infrastructure but have generally not helped stabilize their base budgets.

Figure 2: Information about Sacramento County and Los Angeles

	Sacramento	Los Angeles
Estimated population (2008):	1,394,154	3,833,995
Unemployment rate (November 2009):	12.7%	13.2%
Budget FY10: (change from FY09):	\$4.3 billion (-19.0%)	\$7.0 billion (-1.0%)
Locality type:	County	Metropolitan city

Sources: U.S. Census Bureau and U.S. Department of Labor (demographic information); County of Sacramento and City of Los Angeles (budget information); Map Resources (map); and GAO.

Note: Population data are from July 1, 2008. Unemployment rates have not been seasonally adjusted. Rates are a percentage of the labor force.

Overall, as of February 18, 2010, a Los Angeles official reported that the city had been awarded about \$597 million in Recovery Act grants, and Sacramento County officials reported the county had been awarded about \$88 million in Recovery Act formula grants as of January 15. Most Recovery Act funds to local governments flow through existing federal grant programs. Some of these funds are provided directly to the local government by federal agencies, and others are passed from the federal agencies through state governments to local agencies. As shown in table 1, local officials reported their governments' use of Recovery Act funds in program areas including public safety (Edward Byrne Memorial Justice Assistance Grant (JAG)) and Energy Efficiency and Conservation Block Grant (EECBG). Other Recovery Act funds received by these localities included formula grants for prevention of Internet crimes against children, public housing, emergency shelter, health centers, capital improvements, airport security and improvement, transportation, and additional competitive grant awards. Officials reported that Los Angeles has applied for about \$893 million in additional Recovery Act grants, and the County of Sacramento has applied for an additional \$330 million in competitive grants.

Table 1: Selected Examples of Local Governments' Use of Recovery Act Funds

Local government	JAG	EECBG
Los Angeles	Los Angeles is using a \$30.5 million grant to work with the County of Los Angeles and 75 jurisdictions within the county to improve law enforcement operations, including interoperability of communication systems to deal with region-wide emergencies.	Los Angeles was awarded a \$37 million grant that it intends to use for several categories of projects including energy efficiency retrofit programs, research and technology strategies, financing programs, and energy efficiency incentives.
County of Sacramento	County is using a \$1.9 million grant for a gang suppression unit project that seeks to reduce crime and violence through community supervision efforts that target identified gang members. The Recovery Act grant will fund six community probation supervisor positions that work with high-risk gang offenders.	County was awarded a \$5.4 million grant that it intends to use for a combination of county facility projects that will reduce operational costs and improve the energy efficiency of its infrastructure resulting in energy cost savings and job creation. Funds will also be used for a Climate Action Implementation Plan, Green Building standards, and a municipal financing program for property owners that make energy efficiency improvements.

Sources: GAO analysis of information provided by City of Los Angeles and County of Sacramento and as reported on www.recovery.gov.

Nearly All of California's Highway Funds Have Been Obligated to Pavement and Infrastructure Projects and California Continues to Take Steps to Meet Recovery Act Requirements

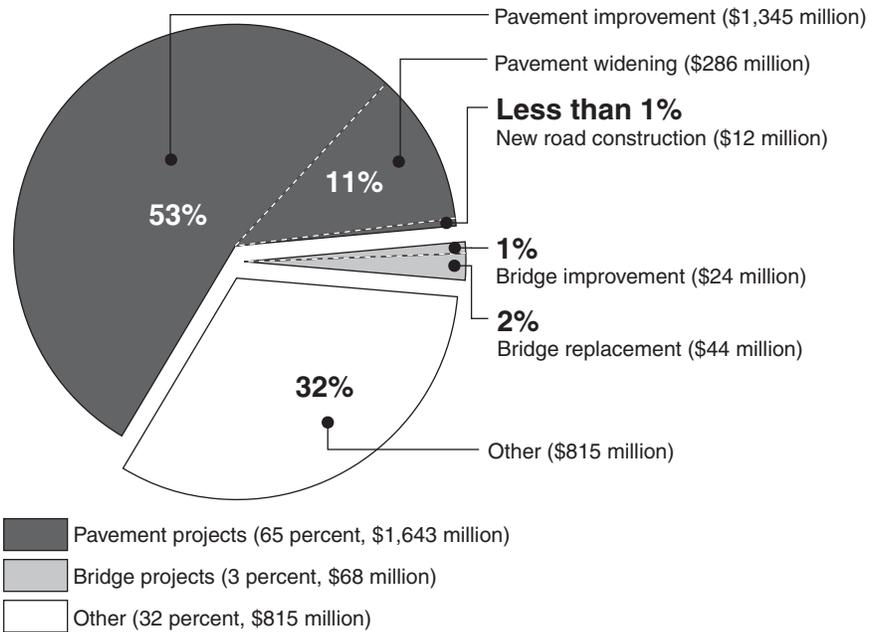
In March 2009, California was apportioned \$2.570 billion in Recovery Act funds for the restoration, repair, and construction of highways and other activities allowed under the Federal-Aid Highway Surface Transportation Program. As of February 16, 2010, the U.S. Department of Transportation (DOT) Federal Highway Administration (FHWA) had obligated \$2.525 billion (98 percent) of California's apportionment.¹² Highway funds are apportioned to states through federal-aid highway program mechanisms, and states must follow existing program requirements, which include ensuring each project meets all environmental requirements associated with the National Environmental Policy Act (NEPA), complying with goals to ensure disadvantaged businesses are not discriminated against in the awarding of construction contracts, and using American-made iron and steel in accordance with Buy American requirements. The Recovery Act also required that 30 percent of these funds be suballocated, primarily based on population, for metropolitan, regional, and local use. In California, according to state sources, a state law enacted in late March 2009, increased the suballocation so that more—62.5 percent of the \$2.570 billion (\$1.606 billion)—would be allocated to local governments for projects of their selection.

California Has Dedicated Most of Its Recovery Act Highway Funds for Pavement Projects and Continues to Monitor Federal Reimbursements

The majority of Recovery Act highway obligations for California have been for pavement improvements—including resurfacing, rehabilitating, and constructing roadways. Of the funds obligated, approximately 65 percent (\$1.643 billion) is being used for pavement widening and improvement projects, while 32 percent (\$815 million) is being used for safety and transportation enhancements, and 3 percent (\$68 million) for bridge replacement and improvement projects. Figure 3 shows obligations in California by the types of road and bridge improvements being made.

¹²DOT has interpreted the term, obligation of funds, to mean the federal government's commitment to pay for the federal share of a project. This commitment occurs at the time the federal government signs a project agreement (highways) or grant agreement (public transportation). This amount does not include obligations associated with the \$27 million of apportioned funds that were transferred from FHWA to the Federal Transit Administration (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.

Figure 3: Breakdown of Highway Obligations in California as of February 16, 2010, by Project Type



Source: GAO analysis of FHWA data.

Note: Totals may not add to 100 percent due to rounding. "Other" includes safety projects, such as improving safety at railroad grade crossings and transportation enhancement projects, such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

According to information reported on Recovery.gov, as of December 31, 2009, California funded 761 highway infrastructure projects with Recovery Act funds. Fourteen percent, or 103 of these projects, were completed, 34 percent (268 projects) were under way, and about 51 percent (390 projects) had not yet started. Projects under way, which were in various stages of completion, accounted for over \$1 billion in obligations, and projects that have been obligated funds but had not yet started, had an estimated value of almost \$953 million. (See fig. 4 for an example of Recovery Act-funded pavement project.)

Figure 4: Example of Recovery Act Funded Sidewalk Pavement Project Under Way in Los Angeles, California



California Department of Transportation sign indicating that the construction project is funded by the Recovery Act

Ongoing sidewalk pavement project with construction signs and barriers in Los Angeles, California

Source: GAO.

Under both the Recovery Act and the regular Federal-Aid Highway Surface Transportation Program, California has considerable latitude in selecting projects to meet its transportation goals and needs. California Department of Transportation (Caltrans) officials reported using the state portion to fund state highway rehabilitation and maintenance projects that would not have otherwise been funded due to significant funding limitations. In addition to maintenance projects, the state has allocated Recovery Act funds to large construction projects, including one of the largest transportation investments, approximately \$197.5 million for the construction of the Caldecott Tunnel, a new two-lane, bore tunnel connecting Contra Costa and Alameda counties. In addition, as previously mentioned, according to state officials, a March 2009 state law provided more funding directly to local governments, allowing a number of locally important projects to be funded. For example, \$319 million in Recovery Act funds were obligated for 195 local projects in the Los Angeles area that may not have otherwise been funded in 2009, such as the Compton Boulevard resurfacing project. This project received approximately \$750,000 in Recovery Act funds and would not have been funded for many years without these funds.

As of February 16, 2010, \$273 million of the \$2.525 billion obligated to California highway projects had been reimbursed by FHWA.¹³ Although federal reimbursements in California have increased over time, from \$22 million in September 2009 to \$273 million, this rate, 11 percent, continues to be lower than the amount reimbursed nationwide, 25 percent (\$6.3 billion) of the \$25.1 billion obligated. As we reported in December 2009, Caltrans officials attributed the lower reimbursement rate to having a majority of its projects administered by local governments, which may take longer to reach the reimbursement phase than state projects, due to additional steps required to approve local highway projects. For example, highway construction contracts administered by local agencies generally call for a local review and a local public notice period, which can add nearly 6 weeks to the process. Additionally, Caltrans officials stated that localities with relatively small projects tend to seek reimbursement in one lump sum at the end of a project to minimize time and administrative cost. Caltrans has started to monitor pending invoices submitted by local agencies for Recovery Act projects to better assess how quickly Recovery Act funds are being spent.

California Reported Meeting the 1-Year Obligation Deadline and Is Taking Steps to Meet Other Recovery Act Requirements

The Recovery Act required states to ensure that all apportioned Recovery Act funds were obligated within 1 year after apportionment and, according to Caltrans officials, as of February 18, 2010, 100 percent of California's highway infrastructure Recovery Act apportionment has been obligated.¹⁴ If any states did not meet this requirement by March 2, 2010, the Secretary of Transportation would withdraw and redistribute the unobligated funding to other eligible states. Any Recovery Act funds that are withdrawn and redistributed are available for obligation until September 30, 2010.

In addition to meeting the 1-year obligation deadline under the Recovery Act, Caltrans has also been working to meet two other Recovery Act requirements that do not exist in the regular Federal-Aid Highway Surface

¹³States request reimbursement from FHWA as they make payments to contractors working on approved projects.

¹⁴At the end of our fieldwork, obligation amounts had not been confirmed. Our prior work identified challenges and issues associated with meeting the 1-year deadline including unexpected deobligation requests as a result of savings from contract awards that were less than the state engineers' estimates.

Transportation Program: (1) identification of economically distressed areas and (2) maintenance of effort.

- *Identifying economically distressed areas.* As we reported in December 2009, Caltrans revised its economically distressed areas determination using new guidance issued to states in August 2009 by FHWA, in consultation with the Department of Commerce, giving more direction on “special needs” criteria for areas that do not meet the statutory criteria in the Public Works and Economic Development Act.¹⁵ As a result, the number of counties considered distressed increased from 49 to all 58 counties. According to Caltrans officials, this new determination did not change how it funded or administered Recovery Act projects. Caltrans officials told us that, in selecting projects for funding, they first considered how quickly the project could be started and its potential to create and retain jobs, then considered the extent of need with each economically distressed area. The Recovery Act requires states to give priority to projects that can be completed within 3 years and to projects located in economically distressed areas.¹⁶ Recently, FHWA reviewed the documentation that California used in its application of special needs criteria and determined that the data used were not consistent with FHWA guidance. Caltrans has been advised that the data must show a connection between demonstrated severe job losses and actual, identified firm closures and restructuring. On February 24, 2010, Caltrans officials reported that Caltrans was working to address FHWA’s data concerns by evaluating methods to assess the job losses without the use confidential data.

¹⁵In July 2009, we identified substantial variation in the extent to which states prioritized projects in economically distressed areas and how they identified these areas and recommended that DOT provide clear guidance to states on methodologies for determining economically distressed areas. See GAO, *Recovery Act: States’ and Localities’ Current and Planned Uses of Funds While Facing Fiscal Stresses*, GAO-09-829 (Washington, D.C.: July 8, 2009).

¹⁶Economically 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 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.

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- *Maintaining effort.* While California is still reviewing its current maintenance-of-effort certification, it does not anticipate difficulty in maintaining the level of spending for transportation projects funded by the Recovery Act that it planned to spend as of February 17, 2009—the day the Recovery Act was enacted.¹⁷ California, like many other states, had to revise its initial March 5, 2009, certification, because the certification included a conditional statement, which was not permitted by the Recovery Act. 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. Although California is reviewing its certification, Caltrans officials maintain that California expects to meet the planned level of spending, in part because the state reinstated a transportation bond program worth approximately \$20 billion.

Home Weatherization Was Delayed Across California, Largely Due to State and Federal Requirements

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, and seven territories and Indian tribes, to be spent over a 3-year period.¹⁸ This program helps low-income families 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. DOE has limited states’ access to 50 percent of these funds and plans to provide access to the remaining funds once a state meets certain performance milestones, including weatherizing 30 percent of all the homes in its state plan that it estimates it will weatherize with Recovery Act funds. In addition, the Recovery Act requires all laborers employed by contractors and subcontractors on Recovery Act projects to be paid at least the prevailing wage, as determined under the Davis-Bacon Act. The Department of Labor (Labor) first established prevailing wage rates for weatherization in all of the 50 states and the District by September 3, 2009.

¹⁷Recovery Act, div. A, § 1201(a). The Recovery Act required the state to certify that it will maintain the level of spending for the types of transportation projects funded by the Recovery Act that it planned to spend the day the Recovery Act was enacted. As part of this certification, the Governor of each state is required to identify the amount of funds the state planned to expend from state sources from February 17, 2009, through September 30, 2010.

¹⁸The Recovery Act appropriation represents a significant increase over the approximately \$225 million that the program has received annually in recent years.

DOE allocated approximately \$186 million in Recovery Act funds for weatherization in California. This represents a large increase in funding over California's annually appropriated weatherization program, which received about \$14 million for fiscal year 2009. By June 2009, DOE had provided 50 percent—about \$93 million—of the Recovery Act funds to the California Department of Community Services and Development (CSD), the state agency responsible for administering the state's weatherization program. In late July, the state legislature approved CSD's use of these funds. Of the funds received, CSD retained about \$16 million to support oversight, training, and other state activities. CSD has begun distributing the remaining \$77 million throughout its existing network of local weatherization service providers, including nonprofit organizations and local governments.¹⁹

Home Weatherization Has Started in California, but Service Providers Are Still Being Developed for Los Angeles and the San Francisco Bay Area

According to CSD, as of January 25, 2010, CSD had awarded about \$66 million of the \$77 million to 35 local service providers throughout the state for planning, purchasing equipment, hiring and training, and weatherizing homes. This amount includes \$14.3 million to two service providers for three of the four service areas in the County of Los Angeles. It also includes almost \$3 million and \$3.8 million, respectively, to the service providers for Orange and Riverside counties. CSD has not yet awarded the remaining funds—approximately \$10 million—to service providers for the remaining part of the County of Los Angeles, parts of Alameda County, Alpine County, El Dorado County, Santa Clara County, San Francisco County, and Siskiyou County. For these areas, CSD has been either seeking a new service provider or is withholding funds pending the completion of an investigation of the designated service provider. CSD reported that, as of December 31, 2009, CSD and its service providers spent approximately \$10 million—or about 5 percent—of the Recovery Act funds on weatherization-related activities. Also, according to CSD, 849 homes were weatherized as of February 26, 2010, which is less than 2 percent of the approximately 43,000 homes that CSD currently estimates will be weatherized with Recovery Act funds. In particular, 7 homes have

¹⁹According to CSD, California currently has 43 designated service areas. However, local providers may serve more than one designated service area. For example, the Redwood Community Action Agency provides weatherization services for the two areas covering both Modoc and Humboldt Counties.

been weatherized in the County of Los Angeles, and 0 and 20 homes have been weatherized in Orange and Riverside counties, respectively.²⁰

State and Federal Requirements Have Delayed Weatherization in California

Weatherization in California has been delayed, in part, because (1) CSD decided to wait until Labor determined the state's prevailing wage rates, which occurred on September 3, 2009, and (2) after the prevailing wage rates were determined, local service providers raised concerns about an amendment CSD is requiring them to adopt to their Recovery Act weatherization contracts to ensure compliance with the act. CSD officials explained that, in anticipation of additional staffing and administration challenges for service providers, they wanted more clearly defined Davis-Bacon Act requirements, including the actual wage rates, before spending Recovery Act funds. CSD estimates that waiting for the wage rate determinations delayed weatherization in California for 2 to 3 months.²¹ CSD reported to us that, although the rate determinations for two of three weatherization-related job categories are mostly similar to what service providers currently pay, the rates for the third category—heating, ventilating, and air conditioning work—are much higher and will, thus, lead to cost increases.²² CSD also reported that it expects that the Davis-Bacon Act administrative requirements—including expanding existing administrative and accounting systems, updating payroll documentation and reporting, and increasing subcontractor monitoring—will have a substantial impact on program costs. For example, CSD must seek a replacement service provider for three of the previously discussed designated service areas because the existing three providers for these

²⁰DOE 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. DOE originally planned to weatherize 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, though numbers are not yet finalized. See GAO-10-437.

²¹In July 2009, DOE and Labor issued a joint memorandum authorizing grantees to begin weatherizing homes using Recovery Act funds, provided they pay 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.

²²The three weatherization-related job categories are (1) general weatherization work, including minor repairs, caulking, and the installation of smoke detectors; (2) the replacement of doors and windows; and (3) all associated work involved with the installation and repair of heating, ventilating, and air conditioning systems.

areas chose not to participate in the Recovery Act-funded weatherization activities due, in part, to concerns that the funding did not adequately support these increased administrative requirements. CSD also reported that its service providers have had difficulty identifying subcontractors willing to comply with the Davis-Bacon Act requirements.

According to state officials, CSD is requiring service providers to adopt an amendment to their Recovery Act weatherization contracts to ensure that they comply with the Recovery Act, including certifying that they comply with the Davis-Bacon provisions, before providing Recovery Act funds to them to weatherize homes. Only two providers adopted the amendment by the initial October 30 deadline. According to CSD, many providers did not adopt the amendment because they objected to some of its provisions, including those pertaining to compensation, cost controls, and performance requirements. As a result, CSD entered into negotiations with providers and formally issued a modified amendment on December 17, 2009. However, prior to December 17, CSD announced steps that providers could take to accept the modified amendment in advance of its formal issuance and, thus, begin weatherizing homes sooner. Twenty-six service providers accepted the modified amendment in advance of the formal issuance and, to date, all active service providers have adopted the amendment. According to state officials, the amendment requires service providers to submit a wage plan for meeting the Davis-Bacon Act requirements before receiving any funds to weatherize homes. As of February 24, 2010, 26 service providers have submitted wage plans, all of which CSD has approved. Finally, CSD has plans to issue an additional contract amendment by the end of March, 2010 to, among other things, release new prevailing wages rates issued by Labor in December 2009. A CSD official told us that the department does not anticipate any delays in implementing this amendment.

Concerns Exist about California's Ability to Timely Access and Manage Its Remaining Weatherization Funds

In a February 2, 2010, audit of CSD, the State Auditor reported that delays in weatherizing homes could jeopardize CSD's ability to meet DOE's performance milestones and, thus, its ability to timely access the remaining \$93 million in Recovery Act weatherization funds.²³ Thirty percent of all homes estimated to be weatherized in the state plans approved by DOE must be completed before the remaining funds may be accessed. The State Auditor also found that CSD needs to improve its control over cash management and that it lacks written procedures for preparing program reports. In its response to the report, CSD stated that it plans to meet DOE's performance milestones by redirecting funds from areas without service providers to providers with the capacity to weatherize more homes. CSD also outlined steps it is taking to provide weatherization services to the previously discussed unserved areas where it is either seeking a new service provider or withholding funds. Our prior reports have also highlighted delays in this program, and we plan to continue to follow California's progress in using Recovery Act weatherization funds, including:

- *Number of homes weatherized.* Although CSD has developed quarterly targets for weatherizing enough homes to meet DOE's performance milestones, it is too early to assess whether service providers are meeting these targets. However, as of February 26, 2010, CSD reported that the state had weatherized only 849 of the 3,912 homes targeted for the first quarter of the 2010 calendar year.
- *Service areas without weatherization providers.* According to CSD, 6 out of 43 designated service areas do not yet have service providers that are ready to begin weatherizing homes with Recovery Act funds. According to CSD's latest estimates, these service areas account for 3,624—or over 8 percent—of the approximately 43,000 homes that it currently plans to weatherize with Recovery Act funds.
- *Additional contract amendment forthcoming.* In light of service providers' resistance to CSD's first contract amendment process, CSD cannot be certain that its upcoming attempt to revise contracts will not be met with some level of resistance from providers and, therefore, lead to additional delays in weatherizing homes.

²³California State Auditor, Bureau of State Audits, *Department of Community Services and Development: Delays by Federal and State Agencies Have Stalled the Weatherization Program and Improvements Are Needed to Properly Administer Recovery Act Funds*, Letter Report 2009-119.2 (Sacramento, CA: Feb. 2, 2010).

In response to the State Auditor’s findings, the Task Force stated that it is working with CSD to improve internal controls and streamline contract approvals and that the Task Force is committed to ensuring that California “does not leave one dollar of Recovery Act funding on the table.”

California Primarily Used Recovery Act Education Funds to Retain Jobs and Is Working to Address Its Cash Management Issues

As of February 19, 2010, California disbursed approximately \$4.7 billion in Recovery Act education funds for three programs—SFSF; ESEA Title I, Part A, as amended; and IDEA, Part B. These funds were allocated to local educational agencies (LEA), special education local plan areas, and institutions of higher education (IHE). Specifically, California was allocated \$5.47 billion in SFSF funds to help state and local governments stabilize their budgets by minimizing budgetary cuts in education and other government services. Under the Recovery Act, states must allocate 81.8 percent of their SFSF to support education (education stabilization funds), and the remaining 18.2 percent must be used for public safety and other government services, which may include education programs. California has received about \$1.1 billion in SFSF government services funds that it used for payroll costs for its corrections system and has received about \$4 billion in SFSF education stabilization funds. California also received approximately \$464 million in Recovery Act ESEA Title I, Part A funding, which supports education for disadvantaged students and about \$286 million in IDEA funding, which supports special education efforts.

LEAs Are Primarily Using Recovery Act Funds to Retain Jobs but Still Anticipate Job Losses

The majority of LEAs in California said they anticipate using more than half of their Recovery Act funds to retain jobs. As of December 31, 2009, the California Department of Education (CDE) reported that LEAs in the state funded a total of nearly 50,000 education jobs—mostly teachers—with the three Recovery Act education funding programs in our review, with approximately 39,000 of those jobs funded by SFSF.²⁴ In the Los Angeles Unified School District (LA Unified), according to district officials, almost 6,400 jobs were funded by the three Recovery Act programs. LA Unified officials said that, without the Recovery Act funds, teacher layoffs could have caused increased class size, with a resulting loss of individual attention to each student. Yet, even with SFSF funds, an

²⁴As discussed later in this testimony, for the purposes of the second quarterly report, CDE did not implement OMB’s latest reporting guidance, which may have resulted in data that are not comparable to that reported by other states.

estimated 50 percent of the California LEAs reported that they expect job losses. Recently, officials from two large California LEAs told us that their districts anticipate teacher and other staff layoffs for the next school year to address budget shortfalls. According to a senior LA Unified official, the district may face teacher and support staff cuts of 7,000 to 8,000 to balance its budget for the 2010-2011 school year.

While LEAs are using a large portion of their Recovery Act funds for jobs, LEAs we met with told us they also planned to use funds for other eligible activities, such as purchasing textbooks and funding deferred facility maintenance, among other program uses. We visited two LEAs in California—the Los Angeles Unified School District and Alvina Elementary Charter School in Fresno County—to find out more about how they are spending Recovery Act funds, see table 2 for a description of these uses.

Table 2: Planned Uses of Recovery Act Funds at Two LEAs Reviewed by GAO

LEA	ESEA Title I, Part A	IDEA Part B	SFSF
LA Unified	Individual school councils determine how funds are used and select from a district approved list that includes staff positions (such as teacher, teacher’s assistant, school nurse, and psychiatric social worker); parent training; instructional materials; and classroom equipment.	Funds are being used to <ul style="list-style-type: none"> • reduce reliance on contracting staff by training on-site staff; • train teachers to meet the instructional, social, emotional, and behavioral needs of students with disabilities integrated into the general education program; • provide special education leadership training for elementary and secondary site administrators; and • train teachers in practices to improve outcomes for students identified with autism. 	All funds are being used for salaries, including salaries for 2,558 teachers and 210 administrative and other support positions.
Alvina Elementary Charter School	Funds are being used to increase K-3 instructional aide hours and to hire a new teacher and a new instructional aide, allowing Alvina to increase student enrollment.	No IDEA funds received.	Funds are being used for staff retention, hiring paraprofessionals, and buying math textbooks.

Sources: GAO analysis of information provided by the Los Angeles Unified School District and Alvina Elementary Charter School.

LEAs also awarded contracts for services and materials using Recovery Act funds. Although including provisions related to the Recovery Act is not a requirement under the act, LEA officials we met with stated that including Recovery Act provisions in contracts could have been useful in helping vendors understand Recovery Act requirements, including

reporting requirements. However, none of the contracts we reviewed included provisions related to Recovery Act requirements. We met with seven LEAs that awarded contracts using either SFSF or ESEA Title I Recovery Act funds, or both, for services, such as tutoring, professional development for teachers, for special programs for students, and for equipment. According to LEA officials and our review of contracts, contract terms did not include specific Recovery Act requirements, such as wage rate requirements, whistle blower protection, and reporting requirements. LEA officials stated that they neither received guidance from CDE regarding the administration of Recovery Act contracts, nor were they aware of Recovery Act specific contract terms and conditions. Two of the LEAs we met with told us that they plan to include Recovery Act terms and conditions in future contracts.

California Has Taken Initial Steps to Resolve Its Ongoing Cash Management Issues

Our prior reports highlighted concerns related to CDE's and LEAs' ESEA Title I, Part A, cash management practices—specifically CDE's early drawdown of ESEA Title I Recovery Act funding and the release of \$450 million (80 percent) of the funds to LEAs on May 28, 2009. According to CDE officials, 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 2009, 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 \$140.5 million. This raised issues about the state's compliance with applicable cash management requirements. In response to cash management concerns,²⁵ CDE implemented a pilot

²⁵Both the California State Auditor and the Education Inspector General have cited deficiencies in CDE and LEA ESEA Title I cash management. The Single Audit issued by the State Auditor in May 2009 found that CDE had disbursed over \$1.6 billion to LEAs during the fiscal year ending June 30, 2008, with no assurances that the LEAs minimized the time between the receipt and disbursement of federal funds, as required by federal regulations. The report also noted that CDE did not ensure that interest earned on federal program advances is remitted on at least a quarterly basis. (See *State of California Internal Control and State Federal Compliance Audit Report for the Fiscal Year Ended June 30, 2008*, May 2009, Report 2008-002.) Additionally, the Education Inspector General reported in March 2009 that CDE needed to strengthen controls to ensure that LEAs correctly calculate and promptly remit interest earned on federal cash advances. (See ED-IG/A09H0020, March 2009.) Finally, the Education Inspector General also reported in January 2010 that the California Department of Education needs to ensure that LEAs receive Recovery Act ESEA Title I and SFSF funds, when needed, to pay program costs and remit interest earned on cash advances in a timely manner.

program to help monitor LEA compliance with federal cash management requirements. The program uses a Web-based quarterly reporting process to track LEA cash balances. Currently, the pilot program collects cash balance information from LEAs that receive funds under one relatively small non-Recovery Act program. CDE officials told us that they plan to expand the pilot to include regular and Recovery Act ESEA Title I, Part A, and SFSF by October 2010. CDE has collected data from LEAs for two quarters and has conducted an analysis to compare drawdown amounts from prior fiscal years. However, CDE has not yet established performance goals for the pilot program or developed a program evaluation plan.

We also raised concerns about the inconsistent interest calculation and payment remittance processes at LEAs in California. CDE has since developed an interest calculation methodology and, on January 25, 2010, provided guidance to all LEAs on calculating and remitting interest on federal cash balances. CDE officials also told us that they plan to monitor LEA remittance of interest from Recovery Act funded programs by reviewing expenditure data LEAs submit in their quarterly recipient reports and verifying that the LEA remitted appropriate interest amounts. However, CDE has not yet developed mechanisms to help ensure LEAs are using sound interest calculation methods and promptly remitting interest earned on federal cash advances for non-Recovery Act funded programs. We plan to continue following this cash management issue in our ongoing bimonthly work.

Numerous State Entities and Agencies Are Engaged in Overseeing Recovery Act Funds

Since the Recovery Act was enacted in February 2009, California oversight entities and state agencies have taken various actions to oversee the use of Recovery Act funds. State oversight entities, for example, have conducted risk assessments of internal control systems and provided guidance to recipients of Recovery Act funds. In our previous reports on Recovery Act implementation, we discussed the oversight roles and activities of key entities in California for Recovery Act funds. In addition to these entities, state agencies are responsible for, and involved in, oversight and audits of Recovery Act programs. Although certain federal agencies and Inspectors General also have various oversight roles, our review has focused on the state efforts.

As mentioned in our previous reports, the Task Force was established by the Governor to track Recovery Act funds that come into the state and ensure that those funds are spent efficiently and effectively.²⁶ The Task Force is relying on California’s existing internal control framework to oversee Recovery Act funds, supplemented by additional oversight mechanisms. Several agencies and offices play key roles in overseeing state operations and helping ensure compliance with state law and policy. The key oversight entities are the Task Force, the state’s Recovery Act Inspector General, and the State Auditor. Their key oversight roles are summarized in table 3.

Table 3: Overview of Key Oversight Roles in California

Entity	Prevention	Readiness/risk assessment	Audits	Technical assistance	Investigations
Task Force	Provide education, training, and guidance to state recipients on appropriate use of Recovery Act funds.	Monitor department activities and support allocation of funds.	Reviews of recipient reports.	Provide technical assistance on reporting and appropriate use of funds.	N/A
Recovery Act Inspector General	Coordinate training for state and local governments on oversight and prevention of fraud, waste, and abuse.	Interview recipient departments and ascertain plans for ensuring oversight of expenditures. Identify risks based on prior audits, reviews, and program characteristics.	Limited-scope reviews and audits evaluating indicators of waste, fraud, and abuse.	Analyze deficiencies and provide a framework to prevent future problems.	Investigate complaints directed to the Recovery Act Inspector General’s Office.
State Auditor	Conduct early reviews and testing of internal controls.	Identify risks based on prior Single Audit findings, Recovery Act funding, and federal guidance.	Single Audit for state departments.	N/A	Investigate or refer whistle blower complaints.

Source: GAO’s analysis of California’s Recovery Act Oversight Plan.

As California gained more experience in implementing the Recovery Act during the past year, state oversight entities have taken actions to evaluate and update controls and guidance related to Recovery Act funds. For example, the Task Force prepared and issued 30 *Recovery Act Bulletins* to

²⁶The Task Force is also charged with working with the President’s administration; helping cities, counties, nonprofits, and others access the available funding; and maintaining a Web site (www.recovery.ca.gov) that contains updated information about California’s Recovery Act funds.

provide instructions and guidelines to state agencies receiving Recovery Act funds on topics ranging from recipient reporting requirements related to jobs to appropriate cash management practices. Additionally, the California Recovery Act Inspector General coordinated seven fraud prevention and detection training events throughout the state for state and local agencies and the service provider community, with presentations from federal agencies on measures to avoid problems and prevent fraud, waste, and abuse. Over 1,000 state and local agency staff attended training events, which were also available through a Webinar. As of December 2009, the California State Auditor’s office published five letters or reports on the results of early testing and/or preparedness reviews conducted on 25 Recovery Act programs at nine state departments that are administering multiple Recovery Act programs. These audit reports resulted in numerous recommendations to state agencies aimed at improving oversight of Recovery Act funds.

California agency officials and internal auditors, from state departments that manage transportation, education, and weatherization programs, are engaged to various degrees in the oversight and auditing of Recovery Act funds. Table 4 provides an overview of selected oversight and auditing activities of these agencies.

Table 4: Selected Oversight Activities by State Agency

State agency	Oversight activities
Caltrans	<ul style="list-style-type: none"> • An internal audit team is currently reviewing the Recovery Act Local Assistance Program and expects to report sometime later this year. • An internal audit team conducted a limited scope review of full-time equivalent (FTE) calculations for the most recent quarterly job reports. • An audit of the Recovery Act Project Management/Construction, which will focus on contracts administered by Caltrans, is planned for later this year.
CDE	<ul style="list-style-type: none"> • According to CDE officials, they assess the reasonableness of the information reported by LEAs to CDE to meet the Recovery Act’s recipient reporting requirement. • CDE plans to conduct desk and field reviews of LEA’s compliance with federal and state requirements. CDE plans to conduct 11 field reviews by the end of fiscal year 2010, in conjunction with its risk assessment. These reviews will take into consideration the amount of funding received by LEAs and open audit findings.

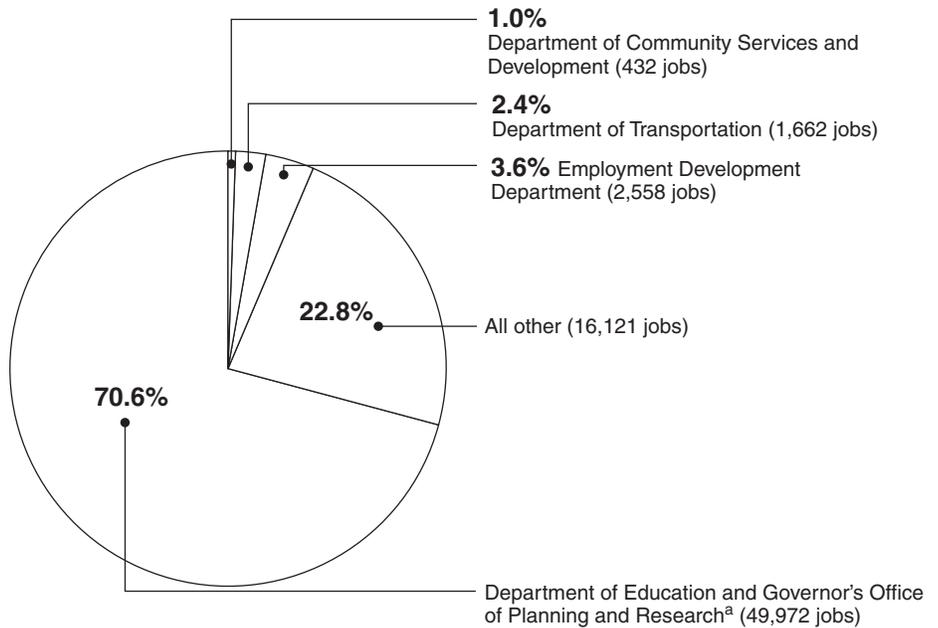
State agency	Oversight activities
CSD	<ul style="list-style-type: none"> • CSD’s oversight of its weatherization program includes a combination of monthly, quarterly, and annual desk reviews; routine on-site program monitoring; and an annual review of independent auditors’ reports. • CSD conducts annual on-site monitoring of service providers and requires them to ensure that all contractors’ postinstallation work meets standards; CSD plans to increase the frequency of the postinstallation inspections to a quarterly basis. • CSD also plans to review service providers for program compliance, track expenditures, document support time spent on projects, and conduct field inspections of 5 to 20 percent of weatherized homes. • CSD formed a team—chaired by the Chief Deputy Director and including key managers and staff—to design and implement work plans to help ensure compliance with OMB, DOE, and related state requirements and Recovery Act goals.

Sources: GAO analysis of information provided by Caltrans, CDE, and CSD.

California Reported That Over 70,000 Jobs Were Funded during the Last Quarter of 2009, but OMB’s New Reporting Guidance Was Not Consistently Implemented

As reported on Recovery.gov, as of February 23, 2010, California recipients reported funding 70,745 jobs with Recovery Act funds during the second quarterly reporting period ending on December 31, 2009. This was the largest number of jobs reported by any state for this quarter. The Recovery Act provided funding through a wide range of federal programs and agencies. Over 30 California state agencies have or are expected to receive Recovery Act funds and were required to report job estimates. Figure 5 shows the number and share of jobs funded by state agencies receiving Recovery Act funds, as reported on Recovery.gov. Education programs accounted for approximately 71 percent, about 50,000 jobs—38,924 under SFSF, and 11,048 under other programs administered by CDE.

Figure 5: Jobs Reported by California State Program Agencies as Recipients of Recovery Act Funding



Total jobs reported: 70,745

Source: Recovery.gov.

Note: Data as of February 10, 2010, and updated through February 23, 2010. Totals may not add to 100 percent due to rounding.

^aEstimates for the Department of Education and the Governor's Office of Planning and Research were combined because the Office of Planning and Research acts as the pass through agency for education funds under the State Fiscal Stabilization Fund.

Task Force officials reported that new reporting guidance issued by OMB—approximately 2 weeks before recipients were to begin reporting—was implemented by most state agencies, but the notable exception was CDE, which continued to follow the old guidance. On December 18, 2009, OMB updated its reporting guidance, and the Task Force advised California recipients that there were some notable changes, specifically as follows:

- Recipients do not have to determine if a particular employee or job classification would have been laid off without the receipt of Recovery Act funds (i.e., retained), as they did before. If a position is being funded by the Recovery Act, the hours should be included in the number of jobs created;

-
- Recipients are no longer required to sum hours across reporting quarters or provide cumulative totals. Instead, they report jobs on a quarterly basis, providing a quarterly snapshot; and
 - Recipients will find the federal reporting system open in February to correct data reported during January.

The new OMB guidance still required recipients to report jobs as FTE, but it further defined FTEs as the total number of hours worked and funded by Recovery Act dollars within the reporting quarter and provided guidance on applying the new formula. According to Task Force officials, CDE did not instruct LEAs to recalculate job estimates using the new OMB guidance. CDE plans to have LEAs revise job estimates reported during the second reporting period when CDE requests data for the third report, which will be due on March 15, 2010, to CDE. Until that time, the data available to the public for education-related jobs in California are not comparable to that reported by other states.²⁷ Additionally, although CDE's uncorrected job estimates for the second reporting period remain on the Recovery.gov Web site, the Task Force announced that it will not include CDE's job estimates in its reports.

In addition to not following OMB's updated guidance on calculating FTEs, we also found that partly due to unclear guidance from CDE, LEAs we reviewed had collected and reported job information from vendors inconsistently.²⁸ We met with seven LEAs—including LA Unified, the largest LEA in California—to gain an understanding of their processes for obtaining information necessary to meet Recovery Act reporting requirements. LEAs told us that they received reporting guidance from CDE, including calculating teacher and administrative jobs, but did not receive clear guidance on how to collect and report vendor jobs funded by the Recovery Act. As a result, LEAs we reviewed had varying jobs data collection processes. For example, one LEA that did not report vendor jobs for the second reporting period told us that, for future quarters, they plan to survey vendors to estimate the range of jobs created or retained (e.g., 1-5, 6-10, 11-15 jobs). Two other LEAs told us they did not contact

²⁷In addition to CDE, our national 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.

²⁸A vendor is defined as a dealer, distributor, merchant, or other seller providing goods or services required for the conduct of a federal program.

vendors to collect data on jobs created or retained but reported the number of vendors with a Recovery Act contract. For instance, if the LEA had four contracts using Recovery Act funds during the reporting period, the LEA reported four vendor jobs. Officials from LEAs also reported confusion regarding CDE's guidance to identify vendors—by reporting their name and zip code or Dun and Bradstreet Universal Numbering System number—that received payments of \$25,000 or more in the quarter.²⁹ Some LEAs did not collect and report job estimates from vendors with payments of less than \$25,000 because they erroneously applied CDE's guidance on vendor identification to determine which vendor jobs to report.³⁰ According to an official from one of these LEAs, the number of vendor jobs it reported for the second quarter would increase from 12 to at least 77 if it collected job estimates from all of its vendors with Recovery Act contracts. As a result, some vendor jobs funded by the Recovery Act were not reported.

On February 23, 2010, CDE issued updated guidance to LEAs, and other subrecipients, to assist them with the third Recovery Act reporting period. However, this guidance neither provided LEAs additional information on collecting and reporting vendor jobs, nor did it clarify that the vendor identification guidance was not applicable to the Recovery Act's jobs reporting requirements. As the prime recipient, CDE is responsible for ensuring Recovery Act requirements are met, including reporting vendor jobs funded by the Recovery Act. We plan to continue to follow these reporting issues as part of our ongoing bimonthly work.

²⁹Recipient reports are to include payments to subrecipients and vendors. Subrecipients are required to report the name and zip code of the vendor's headquarters or Dun and Bradstreet Universal Numbering System number for payments to vendors in excess of \$25,000.

³⁰Under OMB guidance, prime recipients are required to generate estimates of job impact by directly collecting specific data from sub-recipients and vendors on jobs resulting from a sub-award. To the maximum extent practicable, prime recipients should collect information from all sub-recipients and vendors in order to generate the most comprehensive and complete job impact numbers available. However, in limited circumstances, the prime recipient can employ an approved statistical methodology to generate estimates of job impact, thereby collecting data from a smaller subset of sub-recipients and vendors in order to extrapolate an estimate of job impacts to all applicable sub-recipients and vendors. A statistical methodology should only be employed in those cases where a comprehensive collection of jobs data from all sub-recipients and vendors is overly costly or burdensome and thus disrupts the prime recipients' ability to effectively implement the underlying mission of the program. Job estimates regarding vendors are to be limited to direct job impacts for the vendor and not include "indirect" or "induced" jobs.

Task Force officials stated that while OMB's revised guidance on calculating FTEs for the second reporting period was easier to implement compared with the first period, other data issues made it difficult to report timely, accurate, and complete information. For example, the Task Force received error messages in FederalReporting.gov when the congressional district where the Recovery Act-funded project was located did not match the recipient address. The Task Force reported receiving more than 1,500 error reports for data it submitted to FederalReporting.gov related to congressional districts and zip codes, even though California's CAAT system had mechanisms in place to try to prevent the entry of false congressional districts. In order to expedite these corrections, Task Force officials told us that they decided to change their data to what FederalReporting.gov would accept, rather than what they knew was correct in some instances. For example, if they knew a recipient had moved and had a new zip code, but FederalReporting.gov did not have the updated zip code for the recipient's new address, the Task Force used the old zip code to get the report to upload successfully to FederalReporting.gov. Issues with zip codes also surfaced for local agencies that reported directly to Federalreporting.gov. For example, officials from the Los Angeles County Metropolitan Transportation Authority said they received an error message for an incorrect congressional district, because they initially used the congressional district in which the project was located as opposed to the agency's headquarters office. Officials from the transportation authority interpreted OMB's guidance as the congressional district in which the project/activity was being performed, but they later received clarification that the congressional district should be consistent with the recipient's address.

Mr. Chairman and Madame Chairwoman, this concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Committee or Subcommittee might have.

GAO Contact and Staff Acknowledgments

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