

# Lessons from Implementing the American Recovery and Reinvestment Act of 2009

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**Final Management Information Report**  
**ED-OIG/X09M0002**  
**September 2014**

## **NOTICE**

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**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL**

September 23, 2014

TO: James H. Shelton, III  
Deputy Secretary

FROM: Patrick J. Howard /s/  
Assistant Inspector General for Audit

SUBJECT: Final Management Information Report:  
Lessons From Implementing the American Recovery  
and Reinvestment Act of 2009  
Control Number ED-OIG/X09M0002

The attached report provides the OIG's perspective on challenges that were faced when administering education-related grant programs funded by the Recovery Act, how the challenges were addressed, and what lessons should be considered in the event that legislation providing a large yet temporary funding increase (like the Recovery Act) is enacted in the future or for new or existing programs. We primarily drew on our experience from performing audit and investigation work related to the Act from February 2009 through June 2014 to prepare the draft report. However, we enhanced our understanding of activities related to the Recovery Act by reviewing Department and OIG responses to the Recovery Accountability and Transparency Board's 2012 survey of Federal agencies about the lessons learned from implementing the Act.

An electronic copy of the report has been provided to the applicable program officials and audit liaison officers. The Department did not need to submit a corrective action plan because the report did not contain recommendations. We appreciate the cooperation given to us during this review. If you have any questions, please contact me at (202) 245-6949 or Raymond Hendren at (916) 930-2399.

Attachment

cc: Implementation and Support Unit (ISU), Office of the Deputy Secretary (ODS)  
Risk Management Service (RMS), ODS  
Office of Elementary and Secondary Education (OESE)  
Office of Special Education and Rehabilitative Services (OSERS)  
Office of Innovation and Improvement (OII)  
Office of the Chief Financial Officer (OCFO)  
Office of the Chief Information Officer (OCIO)

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## Abbreviations, Acronyms, and Short Forms Used in This Report

Department	U.S. Department of Education
ESEA	Elementary and Secondary Education Act of 1965, as amended
GAO	U.S. Government Accountability Office
IDEA	Individuals with Disabilities Education Act, Part B, Section 611
LEA	Local Educational Agency
MOE	Maintenance of Effort
OIG	Office of Inspector General
OMB	Office of Management and Budget
Recovery Act	American Recovery and Reinvestment Act of 2009
Recovery Board	Recovery Accountability and Transparency Board
SEA	State Educational Agency
SFSF	State Fiscal Stabilization Fund
Title I	ESEA, Title I, Part A
TSA	Treasury-State Agreement

## Results in Brief

Congress enacted the American Recovery and Reinvestment Act (Recovery Act or the Act) in February 2009 in the midst of the most severe economic downturn since the Great Depression. The Act appropriated more than \$98 billion for existing and new education-related grant programs. It had several goals, including creating and saving jobs, spurring economic activity, investing in long-term growth, and fostering enhanced levels of accountability and transparency in government spending.

The U.S. Department of Education (Department) Office of Inspector General (OIG) also received funds under the Recovery Act to audit education programs and grants funded by the Act and to investigate possible misuse of funds. Since 2009, we have issued more than 50 audit reports on Department, recipient, and subrecipient implementation of the Act. We have also opened 218 criminal investigations involving allegations of fraud, waste, or abuse, and have reviewed 143 allegations of reprisal against people seeking whistleblower protection.

## What We Did

This management information report provides OIG's perspective on challenges that were faced when administering education-related grant programs funded by the Recovery Act, how the challenges were addressed, and what lessons should be considered in the event that legislation providing a large yet temporary funding increase (like the Recovery Act) is enacted in the future or for new or existing programs. In preparing this report, we primarily drew on our experiences in performing audit and investigation work related to the Act from February 2009 through June 2014. Specifically, we reviewed our Recovery Act audit and investigation reports, training and outreach materials related to implementation and administration of the Act, Semiannual Reports to Congress, and annual Management Challenges reports. We also reviewed reports published by the Recovery Accountability and Transparency Board (Recovery Board) and the U.S. Government Accountability Office (GAO). We also enhanced our understanding of Department and OIG activities related to the Act by reviewing our respective responses to the Recovery Board's 2012 survey of Federal agencies about the lessons learned from implementing the Act.

Most of our audits focused on the three largest Recovery Act grant programs administered by the Department where funds were awarded to States (recipients) and passed through to local agencies (subrecipients): the State Fiscal Stabilization Fund (SFSF); Elementary and Secondary Education Act of 1965, as amended (ESEA), Title I, Part A (Title I); and Individuals with Disabilities Education Act, Part B, Section 611 (IDEA). This report provides conclusions based in part on audit work performed at a cross-section of recipients and subrecipients that received Recovery Act funding. Because we did not use statistical sampling methods to select these entities, the information in this report should not be generalized to the universe of recipients and subrecipients that received Recovery Act funds.

Most of our investigative work focused on improper activities associated with the Federal Pell grant program. We also investigated more cases involving whistleblower retaliation than any other Federal OIG.

## **Recovery Act Challenges, Lessons, and Suggestions**

The Recovery Act presented numerous challenges for the Department, its funding recipients and subrecipients, and the OIG as each planned for, implemented, monitored, or reported on grant programs and activities funded by the Act. The substantial amount of audit and investigative work performed by OIG provided an opportunity to identify lessons and offer suggestions for Congress, the Office of Management and Budget (OMB), and the Department to consider when authorizing, implementing, and overseeing future education-related spending programs like the Recovery Act. The Recovery Act posed unique challenges for education program implementation because thousands of subrecipients administered and spent a significant portion of the Act's grant funds. We organized the Recovery Act challenges into four broad categories in this report. We also present six related lessons and suggestions relevant to each lesson. Some of the lessons and resulting suggestions are also applicable to the Department's ongoing grant programs. The challenges and lessons are not necessarily presented in their order of priority or importance.

### **Challenge 1: Requirement to Investigate Recovery Act Whistleblower Cases Indefinitely May Divert OIG Resources From Other Critical Activities**

#### **Lesson: Opportunity Period to Allege Whistleblower Reprisals Should be Aligned With the Availability of Funding Provided through Legislation**

**Suggestions:** For future legislation like the Recovery Act, we suggest that Congress (1) include a provision that establishes a reasonable statute of limitations for filing complaints, (2) consider providing additional funding to support investigations of whistleblower complaints made after the funding for such investigations has expired, and (3) allow OIGs additional flexibility to manage their investigative responsibilities.

### **Challenge 2: Department, Recipients, and Subrecipients Faced Challenges as They Implemented Processes to Administer Grants**

#### **Lesson: Grant Recipients Benefit from Timely Guidance, Training, Technical Assistance, and Outreach**

**Suggestion.** The Department should assess outreach and technical assistance activities performed in response to the Recovery Act and consider conducting similar activities for new programs and for existing programs that receive substantial increases in funding to ensure program integrity and effectiveness. This should include providing timely guidance for new grant programs and to new recipients.

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### **Challenge 3: The Department Addressed a Variety of Recovery Act Implementation Issues, but Persistent Monitoring and Oversight Challenges Remain**

**Lesson: Addressing Persistent Challenges on Monitoring and Oversight Should Improve Program Integrity and Compliance**

**Lesson: Independent Oversight is a Key Tool to Promote Transparency and Accountability**

**Lesson: The Department Needs Alternative Processes for Oversight and Monitoring For New or Temporary Grant Programs**

**Suggestions.** The Department should ensure that its program offices responsible for monitoring recipients are using robust, risk-based monitoring strategies that devote available resources to the highest risk recipients and issues, and work with recipients to ensure that they are employing similar strategies when monitoring their subrecipients. The Department should continue its efforts to enhance audit resolution, including identifying trends in audit findings, so that compliance issues can be timely resolved through agreed upon corrective actions. The Department should also identify effective corrective actions that can be employed to resolve common issues across various recipients and subrecipients. For future legislation like the Recovery Act, we encourage the Department to work with Congress and OMB to provide supplemental funds for State and local audit agencies to oversee new or supplemental Federal grant funds. The Department should also continue implementing early compliance oversight and monitoring processes for newly created or temporarily funded programs under legislation similar to the Recovery Act. For newly created programs or programs receiving temporary funding, the Department should work with the U.S. Treasury early in program implementation to determine whether the programs should be added to States' Treasury-State Agreements for cash management purposes.

### **Challenge 4: New Reporting and Transparency Requirements Created Implementation Challenges**

**Lesson: The Department Took Steps to Improve Data Quality, But Accuracy and Reliability Issues Remained**

**Suggestions.** For future temporary legislation like the Recovery Act, other efforts intended to increase transparency, or to improve ongoing grant programs, the Department should, in conjunction with OMB when appropriate, look for additional ways to improve the quality of recipient and subrecipient data and continue to emphasize the need for appropriate data quality reviews by State and local agencies. Options to improve data quality include piloting new reporting requirements and mechanisms for new or existing programs, establishing a formal process to identify and remediate situations in which recipients or subrecipients demonstrate systemic or chronic reporting problems, ensuring that recipients implement adequate and effective internal controls to ensure high-quality data for key reporting elements,



and requiring reporting entities to submit management certifications on data quality and to disclose known data limitations.

## Department Comments and OIG Response

We provided a draft of this report to the Department for review and comment on July 31, 2014. The Department provided written comments on September 2, 2014. In its response, the Department stated that the report's suggestions provide insights that may be applied to Department programs in the future. However, the Department commented that the report does not fully recognize the intensity of its early outreach and technical assistance efforts and also stated that the wording of the headings for two challenges unintentionally conveys a negative tone and fails to reflect the positive steps that were taken in each area. In Challenge 2 we revised the Lesson heading and one subheading to reflect both the comprehensiveness and timeliness of the Department's efforts but did not revise the main Challenge 2 heading. In Challenge 3 we reiterated our belief that our frequent internal control findings call for continued emphasis by the Department to address persistent monitoring and oversight challenges. We did not revise the Challenge 3 heading as a result. We address the Department's comments in more detail at the end of Challenge 2 and 3.

The Department also stated that Table 2 (Appendix 2) of the report does not provide the necessary context for the timing of many of the recommendations made in OIG's Recovery Act reports and thus should include the dates of the audits to provide a more complete picture of the compliance issues that were identified. The Department added that some of the compliance issues that OIG reported on were identified before some States (recipients) and subrecipients even started planning or spending the funds. The Background section of the report discusses the focus of each of OIG's four Recovery Act audit phases and provides general timeframes for when each phase began. Table 2 identifies the audit phase(s) in which each State (and subrecipients) were covered by compliance audits (Phases I, II, and IV). As discussed in Background, we initiated the first phase of audits in 2009 to assess the adequacy of internal controls over Recovery Act funds. OIG intentionally performed this work before a significant amount of Recovery Act funds had been spent in an effort to help ensure that future expenditures would comply with Federal requirements. To provide additional context on the timing of our audits and recommendations related to compliance issues, we have provided the general timeframes in which audits were started and completed under the three applicable phases in the Appendix 2 introduction. However, individual State and subrecipient audits conducted in each phase may not have begun or ended at the same times.

The Department's written response is included as Appendix 3 of this report.

## Purpose of This Report

The objective of this management information report is to provide OIG's perspective on (1) challenges that were faced when administering education-related grant programs funded by the Recovery Act, (2) how the challenges were addressed, and (3) what lessons can be learned for future legislation that provides a large yet temporary funding increase (like the Recovery Act). These lessons may also apply to other new or existing Department programs. The Recovery Act posed unique challenges for education program implementation because thousands of subrecipients administered and spent a significant portion of the Act's grant funds. Some of these challenges also applied to existing Department programs that received substantial temporary funding increases under the Recovery Act. The report also provides suggestions for Congress to consider during the legislative process and the Department to consider when implementing or overseeing future education-related programs.

This report summarizes and synthesizes information and issues we identified in Recovery Act audits and investigations from February 2009 through June 2014. The report also draws on our participation in the efforts of the Recovery Board and from similar work performed by GAO. We also attribute information to Department officials. Unless otherwise specified, this information is from the Department's response to a 2012 survey conducted by the Recovery Board to identify the actions, processes, and mechanisms that were beneficial or posed challenges to agencies, departments, and their respective Inspectors General in meeting the requirements of the Recovery Act. Unless the subject matter was covered in an audit, we did not verify the information contained in the Department's survey responses. We describe Recovery Board surveys of Federal agencies in the Compendium in Appendix 2.

Although the report presents the results of OIG Recovery Act audits in 36 States and 79 local educational agencies' (LEAs), the information should not be generalized to the universe of States and LEAs that received Recovery Act funds because we did not use statistical sampling methods to select the States and LEAs included in our reviews.<sup>1</sup> Furthermore, the report does not cover postsecondary education programs administered by the Department or any related audits performed by OIG. We do cover activities of the OIG's Investigation Services related to criminal and other investigations involving education programs.

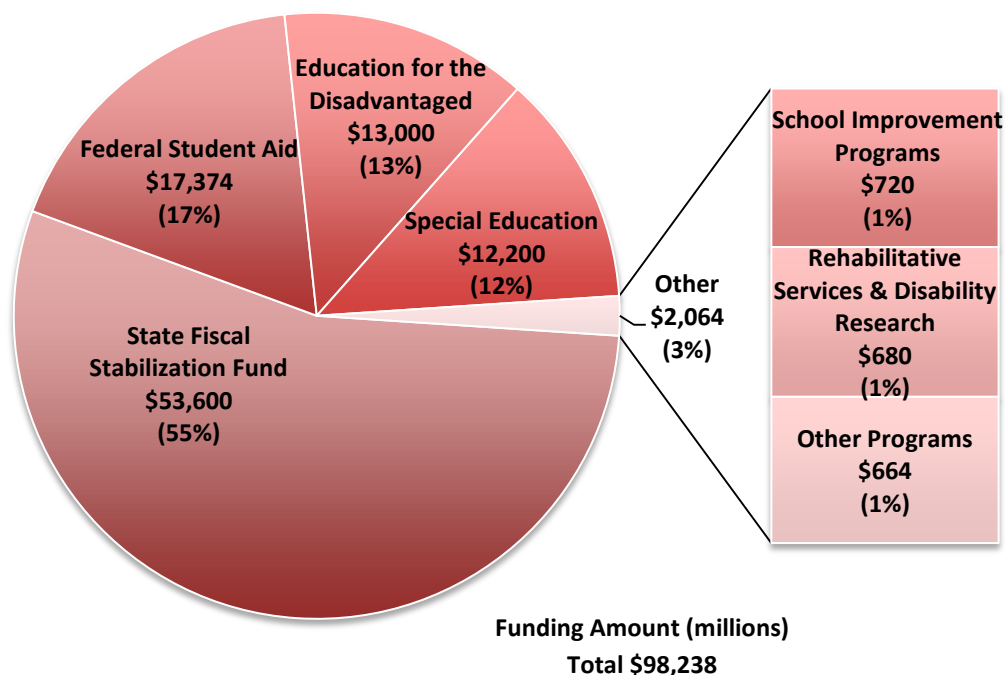
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<sup>1</sup> Throughout this report, we refer to State educational agencies as recipients and LEAs or school districts as subrecipients. Other recipients and subrecipients included entities such as State governors, institutions of higher education, and other State agencies.

## Background

The President signed the Recovery Act into law on February 17, 2009, in the midst of the most severe economic downturn since the Great Depression. Congress committed \$787 billion in public funds to spur economic activity, create and save jobs, and invest in long-term growth.<sup>2</sup> The Act also emphasized unprecedented levels of transparency and accountability in how Federal agencies and recipients managed and used the funds. Congress appropriated more than \$98 billion, or about 12 percent of the total funds available, for education-related programs administered by the Department. With a few exceptions, Recovery Act funds were available for expenditure from the law's enactment through September 30, 2011.<sup>3</sup> The legislation established several new grant programs and significantly increased funding for certain existing programs. Nearly all of the education funding appropriated under the Act was for seven program areas as shown in Figure 1. Appendix 1 provides funding information for each of the Recovery Act grant programs administered by the Department.

**Figure 1: Funding for Recovery Act Program Areas Administered by the Department**



Note: The Education for the Disadvantaged program area includes the Elementary and Secondary Education Act Title I grant program and the Special Education area includes the Individuals with Disabilities Education Act Part B grant program.

<sup>2</sup> Most of this commitment represented funds made available for Federal grants, contracts, and loans. However, about \$212 billion, or 27 percent, represented reductions in Federal revenue including tax credits, incentives, and other benefits for individuals and businesses.

<sup>3</sup> The funds for Federal Student Aid were available only for the 2009-2010 school year. The two smaller funds under SFSF; the Race to the Top State Incentive Grants and Investing in Innovation funds are available only through September 30, 2015, and September 30, 2019, respectively.

The OIG received \$14 million under the Recovery Act that was available through September 30, 2012 to oversee education programs and grants funded by the Act. Shortly after the Recovery Act's passage in February 2009, OIG began conducting outreach and training activities and initiating audits of the Department's activities to implement the Recovery Act. OIG also performed audits of State and LEA administration and use of Recovery Act funds. In total, our State and local Recovery Act audit work spanned 36 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. We conducted audits at State governors' offices; State educational agencies (SEAs); and 87 entities including LEAs, institutions of higher education, and other State entities. We also opened 218 criminal fraud investigations from Recovery Act enactment through June 30, 2014 and reviewed 143 whistleblower reprisal complaints from enactment through March 31, 2014. The compendium in Appendix 2 summarizes the body of audit work performed by OIG related to Department, recipient, and subrecipient implementation of the Recovery Act.

Most of our Recovery Act audits focused on the three largest Recovery Act grant programs administered by the Department: the State Fiscal Stabilization Fund (SFSF); Elementary and Secondary Education Act of 1965 (ESEA), Title I, Part A (Title I); and Individuals with Disabilities Education Act, Part B, Section 611 (IDEA).<sup>4</sup> The Department awarded these funds to State governors or SEAs, which passed most of the funds through to the more than 16,000 LEAs.

- **SFSF.** The Recovery Act provided \$48.6 billion in new formula grants. The Act also provided up to \$5 billion in new competitive grants to States and eligible education-related entities through the Race to the Top and Investing in Innovation programs. The formula grants had two components: the Education Stabilization Fund (Education Stabilization), which accounted for most of the SFSF funds, and the Government Services Fund (Government Services). The Education Stabilization fund (ESF) was awarded to State governors to provide fiscal relief to States to prevent tax increases or reductions in critical education services. Whereas States were required to pass ESF funds through to LEAs and public institutions of higher education, recipients could use Government Services funds for public safety and other government services, including education services.
- **Title I.** The Recovery Act provided about \$10 billion to supplement the existing Title I grant program. Title I funds help LEAs serve educationally disadvantaged students. The Department awarded Recovery Act Title I grants by statutory formula to SEAs, which then awarded funds by formula to LEAs.
- **IDEA.** The Recovery Act provided more than \$11 billion to supplement the existing IDEA grant program. IDEA funds support early intervention programs for children who need additional academic and behavioral support to succeed in a general education environment and special education and related services for children with disabilities. As

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<sup>4</sup> For a complete list of our completed Recovery Act audits please refer to Appendix 2.

with Title I, the Department awarded Recovery Act IDEA funds to SEAs, which then awarded funds to LEAs.

OIG's Recovery Act audits covered issues such as recipient and subrecipient internal controls, compliance with Federal use-of-funds requirements, and the quality of required Recovery Act data reporting. Most of our audits focused on elementary and secondary education programs. Our Recovery Act investigations focused on fraud and whistleblower reprisal. The majority of fraud investigations concerned the Federal Pell Grant program, which provides grants to low-income students to promote access to postsecondary education.<sup>5</sup>

- **Audits of the Department.** Our audits of the Department's Recovery Act activities included reviews of the Education Stabilization program. The reviews addressed specific issues such as Department processes for calculating and allocating funds; SEA application reviews; program staffing; and grant program monitoring plans. Our reports also addressed Department challenges associated with new reporting requirements under Section 1512 of the Act.
- **Audits of State and Local Entities.** Within months of the Act's passage, we provided the Department with information on pervasive fiscal issues that we had identified in prior audits and recommendations that we made that could be beneficial to the Department's oversight of Recovery Act funds.

We conducted nearly all of our State and local audits using a phased approach. In 2009, we initiated the first phase of audits to assess the adequacy of internal controls over Recovery Act funds at State governors' offices, SEAs, and 26 school districts in 8 States and Puerto Rico. In 2010, we initiated the second phase of Recovery Act audits in 11 States and 30 school districts to determine whether Recovery Act funds were spent in accordance with Federal requirements and whether required Recovery Act reports were accurate, reliable, and complete. In 2011, we began the third phase of our work focusing on how one school district in each of 22 States used their Recovery Act funds. In 2012, we initiated our fourth and final phase of Recovery Act audits to determine whether nine LEAs in four States and Puerto Rico spent final Recovery Act funding on reasonable, allocable, and allowable activities in accordance with Federal requirements.

In addition to the multiple audit phases, we conducted additional audits of grant programs that were affected by the Recovery Act. For example, we reviewed Department monitoring, core services, performance, and Section 1512 reporting for 12 Centers for Independent Living operating in 11 States. We also reviewed SEA and LEA compliance with an IDEA provision allowing flexibility in maintenance of effort (MOE) requirements in six States.

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<sup>5</sup> The Recovery Act provided \$17.1 billion for increased Pell grants in school year 2009-2010. The maximum Pell grant award increased from \$4,850 to \$5,350 under the Recovery Act.

- **Investigations.** In conjunction with the information on pervasive fiscal issues identified in pre-Recovery Act audits, we also provided information to the Department on the results of prior criminal investigations involving fraud schemes at LEAs and charter schools and suggested ways to mitigate fraud risks under the Recovery Act. We also conducted and reported on investigations that included Recovery Act funds and complaints of whistleblower reprisal.

Other Federal agencies with key oversight roles under the Recovery Act included the Recovery Board, OMB, and GAO. The Act created the Recovery Board to promote accountability by coordinating and conducting oversight of Recovery Act funds and programs and to foster transparency by providing the public with accurate, user-friendly information. With the assistance of various Federal Inspectors General, the Recovery Board's oversight work included several reviews and reports on data quality, including recipient efforts to report reliable and transparent information under Section 1512 of the Act.<sup>6</sup> OMB provided initial and updated guidance on implementing the Recovery Act and Section 1512 reporting requirements.<sup>7</sup> GAO issued numerous reports addressing education-related Recovery Act issues.<sup>8</sup> Similar to our work, GAO's education-related reports were primarily focused on accountability and transparency issues and typically covered the Recovery Act SFSF, Title I, and IDEA grant programs.

## Recovery Act Challenges, Lessons, and Suggestions

The Department, its funding recipients and subrecipients, and the OIG faced numerous challenges as they planned for, implemented, monitored, and reported on grant programs and activities funded by the Recovery Act. In OIG's annual report on the most serious management challenges for fiscal year (FY) 2010, we identified the Recovery Act for the Department. With responsibility for 55 State and territorial educational agencies and more than 16,000 LEAs, the Department faced a formidable challenge ensuring that Recovery Act funds reached the intended recipients and achieved the desired results. Our management challenges report included several actions that the Department needed to take, such as providing effective oversight and monitoring of recipients and subrecipients, and ensuring that the information reported to and by the Department was accurate, reliable, and complete.<sup>9</sup>

The issues that we found during our Recovery Act work and other longstanding issues continue to warrant the Department's attention because most affect ongoing programs. To the extent

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<sup>6</sup> Recovery Board reports are available at <http://www.recovery.gov/Pages/default.aspx>.

<sup>7</sup> Specific OMB guidance and communications that we reference in this report are generally available at OMB's Recovery Act Web site at [http://www.whitehouse.gov/omb/recovery\\_default](http://www.whitehouse.gov/omb/recovery_default).

<sup>8</sup> GAO's Recovery Act-related reports are available on its Web site at <http://www.gao.gov/recovery/>.

<sup>9</sup> These annual reports are available at <http://www2.ed.gov/about/offices/list/oig/managementchallenges.html>.

that we reported deficiencies in the Department's administration and oversight of ongoing programs the Department should work to implement corrective actions.

In this report, we organize the Recovery Act challenges into four broad categories with six lessons and related suggestions for consideration. Although we present the lessons and suggestions under specific challenges, some lessons relate to more than one challenge area. The challenges and lessons are not necessarily in their order of priority or importance.

### **Challenge 1: Requirement to Investigate Recovery Act Whistleblower Cases Indefinitely May Divert OIG Resources From Other Critical Activities**

The Recovery Act extended whistleblower reprisal protection to employees of any non-Federal employer that received funds under the Act. Employees were protected from reprisal for disclosing information on Recovery Act contracts, grants, or funds when they reasonably believed there was evidence of gross mismanagement; gross waste; a substantial and specific danger to public health or safety; an abuse of authority; or a violation of law, rule, or regulation. Whistleblower protections are an important mechanism for promoting program integrity and accountability because they remove barriers that could discourage employees from reporting wrongdoing for fear that their employer might discharge, demote, or discriminate against them.

The Recovery Act mandated that Federal OIGs complete investigations of whistleblower reprisal complaints within 180 days.<sup>10</sup> After completing each investigation, the Inspector General has to submit a report of his/her findings to the employee, the employer, the Recovery Board, and the head of the Federal agency. Within 30 days of receiving the report, the head of the Federal agency has to determine whether the complainant suffered reprisal and order relief if appropriate.

Among the Federal OIGs, we received the most whistleblower complaints related to Recovery Act funds. This could be reflective of the large number of education-related recipients, subrecipients, and contractors who are potential whistleblower complainants. When OIG's Recovery Act funding expired on September 30, 2012, we had received 121 complaints or about 62 percent of all Recovery Act related complaints received by all Federal Inspectors General. Our investigations substantiated only 2 of the 121 complaints. We submitted reports on both investigations to the Secretary of Education, who concluded that both complainants had been

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<sup>10</sup> The Recovery Act did not require an OIG to investigate a whistleblower reprisal complaint that was frivolous, did not relate to Recovery Act funds, or when another Federal or State judicial or administrative proceeding had previously been invoked to resolve the complaint. In addition, the Recovery Act allowed OIGs to not conduct or continue an investigation, provided that they submitted a written explanation of such decision to the complainant and the employer and list investigations that they decided not to conduct or continue in their semiannual reports to Congress. We investigated every complaint that met the Recovery Act's requirements for investigation. We discontinued investigations only when we determined that the employer had not reprisal against the complainant.



subjected to prohibited reprisals. One case involved a charter school that had improperly terminated an employee after she alleged that the school was improperly spending special education funds. Our investigation did not sustain any allegation of fraud. The other case involved an employee of a contractor who was improperly terminated after he reported he was not being paid the prevailing wage as required by law. Although the investigation of that case confirmed that there was a violation of the wage law, none of the other 120 whistleblower investigations substantiated a criminal or civil fraud violation.

In addition to using existing staff, OIG used Recovery Act funds to hire two temporary investigators to record whistleblower complaints and complete related investigations. We continue to receive whistleblower complaints even though our Recovery Act funding has expired. As of March 31, 2014, we have received 22 additional whistleblower complaints. Further, we could continue to receive whistleblower complaints for an indefinite period because the Act did not establish a time limit for whistleblowers to submit complaints and some education-related grants, like Race to the Top, have not expired.

Absent additional funding, we must rely on existing investigative resources to handle current and future Recovery Act whistleblower reprisal complaints. The investigations that we have completed consumed already scarce resources. Future investigations of this type may affect our ability to address other higher priority criminal and civil fraud activity.

The Recovery Act whistleblower requirements also impact resources at the Department, because the Secretary of Education is responsible for issuing an order denying or granting relief to a complainant within 30 days after receiving the OIG's report. In the case of the employee who was terminated after reporting prevailing wage violations, the employer did not comply with the Secretary's order to reinstate the complainant or provide him back pay. Instead, it petitioned a court of appeals to vacate the Secretary's order. The court granted the employer's petition and vacated the Secretary's order because it found that due process required a hearing in which the employer could cross examine witnesses. This resulted in no administrative remedy for the employee in question, which could be the result in other cases where an employer does not comply with the Secretary's order in a reprisal case. Moreover, if the Department is required to provide a hearing for each case in which the Secretary orders relief to a complainant, it would need to do so within the 30-day time period in which the Secretary must issue his decision.

### **Lesson: Opportunity Period to Allege Whistleblower Reprisals Should be Aligned With the Availability of Funding Provided Through Legislation**

Unlike the Recovery Act, other statutes that incorporate whistleblower provisions have established periods in which a complainant must formally make an allegation. For example, under the Sarbanes-Oxley Act, employees seeking whistleblower protection must file a complaint within 180 days after the date on which the violation occurred or the employee became aware of the violation. Under a pilot program, the National Defense Authorization Act of 2013 established a 3-year statute of limitations for whistleblower complaints.



Providing OIGs with greater flexibilities in carrying out whistleblower investigations could help alleviate resource constraints. Additional flexibility could include allowing OIGs to extend deadlines for performing investigations without the whistleblower's approval, specifically when deadlines interfere with an OIG's ability to conduct higher priority investigations.

**Suggestions: Establish a Statute of Limitations, Augment Funding for Whistleblower Investigations, and Provide Greater Flexibilities.** For future legislation like the Recovery Act Congress could include provisions that (1) establish a reasonable statute of limitations for filing complaints, (2) provide additional funding to support investigations of whistleblower complaints made after the funding for such investigations has expired, and (3) allow OIGs additional flexibility to manage their investigative responsibilities.

## **Challenge 2: Department, Recipients, and Subrecipients Faced Challenges as They Implemented Processes to Administer Grants**

The scope and magnitude of the education-related Recovery Act grants required the Department and its recipients to modify existing and implement new processes to successfully administer the grants. The Department administered more than \$98 billion in Recovery Act funds that fully or partially funded more than 20 education-related grant programs. The largest program, SFSF, was newly created and involved awarding grants to recipients and subrecipients that might not have been familiar with Federal requirements or that did not have prior experience administering Federal grants. Further, the grant programs had different purposes, goals, and administrative requirements. The Recovery Act also expanded funding for existing programs, nearly doubling the amount of Title I and IDEA funds available to SEAs and LEAs, for example. The challenges we identified included longstanding administrative and oversight challenges that we previously reported to the Department.

### **Challenges for the Department**

- The Department faced the dual challenge of disbursing Recovery Act funds quickly to spur economic activity and ensuring that the funds were spent wisely.
- The Department needed to quickly organize existing staff and systems and hire additional staff to implement the new grant programs and expand existing programs to meet the Act's objective of providing immediate economic stimulus combined with increased accountability requirements.
- The Department needed to develop guidance and provide training and technical assistance to recipients and subrecipients on the requirements applicable to Recovery Act grants. This was particularly important for new recipients and to help all recipients comply with the new transparency and reporting requirements.

### **Challenges for Recipients and Subrecipients**

- Recipients and subrecipients had to take additional steps to apply for Recovery Act grants. They also had to develop spending plans that met the Act's dual challenges of spending funds quickly but wisely.
- To administer their Recovery Act grants, new recipients needed to perform a variety of tasks that they might have been unfamiliar with or did not have experience doing. For example, State governors' offices historically did not administer Federal education funds. Under the Act, they were the designated recipients of SFSF funds and thus had to either establish an agreement with a State agency to administer the funds or develop their own processes. Additionally, all recipients had to meet new reporting requirements under the Recovery Act.

### **Lesson: Grant Recipients Benefit from Comprehensive and Timely Guidance, Training, Technical Assistance, and Outreach**

State and local agencies that administer and oversee Federal grants require and benefit from timely and up-to-date guidance. State and local agencies also benefit from ongoing training, technical assistance, and outreach to help ensure program integrity and effectiveness and compliance with Federal requirements. Timely information and assistance were particularly important under the Recovery Act as all levels of government had to develop policies and procedures to administer and oversee the funds while ensuring that the funds were spent quickly. The Department provided comprehensive and timely guidance to recipients and subrecipients and conducted training, technical assistance, and outreach activities that were valuable to implementing and overseeing the Recovery Act.

#### **The Department's Comprehensive and Timely Guidance, Training, Technical Assistance, and Outreach Were Valuable to the Implementation and Oversight of Recovery Act Funds**

Within a few months of the Act's passage, the Department developed and issued general and program-specific guidance to inform recipients and subrecipients about applicable requirements as Recovery Act grant funds were made available. The Department also updated its guidance as needed, in response to updated Section 1512 guidance from OMB and questions from recipients, subrecipients, and State and local auditors. The Department also obtained OIG comments on guidance that the Department was developing for non-Federal auditors on SFSF compliance requirements.<sup>11</sup> For each grant program, the guidance addressed application and allocation procedures; activities that could be supported by the funds; opportunities for waivers, if applicable; fiscal issues; and transparency, accountability, and reporting requirements. The Department posted the guidance on its Recovery Act Web site.<sup>12</sup>

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<sup>11</sup> "Guidance for Grantees and Auditors – State Fiscal Stabilization Fund Program," December 24, 2009.

<sup>12</sup> The Department's Recovery Act Web site is at <http://www.ed.gov/recovery>.

The Department also provided training, technical assistance, and outreach to recipients and subrecipients, particularly on new grant programs like SFSF and for entities that might have been unfamiliar with Federal requirements. According to Department officials, program offices provided this assistance by:

- hosting conferences, webinars,<sup>13</sup> and conference calls;
- communicating informally with individual recipients by telephone or email; and
- providing feedback to individual recipients based on reviews of grant applications

The Department coordinated across its program offices and hosted nearly 20 general-purpose webinars applicable to all Recovery Act programs on topics such as cash management, subrecipient monitoring, and Section 1512 reporting. In addition, the Department conducted program-specific webinars covering topics such as SFSF application requirements and strategic uses of Recovery Act Title I and IDEA funds. The Department estimated that more than 10,000 people participated in these webinars which were also archived on the Department's Website so they could be viewed or downloaded later.

Department officials reported that the Department also initiated or built on several efforts to help coordinate Recovery Act activities across the agency. For example, it created an Intranet Web site to provide a common repository of documents, data, and tools for Department users. The Department's Risk Management Services coordinated an agencywide effort to offer customized technical assistance to six State agencies that received among the largest amounts of formula grant funds under the Recovery Act. The Department also established a Metrics and Monitoring Team, made up of representatives from all of its component offices impacted by the Recovery Act. OIG participated on this team in an advisory capacity by providing insights on accountability matters based on our prior and ongoing audits and investigations and keeping the Department informed about our planned and ongoing Recovery Act work. We believe that the training, technical assistance, and outreach activities carried out by the Department were valuable to the implementation and oversight of Recovery Act funds and would be a best practice in the event of similar legislation in the future.

### **The OIG Also Provided Outreach, Training, and Fraud Referrals**

The OIG also conducted Recovery Act-specific training and outreach activities at the Department and State and local entities. Within months of enactment, we developed new presentation materials and provided extensive outreach and fraud and abuse training to Recovery Act managers and staff at the Department; State and local oversight agencies, including States' top Recovery Act officials; recipients and subrecipients; and institutions of higher education.

The Recovery Act enabled us to augment our ongoing outreach and training activities. We developed presentations specific to the elementary and secondary education and Federal

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<sup>13</sup> A webinar is a Web-based seminar that allows for presentations and interaction between the presenter and the audience.

student assistance communities. We also provided information on the education-related components of the Act related to fraud prevention, whistleblower protections, and critical issues identified in prior OIG audits and investigations that applied to the Act's implementation. We also participated with other Federal and State law enforcement groups, to present or disseminate our outreach and training materials. In addition to distributing fraud awareness posters and flyers, we provided State and local grant recipients with our outreach and training materials and made them available on the OIG Web site.

**Suggestion: Conduct Similar Training, Technical Assistance, and Outreach.** The Department should assess outreach and technical assistance activities performed in response to the Recovery Act and conduct similar activities for new programs and for existing programs that receive substantial increases in funding to ensure program integrity and effectiveness. This should include providing timely guidance for new grant programs and to new recipients.

#### Department Comments

The Department acknowledged that the report provided examples of Department practices that made ARRA implementation successful. However, the Department also stated that the draft report did not fully recognize the intensity of its outreach efforts, especially during the pre-grant award planning and technical assistance period. The Department also noted that the proactive nature of the nearly daily contact that it had with grantees, including responding to calls for assistance from State and local officials who were unfamiliar with the Department's grant and oversight process, was one key to its success. The Department also commented that the heading for Challenge 2 unintentionally conveyed a negative tone and failed to reflect the positive steps that were undertaken.

#### OIG Response

Our report did not go into detail regarding the Department's early outreach efforts, including the pre-grant award planning and technical assistance period, because we had a limited basis to independently report on these activities. Our early audit efforts at the Department focused on issues such as SFSF implementation and data quality. In addition, most of our early audit and investigative resources were devoted to helping ensure that Recovery Act funds were spent in accordance with Federal requirements. Our report did recognize that the Department faced additional challenges because it was awarding grants to recipients and subrecipients that might not have been familiar with Federal requirements or that did not have prior experience administering Federal grants. We acknowledged in our draft report that the Department's efforts were both comprehensive and timely and provided examples of its many efforts to provide guidance and assistance. Also, we suggested that the Department look for opportunities to replicate its efforts in other program areas. Accordingly, we agree with the Department and revised two headings related to the Lesson in Challenge 2 to reflect both the comprehensiveness and timeliness of the Department's efforts. However, we did not revise the overall heading for Challenge 2 because the challenge describes the challenges that the Department, recipients, and subrecipients faced implementing, administering, or overseeing Recovery Act grants.

### **Challenge 3: The Department Addressed a Variety of Recovery Act Implementation Issues, but Persistent Monitoring and Oversight Challenges Remain**

OMB and Department Recovery Act guidance highlighted the Act's emphasis on accountability and transparency so that taxpayers could be assured that recipients spent the funds in accordance with Federal requirements. To achieve program integrity, the Department and States needed to provide clear and timely guidance and conduct monitoring and oversight activities. The Department and States also relied on independent audits of internal controls and expenditures, including required annual Single Audits.

In each of the last 5 years, we identified monitoring and oversight of grant recipients as a management challenge for the Department. Furthermore, our Recovery Act audit reports have noted that effective monitoring and oversight of the Department's programs and operations are critical to ensuring that grant funds are used for the intended purposes and programs are achieving stated goals and objectives. Many of our audit findings repeated previous compliance issues of prior audits of State and local agencies, including the need for recipients to strengthen program oversight and subrecipient monitoring procedures. The Department bears significant oversight responsibility because of the number of programs and entities that receive Federal education funds, the amount of funding awarded to States that is passed through to subrecipients, and the adverse impacts that ineffective monitoring could have on students and taxpayers. However, because most elementary and secondary education spending and service delivery occurs at the local level, the Department requires States to take the lead on monitoring subrecipients' implementation of Federal programs.

Ensuring enhanced accountability for Recovery Act funds presented challenges to the Department, its recipients and subrecipients, and the OIG. We identified three lessons from our work that we believe could enhance oversight of large yet temporary appropriations like the Recovery Act and improve program integrity and compliance for ongoing programs: addressing persistent challenges, independent oversight, and Single Audit processes.<sup>14</sup>

#### **Challenges to the Department**

- The Department needed to ensure that education-related Recovery Act grant programs were effectively administered and implemented.

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<sup>14</sup> Currently, the Single Audit Act Amendments of 1996 (31 U.S.C. Ch. 75) and OMB Circular A-133 generally require that each State, local government, or nonprofit organization that expends \$500,000 or more in Federal awards in a year must have a Single Audit conducted for that year subject to applicable requirements. OMB increased the expenditure threshold requiring a Single Audit to \$750,000 on December 26, 2013. The new threshold will apply to audits covering fiscal years beginning on or after December 26, 2014.

- The Department needed to ensure that Recovery Act funds were spent on allowable activities and properly safeguarded, especially considering the longstanding compliance challenges that had been identified through our audits.
- The Department needed to develop new and modify existing monitoring and oversight procedures to help ensure accountability, particularly for the new SFSF grants.

### **Challenges to Recipients and Subrecipients**

- Recipients and subrecipients needed to quickly establish new or modify existing processes and controls to properly account for and safeguard Recovery Act funds and monitor compliance with Federal laws and regulations.
- Recipients needed to ensure that subrecipients complied with applicable Federal requirements and properly safeguarded Recovery Act funds. In addition to administering their existing Federal education programs, recipients had to provide guidance and technical assistance to their own staff and subrecipients on implementing the Recovery Act. They also had to develop new or modify existing subrecipient monitoring procedures.

### **Challenges to the OIG**

- We needed to modify existing audit and investigation strategies and redirect resources to focus our audit and investigation efforts on assessing accountability for Recovery Act funds.

## **Lesson: Addressing Persistent Challenges on Monitoring and Oversight Should Improve Program Integrity and Compliance**

Persistent compliance issues continued to challenge recipients of Federal education funds. Our prior audits of State and local agencies identified many of these issues, including the need for recipients to strengthen their program and subrecipient monitoring procedures, as well as issues related to allowable costs, cash management, and the quality of data reported by recipients. Single Audits have identified similar issues.

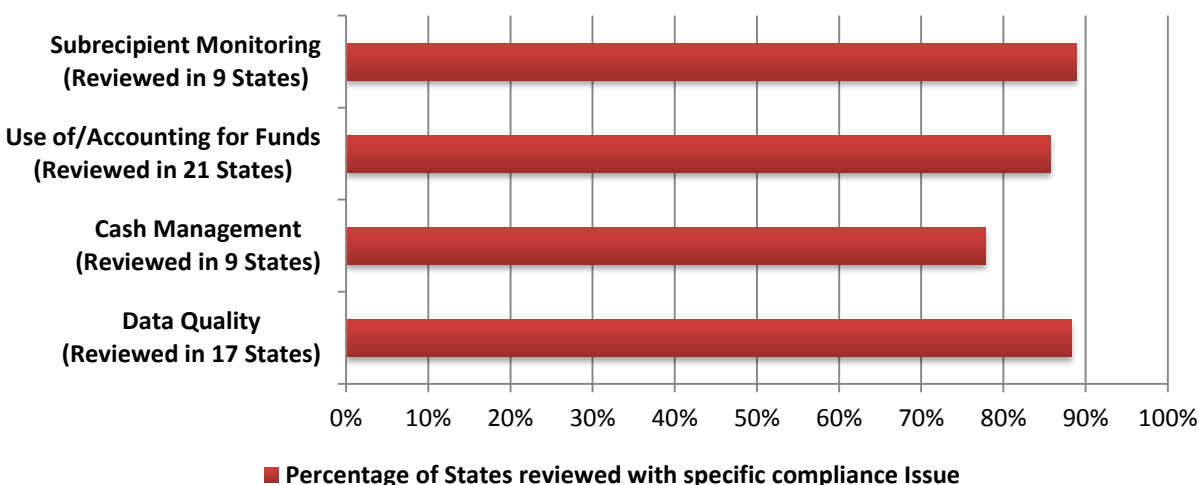
Subrecipient monitoring is an important aspect of program oversight and is even more critical under temporary legislation like the Recovery Act. Federal regulations require the Department's grantees to monitor activities supported by the grant, including subrecipients' activities. Adequate monitoring helps to ensure that subrecipients comply with applicable Federal requirements and meet performance goals. Because most elementary and secondary education programs are implemented at the local level, a risk-based approach has the potential for yielding the greatest impact. A risk-based approach can help identify the most important programs, recipients, and issues and allows the Department and recipients to effectively prioritize oversight resources.

For both new and existing programs, temporary funding could increase the risk that recipients will continue to have problems with longstanding compliance challenges and that funds might be misused absent necessary internal controls. For example, for existing programs like Title I and IDEA, a sudden influx of additional funding might affect a subrecipient's ability to manage and spend the funds appropriately and in a timely manner. For new programs like SFSF, recipients and subrecipients faced a learning curve on issues such as what are allowable uses of the funds and new reporting requirements.<sup>15</sup> Recipients also needed to establish new or modify existing monitoring processes to ensure subrecipient compliance.

### **OIG Work Highlighted the Need for the Department to Address Longstanding Challenges**

Our multiphase Recovery Act audits assessed various compliance issues in 21 States and identified findings related to subrecipient monitoring, use of funds, cash management, and data quality, highlighting the need for the Department to address longstanding deficiencies. Although we identified issues in most of the States we reviewed, the issues generally were related to internal control weaknesses and resulted in only minor questioned costs. Figure 2 shows the proportion of States where we performed these audits and identified weaknesses in these four compliance areas.

**Figure 2: Percentage of States Where OIG Performed Recovery Act Audits and Identified Compliance Issues**



*Source: OIG audit reports as of October 2012.*

In July 2009, we provided information to the Department on compliance issues at SEAs and LEAs that we identified in more than 40 pre-Recovery Act audit reports issued from October

<sup>15</sup> The Recovery Act allowed significant flexibility and contained only limited prohibitions on use of SFSF funds. For example, LEAs were specifically prohibited from using these funds for maintenance costs; stadiums or other facilities where the public pays to watch athletic or other events; vehicles; stand-alone facilities that are not primarily used to educate children, including buildings used for central office administration, operations, or logistical support; or renovating schools when not consistent with State law (Section 14003).



2002 through April 2009. We believed that this information would be useful to the Department in overseeing Recovery Act grant funds provided to recipients and subrecipients. Many of these prior audits identified inadequate subrecipient monitoring as a common internal control weakness that resulted in significant amounts of questioned costs not being prevented or detected in a timely manner and Federal education funds being at risk.<sup>16</sup>

Despite the Department's increased emphasis on oversight, guidance, and technical assistance efforts, our Recovery Act audits continued to identify weaknesses in many recipients' ability to effectively monitor their subrecipients. We also identified specific findings in the areas of allowable costs, cash management, and data quality. In some instances, we found problems in areas we had reported on previously. For example, our Phase I and II Recovery Act audits found that cash management problems persisted in some states even though we had previously issued reports at the State and local levels with similar findings.

In June 2010, we reported on issues we identified regarding States' plans to monitor their subrecipients. The most common issue we identified was that States had not sufficiently modified existing monitoring plans and programs to provide reasonable assurance of subrecipient compliance with Recovery Act requirements. Other issues we identified included (1) State monitoring plans not addressing fiscal requirements such as cash management, (2) States not reviewing supporting documentation or verifying Recovery Act expenditures before disbursing the funds to subrecipients, and (3) States not determining which State entity would be responsible for monitoring subrecipients' use of SFSF funds.<sup>17</sup>

We encouraged the Department to use the information presented in the June 2010 report and our individual State Recovery Act reports when assessing risk and planning monitoring visits to States. One way to use this information to address persistent challenges is through the audit resolution process. In July 2012, we issued a report on the Department's resolution of 93 external audits from 2007 through 2010, which included some of our Recovery Act audits. Of these 93 audits, 84 (90 percent) were not resolved within the required 6-month timeframe for external audits.<sup>18</sup> As of June 30, 2014, 24 of 29 external Recovery Act audits that contained recommendations have been resolved but none were resolved within the 6 month requirement. In November 2012, the Department convened an Audit Resolution Advisory Panel to establish milestones for resolution of overdue audits, coordinate resolution across principal offices, and track the resolution of OIG and Single Audit findings. Resolving audit findings timely is a critical step in improving program performance and ensuring compliance.

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<sup>16</sup> "Fiscal Issues Reported in ED-OIG Work Related to LEAs and SEAs," July 21, 2009 (ED-OIG/X05J0005).

<sup>17</sup> "Subrecipient Monitoring under the American Recovery and Reinvestment Act of 2009," June 4, 2010 (ED-OIG/X05J0019).

<sup>18</sup> "The Department's External Audit Resolution Process," July 3, 2012 (ED-OIG/A19K0009).



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### **The Department Emphasized the Importance of Oversight When it Provided Guidance and Technical Assistance**

The Department addressed a wide variety of implementation issues, including the importance of oversight, in the Recovery Act guidance and technical assistance that we described in Challenge 2. In its August 2010 webinar, the Department covered the requirements and its expectations for subrecipient monitoring as well as best practices. One highlighted best practice was for recipients to use a risk-based approach to monitoring. This method of prioritizing subrecipient monitoring activities would be helpful when recipients have limited resources to perform oversight, as we have previously suggested to the Department.<sup>19</sup> The Department also devoted specific webinars to strategic uses of funds for specific programs, cash management requirements, and data quality and reporting.

Because we continued to identify persistent issues in our Recovery Act audits, including repeat findings at some entities despite increased guidance and technical assistance by the Department, we believe that the Department should take additional steps to eliminate audit findings.

### **Suggestions: Ensure all Program Offices Use Effective Risk-Based Monitoring Approaches and Encourage Recipients to Use the Same Approach for Subrecipient Monitoring.**

The Department should ensure that its program offices responsible for monitoring recipients are using robust, risk-based monitoring strategies that devote available resources to the highest risk recipients and issues. The Department should work with recipients to ensure that their subrecipient monitoring tools and approaches also address programmatic requirements and risks.

**Focus Efforts on the Audit Resolution Process and Better Target Guidance and Technical Assistance.** The Department should continue its efforts to enhance audit resolution, including identifying trends in audit findings, so that compliance issues can be timely resolved through agreed upon corrective actions. The Department should also identify effective corrective actions that can be employed to resolve common issues across various recipients and subrecipients.

### **Lesson: Independent Oversight is a Key Tool to Promote Transparency and Accountability**

Independent audits are another key accountability tool to assess whether internal control systems are effective and recipient and subrecipient expenditures comply with applicable

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<sup>19</sup> The OIG encouraged a risk-based monitoring approach in a 2007 perspective paper (ED-OIG/S09H0007: “An OIG Perspective on Improving Accountability and Integrity in ESEA Programs,” October 2007, pages 15–18). In addition, the Department also encouraged such an approach in their 2006 Departmental Executive Steering Committee asked to review the efficiency and effectiveness of the Department’s discretionary and formula grants processes (Department of Education Grant Pilot Project Final Report, January 26, 2007, pages 9–10).

Federal requirements. In addition to the OIG and GAO at the Federal level, State and local auditors, controllers, and treasurers as well as independent auditors performing Single Audits provide oversight over the use of Federal funds. However, OMB's February 2009 guidance on grants and cooperative agreements indicated that Single Audits of State and local entities and the audit and investigation work of the Inspectors General were the primary tools to drive accountability for funds awarded under the Recovery Act.<sup>20</sup> Future legislation like the Recovery Act should include financial support, similar to the supplemental funding that OIGs and GAO received for oversight activities, specifically for relevant State and local audit agencies to conduct oversight activities. Leveraging Federal, State, and local audit resources would enhance independent oversight efforts and promote transparency and accountability.

### **Increased Independent Oversight May Require Additional Funding**

Although the Recovery Act did not specifically provide funding for State and local oversight agencies, it provided States the flexibility to use a portion of the funds for independent oversight. For example, governors could have used SFSF Government Services funds for State or local government services, which could have included allocating funds for oversight activities. However, a Department summary of the States' initial SFSF reports showed that they generally used these funds for other government services such as public safety or elementary, secondary, and higher education. Our Recovery Act audits identified only one State that used a portion of its Government Services funds for audits of LEA construction projects paid with SFSF funds. Other State oversight agencies used their own funds to conduct internal control reviews.

In May 2009, OMB established rules allowing a State to use up to one-half percent of the total Recovery Act funds received by the State for central administrative costs associated with all Recovery Act programs such as oversight, reporting, and audit requirements.<sup>21</sup> For example, a State that received a total of \$1 billion in Recovery Act funds could use up to \$5 million for central administrative costs. While independent audits could be covered as an administrative cost, states had discretion regarding how to use these administrative funds. Our Recovery Act work did not cover the extent that States used Recovery Act funds for central administrative costs such as oversight or audits.

In its July 2009 report, GAO highlighted the importance of effective internal controls over the use of Recovery Act funds and the value of Single Audit results as an effective oversight tool for programs funded under the Act. Moreover, OMB noted the increased responsibilities falling on those who performed Single Audits. However, a National State Auditors Association survey showed that most of the State audit respondents indicated that their staff had been cut or would be required to take unpaid leave in the coming year. GAO recommended that Congress consider mechanisms to provide additional resources to support those charged with carrying

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<sup>20</sup> "Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009," February 18, 2009 (OMB M-09-10).

<sup>21</sup> "Payments to State Grantees for Administrative Costs of Recovery Act Activities," May 11, 2009 (OMB M-09-18).

out Single Audits and related audits to the extent that additional audit coverage was needed to achieve accountability over Recovery Act programs.<sup>22</sup>

### **Leveraging Audit Resources Can Help Strengthen Oversight of Federal Grant Programs**

Collaboration among Federal, State, and local audit agencies prior to and under the Recovery Act could serve as models to help strengthen oversight of Federal grant programs and leverage audit coverage. Although we performed Recovery Act audits in most States, our available resources precluded us from performing detailed work in every State or at most of the Department's grant recipients and subrecipients. Recognizing this constraint, we leveraged resources at the Federal, State, and local levels. For example, we coordinated our audit efforts with GAO to minimize duplication and maximize audit coverage across the nation. Our outreach activities with State and local audit agencies in 2009 supported the Act's accountability measures. We also shared our audit programs with these oversight agencies so they could conduct similar work at Recovery Act recipients and subrecipients that our office could not cover. To maximize the impact of available resources, the OIG will continue to leverage its activities and resources with GAO and State and local oversight agencies to address accountability challenges similar to those inherent in the Recovery Act.

**Suggestions: Include Funding for State and Local Oversight.** For future legislation like the Recovery Act, we encourage the Department to work with Congress and OMB to provide supplemental funds to State and local audit agencies to monitor and oversee new or supplemental Federal funding provided to grant recipients and subrecipients.

### **Lesson: The Department Needs Alternative Processes for Oversight and Monitoring For New or Temporary Grant Programs**

Single Audits provide important oversight and monitoring information for ongoing education grant programs. Single Audits can provide important information on areas of weakness with grantees or programs that help the department to target its monitoring and oversight activities. However, when additional requirements are attached to temporary funding increases in existing grant programs or when a new grant program is implemented, the Department's ability to make use of single audits can be limited because the results may not be available before all or most program funds could be spent. Because of the lag time between when grant funds are awarded and spent, and when Single Audit results are available, the Department may not be able to use those results to inform its monitoring and technical assistance efforts. Further, this lag time delays when temporarily funded programs can be incorporated into States' Treasury-State Agreements (TSAs), which address the proper timing of fund exchanges between the Federal government and States.

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<sup>22</sup> "Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses," July 8, 2009 (GAO-09-829).

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### **Single Audits Results Were Not Available to Inform Initial Departmental Monitoring and Assistance Efforts.**

Results from prior Single Audits covering existing grant programs like Title I and IDEA helped the Department and OIG identify potential internal control and compliance issues before SEAs and LEAs began to spend significant amounts of Recovery Act funding. The Department used Single Audit results to help target technical assistance and oversight and to identify potential problem areas and high-risk recipients. We considered Single Audit findings as a risk factor when determining the objectives and scope of our Recovery Act work and selecting SEAs and LEAs to include in our reviews.

OMB, the Department, and OIG sought to provide timely and appropriate guidance and instructions to incorporate Recovery Act programs into the Single Audit process. However, the Single Audit process relies on audit reporting that occurs up to 9 months after the end of an entity's fiscal year, which could be too late to incorporate findings into the Department's oversight and monitoring efforts for temporary funding increases to existing grant programs or new programs.

In October 2009, OMB initiated a voluntary Single Audit Internal Control Project for Recovery Act grants involving 16 States in an attempt to mitigate the time lag inherent in the Single Audit process. Participating auditors were to issue internal control reports 3 months before the complete Single Audit report was due. OMB continued the project in FY 2010 and 2011. In a report covering the project's first-year results that included several education programs, OMB noted that participating auditors and comptrollers identified project benefits such as the early reporting allowing for earlier correction of problems and providing more visibility on the usefulness of Single Audits in identifying problems. However, participating auditors questioned the value of early reporting when some Federal agencies did not effectively and timely resolve audit findings.<sup>23</sup> In its reports, GAO complimented OMB on the project as helping to identify and report internal control issues more timely for certain Recovery Act programs. However, GAO noted the limited scope of the project and recommended that Federal agencies should be more timely in resolving audit findings.<sup>24</sup> In March 2010, OMB instructed Federal agencies to expedite their Single Audit processes. OMB's guidance emphasized that agencies were to review and resolve entities' audit findings within 6 months, as required, focus audit resolution on high-risk programs and grantees and not approve extensions for Single Audits that were due for FY 2009 through FY 2011.

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<sup>23</sup> "Report on Single Audit Internal Control Project—American Recovery and Reinvestment Act of 2009 (ARRA) Programs," April 2010. The U.S. Department of Health and Human Services Office of Inspector General led and reported on the results of OMB's pilot project.

<sup>24</sup> "Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability," December 10, 2009 (GAO-10-231); "Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability," March 3, 2010 (GAO-10-437); "Recovery Act: States' and Localities' Uses of Funds and Actions Needed to Address Implementation Challenges and Bolster Accountability," May 26, 2010 (GAO-10-604). The Recovery Act required GAO to review and report on selected States and localities' use of funds provided in the Act on a bimonthly basis.

In 2013, OMB continued to assess the Single Audit process and was working to revise its uniform guidance on grants and cooperative agreements, to include eliminating and streamlining certain requirements. According to OMB, many in the Federal agency and audit community suggested reducing the lag time by shortening the due date for Single Audit reports from the current 9 months to 6 months or 3 months. OMB voiced support for this idea but noted that the change would require legislative action. OMB issued revised guidance on grants and cooperative agreements on December 26, 2013.

### **Single Audits Should Not Determine Programs to Be Included in Treasury-State Agreements When Programs Are New or Funding is Temporary**

The lag time in Single Audit reporting creates a gap in TSAs when temporary legislation similar to the Recovery Act is enacted. Single Audits determine the Federal programs to be included in the TSA. Each year, every State establishes a TSA with the U.S. Treasury to provide details on their implementation of the Cash Management Improvement Act of 1990, as amended.<sup>25</sup> Federal regulations require that the most recent available Single Audit data be used to identify States' federally funded programs for inclusion in the TSA.

In June 2011, we alerted the Department that using Single Audits to identify the major education programs covered in TSAs might not be the best source for determining the status of programs authorized or funded under temporary legislation like the Recovery Act.<sup>26</sup> Based on our review of the TSAs for 12 States, we found that Single Audit data for 10 of the States did not include the 3 largest Recovery Act programs, including the nearly \$49 billion SFSF program. Because of the timing of Single Audit reporting, a new program like SFSF would not be included in a State's TSA until at least the second fiscal year after the State first received the program funds, which could be after most or all of the funds had been spent. Including Recovery Act and other programs funded by large, temporary appropriations in the TSAs would protect State and Federal interests by either specifying interest-neutral funding techniques or by requiring one party to compensate the other for the early or late transfer of Federal funds.<sup>27</sup>

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<sup>25</sup> Congress enacted the Cash Management Improvement Act of 1990, as amended, to ensure greater efficiency, effectiveness, and equity in the exchange of funds between the Federal Government and States. Federal programs should be "interest-neutral" and result in no gains or losses by either the Federal or State governments in the exchange of funds. Each State's TSA establishes the dollar threshold for determining and identifying the major Federal assistance programs covered by the TSA and documents the accepted funding techniques, including the methods and timing for drawing Federal cash and methods for calculating interest.

<sup>26</sup> "American Recovery and Reinvestment Act of 2009: States' Treasury-State Agreements Might Need to Include American Recovery and Reinvestment Act, Education Jobs Fund, and Other Similarly Funded Programs," June 20, 2011, (ED-OIG/L05L004).

<sup>27</sup> If Recovery Act and other similarly funded programs are excluded from TSAs, States must then comply with the Education Department General Administrative Regulations at 34 C.F.R. §§ 80.20 and 80.21.

**Suggestions: Supplement Single Audit Activities.** The Department should continue implementing early compliance oversight and monitoring processes for newly created or temporarily funded programs under legislation similar to the Recovery Act.

**Update TSAs.** For newly created programs or programs temporarily funded under legislation similar to the Recovery Act, the Department should work with the U.S. Treasury early in program implementation to determine whether the programs should be added to States' TSAs for cash management purposes.

#### Department comments

The Department stated that the Challenge 3 heading is also overly negative. The Department referred to report statements noting that the Department emphasized the importance of oversight when providing guidance and technical assistance and also noted that OIG generally identified only minor findings in its Recovery Act audits as a basis for suggesting alternative language for the Challenge 3 heading.

#### OIG Response

Our report recognizes that the Department significantly enhanced its efforts to ensure program monitoring and oversight was adequate, and that it emphasized the need for oversight in its communications with grantees. Nonetheless, our Recovery Act work identified weaknesses in this area in all phases of our work that included audit procedures related to compliance or oversight. Although our audits did not identify significant amounts of questioned or unallowable costs, we believe that our frequent findings of internal control weaknesses call for continued emphasis by the Department to address persistent monitoring and oversight challenges. We urge the Department to consider our suggestions and look for opportunities to apply lessons from its efforts to enhance oversight of Recovery Act funds to address longstanding monitoring and oversight challenges.

### **Challenge 4: New Reporting and Transparency Requirements Created Implementation Challenges**

The Recovery Act's emphasis on accountability and transparency increased the need for information. To provide transparency over how funds were used, Section 1512 of the Act required recipients to submit quarterly reports providing various data, such as the type, date, and amount of their grant awards; descriptions of funded projects and their status; estimated number of jobs created or retained; and the amount of Recovery Act funds received and spent (collectively referred to as Section 1512 data).

The Recovery Board worked with OMB to establish two systems for collecting Section 1512 data and making it available to the public. The FederalReporting.gov Web site worked in conjunction with the Recovery.gov Web site as the technology platform for recipient reporting and data transparency. The Recovery Board deployed FederalReporting.gov as a nationwide data

collection system for recipients to report their Section 1512 data. No later than 10 days after the end of each calendar quarter, recipients had to submit Recovery Act data to FederalReporting.gov. A subsequent correction period provided Federal agencies an opportunity to review the data that recipients reported and notify them of significant data omissions or errors. Recipients also had time to review submitted data and make any necessary corrections. At the end of the correction period, recipient data were made available to the public on Recovery.gov.

Our Recovery Act work on Section 1512 reporting identified several challenges for the Department and its recipients and subrecipients as they collected and reported data. We have long emphasized the need for accurate, reliable and complete data to manage education programs and to assess outcomes.<sup>28</sup>

### **Challenges to the Department**

- The Department had to develop clear and timely guidance and effective oversight procedures to help ensure that the Section 1512 data reported by recipients was accurate, reliable, and complete.
- The Department had to expend significant time and effort working with recipients and OMB to address transparency issues that were specific to education programs such as obtaining useful data on funds passed through to subrecipients and on jobs saved and created for part time teachers and other school employees at the subrecipient level.
- The Department had to provide timely technical assistance to recipients to help mitigate the potential for or eliminate any known significant deficiencies in reported data.

### **Challenges to Recipients and Subrecipients**

- Recipients and subrecipients had to meet the Recovery Act's new reporting requirements, including compliance with Section 1512. GAO reported that some recipients and subrecipients noted a burden associated with meeting the Recovery Act's new reporting requirements, particularly due to limited resources.
- Each recipient had to develop a system for reporting Section 1512 data, including collecting data from subrecipients, assessing the quality of this data, and submitting the data to FederalReporting.gov on time. A Recovery Board report on recipients' efforts to report Section 1512 information also identified recipients that were not able to

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<sup>28</sup> In addition to our Recovery Act-specific findings on data quality, we made recommendations to the Department on ways to improve data in "An OIG Perspective on Improving Accountability and Integrity in ESEA Programs," October 2007, (ED-OIG/S09H0007) and "An OIG Perspective on the Reauthorization of the Elementary and Secondary Education Act," February 1999, (ED-OIG/S1480010).



implement effective data quality systems to ensure accurate and reliable data reporting because of budget and/or personnel resource constraints.<sup>29</sup>

- Each subrecipient had to separately account for Recovery Act funds and compile and submit timely Section 1512 data to the recipient.

### **Lesson: The Department Took Steps to Improve Data Quality, but Accuracy and Reliability Issues Remained**

Legislation that emphasizes transparency about how funds were spent makes it imperative that the data are accurate, reliable, and complete, and that effective oversight and performance reporting mechanisms are in place. The Recovery Act required transparency on an unprecedented scale through the quarterly Section 1512 reports and other program-specific reports. OMB and the Department provided guidance and technical assistance to help recipients and subrecipients comply with the Section 1512 reporting requirements. OMB's government-wide guidance covered the process for reporting and correcting data; types of entities that had to report specific data elements; the methodology for calculating the number of jobs created, retained, or funded by the Act; the data correction period; and a common framework for agencies to implement processes to ensure data quality. The Department issued guidance specific to reporting Section 1512 data for each education-related grant program, including how to calculate jobs. It also issued a Grant Policy Bulletin outlining the penalties for recipients that failed to submit Section 1512 reports for two consecutive reporting quarters. Although the guidance and Bulletin stated that the Department could withhold grant funds for nonreporters, it did not address consequences for reporting poor quality data.

#### **The Department Took Steps to Improve Data Quality**

Data quality has been a longstanding issue for the Department even before the Recovery Act. Our 1999 and 2007 perspective papers on reauthorization of the ESEA addressed the importance of accurate, reliable, and complete data and described deficiencies that we identified in prior audits of performance data that SEAs reported to the Department. Although the Department required management certifications on the accuracy of data submitted by SEAs, we concluded that it should expand the certifications to also cover the reliability and completeness of the data to promote accountability and further highlight the importance of high quality data at all levels.<sup>30</sup> With regard to the Recovery Act, OMB guidance for reporting Section 1512 data did not require recipients to submit management certifications on data quality or disclose known data limitations. However, Department guidance encouraged

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<sup>29</sup> "Recovery Act Data Quality: Recipient Efforts to Report Reliable and Transparent Information," September 13, 2010, Recovery Board.

<sup>30</sup> "An OIG Perspective on the Reauthorization of the Elementary and Secondary Education Act," February 1999 (ED-OIG/S1480010); "An OIG Perspective on Improving Accountability and Integrity in ESEA Programs," October 2007 (ED-OIG/S09H0007).



recipients to disclose known data quality issues and recommended that they advise the Department when unable to correct or remedy identified data deficiencies.

Consistent with OMB's Recovery Act guidance, the Department established data quality review procedures to identify material omissions or significant reporting errors. It also instructed recipients and subrecipients to advise the Department if reported data contained known deficiencies. In 2011, we reported that obtaining high-quality data from recipients would be a continuing challenge for the Department. Although the Department's processes to ensure the accuracy and completeness of recipient-reported data were generally effective, we still identified data quality issues such as recipients reporting data that were inconsistent with data in the Department's grants management system, documentation in contract files, or information contained in other reports submitted by recipients; and that the Department had inadequate controls and procedures to identify systemic or chronic recipient reporting issues.<sup>31</sup>

Our multiphase Recovery Act audits identified specific causes for inaccurate or incomplete reporting by recipients and subrecipients. Before the first Section 1512 reports were due, we concluded that all nine States (including Puerto Rico) that we reviewed during Phase I had potential data quality issues at the recipient or subrecipient level. We reported that ineffective or nonexistent controls for tracking Recovery Act activities and implementing internal review processes hampered data quality. Our Phase II audits addressed the second quarterly Section 1512 reports, which covered the use of Recovery Act funds as of December 31, 2009. We identified data quality issues in 9 of the 11 States we audited. Multiple issues affected the accuracy, reliability, and completeness of the data that recipients reported. OMB notified recipients of revised guidance on reporting definitions just two weeks before the end of the reporting period. Because of the late revisions to reporting instructions, recipients had inadequate time to produce high-quality data. Recipients also did not always use the data correction period to correct known errors.<sup>32</sup> Our Recovery Act audits of selected Centers for Independent Living also identified data quality issues, such as missing data or entire reports, untimely reporting, and inaccurate data.<sup>33</sup>

### **Reporting Jobs Data Were Especially Problematic for Recipients and Subrecipients**

Our Recovery Act work showed that estimating the number of jobs created or retained as a result of the Act was especially problematic for recipients and subrecipients and might have diminished the usefulness of the jobs data. The Recovery Board's 2010 report on data quality concluded that the two main causes for inaccurate jobs reporting were that recipients did not follow OMB's Section 1512 reporting guidance and made errors when calculating or posting the number of jobs. The definition used to estimate the number of jobs created, retained, or

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<sup>31</sup> "The Effectiveness of the Department's Data Quality Review Processes," August 22, 2011 (ED-OIG/A19K0010).

<sup>32</sup> Table 2 of the Compendium in Appendix 2 identifies the States where we identified data quality issues during our multiphase reviews. The Compendium also describes the Recovery Act audits that covered data quality.

<sup>33</sup> "Centers for Independent Living Compliance, Performance, Recovery Act Reporting, and Monitoring," September 12, 2012 (ED-OIG/A06K0011).

funded by the Recovery Act also caused confusion and inhibited accountability and transparency.

Several factors contributed to reporting errors including inadequate recipient processes and controls for collecting, compiling, and reviewing jobs data. The Recovery Board's 2010 report also attributed errors in jobs data to difficulties associated with the timing of guidance and changes in the methodology for estimating and reporting the number of jobs. In August 2012, Department officials confirmed that implementing the guidance for education grant programs proved to be confusing and burdensome for the Department and its recipients.

**Suggestions: Improve Data Quality.** For future temporary legislation like the Recovery Act, other efforts intended to increase transparency, or to improve data for ongoing grant programs, the Department should implement measures that improve the quality of recipient and subrecipient data and continue to emphasize the need for appropriate data quality reviews. Measures to improve data quality include:

- a. piloting the reporting requirements and mechanisms with a small group of recipients and subrecipients to identify and correct reporting issues before implementing the requirements nationwide or when the requirements substantially change as they did for reporting jobs data;
- b. establishing a process to identify and remediate situations in which grant recipients demonstrate systemic or chronic reporting problems or otherwise fail to correct the problems, including imposing penalties on nonreporters or for reporting poor quality data;
- c. providing more focused technical assistance on data quality, especially for recipients identified as having systemic or chronic reporting problems, including how recipients and subrecipients could incorporate more analytical procedures into their data quality systems, and ensuring that they implement the procedures;
- d. ensuring that recipients implement adequate and effective internal controls to ensure high-quality data for key reporting elements;
- e. requiring reporting entities to submit management certifications on data quality and to disclose known data limitations that could affect the quality or usefulness of the information.<sup>34</sup>

Because education spending and services primarily occur at the local level, the need for accurate, reliable, and complete subrecipient data is critical. The Department should also

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<sup>34</sup> Although governors or their designee were required to submit an application for SFSF funding that included various assurances, including multiple assurances related to accountability, transparency, and reporting requirements, there was no assurance related to the quality of data (accuracy, reliability, and completeness) that States were required to submit under the Recovery Act.

develop clear and timely guidance that addresses the need for strong subrecipient internal controls for tracking and reporting data.

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## Scope and Methodology

The overall objective of this management information report was to provide the OIG's perspective on challenges that were faced when administering education-related grant programs funded by the Recovery Act, how the challenges were addressed, and lessons to consider in the event that Congress enacts legislation similar to the Recovery Act in the future.

To accomplish our objective, we primarily drew on our experience from the audit and investigation work we performed related to the Recovery Act from February 2009 through June 2014. Specifically, we reviewed more than 50 OIG audit and investigation reports and other OIG products related to Department, State, and local agency implementation of the Act. Most of our Recovery Act audits focused on the three largest education-related Recovery Act grant programs: SFSF, Title I, and IDEA. We also reviewed OIG's annual reports on management challenges for FY 2010 through FY 2013; and OIG's Recovery Act training and outreach materials. Our investigations responded to allegations of fraud and whistleblower reprisals involving Recovery Act funds.

We also reviewed reports published by the Recovery Board related to the Recovery Act's Section 1512 reporting requirements and data quality and GAO reports that addressed Recovery Act topics and issues included in this report. We also reviewed OMB's Recovery Act guidance on implementing the Act, Section 1512 reporting requirements, and the 2009 A-133 Compliance Supplement and Addendum.

To gain an understanding of the Department's activities, challenges, and responses associated with implementing the Act, we reviewed its Recovery Act guidance and materials associated with outreach and technical assistance activities. We also reviewed Department and OIG responses to a 2012 Recovery Board survey of Federal agencies and Inspectors General about the lessons learned from implementing the Act. To confirm the reasonableness of the survey responses, we corroborated the information on implementation activities by reviewing available OIG, Department, Recovery Board, and GAO information described above.

This management information report provides our conclusions based in part on audit work performed at selected recipients and subrecipients that received Recovery Act funding. Because we did not use statistical sampling methods to select the State and local entities covered in our reviews, the information in this report should not be generalized to the universe of recipients and subrecipients that received Recovery Act funds.

The scope of our work was limited to OIG, GAO, Recovery Board, and Department products and activities related to the Recovery Act from February 2009 through June 2014. For this report, we performed our work from March 2012 through June 2014.

Except for reporting on our own Recovery Act activities and audits, we conducted the work for this management information report in accordance with OIG quality standards for alternative products. Those standards require that we plan the work to obtain sufficient and appropriate

data and other information to provide a reasonable basis for our conclusions. We could not conform to the independence standard when reporting on our own work related to OIG's challenges, activities, and lessons learned. However, we believe that the information obtained provides a reasonable basis for the conclusions contained in the report.

## Appendix 1. Appropriated Funding for Recovery Act Programs Administered by the Department

Under the Recovery Act, Congress appropriated more than \$98 billion to the Department for 24 new and existing grant programs, Department administration and oversight, and OIG oversight activities.

**Table 1. Appropriated Funding for Recovery Act Programs the Department Administered**

Recovery Act Program	Catalog of Federal Domestic Assistance Number	Appropriated Amount (Rounded, in millions)	Percent of Department Appropriation
<b>State Fiscal Stabilization Fund</b>			
State Allocations (Education Stabilization and Government Services Fund) (a)	84.394, 84.397	\$ 48,586	49.5%
Race to the Top State Incentive Grants	84.395	\$4,350	4.4%
Investing in Innovation Fund	84.396	\$650	0.7%
Administration and Oversight	-	\$14	<0.1%
<b>Subtotal for SFSF Programs</b>	<b>-</b>	<b>\$53,600</b>	<b>54.6%</b>
<b>Federal Student Aid</b>			
Federal Pell Grants	84.063	\$17,114	17.4%
Federal Work-Study Grants	84.033	\$200	0.2%
Student Aid Administration	-	\$60	0.1%
<b>Subtotal for Federal Student Aid Programs</b>	<b>-</b>	<b>\$17,374</b>	<b>17.7%</b>
<b>Education for the Disadvantaged (b)</b>			
ESEA Title I Grants to LEAs (Part A)	84.389	\$10,000	10.2%
ESEA Title I School Improvement Grants	84.388	\$3,000	3.1%
<b>Subtotal for Title I Programs</b>	<b>-</b>	<b>\$13,000</b>	<b>13.3%</b>
<b>Special Education</b>			
Special Education—Grants to States (IDEA Part B § 611)	84.391	\$11,300	11.5%
Special Education—Grants For Infants/Families (Part C)	84.393	\$500	0.5%
Special Education—Preschool Grants (IDEA Part B § 619)	84.392	\$400	0.4%
<b>Subtotal for IDEA Programs</b>	<b>-</b>	<b>\$12,200</b>	<b>12.4%</b>
<b>School Improvement Programs (b)</b>			
Education Technology State Grants	84.386	\$650	0.7%
Education of Homeless Children and Youth	84.387	\$70	0.1%
<b>Subtotal for School Improvement Programs</b>	<b>-</b>	<b>\$720</b>	<b>0.7%</b>

Recovery Act Program	Catalog of Federal Domestic Assistance Number	Appropriated Amount (Rounded, in millions)	Percent of Department Appropriation
<b>Rehabilitative Services and Disability Research (c)</b>			
Vocational Rehabilitation State Grants	84.390	\$540	0.5%
Centers for Independent Living	84.400	\$88	0.1%
Independent Living Services for Older Blind Individuals	84.399	\$34	<0.1%
Independent Living State Grants	84.398	\$18	<0.1%
<b>Subtotal for Rehabilitative Services and Disability Research Programs</b>	-	<b>\$680</b>	<b>0.7%</b>
<b>Institute of Education Sciences: Statewide Longitudinal Data Systems</b>	<b>84.384</b>	<b>\$250</b>	<b>0.3%</b>
<b>Innovation and Improvement</b>			
Teacher Incentive Fund	84.385	\$198	0.2%
Administration and Oversight	-	\$2	<0.1%
<b>Subtotal for Innovation and Improvement Programs</b>	-	<b>\$200</b>	<b>0.2%</b>
<b>Higher Education: Teacher Quality Partnerships</b>	<b>84.405</b>	<b>\$100</b>	<b>0.1%</b>
<b>Impact Aid</b>			
Impact Aid Construction Competitive Grants	84.401	\$59	0.1%
Impact Aid Construction Formula Grants	84.404	\$40	<0.1%
Administration and Oversight	-	\$1	<0.1%
<b>Subtotal for Impact Aid Programs</b>	-	<b>\$100</b>	<b>0.1%</b>
<b>Office of Inspector General</b>	-	<b>\$14</b>	<b>&lt;0.1%</b>
<b>Total Recovery Act</b>	-	<b>\$98,238</b>	<b>100.0%</b>

(a) \$268 million of the appropriation for the SFSF State Allocations and Rehabilitative Services and Disability Research programs was for U.S. territories including American Samoa, Guam, Northern Mariana Islands, and Virgin Islands.

(b) U.S. territories may combine Recovery Act funding provided under Title I, School Improvement, Educational Technology, and Education for Homeless Children and Youths into one program: Consolidated Grants to Insular Areas (CFDA 84.402).

(c) Funding for Capacity Building for Traditionally Underserved Populations (CFDA 84.406) was included in the more than \$140 million appropriated for independent living programs under the Recovery Act.

Source: Appropriated funding amounts from the Recovery Act.

## **Appendix 2. Compendium of OIG Products and Other Activities Related to the Recovery Act**

This compendium summarizes the OIG's body of Recovery Act work from February 2009 through June 2014 by seven general areas of effort. We summarize each phase of our reviews of recipients and subrecipients, our work on the Department's implementation of the Act, and other OIG reports related to the Act. For each general area of effort, we summarize the purpose and results of the effort, reference the challenges and lessons addressed earlier in the report, and list the related reports and other products that we published.

Our State and local audits focused on compliance for three review phases:

- Phase I focused on internal control systems and covered cash management, subrecipient monitoring, data quality, and use of or accounting for funds. These audits were conducted between February 2009 and December 2010.
- Phase II focused on recipient and subrecipient use of funds and the quality of recipient-reported data. These audits were conducted between October 2009 and January 2013.
- Phase IV focused on subrecipients' use of remaining funds as Recovery Act grants expired. These audits were conducted between June 2012 and June 2013.

We summarize the four most pervasive compliance issues that we identified from the Phase I, Phase II, and Phase IV audits in the table on the next page. Although we identified issues in most of the States we reviewed, the issues generally were related to internal control weaknesses and did not result in significant questioned costs.



**Table 2. States Where OIG Performed Recovery Act Phase I, Phase II, or Phase IV Audits and Identified Compliance Issues**

State	OIG Review Phase	Cash Management	Subrecipient Monitoring	Data Quality	Use of or Accounting for Funds	Number of Compliance Issues
Alabama	II	not reviewed	not reviewed	● Yes	● Yes	2
Arkansas	IV	not reviewed	not reviewed	not reviewed	● Yes	1
California	I, II	● Yes	● Yes	● Yes	● Yes	4
Delaware	IV	not reviewed	not reviewed	not reviewed	● Yes	1
Florida	IV	not reviewed	not reviewed	not reviewed	● Yes	1
Illinois	I, II	● Yes	● Yes	● Yes	● Yes	4
Indiana	I	● Yes	● Yes	● Yes	● No	3
Louisiana	I, II	● Yes	● Yes	● Yes	● Yes	4
Maryland	II	not reviewed	not reviewed	● Yes	● Yes	2
Missouri	II	not reviewed	not reviewed	● Yes	● Yes	2
Nebraska	IV	not reviewed	not reviewed	not reviewed	● No	0
New York	I	● Yes	● Yes	● Yes	● Yes	4
Oklahoma	II	not reviewed	not reviewed	● Yes	● Yes	2
Pennsylvania	I	● Yes	● Yes	● Yes	● Yes	4
Puerto Rico	I, IV	● Yes	● Yes	● Yes	● Yes	4
South Carolina	II	not reviewed	not reviewed	● No	● Yes	1
Tennessee	I	● No	● No	● Yes	● No	1
Texas	I	● No	● Yes	● Yes	● Yes	3
Utah	II	not reviewed	not reviewed	● Yes	● Yes	2
Virginia	II	not reviewed	not reviewed	● No	● Yes	1
Wisconsin	II	not reviewed	not reviewed	● Yes	● Yes	2
<b>Number of States Where Specified Compliance Issue Was Covered by Audit</b>		<b>9</b>	<b>9</b>	<b>17</b>	<b>21</b>	<b>21</b>
<b>Number of States With the Specified Compliance Issue</b>		<b>7</b>	<b>8</b>	<b>15</b>	<b>18</b>	<b>20</b>
<b>Percentage of States With the Specified Compliance Issue</b>		<b>78%</b>	<b>89%</b>	<b>88%</b>	<b>86%</b>	<b>95%</b>
Legend: ● Yes, OIG audit identified a compliance issue ● No, OIG audit did not identify a compliance issue						

Source: OIG audit reports as of June 2014.

## Phase I: Internal Controls Over Recovery Act Funds

### OIG External Reports

California ([A09J0006](#), 1/15/2010)  
Illinois ([A05J0012](#), 2/23/2010)  
Indiana ([A05J0011](#), 1/14/2010)  
Louisiana ([A06K0001](#), 9/29/2010)  
New York SEA ([A02J0006](#), 11/10/2009)  
New York LEAs ([A02J0009](#), 2/17/2010)  
Pennsylvania SEA ([A03J0010](#), 3/15/2010)  
Pennsylvania LEAs ([A03K0003](#), 12/21/2010)  
Puerto Rico ([A04K0001](#), 12/16/2010)  
Puerto Rico Vocational Rehabilitation ([A04J0009](#), 12/14/2010)  
Tennessee SEA ([A04J0010](#), 12/15/2009)  
Tennessee LEAs ([A04K0002](#), 12/18/2009)  
Texas ([A06J0013](#), 1/27/2010)

### OIG Products to the Department

Subrecipient Monitoring ([X05J0019](#), 6/4/2010)  
Cash Management ([L09J0007](#), 10/21/2009)  
State Fiscal Stabilization Fund Maintenance of Effort ([L03J0011](#), 9/30/2009)

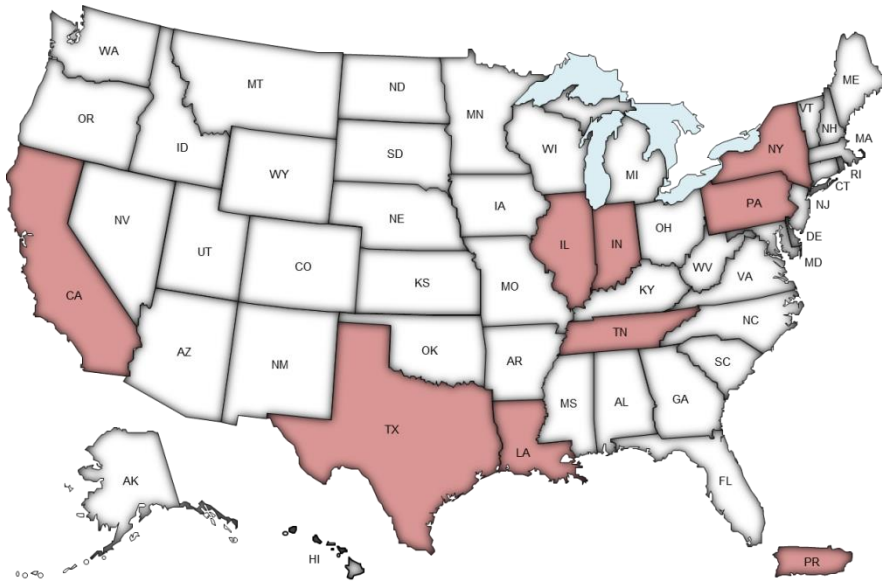
## Purpose

Our Phase I audits determined whether selected State and local agencies charged with responsibility for overseeing Recovery Act funds had systems of internal control that were sufficient to provide reasonable assurance of compliance with applicable laws and regulations. The reviews focused on controls over cash management, subrecipient monitoring, data quality, and use of funds for the Recovery Act Education Stabilization and Government Services, Title I, IDEA, and Vocational Rehabilitation grant programs. We performed our work at State governors' offices, SEAs, other State recipients and subrecipients, and 26 LEAs in 8 States and Puerto Rico. In addition to the State reports, we issued separate products to the Department on issues identified in our State and local audits on SFSF MOE, cash management, and subrecipient monitoring.

## Results

The State and local recipients and subrecipients we reviewed had systems of internal controls in place or were designing control systems to provide proper administration and oversight of Recovery Act funds. However, we identified areas where controls could be strengthened or established to provide reasonable assurance of compliance with applicable Federal requirements related to cash management, subrecipient monitoring, data quality, and use of funds. In addition to specific improvements for each State, we recommended that the Department provide technical assistance and guidance on cash management, consider subrecipient monitoring when assessing risk and planning monitoring visits, and ensure that States adhere to SFSF MOE requirements before awarding additional SFSF funding.

## Audit Locations



## Phase II: Recovery Act Expenditures and Reporting

### OIG External Reports

Alabama ([A04K0007](#), 2/15/2012)  
California ([A09K0002](#), 4/28/2011)  
Illinois ([A05K0005](#), 6/9/2011)  
Louisiana ([A06K0003](#), 4/11/2011)  
Maryland ([A03K0009](#), 1/3/2013)  
Milwaukee Public Schools ([A02K0009](#), 4/21/2011)  
Missouri ([A07K0002](#), 6/7/2011)  
Oklahoma ([A06K0002](#), 2/18/2011)  
South Carolina ([A04K0005](#), 4/20/2011)  
South Carolina Governor's Office ([A04K0006](#), 8/23/2011)  
Utah ([A09K0001](#), 5/13/2011)  
Wisconsin ([A02K0005](#), 9/29/2010)  
Virginia ([A03K0008](#), 6/9/2011)

### OIG Report to the Recovery Board

Recovery Act Data Quality ([S20K0002](#), 9/13/2010)

### OIG Product to the Department

Treasury-State Agreements ([L05L0004](#), 6/20/2011)

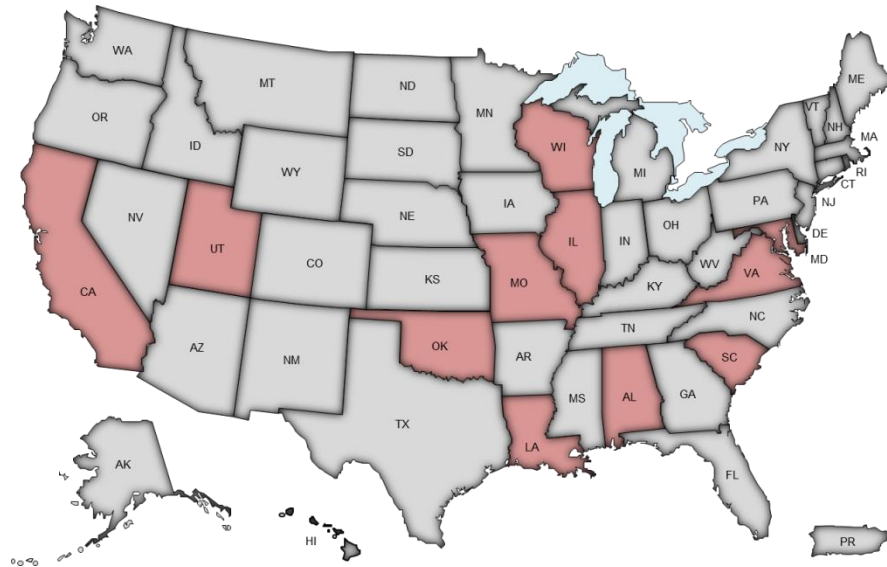
## Purpose

Our Phase II audits determined whether selected recipients and subrecipients in 11 States (1) used Recovery Act funds in accordance with applicable laws, regulations, and guidance; and (2) reported quality data in compliance with Recovery Act reporting requirements. The reviews covered selected Recovery Act costs charged to the SFSF, Title I, and IDEA grant programs from February 17 through at least December 31, 2009, and as late as June 30, 2010, at 30 LEAs, 6 institutions of higher education, and 2 State entities. The review also covered Section 1512 quarterly reports that the States submitted during the audit periods. In addition to the State reports, we issued a report to the Recovery Board on the results of a joint project by five Offices of Inspector General on selected recipients' efforts to report Section 1512 data. We also issued an alert memorandum to the Department on potential issues related to annual TSAs between the U.S. Treasury and States when temporary legislation like the Recovery Act is enacted.

## Results

Most of the education-related recipients or subrecipients we reviewed did not always use Recovery Act funds in accordance with Federal requirements and reported inaccurate, unreliable, or incomplete Section 1512 data. In general, the amount of costs we questioned was not significant and the States could take corrective action before the end of the grant period. The joint project for the Recovery Board identified similar data quality issues and recommended several areas to enhance data quality. In our alert memorandum, we recommended that the Department work with the U.S. Treasury to encourage the Treasury and the States to determine whether TSAs should be amended to include applicable Recovery Act, Education Jobs Fund, and other similarly funded programs, and to consider amending TSAs as soon as possible rather than waiting until these programs were included in a Single Audit.

## Audit Locations



## Phase III: How School Districts Used Recovery Act and Education Jobs Funds

### OIG Report to the Department

Use of Recovery Act and Education Jobs Funds ([A09L0006](#), 9/28/2012)

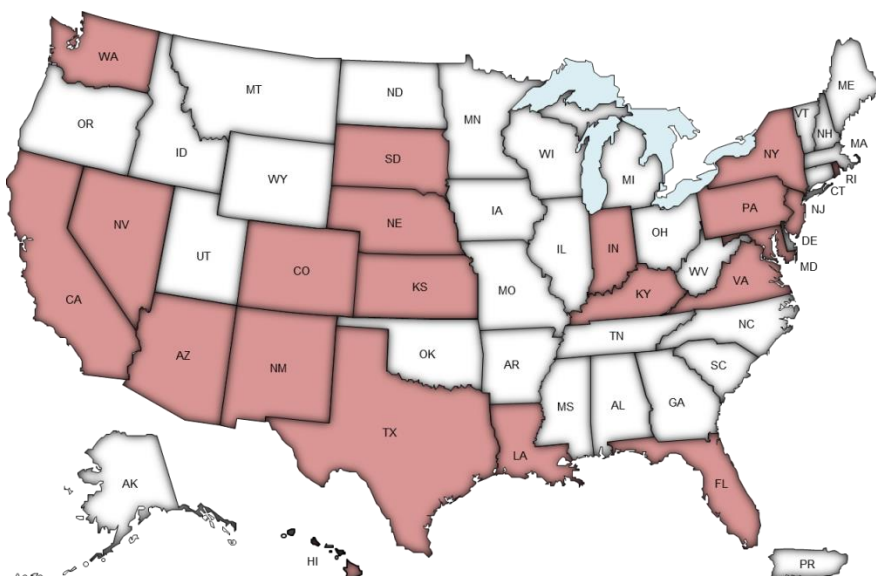
### Purpose

Our Phase III review determined how selected school districts spent Federal funds awarded under the Recovery Act for the Education Stabilization, Title I, and IDEA grant programs and under separate legislation for the Education Jobs grant program (collectively referred to as “stimulus funds”). We examined how 22 school districts spent or planned to spend their stimulus funds. We also determined (1) whether the districts would spend all of their funds by the end of the respective grant periods, (2) what factors influenced how they spent the funds, and (3) whether they expected to experience unsustainable commitments (“funding cliffs”) after stimulus funds were no longer available. We also collected limited information on results that the 22 districts identified after using the stimulus funds and their use of an IDEA provision on MOE flexibility. We issued a single nationwide audit report to the Department.

### Results

The 22 school districts primarily used Education Stabilization and Education Jobs funds to maintain existing services by supporting salaries and benefits. They were more likely to use Title I and IDEA funds to expand existing or offer new services. As of December 31, 2011, the districts had spent all of their Education Stabilization, more than 99 percent of Title I and IDEA, and more than 80 percent of Education Jobs funds. Factors that influenced how they spent the funds included Federal requirements, State actions and budget decisions, each district’s fiscal condition and educational priorities, and concerns about funding cliffs. Most of the school districts expected to face moderate to significant funding cliffs after stimulus funds were no longer available unless State or local revenues returned to prerecession levels in the near future.

### Audit Locations



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## Phase IV: Final Recovery Act Expenditures

### OIG External Reports

Arkansas ([A09M0003](#), 12/20/2012)  
Delaware ([A03M0005](#), 12/19/2012)  
Florida ([A02M0009](#), 6/27/2013)  
Puerto Rico ([A04M0014](#), 2/20/2013)

### OIG Report to the Department

Final Recovery Act Expenditures for Selected LEAs ([A04M0001](#), 7/8/2013)

### Purpose

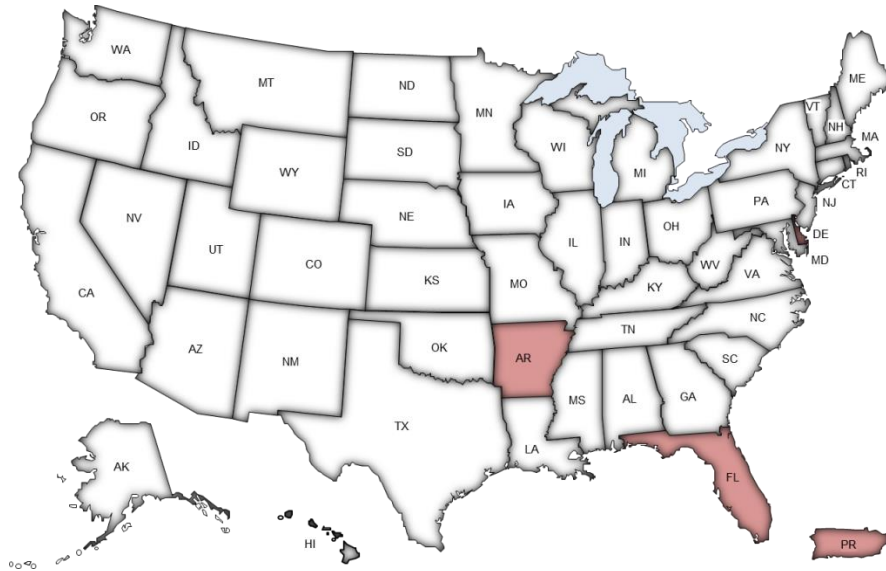
Our Phase IV audit determined whether selected LEAs obligated and spent final Recovery Act funding on reasonable, allocable, and allowable activities in accordance with applicable Federal requirements. The review covered Recovery Act Education Stabilization, Title I, and IDEA expenditures that nine LEAs located in four States and Puerto Rico obligated or expended from January 1 through December 31, 2011. In addition to a nationwide audit report to the Department, we issued supplemental reports to three States and Puerto Rico so that they could take corrective action on findings we identified.

### Results

We did not identify any evidence that the nine LEAs in our review used Recovery Act funds in an inappropriate or wasteful manner to avoid losing the funds when the grant period ended. They generally obligated and spent the funds in accordance with applicable laws, regulations, guidance, and program requirements. However, we identified a few instances of payments for late obligations, unallowable expenditures, fiscal and management control issues, or internal controls weaknesses at five of the LEAs. We questioned \$237,302 in Education Stabilization costs at one LEA and \$14,303 in Title I costs at another LEA. We also identified internal control weaknesses over inventory and procurement processes that could affect other Federal funds at two LEAs. We suggested that the Department evaluate the issues we identified when planning and conducting future monitoring and grant closeout processes. We also recommended specific steps that the States should take to ensure their LEAs improve controls for inventory, procurement, and reconciliation of expenditure data.



## Audit Locations



## Department Implementation of the Recovery Act

### OIG Products to the Department

Teacher Incentive Fund ([A19L0005](#), 2/8/2013)  
Data Quality Review Processes ([A19K0010](#), 8/22/2011)  
Implementation of SFSF ([A19J0001](#), 9/24/2010)  
Quality of Recipient Data (Internal Memorandum to the Deputy Secretary, 1/6/2010)  
Peer Reviewers for Race to the Top ([A19K0006](#), 8/16/2010)  
Data Quality for Recovery Act Reporting ([A19J0004](#), 10/29/2009)  
Department Monitoring of Race to the Top Program Recipient Performance ([A19M0003](#), 1/3/2014)

### OIG Products to the Recovery Board

#### Department Survey Results for Recovery Board Projects:

Lessons Learned From the Recovery Act: An Agency and OIG Retrospective (U.S. Department of the Interior report, May 2013)  
Review of Contracts and Grants Workforce Staffing and Qualifications in Agencies Overseeing Recovery Act Funds (U.S. Department of Commerce report, March 2010)  
Recovery Act Data Quality: Errors in Recipients' Reports Obscure Transparency (U.S. Department of Transportation report, February 2010)

## Purpose

Our work focused primarily on the new Section 1512 reporting requirements and SFSF grant programs.

**Section 1512 Reporting.** For Section 1512 reporting, we issued multiple products in which we (1) determined whether the Department had established a process to review the quality of recipient reports for the first reporting quarter ended September 30, 2009; (2) followed up on the quality of data that recipients submitted for the first reporting quarter, and (3) determined whether the Department's data quality review processes were effective for recipient reports submitted in 2010.

**SFSF.** For SFSF Race to the Top, we determined the appropriateness of Department actions to screen and select peer reviewers for the grant competition and the effectiveness of its internal controls for identifying conflicts of interest and other issues. For our audit of SFSF formula grants, we determined whether the Department calculated State allocations properly and whether States submitted applications that included all required information, and we evaluated the Department's staffing and monitoring plans.

**Teacher Incentive Fund.** For the Teacher Incentive Fund, we assessed the adequacy of the Department's processes for evaluating applications and assessed its monitoring plans and efforts.

**Department Survey Responses.** In addition to our audits, we participated in three Recovery Board projects by collecting and reviewing Department survey responses on (1) data errors and omissions in the first cycle of Section 1512 reports and actions taken to improve data quality (Transportation report); (2) staffing, qualifications, and training for its contracts and grants workforce (Commerce report); and (3) actions, processes, and mechanisms that were beneficial or posed challenges in meeting Recovery Act requirements (Interior report).

## Results

**Section 1512 Reporting.** In October 2009, we reported that the Department had established a process to perform limited data quality reviews. Following up on this report, in January 2010, we highlighted data quality issues we identified in recipient reports that the Department should consider to strengthen its data quality controls. In August 2011, we reported that the Department's processes to ensure the accuracy and completeness of recipient data were generally effective, and we recommended specific actions to enhance its data quality review and monitoring processes and reporting guidance.

**SFSF.** In August 2010, we reported that the Department's process for screening and selecting peer reviewers for the Race to the Top grant competition was generally appropriate, and we recommended specific actions to strengthen the integrity of the review process. In September 2010, we reported that the Department's initial implementation of SFSF was generally appropriate, and we recommended specific actions to strengthen its efforts to ensure key application data were reasonably supported.

**Teacher Incentive Fund.** In February 2013, we reported that the Department's application review process did not ensure that applications demonstrated key stakeholder involvement and support. Further, we found that the Department needed to improve its monitoring plans and efforts, including correcting inconsistencies in standards applied to program applicants.

**Department Survey Responses.** Along with other participating OIGs, we provided our respective agencies' survey results to the Inspector General responsible for preparing the consolidated report to the Recovery Board.

## Other OIG Reports Related to the Recovery Act

### OIG External Reports

IDEA Maintenance of Effort Flexibility ([A09L0011](#), 7/25/2013)  
Investing in Innovation ([I13M0001](#), 2/22/2013)  
Centers for Independent Living ([A06K0011](#), 9/12/2012)  
School Improvement Grants ([A05L0002](#), 3/29/2012)  
Virgin Islands Prior Audit Findings ([L04J0015](#), 1/13/2010)

### OIG Reports to the Department

Corrective Actions for Prior Audits ([L20K0003](#), 7/12/2010)  
Charter School Vulnerabilities ([X42K0002](#), 3/9/2010)  
Catalog of Federal Domestic Assistance ([L16J0075](#), 10/13/2009)  
LEA and SEA Fiscal Issues ([X05J0005](#), 7/21/2009)

## Purpose

Based primarily on prior audits and investigations, from July 2009 through July 2010 we provided information to the Department about various issues to consider or correct as it implemented the Recovery Act. We also issued reports that addressed several programs, SEAs, and LEAs affected by the Recovery Act: an audit of the Virgin Island's efforts to address prior audit findings, three nationwide audits of existing programs that included supplemental funds under the Act, and an inspection report for a new program under the Act.

## Results

**Information to the Department for Recovery Act Implementation.** In July 2009, we reported on the pervasive fiscal issues identified in 41 prior audits, summarized 13 investigations that resulted in criminal convictions of LEA officials, and offered lessons and suggestions for enhancing guidance to SEAs and LEAs. We issued a companion report in March 2010 to provide examples of fraud cases involving charter schools. In October 2009, we identified corrections needed in program information in the Catalog of Federal Domestic Assistance to ensure that grant administrators and auditors would not rely on erroneous information. In July 2010, we reported on the Department's progress in expediting corrective actions from prior OIG audits of programs that subsequently received Recovery Act funding and recommended enhancements for its risk management plan.

**Virgin Islands.** In January 2010, we reported that the SEA did not adequately address previously identified audit deficiencies and that the significance of the issues was even more critical with the addition of Recovery Act funds. We suggested that the Department take stronger action to bring the SEA into compliance.

**Other Nationwide Audits.** The three audits identified compliance issues and recommended corrective actions related to (1) SEA monitoring plans and award processes for the School Improvement Grants program; (2) Department monitoring, provided services, performance, and Section 1512 reporting by Centers for Independent Living; and (3) SEA and LEA eligibility for and the use of and accounting for freed-up funds resulting from the IDEA maintenance of effort flexibility provision.

**Investing in Innovation Inspection Report.** In February 2013, we reported that the Department provided substantive monitoring of program recipients under the Investing in Innovation program, but recipients did not always respond or respond timely to Department requests. We recommended the development of appropriate requirements or consequences for nonresponsive recipients and suggested ways to limit identified potential risks to the Department's ability to monitor program recipients in the future.

## Other OIG Products and Activities Related to the Recovery Act

### OIG Products

#### Presentations:

Effect on the Single Audit ([September 2009](#))  
Accountability ([July 2009](#))  
Student Financial Assistance Programs ([April 2009](#))  
State and Local Programs ([April 2009](#))  
Implications for Federal Agencies, Recipients, and Subrecipients ([March 2009](#))

#### Annual Work Plans:

[FY 2014](#) (November 2013)  
[FY 2013](#) (November 2012)  
[FY 2012](#) (October 2011)  
[FY 2011](#) (October 2010)  
[FY 2010](#) (October 2009)  
[FY 2009](#) (May 2009)

#### Management Challenges Reports:

[FY 2014](#)  
[FY 2013](#)  
[FY 2012](#)  
[FY 2011](#)  
[FY 2010](#)

#### Semiannual Reports to Congress:

Number [68](#) (10/1/2013–3/31/2014)  
Number [67](#) (4/1/2013–9/30/2013)  
Number [66](#) (10/1/2012–3/31/2013)  
Number [65](#) (4/1/2012–9/30/2012)  
Number [64](#) (10/1/2011–3/31/2012)  
Number [63](#) (4/1/2011–9/30/2011)  
Number [62](#) (10/1/2010–3/31/2011)  
Number [61](#) (4/1/2010–9/30/2010)  
Number [60](#) (10/1/2009–3/31/2010)  
Number [59](#) (4/1/2009–9/30/2009)  
Number [58](#) (10/1/2008–3/31/2009)

## Purpose

In 2009, we developed several presentations for outreach and training purposes. We also outlined our audit and investigation strategies for Recovery Act grants in our annual work plans for FY 2009 through FY 2013. Further, we highlighted Recovery Act implementation as a challenge facing the Department in the areas of oversight, monitoring, data quality, and reporting in FY 2010 through FY 2012. We also regularly reported on our Recovery Act efforts in our semiannual reports to Congress beginning in 2009.

## Results

**Outreach and Training.** As of April 2013, we had conducted more than 250 outreach sessions and trained more than 11,600 individuals in more than 70 training sessions. Topics included the Recovery Act's effect on State, local, and student financial aid programs; oversight efforts; fraud awareness; whistleblower protection; and implications for Single Audits. We also made outreach and training materials available on our Web site.

**Fraud Cases.** As of June 30, 2014, we had opened 218 investigations involving Recovery Act funds. These have resulted in 265 criminal convictions, settlements, and judgments, and about \$11.5 million in recoveries and savings involving Recovery Act funds as of March 31, 2014.

**Audits.** From 2009 through 2013, we issued more than 50 audit reports to the Department, State governors' offices, and SEAs. In total, one or more aspects of our Recovery Act audits covered the Department, 36 States, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.

## Appendix 3. Department Comments on the Draft Report



### UNITED STATES DEPARTMENT OF EDUCATION OFFICE OF THE DEPUTY SECRETARY

TO: Raymond Hendren  
Richard Rasa  
Office of the Inspector General

FROM: Patrick Rooney (initialed by JGB for Patrick Rooney)  
Acting Director, Policy and Program Implementation  
Office of the Deputy Secretary, Implementation and Support Unit

SUBJECT: Draft Management Information Report "Lessons from Implementing the American Recovery and Reinvestment Act of 2009" (ED-OIG/X09M0002)

Thank you for the opportunity to comment on the draft Management Information Report "Lessons from Implementing the American Recovery and Reinvestment Act of 2009" (ED-OIG/X09M0002). In the report, the Office of the Inspector General (OIG) provides its perspective on the challenges that the American Recovery and Reinvestment Act of 2009 (ARRA) presented for the Department, its funding recipients and subrecipients, and the OIG. In drafting the report, the OIG relied primarily on its audit and investigation work. OIG also reviewed the Department's training and outreach materials related to the implementation of the ARRA, Semiannual Reports to Congress, and annual Management Challenges reports. Additionally, OIG reviewed reports published by the Recovery Accountability and Transparency Board (Recovery Board) and the U.S. Government Accountability Office (GAO). The report identified four broad categories of challenges and presents suggestions and lessons related to each challenge. We appreciate the work that went into this report and the important information and suggestions provided.

We appreciate OIG's recognition of the efforts made by the Department and its recipients and subrecipients to implement the ARRA programs as expeditiously as possible to address the immediate economic needs of States and localities while maintaining compliance with applicable rules and regulations. We particularly appreciate OIG's recognition of the quality, value, and expediency of the Department's guidance, training, technical assistance, and outreach. As noted in the report, the Department used a variety of approaches to provide information to ARRA recipients and subrecipients on such topics as reporting, application requirements, and strategic uses of funds.



While the report provides some examples of Department practices that made ARRA implementation very successful, the report does not fully address and recognize the intensity of the outreach efforts, especially during the pre-grant award planning and technical assistance period. The key to planning and technical assistance that worked well for ARRA was the proactive nature of the nearly daily contact the Department had with grantees, responding to detailed calls for assistance from State and local officials, many from Governor's offices and State financial officials who were unfamiliar with ED's grant and oversight process. The Race to the Top State competition was widely regarded as successful because of the Department's continuous outreach to the states--extensive guidance to state and local officials, and detailed training for peer reviewers. Once implementation of the grants began, the Department's strong proactive and responsive technical assistance efforts were consistently timely and effective and continued to provide the high-quality assistance and guidance that grantee came to expect.

The suggestions in the report provide insights that may be applied to Department programs in the future. However, we have concerns about the specific wording of two of the challenges - "Challenge 2 "Department, Recipients, and Subrecipients Faced Challenges as They Implemented Processes to Administer Grants" and "Challenge 3: "The Department Addressed a Variety of Recovery Act Implementation Issues, but Persistent Monitoring and Oversight Challenges Remain." We believe that the specific wording of these challenges unintentionally conveys a negative tone and fails to reflect the positive steps that were undertaken in each area.

The wording of Challenge 2 does not align with the text describing the proactive steps that the Department initiated to ensure that grantees were prepared to implement the ARRA programs effectively and in a manner that was consistent with the authorizing legislation and Department regulations. The report describes the various methods (e.g., webinars, conference calls, emails) that Department staff used to effectively communicate with recipients and subrecipients. The report also describes the various types of helpful guidance, training, technical assistance, and outreach that were provided to grantees. We believe that the wording of the challenge would better reflect the efforts of the Department and its recipients and subrecipients if it read: "Department, Recipients, and Subrecipients Proactively Addressed Challenges as They Implemented Processes to Administer Grants."

We also believe the wording of Challenge 3 is more negative than it needs to be. The report notes that the Department emphasized the importance of oversight when providing guidance and technical assistance. Given the Department's efforts to improve State oversight of subrecipients and the generally minor findings identified in audits, we recommend that Challenge 3 read, "While the Department Emphasized the Importance of Subrecipient Oversight and Monitoring, Challenges Remain."

Finally, Table 2 compiles information on OIG ARRA audits and notes the specific areas in which compliance issues were identified. This table does not provide the necessary context for the timing of many of the recommendations in the reports. OIG took great strides to be out in the field in the summer and fall of 2009 during the early program implementation stage of ARRA funds. Some of the compliance issues identified in the early reports were found before some States and subrecipients even started planning and spending the ARRA funds. We believe the table would provide a more complete picture of the identified compliance issues if it included a column that provided the dates of the respective audits.

Again, we appreciate OIG's work in this area and thank you for the opportunity to comment on the draft report. If you have any questions, please do not hesitate to contact Jim Butler at [James.Butler@ed.gov](mailto:James.Butler@ed.gov) or 202-260-9737.