

GAO

Testimony

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RECOVERY ACT

GAO's Efforts to Work with the Accountability Community to Help Ensure Effective and Efficient Oversight

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Acting Comptroller General



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-09-672T](#), a testimony to the Subcommittee on Investigations and Oversight, Committee on Science and Technology, House of Representatives

Why GAO Did This Study

This testimony discusses GAO's efforts to coordinate with the accountability community—the Recovery Accountability and Transparency Board (the Board), the Inspectors General (IGs), and state and local government auditors—to help ensure effective and efficient oversight of American Recovery and Reinvestment Act (Recovery Act) funds. The Recovery Act assigns GAO a range of responsibilities including bimonthly reviews of the use of funds by selected states and localities. Because funding streams will flow from federal agencies to the states and localities, it is important for us to coordinate with the accountability community. Also, on March 19, 2009, GAO testified before this Subcommittee about the more than \$21 billion in Recovery Act funds estimated to be spent for research and development (R&D) activities at four federal agencies.

This statement discusses (1) GAO's efforts to fulfill its responsibilities under the Recovery Act; (2) GAO's coordination with others in the accountability community; (3) GAO's authorities to assist whistleblowers and elicit public concerns; and (4) updated information on the status of Recovery Act funds for R&D. It is based in part on GAO's first bimonthly Recovery Act report, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential* (GAO-09-580), and GAO's March 5, 2009 testimony, *American Recovery and Reinvestment Act: GAO's Role in Helping to Ensure Accountability and Transparency* (GAO-09-453T).

View [GAO-09-672T](#) or [key components](#). For more information, contact Patricia Dalton at (202) 512-3841 or daltonp@gao.gov.

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What GAO Found

GAO is carrying out its responsibilities to review the uses of Recovery Act funds and will also target certain areas for additional review using a risk-based approach. GAO's first bimonthly report examined the steps 16 states, the District of Columbia, and selected localities are taking to use and oversee Recovery Act funds. These states contain about 65 percent of the U.S. population and are estimated to receive about two-thirds of the intergovernmental grant funds available through the Recovery Act. GAO's report made several recommendations to the Office of Management and Budget (OMB) toward improving accountability and transparency requirements; clarifying the Recovery Act funds that can be used to support state efforts to ensure accountability and oversight; and improving communications with Recovery Act funds recipients.

Soon after the Recovery Act passed, GAO began to coordinate with the accountability community. By the end of February 2009, GAO conducted initial outreach to IGs, the Board, OMB, and state and local auditors. Now, GAO participates in regular coordination conference calls with representatives of these constituencies to discuss Recovery Act efforts and regularly coordinates with individual IGs. GAO also participates in discussions with state and local organizations to further foster coordination. The work of GAO's 16 state and District of Columbia teams that resulted in the first bimonthly report on the actions of selected states and localities under the Recovery Act also exemplifies the level of coordination we are undertaking with the accountability community. For example, teams working in the states collected documents from and interviewed State Auditors, Controllers, and Treasurers; state IGs; and other key audit community stakeholders to determine how they planned to conduct oversight of Recovery Act funds.

Provisions in statute as well as a fraud reporting hotline facilitate GAO's ability to evaluate allegations of waste, fraud, and abuse in the federal government. Under GAO's authorizing statute, subject to certain limited exceptions, all agencies must provide the Comptroller General with access to information about the duties, powers, activities, organization and financial transactions of that agency, including for the purpose of evaluating whistleblower complaints. The Whistleblower Protection Act and the Recovery Act provide additional authority for GAO to assist whistleblowers. GAO also maintains a fraud reporting service, which has recently generated more than 25 allegations of misuse of Recovery and other federal funds. These allegations are currently under review by our forensic audit team.

Since GAO first provided this Subcommittee with an estimate of the Recovery Act R&D funds to be spent, agencies have submitted program plans to OMB that include, among other things, programs' objectives, schedules, and the types of financial awards to be used. OMB expects to approve these plans by May 15, 2009. As of April 28, 2009, only the Department of Energy's Office of Science had obligated Recovery Act R&D funds for project expenditures.

Chairman Miller, Ranking Member Broun, and Members of the Subcommittee:

I am pleased to be here today to discuss our efforts to carry out GAO's oversight roles related to the American Recovery and Reinvestment Act of 2009 (Recovery Act).¹ An important part of our work entails coordinating with the accountability community including the federal Inspectors General (IGs), the Recovery Accountability and Transparency Board, and state and local government auditors. I will also provide updated information on the status of Recovery Act funds to be spent for research and development (R&D) activities, about which we testified before this Subcommittee in March 2009.²

The Recovery Act delineates an important set of responsibilities for the accountability community. GAO is required to conduct bimonthly reviews of the use by selected states and localities of funds made available under the act; we issued the first of these bimonthly reviews on April 23, 2009.³ GAO is also charged with reporting on, among other things, specific areas including trade adjustment assistance, new education incentive grants, new health care tax credits, and the effects of national economic downturns on states—especially in the Medicaid area—over the past several decades.⁴ IGs across government are expected to audit the efforts of federal agencies' operations and programs related to the Recovery Act, both individually within their particular entities and collectively, as many of them are members of the Recovery Accountability and Transparency Board (the Board). The Board will help prevent waste, fraud, and abuse by reviewing contracts and grants to ensure they meet applicable standards, satisfy applicable competition requirements, and are overseen by sufficient numbers of trained acquisition and grants personnel. The Board is charged with reporting to the President, Vice President, and the

¹Pub. L. No. 111-5 (Feb. 17, 2009).

²GAO, *American Recovery and Reinvestment Act: GAO's Role in Helping to Ensure Accountability and Transparency for Science Funding*, [GAO-09-515T](#) (Washington, D.C.: Mar. 19, 2009).

³GAO, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential*, [GAO-09-580](#) (Washington, D.C.: Apr. 23, 2009).

⁴GAO, *American Recovery and Reinvestment Act: GAO's Role in Helping to Ensure Accountability and Transparency*, [GAO-09-453T](#) (Washington, D.C.: Mar. 5, 2009).

Congress any potential problems requiring immediate attention in addition to reporting quarterly and annually.

As we testified before the Subcommittee on March 19, 2009, the Recovery Act's combined spending and tax provisions are estimated to cost \$787 billion, including more than \$21 billion in additional spending for R&D-related activities at the Department of Energy (DOE), Department of Commerce, National Science Foundation (NSF), and National Aeronautics and Space Administration (NASA). These activities include supporting fundamental research, demonstrating and deploying advanced energy technologies, purchasing scientific instrumentation and equipment, and constructing or modernizing research facilities. Our earlier testimony identified several R&D programs that deserve special attention from agency managers and IGs based on our prior work. Sustained oversight attention on these programs will be critical as Recovery Act funds are spent.

Because funding streams of the Recovery Act—including R&D funding—will flow from different federal agencies to the states, localities and institutions within them, we have been coordinating with the IGs and the Board, as well as with state and local auditors. My statement today discusses (1) GAO's efforts to fulfill its responsibilities under the Recovery Act; (2) GAO's coordination with the Board, IGs, and state and local government auditors; (3) GAO's authorities to assist whistleblowers and elicit concerns from the public; and (4) updated information on Recovery Act funds to be spent for R&D from our previous testimony.

Our Reporting to Date under the Recovery Act

In order to meet our mandate to conduct bimonthly reviews and prepare reports on selected states' and localities' use of funds, we have selected 16 states and the District of Columbia to track over the next few years to provide an ongoing longitudinal analysis of the use of funds under the Recovery Act.⁵ These states contain about 65 percent of the U.S. population and are estimated to receive about two-thirds of the intergovernmental grant funds available through the Recovery Act. In addition to reporting on the core group of 16 states, we will review the recipient reports from all 50 states. These recipient reports are to include

⁵We will track the following 16 states: Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas. In addition, we will sample localities within these states to provide a perspective on the use of Recovery Act funds at a local level.

information on funds received, the amount of Recovery funds obligated or expended to projects or activities, the projects or activities for which funds were obligated or expended, and the number of jobs created or preserved as a result of Recovery Act funds. The Recovery Act also included a number of specific mandates on which GAO must take action between April 2009 and February 2014.⁶

Our first bimonthly report, issued two weeks ago, covers the actions of selected states and localities under the Recovery Act as of April 20, 2009. About 90 percent of the \$49 billion in Recovery Act funding being provided to states and localities in fiscal year 2009 will be through health, transportation, and education programs. (See app. I for federal programs that are receiving Recovery Act funding and are administered by states and localities.) Our first report focused particularly on Recovery Act funds for the three largest programs in these categories—Medicaid Federal Medical Assistance Percentage grant awards, highway infrastructure investment, and the Department of Education’s State Fiscal Stabilization Fund. We reported on the status of states’ activities related to these three programs. The report contains separate appendixes on each of the 16 states and the District of Columbia that discuss the plans and uses of funds in these three major programs as well as selected other programs that are receiving Recovery Act funds. The report also makes several recommendations to the Office of Management and Budget (OMB) directed toward improving accountability and transparency requirements; clarifying the Recovery Act funds that can be used to support state efforts to ensure accountability and oversight; and improving communications with Recovery Act funds recipients about when funds become available for their use and when federal guidance is modified or newly released. OMB concurred with the overall objectives of our recommendations and plans to work with us to further accountability for these funds.

In consultation with the Congress in exercising our general statutory authority to evaluate the results of government programs and activities,

⁶See appendix I of [GAO-09-453T](#) for a list of GAO’s mandates under the Recovery Act. In addition to issuing our first bimonthly report, we have completed two other requirements under the act: First, on April 3, 2009, we announced the appointment of 13 members to the Health Information Technology Policy Committee, a new advisory body established by the Recovery Act. Second, on April 16, 2009, we reported on the actions of the Small Business Administration to, among other things, increase liquidity in the secondary markets for Small Business Administration loans (see GAO, *Small Business Administration’s Implementation of Administrative Provisions in the American Recovery and Reinvestment Act of 2009*, [GAO-09-507R](#) (Washington, D.C.: Apr. 16, 2009).

we also will continue to target programs for additional review using a risk-based approach and will incorporate reviews of Recovery Act funding where practicable when we are examining base programs. There are many implementation challenges to ensuring adequate accountability and efficient and effective implementation of the Recovery Act. Experience tells us that the risk for fraud, waste, and abuse grows when billions of dollars are going out quickly, eligibility requirements are being established or changed, new programs are being created, or a mix of these characteristics. This suggests the need for a risk-based approach to target for early attention specific programs and funding structures based on known strengths, vulnerabilities, and weaknesses, such as a track record of improper payments or contracting problems. Of particular concern to this Subcommittee will be the extent to which Recovery Act R&D funding is effectively expended, and we discuss the initial implementation of R&D funding below.

GAO's Coordination with the Accountability Community

Regular and frequent GAO coordination with federal IGs, the Board, and state and local government auditors is a critical component of our work to ensure effective and efficient oversight. With several early coordination meetings, we laid the foundation for this ongoing coordination soon after the act was passed. First, I reached out to the IG community and, with Ms. Phyllis Fong, the Chair of the Council of Inspectors General on Integrity and Efficiency, hosted an internal coordination meeting on February 25, 2009, with Inspectors General or their representatives from 17 agencies. It was a very productive discussion in which we outlined coordination approaches going forward. In addition, soon after the President appointed him as Chair of the Board on February 23, 2009, I talked with Mr. Earl Devaney, former Inspector General at the Department of the Interior, to begin to coordinate such efforts as the audit of the U.S. government's consolidated financial statements whereby GAO relies on the individual efforts of the IG's financial audits of their departments and entities across the government. I am confident that we will coordinate our respective efforts well, both with the IG community and with the Board.

We also reached out to the state and local audit community and participated in initial coordination conference calls. The first call, on February 26, 2009, included state auditors or their representatives from 46 states and the District of Columbia. The next day, we held a similar discussion with auditors from many localities across the country. State and local auditors perform very important oversight functions within their jurisdictions and have unique knowledge about their governments; we are

continuing to coordinate with them closely as we carry out our responsibilities.

It is also important for us to coordinate with OMB, especially in regard to the reporting requirements and other guidance to fund recipients and on what information is to be collected in order to adequately evaluate how well the Recovery Act achieves its objectives. We participate in weekly coordination conference calls with OMB, the Board, IGs, and state and local auditors. The impetus to schedule these calls was a letter OMB Director Peter Orszag and I received from the National Association of State Auditors, Comptrollers, and Treasurers; the National Association of State Budget Officers; the National Association of State Chief Information Officers; and the National Association of State Procurement Officials. This letter expressed their strong interest in coordinating reporting and compliance aspects of the Recovery Act. During these calls, we provide updates on our Recovery Act activities, and OMB provides updates on its actions. One important outcome of these calls thus far has been to call OMB's and the Board's attention to the need to clarify certain reporting requirements. For example, the Recovery Act requires federal agencies to make information publicly available on the numbers of jobs created and retained as a result of Recovery Act funded activities. Our work in the states yielded information that local level officials needed to define how to capture these data, and the state and local auditors were able to corroborate what we had heard. We included a recommendation to OMB in our first bimonthly report on the Recovery Act actions of selected states and localities to clarify this requirement, and OMB generally concurred with this recommendation.

In addition to these regular calls, we are actively participating in discussions with state and local organizations to further foster coordination within the accountability community. These organizations include the National Association of State Auditors, Comptrollers, and Treasurers; the National Association of State Budget Officers; the National Association of State Procurement Officials; the National Association of State Chief Information Officers; the National Governors Association; the National Conference of State Legislatures; and the National League of Cities. For example, in March 2009, we participated—along with a state auditor, local auditor, and inspector general—in a webinar hosted by the National Association of State Auditors, Comptrollers, and Treasurers for its members.

As Acting Comptroller General, I also serve as the Chairman of the National Intergovernmental Audit Forum (NIAF). The NIAF is an

association that has existed for over 3 decades as a means for federal, state, and local audit executives to discuss issues of common interest and share best practices. NIAF's upcoming May meeting will bring together these executives, including OMB, to update them on the Recovery Act and provide another opportunity to discuss emerging issues and challenges. In addition, a number of Intergovernmental Audit Forum meetings have been scheduled at the regional level that seek to do the same, and this regional coordination is directly contributing to our work in the states. For example, GAO's western regional director recently made a presentation at the Pacific Northwest Audit Forum regarding GAO's efforts to coordinate with state and local officials in conducting Recovery Act oversight. In conjunction with that forum and at other related forums, she has regularly participated in meetings, panel discussions, and break-out discussions with the principals of state and local audit entities to coordinate efforts to provide oversight of Recovery Act spending.

The work of our 16 state teams that resulted in our first bimonthly report on the actions of selected states and localities under the Recovery Act also exemplifies the level of coordination we are undertaking with the accountability community. During the conduct of our work, we collected documents from and interviewed State Auditors, Controllers, and Treasurers; state Inspectors General; and other key audit community stakeholders to determine how they planned to conduct oversight of Recovery Act funds. We also coordinated as appropriate with legislative offices in the states concerning state legislatures' involvement with decisions on the use of Recovery Act funds. In addition, we relied on reporting and data collected from the Federal Audit Clearinghouse, which operates on behalf of OMB to assist oversight agencies in obtaining audit information on states, local governments, and non-profit organizations. Illustrative examples follow:

- Our team working in Georgia coordinated closely with that state's State Accounting Office, the State Auditor, and Inspector General among others, to understand their plans for mitigating risks and overseeing Recovery Act funding. For example, the Inspector General developed a database specifically to track Recovery Act complaints and a public service announcement to alert the public of how to report fraud, waste, and abuse.
- Our team working in North Carolina coordinated with the State Auditor regarding that state's plans to ensure that Recovery Act funds are segregated from other federal funds coming through traditional funding streams to help ensure accountability and transparency.

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- Our team working in New Jersey coordinated with the state’s new Recovery Accountability Task Force, which will review how state and local agencies spend Recovery Act funds as well as provide guidance and best practices on project selection and internal controls. As part of the Task Force, the state Comptroller has responsibility for coordinating all of the oversight agencies within the state.
 - Our team working in California is coordinating with the state’s newly appointed Recovery Act Inspector General, who is seeking to make sure that Recovery Act funds are spent as intended and to identify instances of waste, fraud, and abuse. In addition, the team relied on the work of the State Auditor, whose most recent single audit identified numerous material weaknesses associated with programs included in GAO’s review.

GAO’s Authorities to Assist Whistleblowers and Elicit Public Contributions

Provisions in GAO’s authorizing statute, the Whistleblower Protection Act, and the Recovery Act as well as a dedicated fraud reporting hotline facilitate our ability to evaluate allegations of waste, fraud and abuse in the federal government. Under our authorizing statute, we have authority to access information needed for the effective and efficient performance of our reviews and evaluations. Subject to certain limited exceptions, all agencies must provide the Comptroller General access to information he requires about the duties, powers, activities, organization, and financial transactions of that agency,⁷ including for the purpose of evaluating whistleblower complaints.

Moreover, the Recovery Act applies certain federal whistleblower protections to the employees of recipients of Recovery funds. The Whistleblower Protection Act prohibits personnel actions taken against federal employees in reprisal for the disclosure of evidence of a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Similarly, the Recovery Act prohibits reprisals against employees of nonfederal recipients of Recovery funds, but its protections only relate to disclosures regarding the use of Recovery funds. The Recovery Act provides employees of a nonfederal entity receiving a contract, grant, or other payment funded in whole or part by Recovery funds may not be discharged, demoted, or otherwise subject to discrimination as a reprisal for disclosing to the Board, an IG, the Comptroller General, the Congress, a state or federal regulatory or law

⁷31 U.S.C. § 716(a), (d).

enforcement agency, the employee’s supervisor, a court or grand jury, or a federal agency information about mismanagement, waste, danger to public health or safety, or a violation of law regarding the use of Recovery Act funds. People who believe they have been subject to reprisal may submit a complaint to the appropriate inspector general for investigation and seek redress through the courts. Table 1 outlines the coverage of Whistleblower Act and Recovery Act provisions.

Table 1: Coverage of Whistleblower Act and Recovery Act Provisions

Provision	Section 1553 of the Recovery Act	Whistleblower Protection Act (5 U.S.C. § 2302(b)(8))
Coverage	Employees of a non-federal entity (state or local government, contractor, etc.) receiving a contract, grant, or other payment funded in whole or in part by the Act.	Employees of federal executive branch agencies except FBI, CIA, and intelligence agencies.
Protected disclosures	Gross mismanagement of a contract or grant funded by the Act; gross waste of funds provided by the Act; substantial and specific danger to public health or safety related to the use of the Act’s funds; abuse of authority related to the use of the Act’s funds; or a violation of any law, rule, or regulation related to a contract or grant related to the Act’s funds.	Violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety.
Disclosure to	Recovery Act Accountability and Transparency Board; any inspector general; GAO; Congress; state or federal regulatory or law enforcement agency; the employee’s supervisor or another employee authorized to investigate, discover, or terminate misconduct; a court or grand jury; or a federal agency.	Anyone if the disclosure is not prohibited by law or is not of classified information; or the Special Counsel or an inspector general (if disclosure would be otherwise prohibited).
Prohibited actions	Termination, demotion, or discrimination because of the disclosure	The taking, failure to take, or threat to take any personnel action because of the disclosure.
Enforcement mechanism	Investigation by the relevant agency’s inspector general. The agency may then order reinstatement with back pay or other corrective action, as well as fees and expenses. The employee has an independent right to file a civil action if the agency declines to take action.	Investigation by Special Counsel. The employee has an independent right to appeal the action to the Merit Systems Protection Board.

Source: GAO analysis.

Section 902 of the Recovery Act gives us additional authority to examine the relevant records of contractors, subcontractors, or state or local agencies administering contracts that are awarded with Recovery Act funds. We may also interview officers and employees of such contractors or their subcontractors as well as officers or employees of any state or local agency administering such transactions. This additional authority could be applied to examining allegations made by whistleblowers.

As part of our normal operations, we maintain a fraud reporting service. Anyone can report evidence of fraudulent activity to FraudNet through an automated answering system, a dedicated fax line, a dedicated email address, a dedicated mailing address, or an online form accessible from our Web site at www.gao.gov. Information about how to provide evidence of fraud is available on our web site at <http://gao.gov/fraudnet.htm> and on the last page of every GAO report. After the Recovery Act was passed, we coordinated with the IG community to publicize the use of FraudNet as a means to solicit public input and gather information on potential instances of waste, fraud, and abuse in the allocation and spending of Recovery Act funds. We also issued a press release on March 30, 2009, which was cited by the national news media in articles about the Recovery Act. Over the past few months, Fraudnet has received more than 25 allegations related to the misuse of Recovery Act, Troubled Asset Relief Program,⁸ or other related funds. These allegations are currently under review by GAO's Forensic Audits and Special Investigations (FSI) unit, a specialized team with many years of experience conducting fraud investigations. FSI coordinates with the IG community as appropriate to ensure that there is no duplication of investigative efforts across the federal government. Further, in cases where GAO determines that another agency is better positioned to perform an investigation, FSI will refer relevant information to the appropriate agency. Although it is too soon to discuss details of the allegations we have received or the status of ongoing investigations, we will continue to work with our partners in the IG community, with the appropriate law enforcement agencies, and with the Congress, to ensure that all allegations are reviewed and investigated.

Updated Information on the Recovery Act's R&D Funding

On March 19, 2009, we testified before this Subcommittee on our role in helping to ensure accountability and transparency for Recovery Act science R&D funding. Our statement identified over \$21 billion in related funding appropriated to DOE; the National Institute of Standards and Technology (NIST) and the National Oceanographic and Atmospheric Administration (NOAA) within the Department of Commerce; NSF; and NASA. As initial implementation of the Recovery Act unfolds, we are tracking these agencies' activities to plan for science R&D expenditures. Table 2 provides information on the status of these agencies R&D-related

⁸Pub. L. No. 110-343 (Oct. 3, 2008), the Emergency Economic Stabilization Act of 2008, seeks to stabilize the nation's financial markets by, among other things, authorizing the Troubled Asset Relief Program.

Recovery Act funds, as of April 28, 2009. To collect this information, we worked with agencies' officials and coordinated with agencies' IGs. As implementation of the act progresses, further evaluations will continue to be coordinated with agencies' IGs to prevent duplication and minimize any overlap in our work.

Table 2: Status of Recovery Act R&D-Related Funding, as of April 28, 2009

Dollars in millions

Agency	Recovery Act appropriation	OMB apportionment	CFO allotment	Program obligations	Program expenditures
DOE					
Energy Efficiency and Renewable Energy ^a	\$4,900	\$4,900	\$2,400	\$0 ^b	\$0
Fossil Energy	\$3,400	\$0	\$0	\$0	\$0
Science	\$1,600	\$1,600	\$738	\$342	\$0
Advanced Research Projects Agency – Energy	\$400	\$400 ^c	\$2	\$0	\$0
Innovative Technology Loan Guarantee Program	\$6,000	\$35	\$35	\$0	\$0
Department of Commerce					
NIST	\$610 ^d	\$580	\$0	\$0	\$0
NOAA	\$830	\$830	\$0	\$0	\$0
NSF	\$3,000	\$3,000	\$0	\$0	\$0
NASA	\$1,000	\$50	\$0	\$0	\$0
Total	\$21,740	\$11,395	\$3,175	\$342	\$0

Sources: Conference Report for the American Recovery and Reinvestment Act of 2009, House Report 111-16 (Washington, D.C.: Feb. 12, 2009) and GAO analysis of data and information provided by DOE, NIST, NOAA, NSF, and NASA.

Note: Once Congress appropriates funds for an agency, OMB apportions these funds to the federal agencies. After an apportionment is received, federal agencies' Chief Financial Officers (CFO) allot them to the agency's programs on the basis of approved plans. After receiving their allotments, programs then obligate funds for approved activities performed by agency employees, contractors, or grantees. Funds can be expended for these activities.

^aThe data reported for DOE's Office of Energy Efficiency and Renewable Energy represents the R&D-related portions of the overall Congressional appropriation, OMB apportionment, and CFO allotment.

^bAccording to DOE CFO officials, DOE's Office of Energy Efficiency and Renewable Energy has obligated approximately \$341,000 in Recovery Act funds for program direction. These funds do not appear in the table above, due to rounding.

^cAccording to DOE officials, while OMB has fully apportioned ARPA-E's \$400 million appropriation, \$198 million of the apportionment is restricted until the fourth quarter of fiscal year 2009 or until after OMB approves additional documents. Until then, \$198 million of the apportionment is not available for allotment.

^dNIST received \$580 million in direct appropriations through the Recovery Act. The act directed that NIST receive an additional \$30 million in transfers from DOE and the Department of Health and Human Services.

As table 2 shows, the status of agencies' R&D-related funding varies. Officials from each agency told us about the controls in place to ensure that their program plans are approved before funds are either apportioned by OMB or allotted by their agencies' CFOs. For example, officials from each agency told us they are following OMB's April 3, 2009, guidance for implementing the Recovery Act. OMB's guidance requires that agencies' submit program plans justifying Recovery Act expenditures that include a program's objectives, funding, activities, types of financial awards to be used, schedule, environmental review compliance, performance measures, description of plans to ensure accountability and transparency, and a plan for monitoring and evaluation. In addition, this guidance requires that agencies submit the program plans to OMB for approval by May 1, 2009, and states that OMB will approve these program plans by May 15, 2009. Officials from NIST, NOAA, and NSF told us that their agencies' CFOs will not allot funds for obligation until the House Appropriations Subcommittee on Commerce, Justice, and Science has reviewed their program plans. DOE CFO officials told us that the CFO will allot apportioned funds after an internal DOE approval process, even if OMB has not yet approved program plans; however, officials said DOE programs cannot obligate funds until OMB program plan approval is complete. As of April 28, 2009, only DOE's Office of Science had obligated any funds for R&D project expenditures. These obligations, totaling \$342 million will support various construction, facilities disposition, and general plant projects at national laboratories, as well as procurement and installation of experimental equipment and instrumentation. (See app. II for additional details on each agency's planned uses of funds.)

Related to the efforts of the four federal agencies to obligate the R&D funds, our April 29, 2009, report discussed our initial observations on improving grant submission policies that could help minimize disruptions to the grants application process during the Recovery Act's peak filing period.⁹ Our report was requested in response to two OMB memoranda to federal agencies stating that the existing Grants.gov infrastructure would not be able to handle the influx of applications expected as key Recovery Act deadlines approached. We found that at least 10 agencies will accept some or all applications outside of Grants.gov during the Recovery Act's peak filing period. For example, NSF and NASA are only accepting applications through their own existing electronic systems for some

⁹See GAO, *Recovery Act: Consistent Policies Needed to Ensure Equal Consideration of Grant Applications*, [GAO-09-590R](#) (Washington, D.C.: April 29, 2009).

grants. We recommended that the Director of OMB take actions to increase the likelihood that applicants can successfully apply for grants during the Recovery Act's peak application filing period. Specifically, we recommended that OMB (1) ensure that an announcement discussing agency alternate submission methods similar to that recently posted on Grants.gov is posted in a prominent location on Recovery.gov and on all federal Web sites or in all documents where instructions for applying to Recovery Act grants are presented and (2) prominently post certain government policies for all grant applications submitted during the peak filing period for Recovery Act grants, notifying applicants that, among other things, if an application was deemed late they are notified of such an outcome and are provided an opportunity to provide supporting documentation demonstrating they attempted to submit the application on time. OMB generally concurred with these recommendations.

In addition to direct expenditures, the Recovery Act also includes tax provisions that benefit individuals and businesses. The Internal Revenue Service (IRS) recently published a fact sheet on 12 different tax credits available under the Recovery Act for various energy efficiency measures taken by homeowners and businesses as well as for qualified renewable energy producers. Some of these credits are new, and others are modifications of existing tax credits previously included in the tax code. As I testified in March 2009, one particular area that needs additional early attention is identifying the data to be collected concerning the use and results of the Recovery Act's various tax provisions. Accountability and transparency are perhaps easier to envision for the outlay portions of the stimulus package because the billions of dollars in tax provisions in the Recovery Act are considerably different than outlay programs in their implementation, privacy protections, and oversight. Most tax benefits are entirely administered by the Internal Revenue Service (IRS), and all taxpayer information, including the identity of those using the benefits, is protected by law from disclosure. Further, unlike most outlay programs, IRS does not know who makes use of the tax benefit until after the fact, if then. While IRS previously collected information that may have been sufficient to evaluate the benefits of energy tax credits, IRS has not yet announced what information it will collect for the credits as revised or added by the Recovery Act.

In closing, I want to underscore that we welcome the responsibility that the Congress has placed on us to assist in the oversight, accountability, and transparency of the Recovery Act. We will continue to coordinate closely with the rest of the accountability community and honor our ongoing commitment to promptly address information provided by whistleblowers. We are committed to completing our Recovery Act work on the timetable envisioned by the act and will keep the Congress fully informed as our plans evolve.

Mr. Chairman, Representative Broun, and Members of the Subcommittee this concludes my statement. I would be pleased to respond to any questions you may have.

Contact and Staff Acknowledgments

Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this testimony. For further information about this testimony, please contact Patricia Dalton, Managing Director, Natural Resources and Environment (202) 512-3841 or daltonp@gao.gov. Key contributors to this testimony were Richard Cheston (Assistant Director), Divya Bali, Allison Bawden, Karen Keegan, Michelle Munn, and Barbara Timmerman.

Appendix I: Selected Federal Programs Receiving Recovery Act Funding and Administered by States and Localities

Dollars in millions

Program	Fiscal years 2009-2019 total budgetary authority	Fiscal year 2009 outlays
Medicaid	\$80,065	\$30,720
State Fiscal Stabilization Fund	53,600	6,540
Highways	27,500	2,750
Special Education (Individuals with Disabilities Education Act)	12,200	732
Child Care and Development Block Grant (CCDBG)	2,000	660
Federal Transit Administration-Public Transit Investment Grants	6,900	621
Employment and Training	4,320	613
Elementary and Secondary Education Act Title I	13,000	494
Child Support Enforcement	1,000	489
Temporary Assistance for Needy Families (TANF)	5,000	441
Byrne/Justice Assistance Grant Program/other State and Local	2,765	415
Census Bureau	1,000	400
Foster Care/Adoption Assistance (Title IV-E)	843	313
Health Centers: operations	500	265
Health Centers: capital	1,500	255
Community Services Block Grant	1,000	232
Unemployment Insurance Modernization Incentive Payments	7,000	191
Head Start & Early Head Start	2,100	172
High-speed & Intercity Rail	8,000	160
Health and Wellness	650	140
Federal Transit Administration: Fixed Guideway/New Starts	1,500	136
Weatherization Assistance Program	5,000	132
Clean Water State Revolving Fund	4,000	120
Neighborhood Stabilization	2,000	120
State Employment Services	400	120
Women, Infants and Children (WIC)	500	114
Vocational Rehabilitation Services	680	111
Commodity Assistance Program	150	105
Community Oriented Policing Services	1,000	100
Federal Emergency Management Agency: Emergency Food and Shelter	100	100
Rural Housing Insurance Fund Program	200	92
Energy Efficiency & Conservation Block Grants	3,200	85
Broadband Technology Opportunities	4,700	84
State Energy Program	3,100	82

Dollars in millions

Program	Fiscal years 2009-2019 total budgetary authority	Fiscal year 2009 outlays
Public Housing Capital Fund	\$4,000	\$80
Centers for Disease Control and Prevention: Immunization	300	65
Distance Learning Telemedicine/Broadband	2,500	63
Drinking Water State Revolving Fund	2,000	60
Rural Water and Waste Disposal Program	1,380	55
Federal Aviation Administration: Discretionary Airport Grants	1,100	55
Violence Against Women	225	50
Child Nutrition: School Lunch Equipment	100	50
Section 202, 8 project based assistance and energy retrofit	2,250	45
Watershed & Flood Prevention Operations	290	44
Diesel Emission Grants	300	39
Leaking Underground Storage Tanks	200	26
Home Investment Partnerships Program	2,250	23
Aging Services-Senior Meals	100	20
Homelessness Prevention Fund	1,500	15
Educational Technology/Homeless Children	720	14
Unemployment Insurance State Administration Grants	500	14
Community Development Block Grant Program	1,000	10
Innovation & improvement	200	10
Impact Aid	100	10
Watershed Rehabilitation Program	50	10
Rural Business Program	150	9
Federal Emergency Management Agency: Firefighters	210	8
Economic Development Administration	150	8
Rural Community Facilities Program	130	8
Federal Emergency Management Agency: State and Local Programs	300	6
Higher Education Teacher Quality	100	5
National Endowment for the Arts	50	5
Brownfields Projects	100	4
Historic Preservation Fund	15	2
Lead Hazard Reduction	100	1
Surface Transportation Supplemental Grants	1,500	-
Temporary Assistance for Needy Families: Supplemental Grants	319	-
Veterans Affairs: State Extended Care Facilities	150	-
Total	\$281,812	\$48,918

Source: GAO analysis.

Appendix II: Updated Recovery Act Funding for R&D-Related Activities

To update information on Recovery Act funding for R&D-related activities, we met with and interviewed Department of Energy (DOE), National Institute of Standards and Technology (NIST), National Oceanographic and Atmospheric Administration (NOAA), National Science Foundation (NSF), and National Aeronautics and Space Administration (NASA) officials, and analyzed documentation they provided. We also reviewed publicly available information provided by the Office of Management and Budget (OMB), through the recovery.gov Web site, and agencies' own recovery Web sites. Finally, we coordinated with each agency's Inspector General (IG) to discuss the data we collected. We conducted this work in accordance with generally accepted government auditing standards.

Department of Energy

DOE's program offices vary in the extent to which they have funds available to obligate for expenditure. A little more than 40 percent of DOE's R&D-related Recovery Act funding has been apportioned by OMB, and only DOE's Office of Science has obligated R&D project funds. OMB has not apportioned any funds to DOE's Office of Fossil Energy and has only apportioned minimal funds to its Loan Guarantee Program.

Energy Efficiency and Renewable Energy (EERE). The Recovery Act appropriated \$2.5 billion to EERE for R&D activities related to alternative and renewable energy sources, such as biomass and geothermal. An additional \$2.4 billion was appropriated for advanced transportation research focused on next-generation plug-in hybrid electric vehicles, their advanced battery components, and transportation electrification. OMB has apportioned all of EERE's appropriation, and DOE's Office of the Chief Financial Officer (CFO) has generally allotted the funds to support the R&D activities associated with vehicle technologies and electrification. EERE has issued a solicitation for grants, which closes May 13, 2009, to establish development, demonstration, evaluation, and education projects to accelerate the market introduction and penetration of advanced electric drive vehicles. In addition, EERE has issued a solicitation for grant proposals supporting the construction of U.S.-based manufacturing plants to produce batteries and electric drive components, which closes May 19, 2009.¹

¹We are currently examining the potential benefits and challenges associated with plug-in hybrid electric and other plug-in vehicles; the status of development, factors that could delay availability or encourage development of these vehicles; and challenges to incorporating plug-in hybrid electric vehicles and other plug-ins into the federal fleet.

Fossil Energy (FE). The Recovery Act appropriated \$3.4 billion to FE for R&D-related activities, including funds to support a third round of competition under the Clean Coal Power Initiative; fossil energy R&D programs, such as fuel and power systems research or FutureGen;² and competitive grants for carbon capture and energy efficiency improvement projects. As of April 28, 2009, OMB had not apportioned any of these funds to DOE, and thus no funds have been allotted, obligated, or expended. According to an FE official, OMB is unlikely to apportion funds to FE until after May 15, 2009, when its program plans are expected to be approved.

Science. The Recovery Act included a \$1.6 billion appropriation for DOE's Office of Science (Science). Nearly all \$1.6 billion appropriated has been apportioned by OMB to DOE without restriction, and the Secretary of Energy has announced priorities for \$1.2 billion of these funds, including:

- \$248 million for major construction, modernization, infrastructure improvements, and needed decommissioning of facilities at national laboratories;
- \$330 million for operations and equipment procurement and installation at major scientific user facilities;
- \$277 million for competitive research collaborations on transformational basic science needed to develop alternative energy sources;
- \$90 million for core scientific research grants to be awarded to graduate students, postdocs, and Ph.D. scientists across the nation for applications of nuclear science and technology, and for alternative isotope production techniques; and
- \$215 million to accelerate construction of two experimental facilities.

Science has obligated \$342 million to support various approved construction, infrastructure improvement, and facility decommissioning projects at national laboratories, as well as procurement and installation of experimental equipment and instrumentation. Table 3 describes

²See GAO, *Clean Coal: DOE's Decision to Restructure FutureGen Should Be Based on a Comprehensive Analysis of Costs, Benefits, and Risks*, [GAO-09-248](#) (Washington, D.C.: Feb. 13, 2009).

Science's Recovery Act projects at its national laboratories, including those for which funding has already been obligated.

Table 3: Science's Recovery Act Projects at Its National Laboratories

Dollars in millions

National laboratory	Description of use of funds	Recovery Act funds
Ames Laboratory (Ames, Iowa)	Funds will support general plant projects that improve energy efficiency.	\$1.7
Argonne National Laboratory (Argonne, Illinois)	Funds will support upgrades and replacements of major electrical switches and equipment as a first step toward rehabilitation of the laboratory's central campus.	13.1
Brookhaven National Laboratory (Upton, New York)	Funds will primarily support accelerated construction of the National Synchrotron Light Source II, a \$912 million project that, when built, will be the brightest x-ray source in the world. Remaining funds will go toward construction of an interdisciplinary science building, other infrastructure improvements in several facilities, and upgrades to experimental equipment.	184.3
Fermi National Accelerator Laboratory (Batavia, Illinois)	Funds will support construction and improvement projects, as well as the purchase of key high-tech components for experiments.	34.9
Thomas Jefferson National Accelerator Facility (Newport News, Virginia)	Funds will primarily support a project to upgrade the Continuous Electron Beam Accelerator Facility. Additional funds will go toward improving laboratory facilities.	75.0
Lawrence Berkeley National Laboratory (Berkeley, California)	Almost half of the funds will support a prototype data networking system. Remaining funds will go to support infrastructure improvements, accelerated construction of a laboratory facility, and the demolition of facility decommissioned over a decade ago.	115.8
Oak Ridge National Laboratory (Oak Ridge, Tennessee)	Most of the funds will be used to accelerate construction of a new chemical and material sciences research building designed to replace an aging facility built in 1952. Remaining funds will support infrastructure improvements and experimental facility upgrades.	71.2
Pacific Northwest National Laboratory (Richland, Washington)	Nearly all of the funds will support accelerated investment in the Environmental Molecular Sciences Laboratory, a national user facility, and capital upgrades to the Atmospheric Radiation Measurement Climate Research Facility, another national user facility. Remaining funds will support energy equipment upgrades and improvements in three other facilities.	124.0
Stanford Linear Accelerator (Menlo Park, California)	About half of the funds will support accelerated purchase and assembly of instrumentation for the Linac Coherent Light Source, the world's most intense x-ray laser. Remaining funds will support seismic upgrades to facilities, including the Stanford Synchrotron Radiation Light Source, and work on other experimental facilities.	68.3
Total		\$688.3

Source: DOE and its national laboratories.

Advanced Research Projects Agency–Energy (ARPA-E). The Congress authorized the establishment of ARPA-E within DOE in August 2007.³ ARPA-E supports transformational energy technology research projects with the goal of enhancing the nation’s economic and energy security. ARPA-E received its first appropriation of \$400 million in the Recovery Act, which was soon followed by an additional \$15 million in the Omnibus Appropriations Act, 2009.⁴ According to a DOE official, the Secretary of Energy signed a memorandum formally creating the new office on April 22, 2009, and designated an Acting Deputy Director until a presidential appointee is confirmed by the Senate. As of April 28, 2009, DOE’s CFO had allotted \$2 million in program direction funds to ARPA-E to hire employees, set up office space, and support requirements necessary to implement the provisions of the Recovery Act. In addition, ARPA-E issued its first competitive solicitation on April 27, 2009, to fund up to \$150 million of high-risk, high-potential projects focused on innovative energy technologies. Project proposals are due June 2, 2009, and awards are generally expected to range from \$2 million to \$5 million. According to a DOE official, ARPA-E anticipates issuing more targeted solicitations associated with the remaining Recovery Act funds; however, the official said these solicitations are not likely to be issued until a Senate confirmed appointee is in place to lead the organization.

Loan Guarantee Program (LGP). The Recovery Act included appropriations totaling \$6 billion to LGP, which could support \$60 billion in new loan guarantees, depending on the credit subsidy rate. LGP officials told us the program plans that they submitted to OMB on May 1, 2009, support new loan guarantees for renewable energy systems, electric power transmission systems, and leading-edge biofuel projects performing at the pilot or demonstration stage and that the Secretary of Energy determines are likely to become commercial technologies.⁵ In addition, the Secretary of Energy has announced a number of restructuring initiatives for the program, which, as we reported in July 2008, faces a number of

³Pub. L. No 110-69 (Aug. 9, 2007).

⁴Pub. L. No. 111-8 (March 11, 2009).

⁵The Recovery Act appropriated \$6 billion for the credit subsidy costs of approved projects—i.e., the estimated net present value of long-term costs to the government from defaults, delinquencies and interest subsidies for those projects. The original loan guarantee program did not receive an appropriation for such costs, which must therefore be paid by fees charged to borrowers.

challenges.⁶ Officials have indicated that 6 of the 11 applicants who responded to DOE's August 2006 solicitation for various types of innovative technology loan guarantees could be eligible for loan guarantees under Recovery Act terms.⁷ We are currently examining the status of LGP's efforts to solicit and review loan guarantee applications, including its efforts to use Recovery Act funds, and its progress in implementing the recommendations in our July 2008 report.

Department of Commerce

As of April 28, 2009, OMB had apportioned all \$1.41 billion directly appropriated to NIST and NOAA for Recovery Act R&D-related activities. According to agency officials, funds have not yet been made available for obligation pending OMB and Congressional approval of program plans.

NIST. NIST plans to spend the \$580 million it was directly appropriated to support, competitive research grants, fellowships, and procurement of advanced research and measurement equipment and supplies. These funds are also planned to support a construction grant program for research science buildings, construction of new NIST facilities, and the reduction of the backlog of deferred maintenance for existing NIST facilities. In addition, NIST will receive \$10 million appropriated to DOE under the Recovery Act for work on the electricity grid and \$20 million appropriated to the Department of Health and Human Services to create and test standards related to health security. According to one official, NIST is working with OMB to prepare solicitations and other grant-related documents, so the agency can quickly issue Recovery Act grant solicitations once its program plans are approved.

NOAA. The Recovery Act appropriated \$830 million to NOAA for construction and procurement related to R&D-related activities, including support for research operations and facilities; construction and repair of facilities, ships and equipment; and research to address gaps in climate modeling and to establish climate data records for research into the cause, effects, and ways to mitigate climate change. NOAA has issued a

⁶See GAO, *Department of Energy: New Loan Guarantee Program Should Complete Activities Necessary for Effective and Accountable Program Management*, [GAO-08-750](#) (Washington, D.C.: July 7, 2008).

⁷The August 2006 solicitation invited applications for loan guarantees under DOE's Innovative Technologies loan guarantee program. The Recovery Act added a new program that provides loan guarantees for a different set of project categories, some of which overlap with those eligible for loan guarantees under the original program.

competitive solicitation for up to \$170 million in grants for shovel-ready projects to restore marine and coastal habitats. Applications were due on April 6, 2009. A NOAA official told us that NOAA is working with OMB to draft solicitations and other contract-related documents so the agency can quickly issue Recovery Act contract solicitations once its program plans are approved.

NSF

The Recovery Act appropriated \$3 billion to NSF for R&D-related activities, including competitive research grants; major research instrumentation and equipment procurement and facilities construction; academic research facilities modernization; and education and human resources. NSF officials believe their Recovery Act funds can be obligated quickly once program plans are approved because, for example, \$2 billion of the \$3 billion will fund proposals that NSF's independent expert review panels have already deemed of merit but that NSF was not previously able to fund. Specifically, NSF officials have stated that these grants will be awarded by September 30, 2009, and NSF expects its Recovery Act funds will allow the agency to support an additional 50,000 investigators, post-doctoral fellows, graduate and undergraduate students, and teachers throughout the nation.

NASA

The Recovery Act appropriated \$1 billion to NASA for expenditures on space exploration; earth science and climate research missions; adding supercomputing capacity; aeronautics activities, including aviation safety research, environmental impact mitigation, and activities supporting the Next Generation Air Transportation System; and restoration of facilities at the Johnson Space Center in Houston, Texas, damaged during Hurricane Ike in 2008. \$50 million to support restoration work at the Johnson Space Center has been apportioned by OMB, and NASA has begun to issue requests for proposals for this restoration work. According to a NASA official, OMB has agreed with NASA on the funding priorities for the remaining \$950 million appropriated, and funds will be apportioned once OMB approves NASA's program plans.

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