



United States Government Accountability Office  
Washington, DC 20548

July 23, 2012

The Honorable Geoff Davis  
Chairman  
Subcommittee on Human Resources  
Committee on Ways and Means  
House of Representatives

Dear Mr. Chairman:

Subject: *Temporary Assistance for Needy Families: More States Counting Third Party Maintenance of Effort Spending*

Each year, the Temporary Assistance for Needy Families (TANF) block grant provides \$16.5 billion in federal funds to states to assist low-income families. While the block grant provides states with a fixed amount of federal dollars annually, it also includes a requirement that states maintain a significant portion of their own historic financial commitment, called maintenance-of-effort, to welfare-related programs. In fiscal year 2011, states spent a total of \$33 billion for TANF-related benefits and services—\$18 billion in federal TANF funds and \$15 billion in state MOE. This total includes any expenditures made by third parties, such as nonprofit organizations, that states counted toward their MOE requirement. Some concerns have been raised that counting third party nongovernmental expenditures towards a state's MOE may not be in keeping with the intent of MOE requirements directed toward state and local governments. Concerns have also been expressed that this option may reduce the overall level of services available to low-income families in a state if, for example, that state counts services already provided by third parties while reducing its own spending.

Consequently this report discusses the (1) extent to which states count third party nongovernmental expenditures toward their states' MOE requirements, (2) types of third party nongovernmental benefits and services provided, and (3) the reasons states cited for counting third party nongovernmental MOE. To obtain this information, we developed a questionnaire and pre-tested it with three state TANF directors.<sup>1</sup> We then distributed it by e-mail to TANF directors for all 50 states and the District of Columbia<sup>2</sup> and received a 100 percent response rate. Where necessary, we followed up with states to clarify their responses. We also reviewed relevant federal laws and regulations, and spoke with officials from and reviewed relevant

<sup>1</sup> In this questionnaire and report, third party nongovernmental MOE expenditures counted toward TANF MOE spending refers to (1) the value of in-kind contributions for allowable costs from nongovernmental third parties (including nonprofit organizations, corporations, or other private parties), or (2) cash donations by nongovernmental third-parties used by the state for a TANF allowable purpose.

<sup>2</sup> For the purposes of this report, we include the District of Columbia as a state.

documents from the Department of Health and Human Services (HHS) that oversees states' use of TANF block grant funds.

We conducted this performance audit from June 2012 through July 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Results in Brief

The number of states that reported counting third party nongovernmental expenditures toward their state MOE spending increased over the past 5 years—from 3 states in fiscal year 2007 to 13 states in fiscal year 2011. The largest number of states reported its use in fiscal years 2009 and 2010, the years during which states accessed TANF Emergency Contingency Funds provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act).<sup>3</sup> Third party nongovernmental MOE spending as a percentage of total MOE expenditures varied greatly among the 13 states that reported using it in fiscal year 2011 and ranged from less than one percent in several states to nearly half of one state's overall MOE spending. Food assistance was the most commonly cited service provided by third party nongovernmental organizations that states counted towards MOE requirements. Other services included medical or dental services, employment assistance, and family stabilization services. States often reported that the option to count third party nongovernmental expenditures was an important tool to help them meet TANF MOE spending requirements as well as the TANF work participation requirements. A total of 17 states, most of those that used the option in fiscal year 2011 as well as 5 additional states, reported that they definitely or probably will count third party MOE spending in the near future.

## Background

The TANF block grant was created by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)<sup>4</sup> and was designed to give states the flexibility to provide both traditional welfare cash assistance benefits as well as a variety of other benefits and services to meet the needs of low-income families and children. TANF has four broad goals: (1) provide assistance to needy families so that children may be cared for in their own homes or homes of relatives; (2) end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce out-of-wedlock pregnancies; and (4) encourage the formation and maintenance of two-parent families. Within these goals, states have responsibility for designing, implementing, and administering their welfare programs to comply with federal guidelines, as defined by federal law and HHS.

In creating TANF, Congress significantly changed the federal government's role in financing welfare programs in states. PRWORA ended low-income families' entitlement to cash assistance by replacing the Aid to Families with Dependent Children (AFDC) program with the TANF block grant for a fixed grant amount each year. Each state's TANF block grant amount was generally based on the amount of the state's spending under AFDC. With the fixed federal funding stream, states assume greater fiscal risks in the event of an economic recession or

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<sup>3</sup>See Pub. L. No. 111-5, § 2101(a)(1), 123 Stat. 115, 446. Generally, in order to access these Recovery Act funds, states were required to have increased caseloads or increased certain types of expenditures compared with an earlier base year.

<sup>4</sup> Pub. L. No. 104-193, § 103(a)(1), 110 Stat. 2105, 2112.

increased program costs. In acknowledgment of these risks, PRWORA also created a TANF Contingency Fund that states could access in times of economic distress.<sup>5</sup> Similarly, during the recent recession, the federal government created a \$5 billion Emergency Contingency Fund for state TANF programs through the Recovery Act, available in fiscal years 2009 and 2010.<sup>6</sup>

PRWORA coupled the block grant with an MOE provision, which requires states to maintain a significant portion of their own historic financial commitment to their welfare programs as a condition of receiving their full federal TANF allotments.<sup>7</sup> For example, these provisions generally require that each state spend at least 80 percent (75 percent if the state meets certain performance standards) of the amount it spent on welfare and related programs in fiscal year 1994, before TANF was created.<sup>8</sup> In addition to its own spending, a state may count toward its MOE certain in-kind or cash expenditures by third parties—such as nongovernmental organizations—as long as the expenditures meet other MOE requirements, including those related to eligible families and allowable activities.<sup>9</sup> In addition, an agreement must exist between the state and the third party allowing the state to count the expenditures toward its MOE.<sup>10</sup> HHS described this option in a 2004 TANF policy announcement for states.<sup>11</sup>

In the early years of TANF, HHS noted in its preamble to the final rule for TANF issued in 1999 that the MOE cost-sharing arrangement reflected Congress' recognition that state financial participation is essential for the success of welfare reform.<sup>12</sup> It also noted that Congress wanted states to be active partners in the welfare reform process.<sup>13</sup> These requirements are an important element of TANF—if a state fails to meet its MOE requirement for any fiscal year, HHS is required by law to reduce dollar-for-dollar the amount of a state's basic TANF grant for the following fiscal year.<sup>14</sup>

States' overall MOE spending has increased in recent years for several reasons. Many states (20) accessed TANF Contingency Funds between fiscal years 2007 and 2010 and to do so these states had to meet a higher MOE spending requirement. In addition, almost all states accessed the Emergency Contingency Fund in fiscal years 2009 and 2010, which required them to have had increases in caseload for basic assistance, or increases in expenditures for short-term, nonrecurrent benefits or subsidized employment, above an earlier base year. Moreover, many states claimed additional MOE to help them meet work participation rate requirements. Specifically, in recent years, policymakers have focused attention on states' use of MOE spending above required levels to help them meet TANF work participation rates. Generally, states are held accountable for ensuring that at least 50 percent of all families with a work-eligible individual receiving TANF assistance participate in work activities for a specified number

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<sup>5</sup> Pub. L. No. 104-193, § 103(a)(1), 110 Stat. 2105, 2122.

<sup>6</sup> Pub. L. No. 111-5, § 2101(a)(1), 123 Stat. 115, 446.

<sup>7</sup> See 42 U.S.C. § 609(a)(7).

<sup>8</sup> *Id.* The TANF block grant is not adjusted for inflation and these requirements are expressed in nominal dollars.

<sup>9</sup> 45 C.F.R. § 263.2(e).

<sup>10</sup> *Id.*

<sup>11</sup> Department of Health and Human Services, Administration for Children and Families, *Temporary Assistance for Needy Families Policy Announcement No. TANF-ACF-PA-2004-01*, (Washington, D.C.: December 1, 2004).

<sup>12</sup> Temporary Assistance for Needy Families Program (TANF). 64 Fed. Reg. 17,720, 17,821.

<sup>13</sup> *Id.* At 17,816.

<sup>14</sup> See 42 U.S.C. § 609(a)(7).

of average hours per week over the month.<sup>15</sup> Various policy options, however, assist states in meeting these rates. Since TANF was created, the factor that states have commonly relied on to help them meet their required work participation rates is the caseload reduction credit, which essentially lowers the states' required work participation rate from 50 percent.<sup>16</sup> In addition, under federal regulations, if states spend in excess of their required MOE amount, they are allowed to increase their caseload reduction credits and thereby lower the work participation rates they must meet.<sup>17</sup> Our previous work<sup>18</sup> found that in fiscal year 2009, the most recent year for which data are available, 32 of the 45 states that met their required work participation rates for all TANF families claimed excess state MOE spending toward their caseload reduction credits.<sup>19</sup>

### **More States Have Counted Third Party Nongovernmental Expenditures Toward MOE Spending in Recent Years**

In fiscal year 2007, 3 states reported counting third party nongovernmental expenditures toward their state MOE spending while 13 states reported its use in fiscal year 2011 (see figure 1). In addition, during these 5 years, about half of all the states reported counting third party nongovernmental expenditures toward MOE in at least one year. The largest number of states reported its use in fiscal years 2009 and 2010, when states could access TANF Emergency Contingency Funds provided by the Recovery Act. Ten states reported counting third party nongovernmental expenditures toward MOE to access TANF Emergency Contingency Funds in fiscal year 2009, and 17 states reported doing so in fiscal year 2010.

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<sup>15</sup> To be counted as engaging in work for a month, most TANF families are required to participate in federally-defined work activities for an average of 30 hours per week in that month. 42 U.S.C. § 607(c). However, federal law sets different weekly work hour requirements for teen parents attending school, single parents of children under age 6, and two-parent families. Further, certain families are not included in the calculation of state work participation rates, such as child-only families (in which the adult caretaker is not included in the benefit calculation) and, at state option, single parents of children under age 1. See 42 U.S.C. § 607(b)(5) and 45 C.F.R. § 261.2(n). In fiscal year 2009, about 130,000 families were excluded from the calculation of the all families work participation rate.

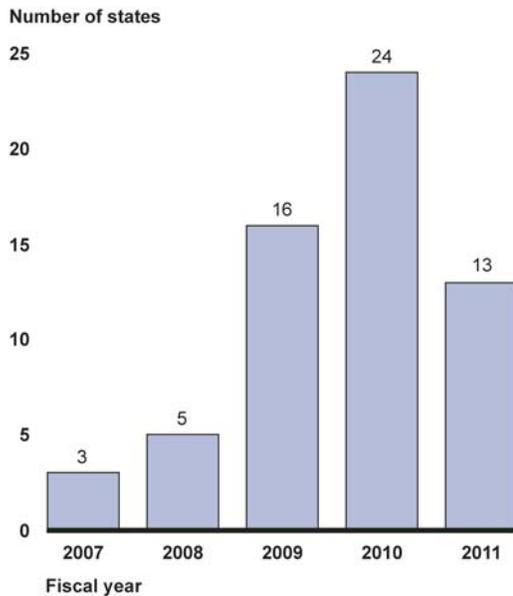
<sup>16</sup> 42 U.S.C. § 607(b)(3). However, under federal TANF law, the credit calculation excludes caseload reductions resulting from changes in states' eligibility criteria.

<sup>17</sup> 45 C.F.R. § 261.43. When calculating the caseload reduction credit, federal regulations allow a state that spent in excess of its required amount in the year preceding the current one to include only the pro rata share—in its overall caseload number—of the total number of families receiving state-funded assistance required to meet the state's basic requirement. This means that in the calculation of a state's caseload reduction credit, its total caseload number is reduced by a number equal to an estimate of the number of assistance cases the excess MOE spending would have supported.

<sup>18</sup> GAO, *Temporary Assistance for Needy Families: State Maintenance of Effort Requirements and Trends*, [GAO-12-713T](#) (Washington, D.C.: May 17, 2012).

<sup>19</sup> We did not determine whether these increases reflect new state spending or spending that had been occurring before but was not reported as state MOE spending at that time.

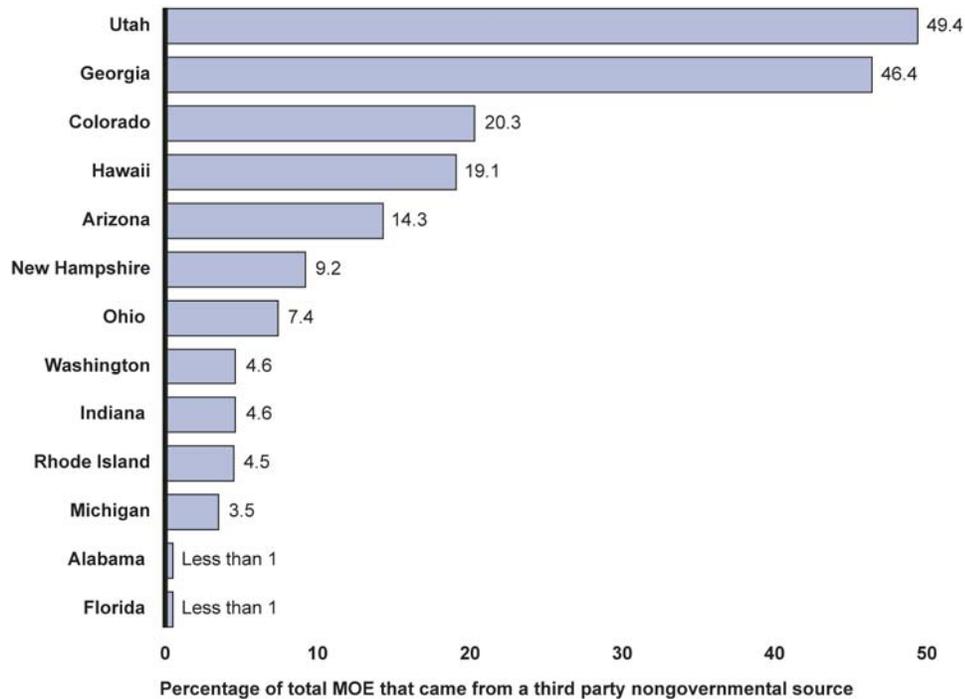
**Figure 1: Number of States Reporting Counting TANF Third Party Nongovernmental Expenditures Toward MOE Spending in Fiscal Years 2007 through 2011**



Source: GAO analysis of survey results from 50 states and the District of Columbia.

Third party nongovernmental MOE expenditures as a percentage of total MOE expenditures varied greatly among the 13 states that reported counting it in fiscal year 2011. Two of these states reported that third party nongovernmental expenditures accounted for nearly half of their overall MOE spending. Four states reported that third party nongovernmental MOE spending accounted for roughly 10 to 20 percent of their overall MOE expenditures, and for the remaining seven states, the percentage was about seven percent or less of their overall MOE spending in fiscal year 2011(see figure 2). The 13 states all reported counting third party nongovernmental expenditures toward their total MOE spending for at least 2 years from 2007 through 2011, and for 5 years in two states.

**Figure 2: Third Party Nongovernmental Expenditures as a Percentage of Total MOE Spending for Each State That Reported Counting Such Expenditures in Fiscal Year 2011**



Source: GAO analysis of survey results from 50 states and the District of Columbia.

### States Most Often Reported Food Assistance as Third Party-Provided Service

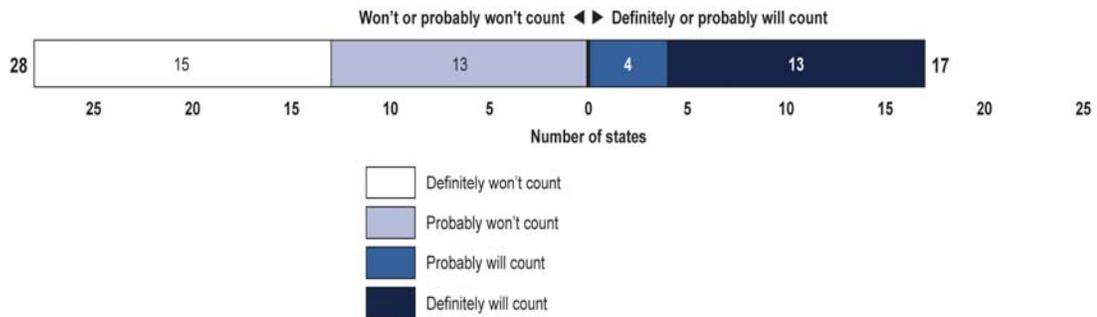
According to our survey of the states, food assistance was the most commonly cited service provided by third party nongovernmental organizations that states counted towards their MOE expenditures. Other services included medical or dental services, employment assistance, and family stabilization services. For example, in Georgia, the Atlanta Community Food Bank provides food support for TANF clients and at-risk families. Also, the YMCA of Metro Atlanta provides after-school and out-of-school enrichment activities. In Hawaii, the Shriner’s Hospital for Children provides medical services for disabled children. In another example, Colorado’s Mile High United Way provides various services, including a parent support program, child care services, housing assistance, job skills and education training, and legal services for victims of domestic violence. In each of these cases, states are to have an agreement with the organization in place and count toward MOE only the value of the organization’s services in keeping with allowable TANF purposes and for eligible populations, as determined by the state.

### States Frequently Reported that Counting Third Party Nongovernmental Expenditures Helps Them Meet TANF Requirements

States that had counted third party nongovernmental expenditures toward their MOE spending or expressed interest in doing so in the future generally reported that the option was an important tool to help them meet TANF MOE spending requirements as well as the TANF work participation requirements. One-third of states (17) reported they definitely or probably will count third party nongovernmental expenditures toward MOE spending in the near future (see figure

3). This includes 12 states that reported counting third party nongovernmental expenditures in fiscal year 2011 as well as 5 other states. Of these five states, two reported using the option earlier than fiscal year 2011 and three reported not using it before.

**Figure 3: States' Views on Likelihood of Counting Third Party Nongovernmental Expenditures Toward TANF MOE in Fiscal Year 2012 or 2013**

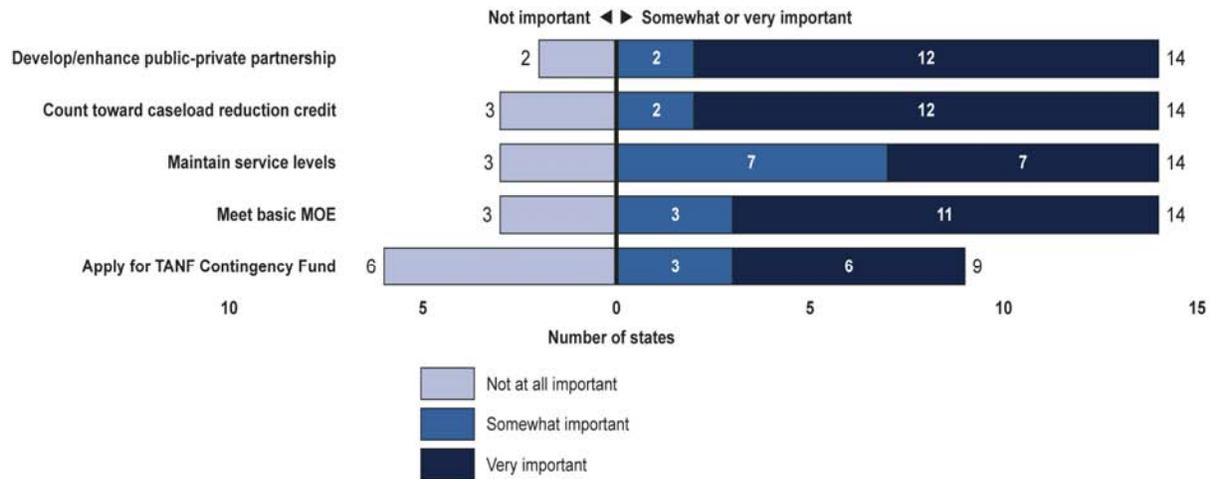


Source: GAO analysis of survey results from 50 states and the District of Columbia.

These 17 states identified several important reasons for having used the option, or planning to use it in the future, related to meeting TANF requirements and facilitating public-private partnerships (see figure 4). More specifically, one state that had previously used this option said that if the state had not been permitted to count its third-party nongovernmental expenditures in fiscal year 2009, then it would not have met the TANF Contingency Fund MOE requirements and therefore gained access to additional federal funds for client benefits and services. In addition, a few states noted that poor economic conditions have affected state budgets and employment opportunities for TANF clients. Tight state budgets may result in state and local governments cutting back in their own spending for TANF related benefits and services, making it more difficult for states to meet their required MOE spending levels. Reaching out to third parties such as nonprofits to claim the value of some of their services can help a state meet its MOE requirement. In addition, one state expressed concerns about meeting the required work participation rates with generally fewer employment opportunities available. Counting third party nongovernmental expenditures as the state's MOE spending to exceed their required MOE levels can serve as an important way to meet their work participation rates and avoid financial penalties for failing to meet the rates.<sup>20</sup> One state that had not used the option before replied that it planned to develop a partnership for MOE purposes with a food bank in its state.

<sup>20</sup> See GAO, *Temporary Assistance for Needy Families: Update on Families Served and Work Participation*, GAO-11-880T (Washington, D.C.: Sept. 8, 2011).

**Figure 4: States Reported the Importance of Reasons They Have Already or May in the Future Count Third Party Nongovernmental Expenditures Toward MOE Spending**



Source: GAO analysis of survey results from 50 states and the District of Columbia.

Note: One state reported not knowing or not being sure about the importance of developing public-private partnerships, and two did not know or were not sure about the importance of applying for the TANF Contingency Fund.

### Agency Comments

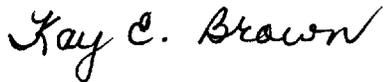
We provided a draft of this report to HHS for its review and comment. It provided technical comments, which we have incorporated as appropriate.

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Sincerely yours,

A handwritten signature in black ink that reads "Kay E. Brown". The signature is written in a cursive, flowing style.

Kay E. Brown  
Director, Education, Workforce,  
and Income Security Issues

Enclosure

Enclosure I

### **GAO Contact and Staff Acknowledgments**

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