

Testimony of Deputy Secretary Tony Miller
U.S. Department of Education
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Committee on Oversight and Government Reform
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Thank you Chairman Towns, Ranking Member Issa, and Members of the Committee for having me here today. I appreciate the opportunity to address this very important topic and to respond to any questions you might have.

As you know, the American Recovery and Reinvestment Act (Recovery Act) provided nearly \$100 billion in funding to the Department of Education, which was intended to help avert layoffs of school personnel and other public employees while also driving critical reform efforts in our public schools. To date, we have distributed more than \$67 billion of these funds. In administering these funds, the Department has focused on getting money out the door quickly while also ensuring that States, local educational agencies (LEAs), and other recipients use the funds as efficiently and effectively as possible. We have approached this effort systematically, but we have also been able to react swiftly when change was needed. In fact, the unprecedented challenges associated with managing these funds under such an accelerated timetable have helped our agency to work more effectively and improve our overall approach to grants management and oversight. So far, recipients of the Department's Recovery Act funds have reported saving or creating almost 400,000 jobs, including the jobs of over 300,000 educators and support staff in our public schools and institutions of higher education.

In my testimony today, I will focus on the following components of the Department's integrated approach to implementation of the Recovery Act:

- 1) Overall timing of program awards;
- 2) Guidance and technical assistance;
- 3) Financial systems and controls;
- 4) Inspector General efforts, and;
- 5) Recipient Reporting.

Overall timing of program awards

In planning the timing of the various Recovery Act awards, the Department was coordinated in its approach and laid the groundwork for effective oversight. As you may know, the first Recovery Act funds we released were supplements to our large existing formula grant programs, including Title I, Special Education, and Vocational Rehabilitation. We released these funds in two installments -- 50 percent on April 1st and 50 percent on September 1st. This strategy was intended to ensure that States and LEAs had access to sufficient funds to meet immediate, urgent needs, while also giving the Department time to complete guidance on the new reporting requirements related to these funds. Also, these existing formula programs have well-developed

monitoring systems and regulatory requirements that control how funds may be expended, thus minimizing the risk of misuse for the first monies out the door.

The next round of awards was made under the State Fiscal Stabilization Fund (Stabilization Fund). As you know, the Stabilization Fund invested in saving and creating jobs, as well as advancing education reform. Though this was a new program, we were able to obligate the funds quickly by taking advantage of the Department's existing grant administration systems. The Department worked closely with the Office of Management and Budget (OMB) to devise a Phase One grant application that minimized the burden on states but also ensured compliance with statutory requirements, such as Maintenance of Effort (MOE). A percentage of this award was withheld pending completion of a Phase Two application that provides transparency into state education reform efforts. This second application requires Governors to provide data on the following four key areas of school reform: (1) implementing rigorous college- and career-ready standards and assessments; (2) improving the collection and use of data; (3) improving teacher effectiveness; and (4) supporting struggling schools. The Phase Two notice of final requirements, definitions, and approval criteria was published in the Federal Register on November 12, 2009, and applications are due January 11, 2010.

The final wave of Department funding is for discretionary grants. The requirements and criteria for these programs have been or are being developed after consideration of public input, and the competitions for most of these grants will involve an intensive peer review process to ensure that these awards go to only the most qualified of applicants.

Guidance and technical assistance

Throughout this process, the Department has worked hard to provide guidance and technical assistance to recipients, as the Recovery Act includes some unique requirements for uses of funds and reporting. The Department published detailed guidance to ensure that recipients were aware of these various requirements. We also conducted significant outreach with State and local government and education and community organizations to ensure that recipients and other stakeholders had the information they needed. This outreach included:

- Briefings with Governors, Mayors, Chief State School Officers, the Council of the Great City Schools, plus an address to the U.S. Conference of Mayors Forum on Education;
- Two conference calls with state political and education leadership and two conference calls with mayors and local school leadership, reaching a total of 721 participants;
- Three major Recovery Act e-mail bulletins directed to the Department's targeted listserv community of 2290 stakeholders; and
- An interactive briefing session for education and community groups at our headquarters, with a webcast of the event available to the public.

In all our outreach efforts, we kept the lines of communication open with grantees, and when clarification was needed, we responded quickly and publicly. We posted guidance supplements to clarify a number of issues, such as whether Education monies from the Stabilization Fund could be used for construction, and whether some uses of the Stabilization Fund were prohibited

by other statutes. The Secretary also issued Dear Colleague letters in a number of instances where direct concerns were raised, such as those related to the monitoring requirements for the Stabilization Fund and the MOE requirements under the Individuals with Disabilities Education Act (IDEA).

The Department supplemented its guidance with technical assistance, developing a series of bi-weekly webinars for grantees to address issues of consistent concern. Topics have included Fraud Prevention, Cash Management Requirements, MOE Requirements, Recipient Reporting, Strategic Planning across Funds, and Direct/Indirect Cost Allocation.

The Department also gave individualized assistance to states when needed. For example, we provided customized technical assistance for six states, based on factors including total financial exposure and historical audit findings. In these states, our fiscal and program experts worked together to provide assistance that addressed the specific implementation issues facing each state.

Financial systems and controls

To ensure adequate financial systems and controls for these funds, the Department has utilized its centralized Grants Administration and Payment System (GAPS), which records all financial activity for grants, including obligations and outlays. At any point in time, the Department knows exactly how much funding has been awarded to any grantee and how much funding has been drawn down against the award. This data system is the source for the required weekly reporting to Recovery.gov on Recovery Act obligations and expenditures. The Department has also used this system to post on its website weekly financial data by state and program, providing additional transparency that goes beyond the required reporting elements.

The GAPS system not only screens any requests for funds to be drawn down from available awards, but it also requires grantees to certify that the funds will be used within three business days, as required by the Cash Management Improvement Act (CMIA). Cash management is an ongoing priority for the Department, so it was important to us to ensure states' compliance with this requirement, even as they worked to get funding to districts as quickly as possible. To address this issue, the Department's Office of the Chief Information Officer (OCIO) developed a Recovery Act Excessive Payments Monitoring feature in the GAPS system that places a hold on all requests for funds over \$100 million or over a set percentage threshold that is deemed excessive. All excessive payments have to be approved by the relevant program office rather than being granted automatically. This process has been successful in identifying cash management issues in a number of instances, and is being expanded to include all Department of Education funds, not just those received through the Recovery Act.

Inspector General Efforts

In our ongoing effort to prevent waste, fraud, and abuse of Recovery Act funds, the Department of Education's Office of Inspector General (OIG) has been a significant asset. Before any funds were awarded, OIG provided us with information on its extensive work at the state and local levels. OIG employees also met with state and local officials, providing outreach materials on

fraud awareness and tools for the timely reporting of any misuse of Recovery Act funds. OIG has held over 160 meetings with state and local officials on issues related to the Recovery act, and thus far has conducted audits in 7 states and Puerto Rico to assess the internal control systems that would be used to administer Recovery Act funds. Based on its findings in these states and its other work, OIG issued alert memoranda on MOE and Cash Management to create heightened sensitivity to these issues among both the agency and its grantees. It is also providing detailed audits of the individual states monitored in order to help states optimize their systems and avoid fraud, waste, and abuse.

The first phase of this program is nearing completion, and OIG intends to initiate additional audits in the coming months, increasing its focus on the use of funds and data quality. OIG is also coordinating its efforts with the Government Accountability Office (GAO) to minimize duplication of audit efforts.

OIG has also recently completed an internal audit requested by the Recovery Board. This audit determined that the Department had established a process to perform limited data quality reviews in order to identify material omissions and/or significant recipient reporting errors, and then to notify the recipients of the need to make timely changes. OIG is currently conducting an internal audit of the Department's implementation of the Stabilization Fund, to evaluate whether state allocations were calculated in accordance with statutory requirements, whether applications for initial funding and state plans included all required information and were appropriately reviewed, and whether the Department's program staffing and monitoring plans are effective.

Recipient Reporting

The recipient reporting required by Section 1512 of the Recovery Act provides a new tool in our efforts to ensure transparency. For the first time, grantees are required to provide quarterly reports that account for the use of their funds, and the Department is excited about this opportunity to supplement our own monitoring efforts with the information provided through this new level of transparency.

We have undertaken a major communication and oversight effort to maximize recipients' compliance with the reporting requirements and ensure the accuracy of the data they submit. Following the release of OMB's Recipient Reporting Guidance on June 22, we developed and posted Clarifying Guidance, Jobs Reporting Guidance, and program-specific Tip Sheets tailored to the issues facing our recipients. We also conducted two technical assistance webinars on Recipient Reporting, one on August 10 to help recipients prepare for the process, and another on September 21 to address follow-up details and questions. Our program offices also worked directly with grantees to ensure that they had valid Data Universal Numbering System (DUNS) numbers and were registered in the Central Contractor Registration (CCR) database, which are prerequisites for registering on FederalReporting.gov, the central portal for all recipient reporting.

Due in large part to our extensive guidance and outreach efforts, we achieved virtually 100 percent compliance with Section 1512 Recipient Reporting among the State-level agencies

receiving formula funding. OMB assisted us in these efforts by coordinating cross-agency technical support for State-level agencies. A relatively small number of local-level recipients have encountered technical challenges in their reporting efforts, and the Department is working closely with them and any other recipients experiencing difficulties to ensure full compliance in the next round of reporting. Despite some issues, by the time the Prime Recipient reporting period had ended, we had accounted for 97 percent of our Recovery Act obligations to date.

In addition to guidance we have provided to recipients, we have also developed internal guidance on data quality to ensure the validity of our recipient-reported data. The guidance details the responsibilities of each office during the data quality review process and describes the review procedures provided to the Department from FederalReporting.gov. The Office of the Chief Financial Officer (OCFO), in consultation with our program offices, developed an automated program to compare the reported information to key data elements in GAPS, including program code, award amount, outlay amount, and potential errors. A second automated program checks the data against standard data norms, identifying potential outliers in expenditure and jobs reporting. The Chief Financial Officer then provides the results of these automated checks to the program offices, which then review the flagged reports manually and contact recipients as appropriate with questions on the data. A total of 742 reports out of 2229 were changed during this recent Agency Review period as a result of these data checks.

The Department has forwarded to the Recovery Board any significant errors and material omissions that have not been corrected, such as discrepancies in award size or funding agency. In instances where jobs data was flagged as being outside of the anticipated range, the Department notified the recipient of the concern, provided a link to the relevant guidance, and maintained a record of how the guidance was being interpreted so that it can be clarified in the coming months. We will also develop a “Lessons Learned” document and begin another round of outreach in advance of the next reporting period, which begins January 1. We believe that the numbers reported are an indication of the significant impact that the Department’s Recovery Act funds have had on employment, and we will continue to work with recipients to even further improve the quality of their data.

Summary and Conclusion

As we work to refine the data reporting process, it is important to note the impressive level of transparency that has already been achieved. Every parent can go to Recovery.gov, identify his or her local school district, and see how much Recovery Act funding their community has received. If any vendors received over \$25,000 in payments, that information is identified as well. This transparency provides a significant deterrent against fraud and an important tool for taxpayers to see how these funds are being used in their community.

In closing, I believe that the Department of Education has been highly effective in the implementation and oversight of its Recovery Act funds to date. Our staff members have risen to the occasion, worked as a team, and leveraged their depth of experience to develop solutions that will enable our agency to function more effectively and efficiently in the future.

In addition, we have received considerable feedback from grantees that the guidance we have provided was helpful and appreciated during this first-ever recipient reporting period, and the success of our outreach efforts is evident in our outstanding 97% compliance rate. As we look forward to the next round of reporting, we will continue to provide guidance and technical assistance to improve data quality and continue the unprecedented level of transparency we have achieved in this critical recovery effort.

Perhaps most importantly, we are confident that the Recovery Act has succeeded in keeping hundreds of thousands of educators and support personnel in our schools, helping to ensure that, despite the budget crises many states face, our kids can continue to get the education they need to prepare them for the future.

Again, thank you so much for having me here today. I'd be happy to answer any questions you might have.