Internal Control and Fraud Prevention Working Group
Lessons Learned Report

Summary

The New York State Internal Control and Fraud Prevention Working Group provided guidance to State agencies to help meet the requirements and intent of the American Recovery and Reinvestment Act (Recovery Act). This guidance has taken the form of training, an accountability presence, and quality assurance activities. This report focuses on identifying lessons learned and promoting best practices reported by State agencies experienced in implementing the Recovery Act’s requirements. The following general themes emerged from these collective experiences.

• Having a strong internal control system is key to being able to meet expectations successfully due to
  – funding level and volume of new requirements
  – rapidity of implementation

• Significant reliance was placed on existing internal control systems; therefore, where an existing system was weak is likely where problems could occur

• There is always a cost associated with providing additional control which could be in terms of additional time required and/or additional financial costs
  – Additional reporting necessary
  – Additional oversight and auditing

• Oversight needs coordination
  – Increased scrutiny regarding Recovery Act funds and oversight by the auditing community could result in inefficiencies if not well-coordinated

• Risk assessments are absolutely necessary
  – Recovery Act potentially presented new risks
  – Especially in time of fiscal constraint and limited resources
  – Resources must be directed to those areas and activities that present the greatest risk

• A senior manager with sufficient authority should be in charge of managing task assignments and monitoring progress for all aspects of compliance
  – Strong commitment by senior leadership to sound controls and fraud prevention
  – Prepare and actively use a Recovery Act project management plan

• Proactive education and awareness is key for fraud prevention
  – Focus on compliance, risks, fraud prevention concepts, warning signs, etc. especially on the front lines
  – Increase the visibility of fraud prevention efforts to serve as a deterrent
  – Training employees to better understand and utilize internal controls is important

• Value of partnerships - particularly with control agencies
  – Coordination necessary so that process transactions could flow smoothly
Introduction

The American Recovery and Reinvestment Act (Recovery Act) called for a level of transparency and accountability that was unprecedented for government. Several measures were taken to ensure clear reporting of where these funds were spent and to prevent fraud or abuse in connection with the use of these funds. At the Federal level, these measures included:

- creating the Recovery Board which issues quarterly and annual reports to the President, and maintains the website www.recovery.gov to provide easy access for the public to Recovery Act information;

- reviews by the Inspectors General of Federal agencies distributing Recovery Act funds; and

- reviews by the Government Accountability Office (GAO) of the use of Recovery funds by selected states and localities. New York State was one of the 16 states included in these reviews. The GAO reports can be found at: http://www.recovery.gov/Accountability/Pages/GAOFindings.aspx.

The State of New York took transparency and accountability further. The Stimulus Oversight Panel was established by the Governor in July 2009 to ensure that Recovery Act funds were used effectively and were being safeguarded. The objective of the oversight panel was to oversee Recovery Act spending to help prevent waste, fraud, abuse and mismanagement, promote transparency and openness, and help to ensure funds were distributed in an equitable and fair, non-discriminatory manner. The panel is headed by the State Inspector General, and includes the State’s Medicaid Inspector General, the Inspector General of the Metropolitan Transportation Authority, and the State Division of Human Rights Commissioner.

Additionally, the Governor’s Economic Recovery and Reinvestment Cabinet established the Internal Control and Fraud Prevention Working Group (ICFPW Group) to provide guidance to agencies in meeting the requirements and the intent of the Recovery Act. This guidance has taken the form of training, sharing of internal control best practices, an accountability presence on the Cabinet’s web site, and quality assurance activities over Recovery Act reporting. Section 1512 of the Recovery Act required recipients to submit detailed quarterly reports on the allocation and contracting of the Recovery funds received. The reports include extensive information on sub-awards to vendors, and detailed descriptions of the programs and the jobs that were funded. The ICFPW Group’s quality assurance activities included:

- disseminating statewide procedures to assist in the accurate and timely submission of the Section 1512 reports required by the Recovery Act;

- promulgating an agency review checklist to provide guidance in preparing for and completing the Section 1512 reports;

- identifying 1512 data elements that could be drawn from statewide databases or confirmed through independent sources to improve the consistency and accuracy of reported data;

- establishing an agency review and certification process for agencies’ Section 1512 reports;
• forming a Section 1512 quality assurance team to review the submissions and certifications of the agencies required to report; and

• requiring the internal audit functions in all agencies receiving Recovery Act funds to conduct a Section 1512 reporting audit and forwarding their recommendations and corrective action plans to the Governor’s office.

**Purpose of Report**

The purpose of this report is to summarize the work of the Internal Control and Fraud Prevention Working Group and to compile some of the best practices and lessons learned from the specific implementation of the Recovery Act at New York State agencies. The report is intended as a reference for those who are seeking to improve practices and does not serve as an authoritative guidance document regarding internal controls and fraud prevention.

**Background**

The mission of the Internal Control and Fraud Prevention Working Group was to provide guidance and support regarding internal control and fraud prevention to New York State agencies receiving Recovery Act funds. The ICFPW Group is committed to the best practices for safeguarding Recovery Act funds and helping the State of New York to achieve the transparency and accountability requirements and intent of the Recovery Act.

**Best Practices.** The ICFPW Group was headed by the Department of Transportation’s Audit and Civil Rights Division and worked collaboratively with the New York State Office of the State Comptroller (OSC) in providing information regarding best practices for fraud prevention and internal controls tailored for New York State Recovery Act programs. These efforts focused on establishing an accountability and transparency website, developing a risk assessment tool, and providing additional guidance, information and training.

**Risk Assessment.** Organizations receiving Recovery Act funds were encouraged to conduct a comprehensive assessment of potential risks that could impact the achievement of Recovery Act goals and objectives. An electronic tool was developed to assist program managers with the identification, assessment, and prioritization of Recovery Act risks along with management of subsequent corrective actions.

**Fraud Prevention.** Appropriate efforts must be made to prevent instances of fraud, waste and abuse in connection with the use of Recovery Act funds. The ICFPW Group coordinated technical assistance to individual agencies to train employees in order to increase fraud awareness and reinforce fraud prevention and internal control concepts. Several training sessions were held including classroom presentations and via webinar to cover common fraud schemes, finding fraud and what to do with it, as well as fraud awareness and prevention.

**Single Audit.** Many agencies receive Federal funding and also “pass-through” Federal funding to sub-recipients which must comply with Federal requirements. One of the primary mechanisms to oversee compliance is to monitor results of Single Audits and then to assure audit findings and recommendations are addressed satisfactorily. The ICFPW Group arranged for information to be provided to agencies so that Single Audit monitoring could be implemented more uniformly.
Internal Audit. Thirty-five State agencies have internal audit functions mandated by the Division of the Budget. Since internal auditing is an integral component of an effective internal control system, assistance was provided to Internal Audit Directors at these agencies to help ensure that internal audit activities addressed Recovery Act risks effectively. ICFPW Group developed the audit program for conducting agency internal audits of Section 1512 reporting mandated by the Governor’s office and monitored compliance.

Mentoring Relationships. The State of New York has long had an Internal Controls program. However, with the increased focus on internal controls, particularly as they relate to administering Recovery Act funded programs, the ICFPW Group decided to develop a mentoring program to share best practices in a peer-to-peer environment. A survey was issued to agencies receiving Federal funds under the Recovery Act to assess agency interest and need to form the basis of any mentor-protégé partnerships established.

Methodology and Strategies

There was early recognition that agencies could rely on existing internal control systems to effectively implement the requirements of the Recovery Act. However, it was not readily apparent whether these existing systems would be sufficient in light of the rapid infusion of millions of dollars in Recovery Act funding, and what additional controls may be needed to meet the new reporting, transparency, program and financial management requirements.

Drawing on past cooperative efforts of New York State agencies, the Division of the Budget, the Office of the State Comptroller and the New York State Internal Control Association to improve the management, implementation and oversight of internal controls in New York State; the activities of the ICFPW Group were structured in a similar fashion to reflect continued effective collaboration.

The primary objective for the ICFPW Group was to provide information, in the form of guidance, presentations and training to State agencies and to encourage proactive measures be taken to safeguard Recovery Act funding and prevent fraud, waste and abuse. To achieve this objective, the Group took a number of steps. An initial work plan was developed, and leaders were identified for each of the seven sub-group task assignments. In addition to the Department of Transportation, the Department of Health and the State Education Department assumed major roles. Additional assistance was provided by the Division of the Budget, Office of the State Comptroller, Office of Temporary and Disability Assistance, Department of Labor and the Energy and Research Development Authority.

The ICFPW Group and its sub-groups met collectively and individually to conduct research related to the sub-group task assignments. Based on research conducted, a summary of Recommended Internal Control and Best Management Practices was prepared. This information was not meant to replace or duplicate existing authoritative guidance such as the Standards for Internal Control in New York State Government issued by the Office of the State Comptroller, but to build upon it in terms of specific experience resulting from the new law and its requirements.

Based on the collective professional experience of the seasoned internal control practitioners who comprised the Group, an Accountability and Transparency website was created and hosted by the Department of Transportation, and included as part of the Governor’s Recovery Act website. The website was organized into categories to mirror the Group’s sub-groups activities and served as an efficient means for interested parties to access information gathered,
developed and presented. The Accountability and Transparency website contains Recovery Act internal control and fraud prevention information, including guidance documents, archived training presentations and other tools which may be helpful to agencies in terms of safeguarding Recovery Act funds.

Targeted assessments are useful in identifying weaknesses and providing assurance that internal controls are operating effectively. Risk assessments and analyses are critical to identifying vulnerabilities and determining appropriate responses to address identified risks. With the assistance of the Office of the State Comptroller, the Group developed a risk assessment tool that considers changes to an agency’s internal control environment and risks arising directly from the availability of Recovery Act funding, such as risks due to new/increased activities or other changes such as new reporting requirements.

Proactive measures help combat common fraud scenarios. Fraud awareness and prevention presentations, ongoing monitoring, assessments and audits aimed at deterring and detecting fraud, meaningful ethics programs, are all integral activities to mitigating the potential for fraud, waste and abuse.

In late 2010 the ICFPW Group convened to focus on identifying best practices and lessons learned to further ensure the quality of Recovery Act administration in the State. A “progress through sharing” initiative was launched which involved reaching out to agency contacts and stakeholders to request information regarding success stories that could be shared with others in terms of effective internal control and fraud prevention experiences in implementing the Recovery Act. The Group presented an overview of planned activities and related accomplishments achieved to the working group of the State’s Stimulus Oversight Panel in March 2011.

**Challenges and Solutions**

*Sub-recipient monitoring.* If Recovery Act funded projects were not implemented in accordance with Federal and State regulations, then the eligibility of the funding could be compromised and the risk of wasting taxpayer dollars and the erosion of public confidence could increase. Since this risk could be greater for sub-recipients, additional reviews and inspections focused at the sub-recipient level were needed.

*Developing new metrics.* New performance metrics were needed to demonstrate success in delivering the Recovery Act funded activities and programs. Meaningful and measureable outcomes that were consistent with the goals of the Recovery Act were established. Key performance objectives included creating and saving jobs, meeting schedule and funding obligation commitments, satisfying customers, and minimizing risks while maximizing opportunities.

*Concern for data quality and integrity.* State and local agencies, contractors, and others that receive Recovery Act funding were required to submit on the number of jobs created or retained, among other data on a quarterly basis. Procedures were established to validate the accuracy of data using a risk based approach.

*Coordination of audit oversight.* The demands for accountability and fraud prevention in implementing the Recovery Act brought about unprecedented audit coverage of projects and activities funded by the Act. Audits and reviews were conducted by several entities at the Federal level including: offices of the Inspector General, the U. S. Government Accountability
Office, and various operating administrations within affected Federal agencies (e.g. the Federal Highway Administration of the U. S. Department of Transportation). Additionally, similar audits and reviews were conducted at the State level by the Office of the State Comptroller, internal audit groups at individual agencies, and local divisional offices of responsible Federal control agencies. This degree of oversight and audit activity required close coordination among the various audit departments to maximize the efficiency of audit resources and avoid duplication of efforts.

Individual Agency Experiences

The ICFPW Group asked that agencies which received Recovery Act funding provide a summary report regarding their internal control, single audit, and fraud prevention related experiences in implementing the Recovery Act at their respective agencies, so that these experiences could be shared with others as part of this report. The following information was provided in response to this request.

State University of New York

The Recovery Act funding did not require the State University of New York (SUNY) to create new programs or augment existing programs. The funding did, however, provide additional support to community colleges to supplement a quarterly state operating aid payment.

A Recovery Act-related audit was completed by the SUNY Office of the University Auditor (OUA) as required by the Division of the Budget. Also, these awards are subject to the A-133 Single Audit of the community colleges by their independent CPA firms. In addition, prior to the award of any funds, SUNY had meetings/conference calls with both the U. S. Governmental Accountability Office and the U. S. Department of Education Inspector General’s Office. In conjunction with these conference calls SUNY was asked to complete a questionnaire and provide supporting documents regarding rules and regulations, and internal controls.

The focus of the OUA audit was of SUNY’s 1512 reporting process and was titled, “American Recovery and Reinvestment Act of 2009 Section 1512 Reporting”. Risk assessments were not applicable for the SUNY OUA audit. The A-133 audits by CPA firms are subject to their risk assessment process. The audit did not employ any new techniques in their execution or reporting that will be continued beyond the Recovery Act, the Audit was specific to the 1512 reporting process. The audit did not reveal any trends or systemic issues that may be applicable to other agencies.

Process improvements that were implemented in the program areas audited to address audit findings included updating and formalizing SUNY’s monitoring plan which was also shared with the Division of the Budget.

To facilitate the implementation of Recovery Act requirements and to address fast-paced disbursement of funds, SUNY accomplished this as a carve out of, or supplement to, the normal quarterly State aid payments to the community colleges.

SUNY’s Office of Internal Audit conducts investigations into allegation of fraud and did not identify any fraud schemes or instances of fraud on Recovery Act or other projects. SUNY did not put into place any new or additional specific controls to prevent/detect fraud.
The State by way of the Division of Budget (DOB) conducted four site visits (two from each of the State Fiscal Stabilization Fund (SFSF) funds awarded) as a means to prevent/detect fraud. This was done at the recommendation of the U.S. Department of Education.

**Single Audit/Sub-recipient Monitoring.** In order to ensure that each sub-recipient expending $500,000 or more in Federal awards during the sub-recipient’s fiscal year have met the audit requirements of OMB Circular A-133, SUNY provided the community colleges with a document that: (a) identified the amount and type of their award (funds were awarded from the State Fiscal Stabilization Fund - Education Stabilization Fund (84.394), and Government Services Fund (84.397)) , (b) a brief description of the award, and (c) a checklist that identified what the allowable and unallowable uses of the funds were which they were instructed to check off that all funds were used for allowable uses and then check off that they had not used any of the funds for non allowable uses. The community college was required to have an officer of the college acknowledge by way of their signature that all funds were used for allowable uses and none of the funds were used for unallowable uses. This checklist was developed from a document provided by the U. S. Department of Education titled, “Guidance for Grantees and Auditors State Fiscal Stabilization Fund”.

SUNY monitors the single audit completed on the State level and is distributed to SUNY through the DOB. Within SUNY, the Office of Internal Audit reviews the activity related to SUNY campuses. SUNY uses the Executive Budget to determine which sub-recipients received Federal funds. Each of the 30 community colleges has its own financial statement audit done. Along with the financial statement audit the community colleges also have their own single audit completed. Recovery Act programs were pre-determined to be a part of the major cluster they are associated with, therefore they were required to audit on the basis that they were “high risk”. Corrective action plans are required as part of their Single Audits.

**Additional Efforts.** In addition to this, the U. S. Department of Education (USDOE) conducted a conference call in August 2009 that included SUNY, the State Education Department (SED), the Division of the Budget and two previously selected community colleges. In preparation for this call SUNY was required to complete and submit to the SED an outline of its monitoring plan for the two SFSF funds (Educational Services Fund and Government Services Fund) awarded to the community colleges. This submission included a separate excel spreadsheet (a source document) with attachments and a questionnaire for both awards. These documents that were provided for monitoring can be viewed at the following link from the SED website: [http://usny.nysed.gov/arra/monitoring-auditing/Federal_MonitoringSFSF/home.html](http://usny.nysed.gov/arra/monitoring-auditing/Federal_MonitoringSFSF/home.html).

The attachments include:

- Monitoring protocol document (specific to each award);
- Questionnaire (specific to each award);
- April 1, 2009 letter from Dennis Whalen regarding “Federal Economic Stimulus Accountability and Transparency Requirements”;
- May 10, 2009 memorandum (with attachments) from SUNY to the community colleges regarding allowable and unallowable uses of awarded funds based on the guidance provided by the USDOE (a copy of the USDOE guidance document is also included);
- Letter dated February 12, 2009 from SUNY to the NYS Division of Human Rights;
- Memorandum dated April 30, 2009 to the Governor’s Office on Fraud Prevention, Contract Management and Grants Accountability;
Response to questions provided by the U. S. Governmental Accountability Office;
Monitoring plan submitted to the DOB on March 10, 2009 that explains how SED fulfilled Section 1512 reporting requirements which includes the review process that takes place prior to submitting final quarterly reports;
SUNY Auditor Report 2009-07 – Recovery Act Section 1512 Reporting Process which includes SUNY's response; and
Sample of SUNY’s quarterly 1512 reporting submission, submitted through the SED website.

On May 13, 2010 SUNY provided the New York State Inspector General’s Office with a discussion document for a meeting with the “Stimulus Oversight Panel” which responded to the panel's questions regarding:

- amount of Recovery Act funds received and how they are being used;
- how the funds were distributed;
- the internal controls SUNY has in place over the use of the funds; and
- resources available to audit or to investigate use of funds.

Department of Environmental Conservation

The following is a summary of six internal control challenges the Department of Environmental Conservation’s (DEC) encountered and solutions to them experienced while implementing its Recovery Act awards. The first challenge was faced department-wide across DEC; the remaining five challenges are award and program specific.

**Challenge 1: Added work/depleted staff.** Around the time DEC received nearly $500 million in Recovery Act awards, it started the attrition of half (two items) of its Internal Audit staff and all (one item) of its dedicated Internal Control staff. The Division of Management and Budget, a group that has plays a key support role in overseeing the proper accounting and reporting for the receipt and expenditure of the Recovery Act funds, lost over one-quarter of its staff. Overall, DEC’s programs lost over 20 percent of their staff. These losses, coupled with increased reporting, accountability and transparency made for a challenging grant management period, including the effort to instill an elevated internal control effort.

**Solution 1: Leverage existing processes.** Despite these challenges, DEC understood that the visibility of the Recovery Act, the mandates of the Recovery Act and the Federal Funding Accountability and Transparency Act of 2006 (FFATA), and its fiduciary role in the proper implementation and accounting for the award monies required that special attention be given to overseeing DEC’s five Recovery Act awards. When it became apparent that there would be a Recovery Act, DEC took several steps in preparation.

- Offered bundles of previously identified potential projects that were “shovel ready” or able to be quickly assembled that would, among other things, support the creation of private sector jobs.
- Identified a two person team to oversee Recovery Act contract development and management, reporting, accounting and internal controls. Both members were experienced with contracts, financial accounting and Federal reporting requirements.
- Participated in the Governor’s Recovery and Reinvestment Cabinet’s Risk Assessment’s subcommittee. One member of the oversight team had prior experience as a NYSICA board member for the New York State Internal Control Association and Internal Control Officer for DEC.

- Enlisted DEC’s Office of Internal Audit and Investigation to review the ability and integrity of Recovery Act reporting by assessing whether DEC had reporting mechanisms in place to collect the required data to meet Recovery Act transparency requirements; whether DEC had data quality controls to ensure reporting was consistent, complete and accurate; and whether DEC was submitting reports timely to fulfill various reporting requirements. Recommendations and corrective action plans were established where improvements could be achieved.

- Established an enhanced Internal Controls process for the Recovery Act awards to address risks, focusing heavily on undesirable events likely to occur and that would have a high impact. The oversight team enlisted active support from the Director of Internal Audit as well as involvement from the analyst responsible for DEC’s established Internal Control Review process.

- Developed a written procedures manual for all DEC Recovery Act recipient programs to follow. This manual provided uniform guidelines for all award recipient programs focused on three main areas: U. S. Office of Management and Budget (OMB) Reporting Requirements, Governor’s Recovery Cabinet Reporting Requirements, and Quality Assurance. Guidance provided by OMB, the Governor’s Office and KPMG were borrowed heavily in developing the manual.

- Enlisted program staff members who were already familiar with the Recovery Act award program areas. DEC was fortunate that three of its five Recovery Act awards were an extension of activities for which DEC already received Federal grant monies. By being well along the learning curve, programs were able to dedicate more attention and effort to the new requirements under the Recovery Act.

- Held bi-weekly meetings to share experiences and lessons learned among recipient programs, Finance, Counsel’s Office, Internal Audit and Internal Controls.

- Leveraged knowledge and insight from OMB webinars, local seminars held by KPMG and other sources of guidance and best practice information.

Each contract that accompanied the grant contained paragraphs detailing the responsibility of the contractors/vendors in both the Recovery Act reporting requirements and consequences of failure to report.

**Challenge 2: Verification of Offsite Compliance - Clean Water State Revolving Fund.** The Environmental Facilities Corporation (EFC) administers the NYS Clean Water State Revolving Fund (CWSRF) on behalf of DEC. Through the Recovery Act, the CWSRF received $432 million for wastewater and water-quality infrastructure projects. As the purpose of the Recovery Act was to stimulate the economy, the projects that were designated to receive Recovery Act funds were required to meet “shovel ready” criteria that imposed strict timelines for project readiness. Congress also required that the implementation of the Recovery Act would not diminish base CWSRF program efforts during the Recovery Act period. EFC was able to achieve all mandated
requirements and commit all Recovery Act funds within the required timeframes while maintaining the base CWSRF program without any additional staff.

EFC serves as a conduit financier providing CWSRF funding primarily to New York State municipalities. The communities that are receiving Recovery Act funds are subject to numerous requirements, many of which are new to New York and the CWSRF. Examples of some of these new Recovery Act requirements include the need for all iron, steel, and manufactured goods utilized in the infrastructure project must be made in the United States, all labor must comply with federal labor laws such as the Davis-Bacon Act, and all contracting must adhere to the Disadvantaged Business Enterprise regulations of the United States Environmental Protection Agency (EPA). Incorporating these new requirements into the current CWSRF program presented EFC with a number of significant challenges. One of the most significant challenges was how EFC could verify ongoing compliance by recipients with the numerous Recovery Act requirements. EFC does not typically conduct onsite compliance verification audits for traditional CWSRF projects. The heightened level of attention manifested by the Recovery Act clearly indicated that EFC needed to institute a more comprehensive effort to verify compliance at project locations.

**Solution 2: Compliance Assistance and Monitoring Program.** As EFC did not have the staff resources to conduct remote inspections at each recipient’s project site, EFC procured consultant engineering services (EFC consultant) to verify compliance with Recovery Act requirements. The EFC consultant was selected based on the lowest cost, technically compliant proposal following a rigorous procurement process. The following are some of the key features of this effort:

- The scope of the site visits was designed to provide the recipients with compliance assistance for any deficiencies that the inspector noted during the visit. The goal of the effort was to help the recipients keep their funds, not to identify opportunities to take their funds away. The inspectors were instructed to act in a consultative rather than a regulatory role. A checklist was developed based on an EPA Recovery Act Compliance Checklist that was modified to incorporate New York State specific issues. As part of the scope of work, the EFC consultant built a web-enabled database that allowed each inspector to input the results of the inspection directly into a laptop while at the project location. The database also contains a calendar function for tracking of all inspections, tracking of deficiencies through resolution, and generation of various reports. EFC staff can access the database to review the efforts of inspectors and give work direction, as needed.

- Inspections are conducted on a bimonthly basis through the course of the Recovery Act funded project.

- EFC and the EFC consultant conduct biweekly conference calls to manage the work effort.

- Inspectors have been trained by the Office of the New York State Inspector General in methods of identifying waste, fraud, and abuse during the inspections.

- The results of this effort have been very helpful during audits and reviews by outside agencies.

**Challenge 3: Ensuring timely and accurate reporting – Water Quality Management Planning.** DEC received a $4,369,100 Water Quality Management Planning grant awarded under Section 604(b) of the Clean Water Act. Funding is based on one percent of the CWSRF funding
allocation. Forty percent of the 604b award must be passed through to local regional planning boards and interstate organizations. It can only be used for eligible activities as outlined in the CWA section governing these funds. The focus of these funds is on planning for green infrastructure, Total Maximum Daily Loads (TMDL), stormwater for municipal separate storm sewer systems (MS4) and construction sites, and general watershed-based water quality management planning for the State of New York. The Recovery Act included new reporting requirements for all federal and state agencies. Also, the U.S. Environmental Protection Agency (EPA), Governor’s Office and DEC’s Division of Management and Budget established additional protocols for DEC to follow for Recovery Act grants. After reviewing the requirements and protocols, Division of Water staff realized that the grant recipients, Division project managers and administrative staff were not fully prepared.

Solution 3: Provide stakeholders with easy-to-understand information early in the process and in a variety of formats. Creating internal controls helped Division staff understand the Recovery Act reporting process, identify potential problem areas and put procedures in place to ensure that the Division successfully met its reporting requirements. Division staff began providing information before contracts were signed, and continued throughout the first two reporting quarters. Below are some highlights of the communication activities conducted by the Division.

- Assistance documents [Fall 2009] – Before the contracts were finalized, Division staff developed assistance documents including a sample work plan, quarterly report, expenditure and reimbursement forms, and detailed instructions. The assistance documents also explained the Recovery Act quarterly reporting requirements and schedule, including the strict deadlines to which the Division needed to adhere, and the probability of project reviews and audits by State or Federal agencies. Providing grant recipients with this insight helped them understand the importance of meeting deadlines.

- Workshop for Grant Recipients [November 2009] – Division staff held a workshop to review the assistance documents, walk grant recipients through the sample forms and to answer their questions. All grant recipients attended and agreed that the workshop was extremely helpful.

- Test Reporting [December 2009] – Grant recipients and Division staff agreed to test the reporting process by submitting and reviewing practice quarterly reports. (Most of the recipients did not have signed contracts at this point.) This test was valuable in that it: revealed areas in the reporting process that were still misunderstood; helped everyone understand how much time and effort would be needed to meet reporting deadlines; and reinforced the importance of timely review of quarterly reports by Division project managers.

- Workshop for Staff [March 2010] – Before the first reporting cycle for the grant recipients, Division staff held a workshop for the Division project managers to review their roles and responsibilities as outlined in the Internal Controls. Quarterly report, expenditure and reimbursement forms were also reviewed at this meeting.

- Standardizing Forms [Spring 2010] – After the grant recipients’ first reporting cycle, Division staff created Excel-based forms to improve and simplify full-time-equivalent (FTE) jobs calculations and expenditure information reported by grant recipients. The forms standardize reported information, minimize data entry, automate many calculations, and pre-populate future forms to reduce the chance for errors. To help the grant recipients and
project managers feel comfortable with these new forms, the Division held a web-based workshop to demonstrate how to use them. The recipients quickly adapted to the new forms and have stated that they make reporting easier.

The Division’s strategy of communication with stakeholders early in the Recovery Act process and dedication to adaptive management has led to efficient and successful management of the Recovery Act grants. The assistance documents and Excel-based forms can be viewed at [http://www.dec.ny.gov/lands/64514.html](http://www.dec.ny.gov/lands/64514.html).

**Challenge 4: Heavy Duty Vehicle/Engine Useful Life Waiver – Division of Air Resources.** On November 5, 2009, the DEC Division of Air Resources was awarded a Recovery Act grant from the U. S. Environmental Protection Agency (EPA) in the amount of $1,730,000. The purpose of the grant is to provide funding for a new heavy-duty diesel bus retrofit program targeting four upstate transportation authorities. The project goal is to reduce pollution from the subject buses, and to improve air quality. With EPA concurrence, it was decided that grant funding would be made available to the Capital District Transportation Authority (CDTA), Central New York Regional Transportation Authority (Centro), Rochester-Genesee Regional Transportation Authority (RGRTA), and the Niagara Frontier Transportation Authority (NFTA). State assistance contracts were entered into with all four authorities. While USEPA did not require a matching share as a condition of the Recovery Act grant, DEC required the authorities to provide a 25 percent match share of total project costs. The belief in requiring a match share was that since the authorities were required by State law to retrofit their fleets, the match would maximize the number of retrofit installations given the limited funding available.

The four authorities were required to submit candidate bus inventories to determine grant eligibility and contract maximum amounts. These inventories were subsequently included within the DEC-Authority State assistance contracts. In June 2010, the Environmental Conservation Law (ECL) was amended to provide for a useful life waiver from the DERA 2006 legislation retrofit requirement. An approved waiver would allow an otherwise subject vehicle to operate without a retrofit until December 31, 2013; at which time, it must be removed from service within New York State.

All four authorities owned heavy-duty buses that could potentially qualify for the useful life waiver. This amendment provided a new paradigm for the four authorities; did they still want to retrofit or simply wait until 2013 and replace the non-compliant buses? Each authority acknowledged possible interest in pursuing waivers for qualifying buses as the contracts were being finalized. The ECL revisions necessitated that the authorities re-evaluate their fleets to identify which DERA applicable buses should be retrofitted or issued useful life waivers. This re-evaluation process led to delays in retrofit installations and grant reimbursements under the project.

**Solution 4: Quarterly Reporting.** The halt in project activities pending resolution of the Heavy Duty Vehicle/Engine Useful Life Waiver caused delays in grant expenditures and related grant draw downs. As such, the EPA and DEC required that the authorities submit quarterly progress reports separate from the required quarterly Section 1512 reports. These reports required the authorities to submit retrofit installation and expenditure data including vehicle VIN numbers, retrofit type, retrofit serial numbers and unit cost of retrofits. Although DEC could not force the authorities to proceed with the project, the quarterly progress reports allowed DEC to monitor the situation and develop a contingency plan in the event the authorities requested waivers for their eligible buses.
Challenge 5: Costs & Work Performed outside of the Contract Provisions. One of the authorities failed to submit any invoices for cost reimbursement despite having an executed contract with DEC. Another authority claimed project costs in excess of the contract defined terms.

Solution 5: Written Reimbursement Procedures. The executed State assistance contracts with DEC required the authorities to pay for retrofit installations upfront and to submit payment vouchers seeking reimbursement. Project eligibility was clearly defined within the contracts, as DAR developed written payment review procedures including required documentation within a stated format. Payment requests were subject to two reviews within DAR. The project manager's review focused on technical eligibility followed by an administrative review by the contract manager to ensure that all payment requests meet the administrative requirements of the contract. DAR staff, under direction of the project manager, conducted on-site visual inspections of all retrofitted buses to ensure that the retrofit was installed as claimed. In addition, a five percent retainage was withheld from each payment request pending final inspection of all retrofits. Adherence to these procedures provided DAR with the opportunity to redistribute unused funds.

Challenge 6: Finding Eligible Sites – Leaking Underground Storage Tanks. A sum of $9,212,000 in Recovery Act monies was awarded to DEC to supplement its effort to assess and clean up petroleum releases from leaking underground storage tanks (LUST) sites in the State. The Division of Environmental Remediation (DER) was tasked with the assessment and cleanup of petroleum releases from LUST sites. Recovery Act funds were used for "shovel ready" projects, where the sites were ready for assessment and cleanup. These sites were typically orphaned or abandoned sites where owners/operators of the sites are unknown or unable to pay. In addition to meeting the criteria, DEC also needed to secure access to be able to perform the work.

Solution 6: Sift Through Backlog. When DEC was awarded Recovery Act money for the cleanup of LUST sites, nine DEC regions from around the State were asked to make a list of sites they thought might be eligible under the EPA’s criteria. The lists were generated from a backlog of sites in each region where cleanup was not done due to unknown responsible parties, or those parties who were unable to pay for it. Once a master list was compiled, eligible sites were approved in accordance with the following criteria.

- Sites needed to be “shovel ready” or have the ability for assessment and/or remediation to begin quickly.
- Sites had to meet the criteria of the EPA's LUST program. Contamination has to come from an underground storage tank or system used for motor fuels.
- Sites needed to be either abandoned or the current owner had to be unable to pay for the cost of remediation.
- Sites needed to be officially accessible. DEC needs to be given formal authorization to proceed with work on the site either by the owner or by proving the site is abandoned.

Each site was examined to determine if they met the above criteria. In some instances, a site assessment was needed to determine if the contamination came from an underground tank or system. As DER staff proceeded through the list of possible candidates, some of the owners were found and persuaded to perform the cleanup themselves instead of risking cost recovery.
actions. In some cases, the owner was never found, or those identified refused to allow DEC access to the site.

Due to the relatively short amount of time given to complete work under this award, any sites that were found not to meet the criteria were dropped from the list and replaced with other sites found to be eligible. For sites where access was an issue, DEC attorneys and the NYS Attorney General’s Office became involved to arrange access through the owners or local courts. If access was still an issue in a set amount of time, these sites were also dropped from the list and replaced with alternates.

Department of Health

The majority of funding received from the Recovery Act at the Department of Health (DOH) was used to supplement existing initiatives, including the Immunization Program, the Early Intervention Program, the Women, Infants and Children (WIC) Management Information System, and the Drinking Water State Revolving Fund. Recovery Act funds were also proposed for a new initiative, to incentivize electronic health records in physician’s offices and hospitals.

Audits. At the time of this report, there have been four Recovery Act related internal audits conducted, all focused on reporting compliance. No significant findings were identified due to the comprehensive reporting system developed by the DOH’s Financial Management Group.

Recovery Act related field audits have not yet been implemented due to limited staffing and multiple priorities. The Early Intervention and Immunization programs will be examined by DOH’s Audit Unit, and the top ten counties (based on funding) along with certain vendors within these programs will be selected for audit. The WIC information technology improvements will also be examined. The Audit Unit’s approach is threefold: (1) identify the Recovery Act universe, (2) conduct a risk assessment to determine what areas need to be examined, and (3) develop audit criteria to guide the audit process. Given limited resources in the foreseeable future, a targeted, risk-based audit approach will be used for Recovery Act-related audits to most effectively utilize these limited resources. These parameters are universally applicable to all similar programs, regardless of funding source.

In compliance with the Office of Management and Budget’s Circular A-133, Appendix A-1 in DOH’s contract boilerplate requires contractors receiving $500,000 in Federal funding to submit audit reports (prepared by an independent CPA firm). If their contract is funded entirely with State funds, absent of any specific exclusion, an audit report is still required. This audit must be provided within nine months of the close of the contractor’s fiscal year. Failure to comply may result in DOH sanctions, which could result in a suspension of current contract payments and/or recovery of past contract payments. This information is outlined in the Audit Clearinghouse checklist. These sub-recipient responsibilities are outlined in the contract when it is sent to them for signature.

Early Intervention Program. In order to facilitate the implementation of Recovery Act requirements and to address the fast-paced disbursement of funds, the Bureau of Early Intervention (BEI) employed the following approaches:

• Training sessions were held for all DOH staff involved with BEI Recovery Act funds. There were a total of five training sessions held which included an overview of the Recovery Act, the amount of funding allocated and description of initiatives, description of restrictions
imposed by the Federal government on the use of Recovery Act funds, description of new funding codes and time distribution codes for tracking Recovery Act funds, description of internal controls that would be implemented for fraud prevention, contract management, and accountability, and description of the reporting requirements imposed by the federal government on all prime recipients.

- Monthly Meetings were held with DOH staff that had direct involvement with BEI Recovery Act initiatives. The monthly meetings brought together staff from BEI, Division Fiscal, Office of Information Technology, Bureau of Health and Media Marketing, Bureau of Accounts Management, Audit Unit, and Bureau of Communications Production Services. The purpose of these meetings was to provide a venue for staff to present updates on initiatives and status of procurements or solicitation documents; to express problems or delays; and to get guidance and assistance to resolve delays or problems from BEI Director and Assistant Director.

- The Center for Community Health (CCH) conducted bi-weekly meetings with all CCH programs receiving Recovery Act funding. These meetings provided an opportunity for CCH to disseminate Recovery Act updates from the Federal and state governments, and to provide assistance to programs for any delays or problems encountered in implementing their Recovery Act initiatives.

- When Recovery Act funds were disbursed to BEI, initiatives were immediately identified for allocation of funds. Along with identification of use of funds, the appropriate procurement method for each initiative was determined. In an effort to expedite implementation of new contracts for several Recovery Act funded projects, BEI made use of fast tracks, Office of General Services (OGS) back-drop contracts, and mini-bids.

The new procedures implemented for the identification, review, approval and processing of all Recovery Act initiatives changed business practices in the program. This more “hands on” approach instituted with Recovery Act initiatives has made it possible to meet the Recovery Act’s stringent accountability, transparency, and reporting requirements. The processes for collecting information regarding contracts needed for Recovery Act reporting may be used in responding under the Federal Funding and Transparency Act (FFATA), although they may be streamlined, since FFATA reporting requirements are far less onerous than those for the Recovery Act.

To prevent fraud, waste and/or abuse, specific proactive reviews were put into place in the Early Intervention Program, including: program implementation of a step-by-step multi-level review process and tracking of all documentation required for each initiative; detailed tracking of all documentation required for expenditures under each initiative; and site visits to vendors and sub-recipients. Written and verbal guidance was provided to municipalities in an effort to avoid misinterpretation of the use of Recovery Act funds.

**Immunization Program.** In the Immunization Program, the Recovery Act grant created a new initiative to augment local health department (LHD) fiscal responsibility through third party reimbursement for immunizations performed at the LHDs. The Recovery Act vouchers submitted for payment were clearly identified as being funded by the Recovery Act. Each contract included a contact form that identified contact information for the person(s) responsible for the Recovery Act contract vouchers. This allowed DOH to contact directly the person responsible for a voucher and facilitated direct involvement of the Central Office staff with the contractors. The Recovery Act contracts increased DOH’s direct involvement with LHDs on fiscal matters, and also enhanced the Immunization Regional Representatives’ roles as
liaisons with LHDs. Managing these contracts and processing Recovery Act vouchers required more detailed knowledge of the contract expenditures. This necessitated increased interaction with the LHDs and the Immunization Regional Representatives.

The chance of contract fraud with Recovery Act funds was minimized by virtue of the fact that the contracts were awarded to LHDs and the New York State Association of County Health Officials (NYSACHO). The HP Enterprises contract is vigorously monitored as a high risk contract and this monitoring helps minimize the possibility of fraud.

All Recovery Act contract vouchers required full documentation of each expenditure claimed on the voucher. In addition, a site visit was/will be made to each LHD and the results documented. All vouchers must be accompanied by a Quarterly Progress Report. The regional staff members of the Bureau of Immunization review this report and verify that the actions have been completed and are consistent with the work plan. In addition to this activity, the Bureau of Immunization regional office staff made visits to LHDs to determine compliance with the work plan. The vouchers were carefully reviewed for accuracy by Central Office staff and the Quarterly Progress Report was attached as documentation. Central Office staff required LHDs to submit complete substantiation of the claim (e.g. copies of receipts and or purchase orders, payroll information, evidence of enhanced clinic hours etc.) for each item of expenditure on the voucher. As with any voucher for payment, the voucher must be signed with the Payee Certification.

The NYSACHO contract, which is monitored by DOH’s Central Office, included a specific work plan and budget designed to provide additional support to the LHDs for immunization activities including: performing quality assessment visits to providers for vaccine storage and handling, determining immunization levels, and compliance with the NYSIIS. NYSACHO staff members perform site visits to providers’ offices and complete a report/survey for each visit. NYSACHO collects this quality assurance data and compiles it into a report which is submitted with their voucher. The report contains the name, title and contact information for the person interviewed/questioned at the provider’s office, the date and time of the visit and a summary of the finding and tasks completed. This form is signed by the contact person in the provider’s office as attestation that the NYSACHO representative has performed the quality assessment site visit at the date and time indicated. NYSACHO prepares a monthly report to the Bureau that details these visits and findings. The Central Office reviews these reports prior to approving payment of the voucher to NYSACHO. NYSACHO is also required to submit complete substantiation of the claim (e.g. copies of receipts and or purchase orders, payroll information etc.) for each item of expenditure on the voucher. As with any voucher for payment, it must be signed with the Payee Certification. Additionally, providers are randomly called by the Central Office as attestation that the NYSACHO site visit was done at their office.

The HP Enterprise Services contract is a deliverable-based contract as outlined in the work plan and budget. Each deliverable has an associated number of staff hours for a Systems Engineer and a Business Analyst that is needed to complete the task. Vouchers reflect the itemized list of completed deliverables for the period that have been previously reviewed, user tested and accepted by DOH staff, and the associated number of hours of resources used. Prior to acceptance and payment to the vendor, each change that is made to the NYSIIS application is rigorously tested by staff to confirm functionality. If areas are weak or where there is a question of functionality, payment will be postponed until a satisfactory User Acceptance Test (UAT) is documented. Additionally, HP Enterprise Services is participating in weekly client meetings with NYSIIS staff to review the activity status of tasks and deliverables. These meetings become part of the documentation for payment of the deliverable.
These activities along with the stringent Recovery Act reporting requirements reduced the possibility of fraud. No instances of fraud were detected. The fraud prevention training hosted by the ICFPWG in February 2010 provided basic information for awareness and detection of instances of fraud. Additionally, trainings conducted by KPMG included the topic of fraud awareness and prevention.

**Women, Infants and Children (WIC).** The Division of Nutrition (DON) is administering three Recovery Act-funded WIC Management Information System Technology Projects and has incorporated Recovery Act-specific language and requirements into each solicitation and resulting contracts. DON was constrained in implementing innovative approaches to expedite the disbursement of Recovery Act funds due to the complex nature of these procurements, the timeframes to develop the solicitations, award contracts, and the timeframes required to obtain the necessary approvals from DOH, the Attorney General’s Office and the Office of the State Comptroller. The DON’s first Recovery Act funded contract was executed in September 2010.

**Drinking Water State Revolving Fund (DWSRF).** The Center for Environmental Health (CEH) works closely with the NYS Environmental Facilities Corporation, which administers the DWSRF, in the implementation of this program. Recovery Act funds were used to augment this existing initiative, which is audited on a regular basis. Since February 2010 there have been several Recovery Act related audits conducted by both State and federal agencies on all aspects of the program, and the program made changes or corrections to address deficiencies. To facilitate these audits, a substantial amount of information was shared electronically; this is a technique that we anticipate will be continued beyond the Recovery Act.

One of the requirements of the Recovery Act DWSRF funds was to fund Green Projects. During the first year of the program, EFC committed $44.4 million to 49 projects (35 clean water and 14 drinking water). The successful projects were selected from 295 highly competitive applications requesting more than $460 million of funding. Initially, there were 505 projects on the DWSRF readiness list totaling over $1 billion. Staff vetted the list monthly for nearly a year while the federal process for the Recovery Act was moving forward. Letters were sent to all projects to determine their status and an IUP amendment was completed as a result of the responses to those letters. Each project that was determined to be in a position to be ready was provided technical support through repeated phone conferences. By using this innovative parallel approach in beginning the project selection process well before the Recovery Act was signed into law, the Bureau positioned itself to ensure that once the time frames for the Recovery Act were set, we would be in a position to meet them. Also, the Green Innovative Grants Program was a brand new program that was developed to ensure that the federal threshold required for "green" projects could be met by the deadlines established. This program was different than the existing regular DWSRF program that was used to distribute Recovery Act funds. The project selection process required that projects be considered categorically green as defined by the U. S. Environmental Protection Agency (EPA) and was unrelated to public health priority ranking. The purpose was also to ensure that a sufficient commitment of dollars to green projects as required could also be met. This was a new and innovative program in that it provided 90% grant funding with a 10 % local match and nothing like this had ever been done in the DWSRF program before.

To detect and prevent fraud, an outside contractor was employed to provide site inspections for facilities that accepted Recovery Act funding. Staff took part in several fraud awareness trainings held by the EPA, and largely due to the stringent oversight that the DWSRF program already had in place, no attempts at fraud were detected. Since all sub-recipients of Recovery
Act DWSRF funds received federal funds in excess of $500,000, no special identification process was needed to identify awards at that level.

Department of Labor

The New York State Department of Labor (DOL) used a number of strategies to get the most from the Recovery Act funding in both the delivery and oversight of employment and training programs. These strategies included use of established internal controls, development and implementation of a Department plan for Recovery Act oversight, and identification of lessons learned which can be applied to on-going and future programs.

Use of Established Internal Controls and Procedures. The Recovery Act primarily added funding to DOL’s existing Federal grant funded programs. The added funding allowed DOL to increase the number of people served and trained during the economic downturn and to provide additional monetary benefits to the unemployed. For example, funds were used to increase skills; provide individual, customized and on-the-job training opportunities in demand and green occupations for low income adults and youth; summer employment opportunities for youth; and for programs to assist businesses avert layoffs. The Recovery Act funding provided Federal Additional Compensation, an increase of $25 in claimants’ weekly unemployment benefit payment that was paid through December 12, 2010 and Extended Unemployment Compensation which provided for up to a maximum of 99 weeks of benefits for eligible claimants.

Existing federal grant funded programs already had established procedures and internal controls for distribution and monitoring of funds which were also applied for the additional Recovery Act funding. These measures included Request for Proposals (RFP) processes and single audit monitoring procedures which were both also applied effectively for Recovery Act funded programs.

The Unemployment Insurance program also had well established internal controls and procedures to ensure proper payment of benefits and to detect any possible instances of fraud. These controls were applied in the payment of additional benefits made possible through the Recovery Act.

Implementation of a Department Plan for Recovery Act Oversight. DOL established a plan for the administration and oversight of Recovery Act funds to ensure requirements were met and funds were spent timely and appropriately.

Significantly, an Internal Auditor position was established at the start of the program to provide on-going monitoring of the funded programs as they were implemented rather than waiting until after the programs were concluded. This helped to ensure requirements were being met, programs were being implemented properly and any fraud or problems would be detected. Audits were conducted of the Recovery Act reporting process, payment of benefits and local area implementation and reporting of the Recovery Act.

Oversight included weekly conference calls with local staff to discuss specific Recovery Act requirements. Technical Advisories were also issued. Oversight also included visits to Local Workforce Investment Areas (LWIA’s) before spending of the funds to verify that LWIA’s had appropriate budgets and spending plans in place for use of the Recovery Act funding. Compliance with Recovery Act requirements was also verified.
An instance of fraud was reported by a local county. An on-the-job training contractor billed hours that employees did not attend training and billed it at a higher rate than was paid. The fraud was disclosed by an employee and all costs were repaid by the contractor. In another case, it was discovered that a summer youth participant who was not eligible for the program, was enrolled and paid wages. The youth was a child of a One-Stop Center counselor. Once discovered, the youth was terminated from the program and all wages paid were repaid. The One-Stop Center counselor (parent) was reprimanded and assigned to a different program.

Since the processes for the Recovery Act funded programs reviewed were similar to existing programs, this in effect, provided additional review of existing programs’ procedures and internal controls. This review verified that existing controls and procedures were effective. There were however, some improvement opportunities identified to further improve current programs’ processes and to help further reduce the risk of fraud, waste and abuse. Targeted improvements include procedures to detect duplicate benefit overpayments, system programming improvements, and improvements needed at the local level.

A process and outcome evaluation is underway for the Emerging and Transitional Worker and Disconnected Youth funded RFPs. DOL’s Research and Statistics Division is compiling survey, case management system and wage record data, as well as information culled from monitoring and training staff to produce the evaluation report and identify any improvement opportunities.

Lessons Learned in Recovery Act Implementation. The Office of the State Comptroller issued directives to agencies to identify Recovery Act transactions for priority processing of Recovery Act funded contracts and disbursements. For MOUs with other state agencies, we immediately engaged their fiscal and legal staff in the development of Memoranda of Understanding (MOU) agreements which incorporated specific Recovery Act requirements. This effort was successful but DOL learned that the other agencies internal financial systems should have been discussed in more detail up front to make sure they would be capable of adequately providing the information needed to meet reporting requirements.

While existing programs were primarily utilized for Recovery Act funding, DOL also developed new initiatives to help the unemployed. It was discovered that new contractors required extensive technical assistance in using DOL’s case management and program systems. A key lesson learned was that DOL was probably overly ambitious in wanting to roll out a new initiative and overly aggressive in expecting multiple outcomes within a short (one year) period of performance. There was an urgency to get the Recovery Act funding out and working to help the unemployed get training that would help them to be better positioned to obtain employment once the economy turned around. In addition, DOL wanted to ensure the funding was spent, so aggressive time tables were set for expenditures.

DOL has a better understanding of the type of technical assistance that is needed for successful implementation of some of the programs DOL wants to promote. Because these Recovery Act funds augmented existing funding streams (Workforce Investment Act), there were statutory and regulatory requirements that needed to be applied in rolling out the solicitations. The complexity of these funding stream requirements challenged implementation by community-based organizations.

There was conflicting guidance received from the Federal government and from State sources concerning the new reporting requirements provided under Section 1512 of the Recovery Act. This combined with the tight ten-day timeframe for reporting the required data elements could
have led to incomplete and inaccurate data collection.

A major inefficiency associated with implementation of the Recovery Act was the duplication in auditing by the Federal government. In addition to State and DOL’s internal reviews, audits were conducted by U. S. Department of Labor (USDOL) monitors (fiscal and program) as well as by multiple contractors hired by the USDOL Office of Inspector General. These audits were time consuming and redundant. Federal audit contractors lacked basic program knowledge which resulted in questions or requests for information that were out of alignment with existing program reporting and recordkeeping requirements.

**Division of Military and Naval Affairs**

The Division of Military and Naval Affairs’ (DMNA) Recovery Act program is a continuation of an existing process, Capital Construction projects within DMNA facilities and engineering directorate. The following highlights a few items for DMNA’s Recovery Act program.

DMNA agency staff attended fraud training presented by the Department of Defense - Inspector General (DOD-IG) in May 2010. Agency staff who attended included the architect, resource manager, facilities and engineering staff, project managers, Budget and Finance Director and the Internal Control Officer. Additionally, numerous Federal agency personnel attended the training by the DOD-IG.

For each quarterly submission, the State Recovery Act reporting team reviewed, in person, the submission with the Federal Agency approver.

The National Guard Bureau Internal Review (audit) team conducted an audit of the Recovery Act funded projects with no findings or recommendations.

DMNA project managers visited each Recovery Act funded construction project and reviewed the scope for compliance with the Special Master Cooperative Agreement for Recovery Act funding.

Part of the Recovery Act reporting team, the Quality Reviewer, will be involved in the reporting under the Federal Funding Accountability and Transparency Act (FFATA). Processes used for the Recovery Act reporting can be extended into the FFATA reporting.

**State Education Department**

Although much of the Recovery Act educational funding flowed through traditional federal education programs such as Title I of the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act (IDEA), a significant amount required the creation of a new "program". The most significant of these was the Educational Stabilization Funds (ESF) which were designed to allow school districts to offset cuts in state education aid. In response to this program as well as reporting requirements under Section 1512 of the Recovery Act, the State Education Department (SED) developed an electronic portal. The portal allowed school districts to electronically transmit key data. The portal served a number of purposes including capturing Section 1512 jobs saved/created data, transmitting applications and budgets for SED approval of spending plans, and transmitting requests for final payments. More
information on the portal can be found in the presentation regarding requirements for Recovery Act funds administered by SED at the following website:

The development of the online portal for the review, approval and payment of Education Stabilization funds as well as the collection of data on jobs saved/created will likely be continued for other programs. It has already been adapted to use for two other major Federal programs. One is the Education Jobs act and the second is the competitively awarded Race to the Top funds.

Audits. SED’s Office of Audit Service (OAS) undertook a major audit initiative to examine school districts’ use of Recovery Act funds. The primary focus of the audits were to verify: districts had sufficient control systems in place to administer funds, the allowability and accuracy of requests for interim and final payments, and compliance with federal grant requirements with particular emphasis on cash management and documenting payroll effort. As of this report, SED has issued 20 audits with three others in progress. In addition, SED conducted the internal data review at initial implementation as required.

SED utilized its extensive financial data base to develop a risk assessment model to identify school districts for audit and to inform program offices for possible use in sub-recipient monitoring. The risk assessment looked at 37 data elements for each of the almost 700 school districts. The data examined included the amount of Recovery Act funding, fiscal condition of the school district, financial statement issues, timeliness of reporting, and history of audit findings including OSC, SED and Single audits. Districts were then rated on a numerical scale.

The audits found that almost all districts were unaware of the Federal grant requirement relating to earning interest on Federal funds. As such they did not have a policy or procedure for calculating interest earned or remitting excess interest earned back to the Federal agency. However, the audits revealed that most districts were not earning more than the allowable level of interest. Also, as a result of this audit activity, SED expanded its guidance on cash management, and notified sub-recipients of the process to remit interest. The development of the portal will likely be used in the future.

Fraud Prevention and Detection. OAS takes primary responsibility for the review of all complaints received by the Department through SED’s Fraud, Waste and Abuse Hotline. Oftentimes complaints are referred to other program offices with specific expertise for follow-up. No instances of fraud were identified for Recovery Act or other projects. Staff members did attend the fraud training offered at the initiation of the Recovery Act. In addition, audit staff frequently receive fraud training.

A-133 Single Audits/Sub-recipient Monitoring. In the fall a download of federal payments to SED sub-recipients is received from SED’s Information Technology unit. The data is analyzed and OAS identifies those entities that received over $500,000 that have not yet submitted their A-133’s yet and entities that received between $300,000 (the main major program threshold) and $499,999 that have not received submitted an A-133.

At the beginning of the following calendar year, for those SED sub-recipients that receive over $300,000 in federal funding but have not submitted an A-133 Single Audit report (A-133), a letter is sent requesting these entities to submit: (1) their A-133; (2) if they expended less than $500,000 in Federal programs funding, submit an A-133 Audit Report Exemption Form; or (3) an approved extension from the Federal cognizant or oversight agency to file their A-133 at a
later date (a new follow-up date is then entered in SED’s database). The A-133 Audit Report Exemption Form includes the same information required by OMB A-133 for the Schedule of Federal Awards (i.e., Federal agency, pass-through entity, pass-through entity identifying number assigned by pass-through entity, total Federal awards expended for each Federal program with CFDA number (or other identifying number), value of Federal awards expended in form of non-cash assistance, amount of insurance in effect during year, and loans or loan guarantees outstanding at year end) and an certification from the entity that it did not have over $500,000 in expenditures for Federal programs. For the current year, no extensions are being given to file the A-133. The letter specifies a due date for the A-133, A-133 Audit Report Exemption Form, or extension to file after which federal funding would be withheld.

Once the due date has passed, an email is sent to program offices and the grants finance unit to place a hold on those entities that have not submitted an A-133 audit, A-133 Audit Report Exemption Form, or approved extension to file. Once the complete A-133 or the A-133 Audit Report Exemption Form is received, an email is sent to program offices and the grants finance unit to remove the hold.

There is a working manual which outlines Single Audit monitoring procedures. All Single Audits are received by the Office of Audit Services. The audits are reviewed for adequacy, and sub-recipients and/or CPA firms are contacted regarding any deficiencies. All findings in the form of a draft determination letter are entered on a database and emailed to program office staff for their review and input if desired. The database contains several years of findings and can be sorted by the entity name or CFDA number.

For the Type A programs (for most sub-recipients, these are the Federal programs with expenditures in excess of $300,000) the Schedule of Expenditures of Federal Awards is reviewed to ensure that any Federal programs that meet the Type A program threshold was audited as a major program in the last three years.

When A-133’s are received, the data is entered into a database including a date when the management decisions (MD) must be sent. There are then regular meetings to discuss the MDs to determine the adequacy of the MD and to get feedback from program offices. There is a staff person that monitors when to send the MDs.

Office of General Services

The New York State Office of General Services (OGS) administers cost plus construction contracts. A significant part of the construction costs are made up of labor. OGS provides a worksheet to help contractors incorporate payroll taxes and unemployment and workers compensation insurance costs into hourly rates. OGS identified a risk that contractors would bill for Unemployment Insurance all year when the tax only applies to the first $7,000 or $8,500 in salary earned per employee per year between the Federal and State tax. OGS’s Contract Payment Audit Group began questioning any contractor who billed this cost after March of any year. Recent internal audits have determined that this approach is effective and stopped contractors from billing the costs after the salary caps were earned each year. Work on this audit step with some individual contractors who have demonstrated other questionable billing practices has led to the identification of duplicate billing of the same hours across multiple projects. Ultimately OGS plans to implement an electronic cost submission process that would allow system edit checks to be used to eliminate many of these billing issues. This is not as likely an issue on Recovery Act funded projects because the guidance recommended the
use of lump sum contracts where inflating wage rates would not be a factor because a set price has been bid for the entire project.

OGS has also emphasized the tell tale signs of falsified invoices with their Contact Payment Auditors with the effect of increased identification of modified or false invoices on cost plus billings. By prosecuting and publicizing each fraud identified it is expected that the likelihood that this type of behavior will continue would be lessened. The process of identifying, quantifying across several years worth of projects and pursuing this through the investigative and criminal prosecution processes is very time consuming. OGS noted both old fashioned white out and typewriter alterations and the use of invoice templates in spreadsheet and word processing programs to create false documents. Unfortunately it is often only after seeing several versions of a supplier’s invoice that auditors have the “ah-ha moment” and identify a potentially fraudulent situation.

OGS learned that data entry and capture of data as well as the process of tabulating and correlating dollar impacts is best done through the use of databases and report tools as opposed to spreadsheets. This approach has the advantage of being able to modify and reproduce results when a new factor has to be added to a review based on new information or clarified methodology for tabulating the cost of overbilling an hour of time.

Office of the State Comptroller

The Office of the State Comptroller (OSC) continuously works with agencies across the State to accomplish its mission of improving State government’s fiscal operations and identifying fraudulent, wasteful and improper disbursements from State funds. Based on their experience, OSC provided a brief summary of controls to be shared as recommended best practices in this report.

Standard language should be built into grant contracts indicating that under certain circumstances, the agency has the ability to change the payment method under the grant from advance-based to reimbursement-based and have the grantee provide supporting documentation for all reimbursement requests.

Sub-grantees should be required to provide detailed supporting documentation to a regional fiscal reviewer for those sub-grantees that demonstrate they are having some kind of fiscal problem. This allows increased scrutiny, and a faster way to address performance and fiscal shortfalls. Once a sub-grantee demonstrates good processes, the restriction for additional documentation may be lifted.

A “contract highlight sheet” could be created to summarize the important aspects of the contract for Accounts Payable. The sheet contains the basic terms and conditions of the contract, such as labor rates and allowable mark-up percentages, as well as general contract information. All purchases, including contract purchases, require a purchase order. The purchase order contains the name of the end user/project manager requesting the goods/services. The Procurement Office sends a copy of the approved purchase order and invoice to Accounts Payable. Accounts Payable matches the invoices to the contract highlight sheet and purchase order, and contacts the vendor directly if there is a problem. Accounts Payable scans the invoices and all supporting documentation, and forwards both to the end user via e-mail to verify receipt of goods or services and approve the payment.
The guidance provided in OSC Bulletin G-212 (Managing the Procurement Audit Process) should be followed. Complying with this Bulletin provides agency officials assurance that procurement risks are identified, analyzed, and managed. Assessing the procurement risks appropriately may also reduce the need for their increased audit focus on certain payments they make. The bulletin also includes frequently asked questions and an audit program to guide users to obtain a sufficient understanding of their internal controls over a particular area and determine whether those controls are adequate.

OSC is updating a bulletin on contract monitoring that applies to Recovery Act and other contracts.

Department of Transportation

The Department of Transportation’s (DOT) established a Recovery Office led by a senior manager with sufficient authority to manage task assignments and monitor progress for all aspects of compliance. This evidenced a strong commitment by senior leadership to sound controls and fraud prevention. The Office prepared and regularly maintained a Recovery Act project management work plan, which in part included a risk assessment and risk mitigation strategies for the seven Recovery Act programs the Department is overseeing. For the Highway Infrastructure Investment Program, the Department worked closely with the Federal oversight agency (Federal Highway Administration) in determining risk and risk mitigation plans. A significant amount of effort and time went into developing a Recovery Act data warehouse - pulling data from 13 different information technology systems and adding new data elements that did not exist, but were necessary to comply with reporting and transparency requirements. The data warehouse was a key mitigation strategy and drives the reporting, performance management and transparency for DOT’s Recovery Act effort.

DOT’s public website (https://www.nysdot.gov/recovery) provided transparency and performance reporting by providing detailed information pertaining to all of DOT’s various Recovery Act programs, projects and reporting. Data can be downloaded as a spreadsheet as desired. Monthly reports are also provided. The DOT’s Recovery Act website provides information for the public, construction industry, suppliers, those seeking employment and public officials. Several performance metrics and dashboards provide an up-to-date look at how progress is being made. The site was ranked as one of the best in the nation and was also cited by the Government Accountability Office as a national best practice for transparency and accountability.

The DOT Enterprise Risk Management Bureau developed electronic versions of forms for ease of distribution, completion and submission. The risk assessment process was automated to more efficiently help analyze and ranks risks as well as generate reports. The ERM Bureau placed form templates, guidance documents, and PowerPoint training presentations on its internal website (intranet) for ease of accessibility and use by employees.

Audits. DOT’s Internal Audit Bureau, in collaboration with and in some cases at the request of the DOT’s Recovery Office; has conducted internal audits, reviews and analyses of data completeness and quality to assure it is meeting the Recovery Act reporting requirements. Although data quality expectations associated with implementing these requirements was taken into consideration as reporting systems were designed, the need for systematic review to ensure data was complete and accurate, and reporting was consistent and timely remained. Oversight and auditing at DOT has been conducted by several groups including the State Recovery and Reinvestment Cabinet, the State Stimulus Oversight Panel, the NYS Office of the State
Comptroller, the U. S. Government Accountability Office, and the Federal Highway Administration’s local (New York Division) and national (Washington, D.C.) offices.

DOT proactively monitors the performance of required audits for sub-recipients of Federal funds. Copies of these annual Single Audits are obtained by DOT’s Contract Audit Bureau and reviewed to identify any potential impacts to Federal and State programs. Bureau staff work with appropriate officials to ensure that any necessary corrective action is taken.

**Fraud Prevention.** In June 2009, DOT’s Investigations Bureau in conjunction with the U. S. Department of Transportation’s (USDOT) Office of the Inspector General conducted a fraud awareness training session for construction staff which outlined red flag indicators of construction fraud. Special emphasis was placed on the potential for fraud in connection with USDOT’s Disadvantaged Business Enterprise program. In September 2009, DOT issued an internal notification to all employees reminding them of DOT’s 24/7 Fraud Hotline. This notification also outlined nine Red Flag Indicators of Common Fraud Schemes.

In February 2010, the Investigations Bureau hosted a conference as part of a training initiative by the statewide Internal Control and Fraud Prevention Working Group. The conference was attended by nearly 300 employees from across the State in person and via the web, representing the 22 agencies receiving Recovery Act funding. Presenters from USDOT-OIG, US Department of Justice, NYS Comptroller’s Office, and BST Valuation and Litigation Advisors provided information related to red flag indicators for fraud, anti-trust violations and collusion, how to handle suspicions of fraud, and vendor responsibility.

Additionally, DOT issued an Engineering Bulletin to facilitate distribution of the New York State Inspector General’s flier entitled, “Protect Your Federal Stimulus Dollars in New York – Report Fraud, Waste, Abuse and Discrimination to the NYS Stimulus Oversight Panel” to each DOT regional office. Fliers were required to posted on Recovery Act bulletin boards and be made available to DOT employees, consultants and others working on Recovery Act projects. Municipal entities receiving Recovery Act funds were also encouraged to make these fliers available to employees and others acting in their interest in this regard. Additional risk mitigation strategies for reporting and contractual requirements were deployed through other official issuances.

**Conclusion**

The Internal Control and Fraud Prevention Working Group recognized the value of addressing the challenges of establishing adequate internal controls and effective fraud prevention and detection strategies as early as possible, given the rapid deployment of Recovery Act funds and the Act’s unprecedented transparency and accountability requirements. The ICFPW Group attempted to assist agency program officials who were responsible for meeting these challenges by providing information, guidance and training. This report shares agency approaches to managing risks associated with implementing Recovery Act requirements and some of the themes that emerged from these experiences. The Group continues to support these efforts to help ensure that Recovery Act funds are reasonably safeguarded.