



**U.S. Department of Education
Office of Inspector General**



American Recovery and Reinvestment Act of 2009

Tennessee Recovery Act Audit Internal Controls over Selected Funds



Tennessee State Capitol

ED-OIG/A04J0010

December 2009



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Audit Services
Region IV

December 15, 2009

Dr. Timothy K. Webb
Commissioner of Education
Tennessee Department of Education
710 James Robertson Parkway
Andrew Johnson Tower, 6th Floor
Nashville, TN 37243-0382

Dear Dr. Webb:

This **final audit report**, Control Number ED-OIG/A04J0010, presents the results of our review of the designed systems of State-level internal control over American Recovery and Reinvestment Act funds in Tennessee.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

Thelma Meléndez de Santa Ana, Ph.D

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within **30 days** would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Denise M. Wempe
Regional Inspector General for Audit

Acronyms and Abbreviations

ARRA	American Recovery and Reinvestment Act
CFDA	Catalog of Federal Domestic Assistance
C.F.R.	Code of Federal Regulations
Comptroller	Tennessee Comptroller of the Treasury
Department	U.S. Department of Education
ED	U.S. Department of Education
IDEA	Individuals with Disability Education Act, Part B
LEA	Local Educational Agency
OIG	Office of Inspector General
OMB	Office of Management and Budget
SEA	State Educational Agency
SFSF	State Fiscal Stabilization Fund
TDOE	Tennessee Department of Education
TDHS	Tennessee Department of Human Services
Title I	Title I, Part A, of the Elementary and Secondary Education Act
TRAM	Office of Tennessee Recovery Act Management
VR	Vocational Rehabilitation State Grants

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The American Recovery and Reinvestment Act of 2009 (ARRA) places a heavy emphasis on accountability and transparency, and in doing so, increases the responsibilities of the agencies that are impacted by the Act. Overall, the U.S. Department of Education (Department) is responsible for ensuring that education-related ARRA funds reach intended recipients and achieve intended results. This includes effective implementation and control of funds at the Federal level, ensuring that recipients understand requirements and have proper controls in place for 1) administering and reporting ARRA funds, and 2) promptly identifying and mitigating instances of fraud, waste, and abuse of the funds.

The purpose of our review was to determine whether the Tennessee Department of Education (TDOE), Tennessee Department of Human Services (TDHS), and Governor's Office of Tennessee Recovery Act Management (TRAM) had designed systems of internal control that were sufficient to provide reasonable assurance of compliance with applicable laws, regulations, and guidance. This report provides the results of our review. We focused our review on the design of State level controls over data quality, cash management, subrecipient monitoring, and use of funds. The design should ensure the proper administration of ARRA funds for Title I, Part A of the Elementary and Secondary Education Act (Title I), Individuals with Disability Education Act, Part B (IDEA), Vocational Rehabilitation State Grants (VR), and the State Fiscal Stabilization Fund (SFSF). We also conducted work at three local educational agencies (LEAs) in Tennessee and where deemed necessary, the results of that work were used to support conclusions on State-level controls presented in this report.

We found that the State of Tennessee is in the process of planning its internal control environment over ARRA funds. Nothing came to our attention that would indicate that TDOE's current efforts in developing a control environment are not adequate. However, based on our limited review, we found that TDOE needs to improve its communication with LEAs to ensure awareness of reporting requirements for suspected fraud, and the reporting procedures for estimating the number of jobs created or retained, programmatic performance, and financial data. TDOE concurred with the finding and the related recommendations. The full text of TDOE's comments is included as an attachment to the report.

In our review of the three LEAs, we found nothing that would indicate that the LEAs did not have sufficient controls in place to manage ARRA funds for Title I, IDEA, and SFSF funds.¹ However, we found that at the Jackson-Madison County School System, the Madison County Finance Department had not resolved findings from its Fiscal Year 2008² Office of Management and Budget

¹ Vocational Rehabilitation ARRA funds were not reviewed at the subrecipient level in Tennessee because according to State officials, these funds were only to be used by the Tennessee Department of Human Services.

² For the fiscal year ending June 30, 2008.

(OMB) Circular A-133 audit, and did not have formal procedures for granting access to its computer system.

In addition, our work identified two areas of concern in TDOE's management of ARRA funds, which are summarized in the Other Matters section of this report. Specifically, we are concerned with 1) the potential delays in reimbursement to LEAs and 2) the number of vacancies in TDOE's program offices engaged in ARRA activities.

Control Environment

TDOE modified existing internal controls to administer and monitor ARRA funds. The Governor's Office created policy directives and an oversight entity to centrally manage and ensure the transparency and accountability of ARRA funds. In March 2009 the Governor's Office established the Office of Tennessee Recovery Act Management (TRAM) to centrally manage ARRA funds. As of September 2009, TRAM had issued 12 policy directives to State agencies and local governments. The directives required separate and distinct accounting for ARRA funds, as well as risk assessments and action plans for each ARRA program including details of how funds will be spent and procedures for capturing data needed for reporting purposes.

TRAM also required each State agency to appoint an ARRA coordinator and to report on the use of ARRA funds on a weekly basis. Since May 2009, TDOE and the Tennessee Department of Human Services (TDHS) have submitted weekly reports for posting on Tennessee's Recovery Web site. Reportable information included the name of the grant; the Catalog of Federal Domestic Assistance (CFDA) number; and the amount of ARRA funds awarded, received, obligated, and disbursed. The weekly reports also contained information on the status of applications received from LEAs that requested ARRA funds. In addition, TDOE provided ARRA reporting guidance on their Recovery Web site.

TDOE provides technical assistance to LEAs and monitors their operations through the use of regional consultants. The consultants work out of field service centers located in nine regions throughout the State. There are three regional offices in each of TDOE's three Grand Divisions (East, Central, and West).

Nothing came to our attention that would indicate problems with TDOE's current process to develop or improve its control environment over ARRA funds. However, we found that TDOE needs to improve its communication with LEAs to ensure they are aware of reporting requirements.

FINDING – Improvements Are Needed in Communicating Guidance to LEAs

Although TDOE indicated that guidance had been provided to LEAs through the use of webinars and regional consultants, all three of the LEAs reviewed indicated that they were not aware of certain reporting requirements and guidance. Specifically, one LEA was not aware of the requirement to report suspected fraud and all three were not aware of TDOE's ARRA reporting procedures, including requirements for estimating the number of jobs created or retained, programmatic performance, and financial data.

Requirement to Report Suspected Fraud

OMB Memorandum M-09-15, titled *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, states that Recovery Act grants must

Include the requirement that each grantee or sub-grantee awarded funds made available under the Recovery Act shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

Consistent with OMB guidance, the Department included this requirement as a final grant condition for the SFSF funds.

According to 34 C.F.R. § 80.37(a)(2), States are to ensure that subgrantees are aware of requirements imposed on them by Federal statute and regulation. However, TDOE did not include this requirement in the subgrant applications to the LEAs. We found that officials at one LEA were not aware of the requirement that any suspected fraud involving Federal education grant funds, specifically ARRA funds, be reported to the OIG.

ARRA Reporting Procedures

LEA officials indicated that TDOE had not communicated to them the methodology to use in reporting ARRA data to the State. Specifically, one LEA stated that ARRA funds had saved jobs in its school system, but it did not know how to report this information. A second LEA stated it needed guidance from TDOE to determine the types of financial and program data that will be reported and that TDOE had not provided that guidance. In addition, the three LEAs reviewed had not finalized their procedures for ARRA reporting. According to the LEAs, the data are available and as soon as TDOE provides the reporting requirements, all three LEAs will be able to report the data.

The American Recovery and Reinvestment Act of 2009, Section 1512 states –

Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—

- (1) the total amount of recovery funds received from that agency;
- (2) the amount of recovery funds received that were expended or obligated to projects or activities; and
- (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—
 - (A) the name of the project or activity;
 - (B) a description of the project or activity;
 - (C) an evaluation of the completion status of the project or activity;
 - (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and

(E) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

According to 34 C.F.R. § 80.37(a)(2), States are to ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation. However, TDOE had not communicated its reporting requirements, including guidance for calculating the number of jobs saved and reporting programmatic performance and financial data, to the selected LEAs at the time of our visits. In response, TDOE said it had not provided detailed reporting instructions to LEAs because it was waiting for additional guidance from the Federal and State level on reporting.

Subsequent to our site visits, the Department issued clarifying guidance on ARRA, dated September 10, 2009, addressing quarterly reporting, job creation/retention, and program specific tip sheets to assist State Education Agencies (SEAs) with reporting data. In a presentation dated September 15-16, 2009, the TRAM Web site was updated to address *Reporting Requirements under ARRA*.

Recommendations

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Secretary for Special Education and Rehabilitative Services, require TDOE to

- 1.1 Formally communicate to the LEAs that they must report suspected fraud of ARRA education funds to the Department's OIG.
- 1.2 Ensure that LEAs understand the ARRA reporting requirements, including guidance for calculating the number of jobs created or retained, and reporting programmatic performance, and financial data.

Our work identified areas of concern in TDOE's management of ARRA funds. Specifically, we are concerned with 1) the potential delays in reimbursement to LEAs and 2) the number of vacancies in TDOE's program offices engaged in ARRA activities.

Potential Delays in Reimbursement to LEAs

One LEA expressed concern that it had experienced reimbursement delays of up to 6 weeks for non-ARRA Federally funded programs. The other two LEAs did not express the same concern. According to 34 C.F.R. § 80.21, the "[m]ethod and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee" The basic standards allow payment in advance to grantees and subgrantees if they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time between receipt and disbursement of the funds to pay program costs. However, reimbursement is the preferred disbursement method when the requirements for advancing funds are not met.

The LEA expressed concern that delays in reimbursement may cause problems with paying vendors and payroll in a timely manner. In order to mitigate any problem caused by late reimbursement, the LEA requested and received permission from its local governing body to use general funds to finance salaries in case ARRA funds are not immediately available for reimbursement. Use of its general funds makes those funds unavailable to the LEA until reimbursement. Based on the LEAs past experience with delayed reimbursements, we are concerned that delays could exist with reimbursements from ARRA funding and affect other expenditures for which the LEA’s general funds would normally be used. As such, TDOE should monitor reimbursement data to ensure timely reimbursements to its LEAs. In response to our identification of this issue, TDOE stated that, based on a recent analysis of transactions, it is reimbursing LEAs within seven to ten days from the receipt of LEA reimbursement requests.

Numerous Vacancies in Program Offices Engaged in ARRA Activities

TDOE has 76 vacancies in program offices administering or monitoring ARRA activities, as shown in Table 1.

Table 1. TDOE Vacancies by Office

TDOE Office	Number of Vacancies
Commissioner’s Office	2
Operations	1
Budget Office	2
Office of Local Finance	3
Internal Audit	1
Accounting Office	3
Field Service Center	1
Federal Programs Office	9
Technology	5
Curriculum & Instruction	7
Coordinated School Health and Special Programs	9
Early Childhood Education	5
Child Nutrition	6
Special Education	19
Tennessee Early Intervention System	3
TOTAL	76

TDOE personnel indicated that it has been difficult to perform job functions without sufficient staff. We are concerned that the lack of sufficient staff will inhibit TDOE from properly performing its functions with the added ARRA reporting requirements. A major goal of ARRA is to create or retain jobs, and TDOE should consider filling vacancies allowable under ARRA funding, thus demonstrating achievement of ARRA goals and benefitting TDOE as well as its LEAs. TDOE stated that it will strive to fill vacancies as funding permits.

BACKGROUND

TDOE administers the State’s Pre-K through 12 public school system. Created in 1923, TDOE supervises the allocation of State and Federal funds to 136 LEAs for 2 of the 3 U.S. Department of Education (Department) programs under review – Elementary and Secondary Education Act, Title I, Part A, Basic Grants to States (Title I); and Individuals with Disabilities and Education Act, Part B, Special Grants to States (IDEA). The Tennessee Department of Human Services (TDHS) provides oversight of the Vocational Rehabilitation State Grants (VR) program; and the Governor’s Office of Tennessee Recovery Act Management (TRAM) provides oversight of the State Fiscal Stabilization Fund (SFSF).

On April 1, 2009, the Department released 50 percent of States’ American Recovery and Reinvestment Act (ARRA) funds for Title I, IDEA, and VR. As shown in Table 2, TDOE was authorized to draw down \$212 million in 2009 for Title I and IDEA and TDHS was authorized to draw down \$6 million in 2009 for VR. However, draw downs of these available funds by TDOE and TDHS have been minimal.³

Table 2. ARRA Allocations to TDOE and TDHS for 2009 and 2010 (Millions)

Program	TDOE		TDHS	
	Total Allocated	Available as of April 1, 2009	Total Allocated	Available as of April 1, 2009
Title I	\$194	\$97		
IDEA	\$230	\$115		
VR			\$12	\$6
Total	\$424	\$212	\$12	\$6

As shown in Table 3, as of August 31, 2009, TDOE had drawn down just over 3 percent of available Title I funds and nearly 3.5 percent of available IDEA funds. As of that same time, TDHS had not drawn down any VR ARRA funds.

Table 3. ARRA Draw Down Amounts for TDOE and TDHS as of August 31, 2009 (Millions)

Program	TDOE			TDHS		
	Available as of April 1, 2009	Draw Downs as of August 31, 2009	Percentage of Available Funds Drawn (%)	Available as of April 1, 2009	Draw Downs as of August 31, 2009	Percentage of Available Funds Drawn (%)
Title I	\$97	\$3	3.10			
IDEA	\$115	\$4	3.48			
VR				\$6	\$0	0
Total	\$212	\$7	3.30	\$6	\$0	0

³ At the time of our review, TDOE and TDHS were in the process of planning how to use the ARRA funding. Additionally, Federal funds related to the Title I, IDEA, and VR programs in Tennessee are drawn down on a reimbursement basis.

April 1, 2009, was the first day State Governors were able to apply for State Fiscal Stabilization Fund (SFSF) funds. In Tennessee, the Governor’s Office established the Office of Tennessee Recovery Act Management (TRAM) to centrally manage and ensure the transparency and accountability of ARRA funds. TRAM was also charged with developing the State’s *Application for Initial Funding Under the SFSF Program* for Education Stabilization and Government Services funds. On May 19, 2009, Tennessee’s application was approved by the Department.⁴ The Governor’s Office was allocated a total of \$947 million with 81.8 percent awarded under the Education Stabilization Fund and the remaining 18.2 percent awarded under the Government Services Fund. As shown in Table 4, as with the Title I, IDEA, and VR stimulus allocations, the Department initially released only a partial amount (67 percent) of the total allocation.

Table 4. ARRA Allocations to the TN Governor’s Office (Millions)

Program	Governor’s Office	
	Total Allocated	Available as of May 19, 2009
Education Stabilization	\$775	\$519
Government Services	\$172	\$116
Total SFSF	\$947	\$635

The Governor’s Office had drawn down approximately 16 percent of the total SFSF funds available as of August 31, 2009. As shown in Table 5, less than 1 percent of the Government Services funds had been drawn down, though approximately 19 percent of the Education Stabilization funds had been drawn down by the Governor’s Office.

Table 5. ARRA Draw Down Amounts for the Governor’s Office as of August 31, 2009 (Millions)

Program	Governor’s Office		
	Available as of May 19, 2009	Draw Downs as of August 31, 2009	Percentage of Available Funds Drawn (%)
Education Stabilization	\$519	\$100	19.3
Government Services	\$116	\$.095	.081
Total SFSF	\$635	\$100.1	15.8

SCOPE AND METHODOLOGY

We gained an understanding of the system of State-level internal controls that TDOE, TDHS, and TRAM planned to use in administering ARRA funds for the Title I, IDEA, VR, and SFSF programs. Because of the limited scope of our review, there is a possibility that weaknesses may exist in areas we did not examine. Our review was limited to internal controls in place during our fieldwork period as they relate to data quality, cash management, subrecipient monitoring, and use

⁴ The Governor’s Office submitted an amended SFSF application on June 25, 2009. This application was subsequently approved by the Department in July 2009.

of funds. We did not evaluate or test the implementation of controls because ARRA funds either had not been drawn down or were minimally drawn down at the conclusion of our fieldwork.

We conducted work at three LEAs in Tennessee and found nothing indicating that the LEAs did not have sufficient controls in place to manage ARRA funds for Title I, IDEA, and SFSF funds. However, where deemed necessary, some LEA results were used to support conclusions on State-level controls presented in this report.

To gain an understanding and assess the system of internal controls that TDOE, TDHS, and TRAM planned at the time of our field work, we

- Reviewed prior single audits and applicable reports issued by the Government Accountability Office, the U.S. Department of Education's Office of Inspector General, the U.S. Department of Education's Office of Elementary and Secondary Education, the U.S. Department of Education's Office of Special Education and Rehabilitative Services, and the Tennessee Comptroller of the Treasury – Division of State Audit;
- Reviewed applicable legislation, regulations, and guidance related to ARRA;
- Identified ARRA funds allocated to TDOE, TDHS, and TRAM for Title I, IDEA, VR, and SFSF;
- Identified ARRA funds drawn down by TDOE, TDHS, and TRAM for Title I, IDEA, VR, and SFSF;
- Obtained and reviewed Tennessee's approved Part I SFSF application and amended application;
- Interviewed TDOE's and TDHS' program officials and budget/fiscal officials for Title I, IDEA, VR, and SFSF;
- Obtained and reviewed TDOE's, TDHS', and TRAM's written policies and procedures related to data quality, cash management, subrecipient monitoring, and use of funds for Title I, IDEA, VR, and SFSF;
- Obtained and reviewed TDOE's monitoring protocols for Title I, IDEA and SFSF;
- Interviewed officials at the Tennessee Higher Education Commission;
- Interviewed officials at the Governor's Office including the Office of Tennessee Recovery Act Management;
- Interviewed officials at the Tennessee Comptroller of the Treasury, Division of State Audit; TDHS' Office of Inspector General; and TDOE's Internal Audit Division.

We conducted fieldwork at TDOE and TDHS in June 2009 and at three LEAs from August 2009 to September 2009. We discussed the results of our review and recommendations with TDOE and TRAM on October 1, 2009.

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



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November 9, 2009

Denise M. Wempe
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
Atlanta Federal Center
61 Forsyth Street, Room 18T71
Atlanta, Georgia 30303

Dear Ms. Wempe:

Thank you for an opportunity to review a preliminary copy of audit report ED-OIG/A04J0010. The Tennessee Department of Education (TDOE) concurs with the finding of the report, "Improvements Are Needed in Communicating Guidance to LEAs," and the related recommendations. The Department will formally communicate to LEAs that they must report suspected fraud of ARRA education funds to the U.S. Department of Education's Office of Inspector General. In regard to LEA reporting of ARRA data to the TDOE, the reason the TDOE had not provided detailed reporting instructions to LEAs by the time of audit field work was because the TDOE was waiting for additional guidance from the Federal and State level on reporting. Subsequent to audit field work, the TDOE has provided guidance and instructions to LEAs on ARRA reporting requirements, including guidance for calculating the number of jobs created/retained, and reporting program and financial data. Documentation of the additional guidance and instructions is on file in the TDOE.

In regard to the areas of concern in the "Other Matters" section of the report, the TDOE, based on a recent analysis of transactions, is reimbursing LEAs within seven to ten days from the receipt of LEA reimbursement requests. The TDOE will strive to fill vacancies as funding permits.

If you have questions, or if additional information is needed, please do not hesitate to contact me.

Sincerely,

/s/

Timothy K. Webb, Ed.D.

TKW/crs

cc: Arthur Hayes, Jr., Director, Division of State Audit
Mike Morrow, Executive Director, Tennessee Recovery Act Management

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