

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

AUDIT OFFICE



22ND DISTRICT AGRICULTURAL ASSOCIATION  
SAN DIEGO COUNTY FAIR  
DEL MAR, CALIFORNIA

MANAGEMENT REPORT #10-020

YEARS ENDED DECEMBER 31, 2008 and 2009

22ND DISTRICT AGRICULTURAL ASSOCIATION  
SAN DIEGO COUNTY FAIR  
DEL MAR, CALIFORNIA

MANAGEMENT REPORT  
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AUDIT STAFF

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Ron Shackelford, CPA	Audit Chief
Shakil Anwar, CPA	Assistant Audit Chief
Tommy Torres, CPA	Audit Manager
Evelyn Calderon-Yee, CPA	Audit Manager
Melma Dizon	Auditor

MANAGEMENT REPORT NUMBER

#10-020

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CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE  
Karen Ross, Secretary

Adam Day, President  
Board of Directors  
22nd DAA, San Diego County Fair  
2260 Jimmy Durante Blvd  
Del Mar, California 92014

We have performed the procedures enumerated below, which were agreed to by you solely to assist you with respect to the following compliance areas: (1) personnel procedures, (2) expenditures, (3) contracts, (4) purchasing procedures, and (5) courtesy pass policies and procedures for a two-year period from January 1, 2008 to December 31, 2009. The 22nd District Agricultural Association's (DAA) management is responsible for the personnel procedures, expenditures, contracts, purchasing procedures, and courtesy pass policies and procedures for the 22nd DAA. The agreed upon procedure engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is the sole responsibility of the 22nd DAA. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

In planning and performing our agreed upon procedures of the (1) personnel procedures, (2) expenditures, (3) contracts, (4) purchasing procedures, and (5) courtesy pass policies and procedures of the 22nd DAA, San Diego County Fair, Del Mar, California, for the years ended December 31, 2008 and 2009, we considered its internal control structure in order to determine our compliance review procedures. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

Our results are presented in the accompanying pages of the report.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Fair management, the Fair Board of Directors, and the Department of Food and Agriculture, however, we acknowledge that it is a public document and its distribution is not limited.

In accordance with Government Code Section 13402, Fair managers and Board of Directors are responsible for the establishment and maintenance of a system or systems of internal



accounting and administrative control within their agencies. This responsibility includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions.

During our analysis of the internal control structure of the 22nd DAA and compliance with State laws and regulations, we identified eight areas with reportable conditions that are considered weaknesses in the Fair's operations: improper payment of employee leave hours, lack of compliance with the Governor's furlough order, director's dining, tracking and reporting courtesy passes, reporting of tickets provided by the Fair, employee recognition program, tracking of hours and days for temporary employees in 2009, and temporary employees in 2008. We have provided 14 recommendations to improve the operations of the Fair. The Fair must respond in writing on how each recommendation will be implemented.

We also identified additional areas containing non-reportable conditions. These conditions and accompanying recommendations are not considered significant weaknesses. We have included these items solely for the benefit of the 22nd DAA's management. We suggest the Fair implement the recommendations as soon as practicable. The Fair, however, is not required to provide written responses to the recommendations for non-reportable conditions.

## REPORTABLE CONDITIONS

### IMPROPER PAYMENT OF EMPLOYEE LEAVE HOURS

Since 2005, the Fair has improperly allowed its employees to cash out compensated leave hours, such as vacation, annual leave, and personal leave without receiving the proper approvals from the Department of Personnel Administration (DPA). From January 1, 2008 to January 14, 2011, the Fair allowed its employees to cash out \$354,161 of compensated leave. Our prior period audit (Audit Report #08-020), for the period January 1, 2005 to December 31, 2007, noted the Fair allowed its employees to cash out more than \$244,000 in compensated leave.

Without sufficient authority, the Fair established a leave buyback program that allowed its managers, supervisors, and other exempt employees to cash out a maximum of 80 hours of their leave balances on an annual basis. Our office noted that occasionally other employees represented by bargaining units cashed out their compensated leave as well. The State of California does not allow employees to cash out their leave balance unless authorized by the DPA. During this audit period, between January 2008 and January 2011, DPA did not authorize any State agencies or institutions to cash out the leave balances of employees. Additionally, after our prior audit, the Fair requested approval to cash out a maximum of 160 hours of leave annually from the DPA. However, in a December 2008 response, the DPA did not approve of the Fair's request.

In addition, our office noted the Fair did not follow its own policy and allowed employees to cash out in excess of 80 hours annually. For example, during one calendar year, two employees each cashed out 580 hours of compensated absences apiece.

From January 1, 2008 through January 14, 2011, the Fair's accounting records show that approximately \$354,161 was cashed out from leave balances (*Table 1*). Approximately, eighteen different managers and supervisors cashed out \$312,893 and eight rank and file employees cashed out \$41,268. Employees who cashed out leave and then subsequently separated from the Fair were not included in this total.

**Table 1 – Amount of Paid Leave Cashed Out by Employees**

Audit of San Diego County Fair			
Amount of Employee Paid Leave Improperly Cashed Out by Employees			
From January 1, 2008 through January 14, 2011			
Calendar Year	By Managers, Supervisors, and Excluded	By Represented Employees	Total Paid Leave Improperly Cashed Out
2008	\$ 114,234	\$ 2,064	\$ 116,298
2009	81,476	9,609	91,085
2010	109,971	25,432	135,403
January 1-14, 2011	7,212	4,163	11,375
<b>Total</b>	<b>\$ 312,893</b>	<b>\$ 41,268</b>	<b>\$ 354,161</b>

*Recommendations*

- 1. The Fair should establish an accounts receivable balance for each employee related to the amount of leave that was improperly cashed. Additionally, to ensure that the accounts receivables are repaid in a timely manner, the Fair should establish a timeline for these repayments.*
- 2. The Fair should review and revise its personnel policies to ensure that the Fair is in compliance with DPA rules and regulations. In the future, the Fair should comply with all State rules and regulations governing payroll.*

**LACK OF COMPLIANCE WITH EXECUTIVE FURLOUGH ORDER**

A detailed examination of the Fair's payroll records of its full-time excluded and exempt employees revealed that the Fair did not reduce its payroll expense as intended in Executive Order S-16-08 and S-13-09. In December 2008, Executive Order S-13-08 was issued to adopt a plan to implement a furlough of two days (equivalent to a 9.23% pay reduction) per month, effective February 1, 2009 to June 30, 2009. In July 2009, Executive Order S-13-09 was issued to State agencies directing them to implement a furlough reduction of three days (equivalent to a 13.85% pay reduction) per month, effective July 1, 2009 to June 30, 2010. The intention of the furlough order was to reduce payroll expenses. As state institutions, District Agriculture Associations (DAAs) were required to comply with the orders.

The employees we reviewed are in full-time salaried management positions, who are normally exempt from being paid overtime based on the Federal Labor Standards Act (FLSA). However, due to the mandated furlough program, in a workweek in which a furlough day is used, exempt and excluded employees are no longer exempt from overtime. According to DPA memorandum #2009-030, the employee will be paid the at their base rate for the hours worked after 32 hours (straight-time) and any hours over 40 will be considered overtime, which is time and a half of the base rate. Also, the DPA memorandum #2009-019 states that FLSA exempt (WWG E) employees can only charge absences in full day increments. WWG E employees may combine furlough leave and other types of leave to equal a full day absence, but not with a partial day worked. Furthermore, WWG E employees should be encouraged to use furlough hours in full day increments.

Although the Fair communicated the furlough orders and instructed the employees to use furlough days, a close examination of the Fair's payroll records noted the Fair did not fully comply with the Orders or subsequent DPA memorandums. As a result, our office worked with the Fair and noted a total overpayment of \$37,098 to full-time exempt and excluded employees. Additionally, we noted instances in which furlough hours were used on partial days the employees worked. These hours should be added back to the employee's banked furlough time.

The Fair made the following errors in payroll transactions that resulted in the \$37,098 of salary overpayments to the exempt and excluded employees:

- a. The Fair paid straight-time and overtime to exempt employees during non-qualifying workweeks. Our office noted the exempt employees worked either a partial day and used furlough hours or when no furlough days were used during the week.
- b. The Fair implemented the two-day furlough salary reduction in March 2009 rather than February 2009.
- c. Executive Order S-13-09 (three-day furlough reduction) was effective July 1, 2009 to June 30, 2010, however the Fair began implementation in the June 16-30, 2009 pay period.
- d. The Fair reduced salaries by 7.69% rather than the required 9.23% for the period April 1, 2009 through June 15, 2009.
- e. The Fair made errors by miscalculating the hours worked, miscalculating straight-time hours, and overtime hours.

It should be noted that if the Fair fully complied with the Executive Orders and only worked its exempt employees the 32 hours and did not allow additional straight-time and overtime hours to be earned, the Fair would have saved a total of \$304,814.

#### *Recommendations*

3. *The Fair should establish an employee accounts receivable for the improper overtime and salary overpayments paid in 2009. In the future, the Fair should ensure overtime is only earned by WWG E employees in qualifying work weeks.*
4. *The Fair should review and amend the employee leave card by recording the hours of unused furlough time as of December 31, 2009.*

#### **EXPENSES INCURRED FOR DIRECTOR'S DINING**

The Fair provided catered dinners, totaling \$36,806 in 2008 and \$35,461 in 2009, to Board members and their guests during fairtime without completing the proper documentation to determine whether these dinners qualify as allowable promotional or public relations expenses. According to Division of Fairs and Expositions (F&E) Accounting Procedures Manual (APM) 2.76, all claims must include the names of all recipients of the item or benefit, purpose of the expenditure, and specific justification, including the topics discussed during the event and the necessity of or the benefits expected to accrue to the Fair by entertaining. However, the Fair did not provide adequate documentation of all the attendees of the director's dining during fairtime. The guest book did not include the names of all attendees, since some of the guests who signed in only indicated the total number in their party and some guests did not sign in at all. Additionally, when comparing the invoice for the total number of meals served to the total number of attendees listed in the guest book, the number of attendees invoiced was more than the number of guests accounted for in the guest book. For example, on July 4, 2009 the Fair paid for 137 meals when approximately 45 people signed the guest book. During 2008's fair, at least 240 guests were unaccounted for in the guest book and at least 600 guests during 2009's fair. Furthermore, the Fair did not provide specific justification or topics discussed during each day of the event. The

justification provided was from the prior audit response, which is general and does not specify the topics discussed. This is a prior year audit finding.

#### *Recommendation*

- 5. The Fair should follow F&E's APM, which requires all claims for payment of promotional or public relations expenses to include the names of all recipients of the item or benefit, the purpose of the expenditure, justification for the food or meal, specific business topics discussed during the event, and necessity of or the benefits expected to accrue to the Fair by entertaining. A claim that does not meet all the requirements should not be approved for payment.*

### **TRACKING AND REPORTING COURTESY PASSES**

The Fair did not accurately track nor categorize the number of courtesy passes issued and redeemed, as required by the California Food and Agricultural Code. The Fair reported on its Statement of Operations (STOP) that it distributed courtesy passes totaling 4% in 2008 and 3.41% in 2009. However, it appears that the Fair did not include all lifetime passes, and courtesy passes issued to board members and employees when calculating the percentage of courtesy passes distributed. Since the justification did not appear to comply with California Food and Agricultural code to be credential passes, these passes should have been considered as courtesy passes. In 2008 and 2009, we noted the lifetime passes and the passes to employees, which were in addition to their credential badges, were not included as courtesy passes. Each Fair employee was allowed up to 20 admission tickets each for their own use. It appears that at least 61,752 tickets were not included as courtesy passes in 2008 and 40,404 tickets were not included as courtesy passes in 2009. When including these passes, the Fair appears to have distributed 14.9% in 2008 and 10.6% in 2009 in courtesy passes, which surpassed the 4% limitation.

#### *Recommendations*

- 6. The Fair should ensure that it properly tracks its courtesy passes and that all admissions without payment fall within the three categories, as outlined in the California Food and Agricultural Code Section 3022.*
- 7. The Fair should comply with California Food and Agricultural Code Section 3026. As a State institution, the Fair has ultimate responsibility to the public to demonstrate compliance with all the State rules and regulations over passes, in order to prevent the perception of an inappropriate use of funds.*

### **REPORTING OF TICKETS PROVIDED BY THE FAIR**

In 2009, the Fair did not fully comply with California Code of Regulations Section 18944.1 and the Fair's own ticket policy to disclose the number of tickets provided to each person on the Fair Political Practices Commission (FPPC) Form 802, Tickets Provided by Agency Report. This form was developed by FPPC and was available as of February 2009, in order to disclose the distribution of tickets to or at the request of the Fair's Board members. Form

802 requires the Fair's Board member to state whether the distribution is income to the member or describe the public purpose for which the member received the tickets or passes. All tickets, admissions and concerts, received by the Board members are to be fully disclosed on the form.

Upon review of the forms and the Fair's documentation, the Fair only reported some of the admission and concert tickets the Board members received. It appears the Fair did not report 92 admission tickets and 537 concert tickets on the Form 802s.

#### *Recommendations*

8. *The Fair should follow FPPC requirements and its own policy to complete and post the Form 802 for all complimentary tickets issued to Board members.*
9. *The Fair should ensure it properly tracks the amount of complimentary tickets it provides its Board, to ensure accuracy when reporting the number of tickets received on the Form 802.*

#### **EMPLOYEE RECOGNITION PROGRAMS**

The Fair lacked accountability and transparency over the gift cards it awarded under the Fair's employee recognition programs, the safety award and "Hats Off" award. Therefore, awarding the gift cards to employees can be deemed as a gifting of State funds. For the two year audit period, the Fair did not have any documentation for the recipients of the "Hats Off" award since the documentation was already destroyed prior to our fieldwork. Because of the lack of documentation, we are unable to determine who received the gift cards and the purpose for awarding the gift cards. The safety awards are given to employees in specific bargaining units and it appears to be in compliance with the bargaining units' contract. However, for the "Hats Off" award, all permanent and temporary employees are eligible for the \$25 gift card, except for Department Heads. According to the Fair's Personnel Policy, to receive the "Hats Off" award, the recipient must demonstrate "WOW SERVICE through exceptional performance." Even though the Fair's policy allows all employees to receive the \$25 gift card for the "Hats Off" award, this appears to be a gifting of State funds based upon Article XVI, Section 6 of the State Constitution according to APM 2.77.

Upon review of expenditures, we noted in 2008 and 2009 a total of \$12,500 in gift cards were purchased for the two award programs. We are unable to determine how many gift cards were given for the safety award and "Hats Off," since there appears to be a lack of internal controls over these gift cards. The Fair did not properly track the number of gift cards. Since the Fair purchases the gift cards for both programs simultaneously and awarded the gift cards throughout the year, the Fair should track the gift cards and verify the count periodically to ensure no gift cards are missing.

#### *Recommendations*

10. *The Fair should comply with the APM and State Constitution regarding the gifting of state funds, by avoiding an appearance of gifting of State funds when providing the gift cards to employees.*

- 11. The Fair should improve its internal controls over the gift cards by maintaining all necessary supporting documentation of the recipients of the gift card awards.*

### **ACCOUNTING FOR TEMPORARY EMPLOYEES IN 2008**

In 2008, the Fair allowed 24 temporary employees to work in excess of the 119-day limitation within a calendar year. According to the APM, "by law temporary employees may not work more than 119 days in a calendar year." The APM further cites Article VII Sec. 4(1) of the Constitution of the State of California as its basis for this policy. We noted these employees worked between 120 and 206 days in 2008. This is a prior audit finding.

#### *Recommendation*

- 12. The Fair should comply with the APM and State Constitution by ensuring temporary employees do not work in excess of the 119-day limitation.*

### **TRACKING OF TIME FOR TEMPORARY EMPLOYEES IN 2009**

In 2009, after changing payroll systems, the Fair could not demonstrate that it adequately tracked the number of hours and days worked by its temporary employees. The Fair was unable to provide our office with a complete listing of its temporary employees, the total hours worked in the fiscal year, nor the days worked in a calendar year. The Fair insisted that each department supervisor tracked the hours and days worked; however, only one department supervisor provided us with this documentation during our fieldwork. We were unable to verify whether employees who worked over 1,000 hours were enrolled in the California Public Employees' Retirement System (CalPERS) or in Alternative Retirement Program (ARP). Additionally, without the listing of temporary employees, our office was unable to identify whether any employees may have worked over 119 days or ensure that any of the employees were classified as independent contractors once the 119 day limitation was exceeded.

#### *Recommendation*

- 13. The Fair should ensure that it properly tracks the hours and days worked by temporary (non civil service) employees to ensure that it complies with State rules and regulations. Additionally, the Fair should review in payroll records in 2008 and 2009 to ensure that all temporary employees that worked over 1,000 hours have been enrolled in CalPERS or ARP.*

## NON-REPORTABLE CONDITIONS

### SPONSORSHIP AGREEMENTS

An examination of the Fair's sponsorship agreements identified at least twelve sponsorship agreements were not sent to F&E prior to entering into the agreement in the two year audit period. According to California Food and Agricultural Code section 4051.1(b), a "written notification to the department shall be required prior to ...entering into any agreement for activities" where the agreement exceeds \$100,000 in value, exists for a period greater than two years, or contemplates building a permanent structure on Fair property. We noted the sponsorship agreements were all over \$100,000 in value and were not sent to F&E for review. Additionally, ten of the twelve had terms greater than two years. When F&E receives the contract after its execution or in the middle of the term, F&E does not have the opportunity to review and determine whether the agreement appears to be in the best interest of the Fair and the State or to make any suggestions regarding the language or terms of the contract prior to the commencement of the contract. This is a prior year finding.

#### *Recommendation*

*The Fair should have better controls and procedures regarding sponsorship agreements to ensure it complies with the California Food and Agriculture Codes and F&E's Contract Manual.*

### DOCUMENTATION OF EXPENDITURES

Our office noted the Fair did not include an itemized receipt for the restaurant expenses charged on the corporate credit card. In 2008, we noted 20 instances totaling \$2,453 of restaurant charges without an itemized receipt and in 2009, we noted 17 instances totaling \$1,143. The Fair had included a list of the attendees and the business purpose of the meal. However, only the signed credit card slip was provided, which includes the subtotal, tip, and total of the bill, instead of an itemized restaurant receipt. An itemized restaurant receipt provides transparency to the nature of the expense; without it our office cannot attest to the reasonableness of the expense. This is a prior year finding.

#### *Recommendation*

*The Fair should maintain itemized receipts for all restaurant expenses to ensure expenses are adequately supported.*

### **DOCUMENTATION OF TEMPORARY EMPLOYEES**

The Fair did not always maintain temporary employees' Employment Eligibility Verification Forms, Form I-9, from the Department of Homeland Security, U.S. Citizenship and Immigration Services. The Form I-9 is used to document that a new employee is authorized to work in the United States, based on the records the employee provides the employer to review in order to establish the employee's identity and employment eligibility. According to the Form I-9, the employer must retain the completed forms for the later of three years after the date of hire or one year after the date employment ends.

#### *Recommendation*

*The Fair should ensure it maintains all Forms I-9 on file as it hires temporary employees, in order to comply with the requirements established by the Department of Homeland Security.*

**DISTRICT AGRICULTURAL ASSOCIATION'S RESPONSE**

**22<sup>nd</sup> DISTRICT AGRICULTURAL ASSOCIATION  
SAN DIEGO COUNTY FAIR**

**RESPONSE TO CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
AUDIT REPORT  
MANAGEMENT REPORT No. 10-020**

**Years Ended December 31, 2008 and 2009**

The 22<sup>nd</sup> District Agricultural Association ("District") has reviewed the Preliminary Draft of Management Report No. 10-020 ("Audit") issued by the California Department of Food and Agriculture's Audit Office ("CDFA") for the years ending December 31, 2008 and 2009. In compliance with CDFA's request, this constitutes the District's response.

**Improper Payment of Employee Leave Hours**

The audit stated that the District improperly allowed its employees to cash out compensated leave hours, such as vacation and annual leave, in 2008 and 2009. The Department of Personnel Administration had authorized an Excluded Employee Leave Buy Back Program for the fiscal year 2006/ 2007.

The audit recommended:

- 1. The Fair should establish an accounts receivable balance for each employee related to the amount of leave that was improperly cashed. Additionally, to ensure that the accounts receivable are repaid in a timely manner, the Fair should establish a timeline for these repayments.*
- 2. The Fair should review and revise its personnel policies to ensure that the Fair is in compliance with DPA rules and regulations. In the future, the Fair should comply with all State rules and regulations governing payroll.*

**RESPONSE:**

The 22<sup>nd</sup> DAA places a high value on their employees and recognizes the challenges placed upon many of them due to the current economic climate.

The Department of Personnel Administration established an Excluded Employee Leave Buy Back Program with memo #2007-010, dated March 27, 2007 for the fiscal year 2006/ 2007 permitting eligible employees to cash out up to 40 hours of vacation, annual leave, personal leave and personal holiday credits.

The State of California therefore allows unused leave to be cashed out under various circumstances. According to the DPA's personnel policies, "DPA and the Department of Finance periodically authorize departments to offer to cash out excluded employees' unused vacation, annual leave, and/or personal holiday credits at their regular pay rate. Departments choose whether to participate based on availability of funds. Typically, the number of hours that may be cashed out is capped."

The District has paid out unused leave since June 30, 2007 when the DPA's program expired, permitting managers and supervisors to cash out up to 80 hours of their vacation or annual leave balances on an annual basis. In a few cases, leave was also cashed out for rank and file employees. Most cash-outs were made due to financial hardships of the employees, and each cash-out was approved only after confirmation that sufficient leave balances remained.

Staff proposed a formal leave cash-out policy. It was approved by the Board of Directors in 2008 and was then submitted to the DPA. Staff was not aware of any governmental code or DPA rule that prohibited this practice.

The leave buy-back practice is common in both public and private employment. According to the Total Compensation Survey, Public Sector Leave Practices- Management, released by DPA in 2006, 28 of the 65 public respondents offer leave buy-back programs for managers; 22 also offer leave buy-back to non-managerial employees. Several California cities, including Anaheim, Oakland, San Jose, and San Diego have leave buy-back programs. Several California counties also have these programs, as does the San Diego Convention Center.

According to the DPA's latest Total Compensation Survey issued in 2006, average State salaries lagged behind other public sector employers in San Diego by 16.39%. This disparity has increased the financial hardships for District employees. With inflation and the salary reductions of 13.85% mandated by the Governor's furlough program, the wage disparity is now well over 30%.

Under California law, vacation or annual leave is earned as labor is performed, is accrued by the employer as it is earned, and may not be forfeited. This compensation is accrued by the District and is recorded as a liability on its balance sheet. In 2005, the District's liability for compensated absences was \$993,231. As of December 31, 2009, this liability grew to \$1,430,278 an increase of 44%. If the District had not paid this "excess" leave to the employees who requested it, that liability would have been \$1,637,661 or an increase of 64.9% as of December 31, 2009.

In compliance with DPA rules, the District accrues vacation and annual leave at the employees' current rate of pay. Since 2005, most employees received two cost of living adjustments. On July 1, 2006, most employees received an increase of 3.5%. On July 1, 2007, another COLA was granted by the State in the amount of 3.4%. In addition, employees who had not yet reached the top of their pay scale received an annual merit salary adjustment of 5%. These Cost of Living Adjustments and Merit Salary Adjustments resulted in an increased liability to the District for compensated absences.

Because the District has sufficient cash to fund this liability, management believes that it is prudent to cash out leave balances on a case by case basis. This helps employees who face financial hardships, and decreases the financial liability of the District. As of December 31, 2009, the District's exempt employees still have, on average, over 540 hours of leave remaining. Those balances will only increase, as the Governor's Executive Order effective July 1, 2009 stated that furlough days must be taken before any other type of leave, such as vacation, annual leave, holiday credits or Compensating Time Off.

If the District were to create receivables from the affected employees and increase its expense and liability by \$354,161 as recommended by the CDFA audit report, this would create an even greater financial hardship on District employees who already are paid substantially less than employees of comparable public entities in San Diego. The liability for the District would have to be adjusted upward for any merit salary adjustments, and Cost of Living Adjustments granted since these payouts. The District has already incurred a large increase in our liability for uncompensated absences for 2009 and 2010 due to the State furlough program. Employees forced to take a 13.85% pay cut and to take three furlough days off each month before they are allowed to take any other form of leave will be far less likely to be able to take the vacation and leave that they have accrued and still perform their duties. According to DPA rules, this liability is to be accrued at the unreduced rate of pay, or before the pay reduction due to the furlough program. This will only result in an even larger liability at year's end. When the increased liability due to the Furlough program is added to the adjustment proposed by the auditors, the resulting liability for the District is estimated to be \$1.7 Million as of December 31, 2009.

The adjustment proposed by the auditors would also result in the restatement of audit reports for the relevant years prepared by the District's Certified Public Accountants. This restatement might also raise questions by the bond rating company and bondholders over a compensation policy that is commonly accepted and widely used in the industry to minimized future unfunded liabilities of both public and private companies and governmental entities.

The practice of cashing out leave balances is not uncommon and, as previously stated, is in effect with several California public entities. As long as the entity has sufficient cash reserves to cash out the employee leave balances, this practice serves to lower the liability of the employer, and improves employee morale. Moreover, in spite of the recession, the District remains very busy with events on a year-round basis. It is impossible for District employees to take three days each month as furlough days, then take an additional average of two days each month as leave, and still operate over 300 year-round events held at the Del Mar Fairgrounds. Since the cash value of the accrued leave balances belongs to the employees and not the District, the funds would have to be paid to the employees upon separation. For this reason among others, the District paid the funds to the employees on a case by case basis. The District strongly believes that this is in the best interest of the employer and the employee who faces financial hardships. In the case of District employees, this has included a spouse's sudden and unexpected job loss, health issues and the threat of loss of their home.

### **Lack of Compliance with Executive Furlough Order**

The audit report stated that the Fair made the following errors in payroll transactions during the period 2008- 2009, that resulted in \$37,098 of salary overpayments to exempt and excluded employees:

- a. The Fair paid straight-time and overtime to exempt employees during the non-qualifying workweeks. The audit office noted the exempt employees worked either a partial day and used furlough hours or when no furlough days were used during the week.
  - b. The Fair implemented the two-day furlough salary reduction in March 2009 rather than February 2009.
  - c. Executive Order S-13-09 (three-day furlough reduction) was effective July 1, 2009 to June 30, 2010, however the Fair began implementation in the June 16-30 pay period.
  - d. The Fair reduced salaries by 7.69% rather than the required 9.23% for the period April 1, 2009 through June 15, 2009.
  - e. The Fair made errors by miscalculating the hours worked, miscalculating straight-time hours, and overtime hours. The audit office recommended:
3. *The Fair should establish an employee accounts receivable for the improper overtime and salary overpayments paid in 2009. In the future, the Fair should ensure overtime is only earned by WWG E employees in qualifying work weeks.*
  4. *The Fair should review and amend the employee leave card by recording the hours of unused furlough time as of December 31, 2009.*

### **RESPONSE:**

- a. The audit report noted the District did not comply with DPA PML 2009-019 by allowing an exempt employee to use furlough hours for a partial day. No detail was provided, therefore the District cannot respond with specificity. The District is aware of one employee who was permitted to take furlough hours in less than one-day increments after reviewing DPA PML 2009-030 which superseded PML 2009-019. PML 2009-30 does not state furlough hours need to be taken in full day increments. It does state that employees lose their exempt status and become hourly employees on weeks they have a furlough day. Since hourly employees could take partial days we assumed the policy was also applicable to exempt employees.
- b. District management initially believed the Furlough Program would not apply to the District Agricultural Associations. At the direction of both the Departments of Finance and General Services the District wrote a comprehensive letter to the Department of Personnel Administration (DPA) requesting an exemption. In the interim, the District required all District employees to take two unpaid furlough days each month. On April 14, 2009 the District was notified by DPA that it did not have the authority to grant an exemption and was directed to contact the Governor's Office regarding this request. Upon receiving this notification from DPA the District immediately reduced pay by 9.23% and put the required two day/month furlough hours on the books retroactive to

February and subtracted the furlough hours already taken. The District therefore fully complied with the orders of the furlough program.

- c. The District implemented Executive Order S-13-09 on July 1, 2009 as required, which was reflected in the July 15, 2009 payroll. Some confusion may have arisen because the District pays its employees semi-monthly, not monthly as is the practice with the State Controller's Office.
- d. Adjustments for the period April 1 to April 15, 2009 were made by subtracting 8 hours of Furlough from pay as detailed in "b." above. Beginning April 16, 2009 pay was reduced by 9.23%. This should account for the apparent difference noted in the audit report.
- e. In the absence of additional detail, the District is unfortunately unable to respond with specificity. However, this may be a reference to how several exempt employees completed their Novatime timesheet. As explained at the time of audit, the District's timekeeping system (Novatime) is not set up to allow exempt employees to punch in and out, and as a result, these employees cannot show overtime hours on a daily basis. Therefore many exempt employees manually kept track of their time and when completing their timesheet reflected all their overtime hours for that pay period on a single day, so that each affected employee received payment in full for hours worked. The audit office was provided with employee records showing the actual time worked for each employee for whom the auditors needed additional detail.

Furlough hours remaining on the books for each employee is in fact reported on each individual "pay card" for that particular employee in the Novatime timekeeping software.

The audit report states that the intention of the furlough order was to reduce payroll expenses. However, for the District, the reality was that the furlough order increased payroll expenses dramatically. The District's operations require staffing 365 days a year at certain minimal levels in order to support District events, care for horses boarded at District facilities, and provide for public safety. The District therefore incurred staffing costs to cover for those employees out on furlough days. This increased costs for temporary employees and overtime pay for full-time employees, because the District was not subject to the global overtime prohibition announced in the then Governor's Executive Order. District employee unused vacation liability also increased significantly as the Executive Order mandated that furlough days be taken before any other form of compensating time off.

### **Expenses Incurred for Directors Dining**

This was a prior year audit finding. The audit office recommended:

*5. The Fair should follow F & E's APM, which requires all claims for payment of promotional or public relations expenses to include the names of all recipients of the item or benefit, the purpose of the expenditure, justification for the food or meal, specific business topics discussed during the event, and necessity of or the benefits expected to accrue to the Fair by entertaining. A claim that does not meet all the requirements should not be approved for payment.*

## RESPONSE:

The District has worked closely with the Attorney General's office to review and revise existing policies regarding Directors' Dining. The audit report states that the Fair provided catered dinners to the Board members and their guests during fair time at a cost of \$36,806 in 2008 and \$35,461 in 2009. The people who attend these buffet dinners in the Directors' Dining Room in the Grandstand include not only Board members and their guests. The attendees include fair sponsors and potential sponsors, local, county and State representatives, promoters, livestock judges, visiting fair managers, Western Fairs Association members, and even underprivileged families. Regarding the provision of meals for public relations, the District provides a buffet dinner in the Directors' Dining Room each evening during the fair, which is available for use by the directors and senior management among others. Most of the directors attend the fair on a daily or near-daily basis, and the Directors' Dining Room provides a quieter locale at which the directors and staff can meet and discuss fair business with fair sponsors, and host local dignitaries, government officials, and company representatives who are currently or considering conducting business with the District as well as other guests as previously described. The District provides a Guest Book for Directors Dining, and attendees must sign in upon arrival. In 2011, the District issued admission tickets to anyone attending Directors Dining. The amount of tickets given out was compared to the number of meals for which the DAA was billed.

As for the purpose of Directors' Dining, our directors and senior management also meet with sponsors and potential sponsors to discuss the fair and year-round sponsorship possibilities. The District enjoys significant financial benefits from these sponsorships. District sponsorship revenues grew from \$45,000 in 1992 to over \$2,600,000 in 2008 and \$2,560,000 in 2009. The attendance and revenues were also the highest to date for each of these respective years.

Although the audit report states that these dinners were provided at a cost of \$36,806 in 2008 and \$35,461 in 2009, it should be noted that the District also shares net revenues with our food service provider for these buffet dinners. Therefore, while the District paid the provider for the meals provided, it was repaid 87% of the net revenues. The District's share of the net revenues related to Directors' Dining is estimated to be \$16,000 in 2008 and \$15,426 in 2009, making the net cost to the District \$20,806 in 2008 and \$20,035 in 2009. It should also be noted that all alcoholic beverages are paid for directly by the Directors and are not part of this cost. Taking into account the annual Fair is a 22-day event, the cost to the District is less than \$1,000 per day.

### **Tracking and Reporting Courtesy Passes**

The audit report states that the Fair does not track the number of courtesy passes redeemed as required by California Food & Agricultural Code. Food and Agriculture Code Section 3026 states "The percentage of courtesy pass admissions to any state, county, district or citrus fair shall not exceed 4 percent of the gross paid admission to the fair in the preceding calendar year.

The audit recommended:

*6. The Fair should ensure that it properly tracks its courtesy passes and that all admissions without payment fall within the three categories, as outlined in the California Food and Agricultural Code section 3022.*

*7. The Fair should comply with the California Food and Agricultural Code section 3026. As a State institution, the Fair has ultimate responsibility to the public to demonstrate compliance with all the State rules and regulations over passes, in order to prevent the perception of an inappropriate use of funds.*

RESPONSE:

The Fair does indeed track courtesy passes with the following policy. A credential request, including the quantity of tickets requested, the purpose of the request and the type of ticket (ex. trade, access, complimentary, etc.) is created by the Supervisor. The credential request is forwarded to the Department Head for approval and thereafter, if approved, to the General Manager, or Deputy General Manager for the final approval. Upon final approval, the request is processed by the Credentials Department. All credentials are tracked by the credential request that is submitted to the Credentials Department and all tickets are bar-coded for tracking when presented at the admission gates. Bar-code scanners are used so that redeemed courtesy passes can be tracked. All courtesy passes fall within the three categories outlined in Food and Agriculture Code Section 3022. The audit report states that 61,752 admission tickets issued to employees in 2008 and 40,404 in 2009 were not included as courtesy passes. The District will refine its system to insure the inclusion of employee and Board member courtesy passes in its future calculations.

Food & Agricultural Code Section 3026 limits courtesy pass admissions to 4% of gross paid admissions to the fair in the preceding calendar year. Unlike some fairs in the State, the District does charge an admission fee, and also has the highest attendance in the state of California. It set attendance as well as revenue records in both 2008 and 2009. As a State institution, the District tries to utilize as many courtesy passes as possible to welcome to the annual Fair individuals who could not otherwise afford, or be able, to attend. Although every attempt is made to keep these courtesy passes within the 4% limit, the District's attempts to accommodate the disadvantaged poses inherent conflicts. Nonetheless, in 2009, the District changed its courtesy pass policy in an attempt to more closely hew to the 4% limit. The District will continue to make every effort to meet this 4% limit, while simultaneously making the annual Fair an achievable destination for everyone, regardless of financial, physical or other limitations. This is an integral part of the District's marketing program.

**Reporting of Tickets Provided by the Fair**

According to the audit office, the Fair reported some but not all of the tickets that Board members received. The recommendations were:

**8. The Fair should follow FPPC requirements and its own policy to complete and post the Form 802 for all complimentary tickets issued to Board members.**

**9. The Fair should ensure it properly tracks the amount of complimentary tickets it provides its Board, to ensure accuracy when reporting the number of tickets received on the Form 802.**

RESPONSE:

The District has worked closely with the Attorney General's office to review and revise existing policies regarding fair passes. The District's ticket policy was drafted to comply with recently enacted Fair Political Practices Commission regulations, as well as other pertinent statutes, regulations and controlling law. This Ticket Policy was approved by the Board of Directors on June 9, 2009, and is currently in effect for admission tickets as well as concert tickets. A copy of this policy will be provided to the CDFA Audit Office.

In order to insure more accuracy, in 2011 the District created additional forms requiring Directors to submit their ticket requests in writing. As provided in the District's ticket policy, the Directors may receive tickets for themselves and their immediate family for each day of the Fair.

The District will conduct an additional review of its procedure to track complimentary tickets in order to ensure accuracy when reporting the number of tickets received on the Forms 802.

**Employee Recognition Programs**

Gift cards were given to employees in 2008 and 2009 for employee recognition programs and for safety awards. The audit office stated that the Fair did not properly track the gift cards and verify the count periodically to ensure no gift cards were missing. The recommendations were:

**10. The Fair should comply with the APM and State Constitution regarding the gifting of state funds, by avoiding an appearance of gifting of State funds when providing the gift cards to employees.**

**11. The Fair should improve its internal controls over the gift cards by maintaining all necessary supporting documentation of the recipients of the gift card awards.**

RESPONSE:

The Fair's Human Resources department keeps all gift card inventory in a safe. When an employee receives the award, both the employee and someone from the HR staff sign a log sheet. The log sheets contain the date the employee picked up the gift card, the employee's name, the type of card selected and the card number. Each gift card given out can be traced to a specific employee. The log sheets for the gift cards were discarded after the financial audits for 2008 and 2009 were performed by the District's CPA firm. These logs and the inventory of remaining

inventory are checked periodically not only by HR staff and also by Accounting staff. The District has been made aware that these logs should have been kept until the audit by the CDFA Audit Office had been performed.

### **Accounting for Temporary Employees in 2008**

The audit report noted that in 2008, 24 temporary employees worked in excess of the 119-day limitation within the calendar year.

***12. The Fair should comply with the APM and State Constitution by ensuring temporary employees do not work in excess of the 119-day limitation.***

#### **RESPONSE:**

The District hosts over 300 interim events each year. In order to provide the staffing and support for the annual fair and the interim events, the District employs approximately 1,700 temporary employees each year. The audit report stated that 24 of these temporary employees worked in excess of the 119-day limitation in 2008.

Four of these employees worked in the Parking department. The District's interim events are held year-round, and require reliable, trustworthy supervisors to oversee parking cashiers, directors and attendants who work these events. Therefore, four parking supervisors worked over the 119-day limit.

One position was in fact a retired annuitant who served a critical role as the District's lead mechanic. One temporary employee filled a position that was budgeted for permanent position but was vacant. These permanent positions are no longer vacant.

The District continues to work with its Human Resources department to institute all necessary controls to track the number of days worked by temporary employees and insure none of them exceed the limits established by the California Constitution and the State Personnel Board.

### **Tracking of Time for Temporary Employees in 2009**

The audit report states that the Fair changed payroll systems in 2009. The report states that the Fair was unable to provide the audit office with a complete listing of its temporary employees, the total number of hours worked in a fiscal year, and the total number of hours worked in a calendar year. The recommendation was:

***13. The Fair should ensure that it properly tracks the hours and days worked by temporary (non civil service) employees to ensure that it complies with State rules and regulations.***

*Additionally, the Fair should review in payroll records in 2008 and 2009 to ensure that all temporary employees that worked over 1,000 hours have been enrolled in CalPERS or ARP.*

RESPONSE:

The Fair did not change payroll systems in 2009. In fact, the timekeeping software system was changed. Because of this change, the HR department had two sets of timekeeping reports for the fiscal and calendar years, one from the old system, one from the new system. The sum of the two reports provided the total hours each temporary employee worked during 2009 for both fiscal and calendar years. Although the District was not able to provide one comprehensive report, in fact, all hours were correctly and properly tracked.

Any time that a company changes software, there will be one year when there will be two separate reports. Staff did offer to create a special report that combined the information from both software sources, but the auditors declined the offer. Records were provided to the auditors by the District's Operations department to show how they track the number of days each temporary employee works. This is the department that uses the most temporary help.

With the newer timekeeping software in place for 2010, the District is able to closely monitor on one software platform both the number of days and the number of hours worked by temporary employees.

The District continues to work with its Human Resources department to institute all necessary controls to track the number of days worked by temporary employees and insure none of them exceed the limits established by the California Constitution and the State Personnel Board.

### CDFA EVALUATION OF RESPONSE

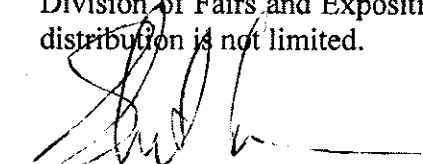
A draft copy of this report was forwarded to the management of the 22nd DAA, San Diego County Fair, for their review and response. We have reviewed the response and have determined that management has not taken appropriate action pertaining to our finding regarding establishing accounts receivables for Fair employees as well as amending employee leave cards as necessary. The 22nd DAA rationalizes its cash-outs of paid leave by stating it has adequate funds for such payments, lists hardships on existing employees, and specifies that practice is common at other public agencies.

Despite the rationale offered by the 22nd DAA, the fact remains it is a State Institution and is required by law to comply with State rules and regulations without exception. The continued disregard for State policy regarding employee payouts is simply not acceptable and could lead to serious consequences. We continue to recommend that the amounts improperly paid to employees identified within the audit report need to be collected. Furthermore, the DAA needs to contact F&E and work to resolve these audit issues.

### DISPOSITION OF AUDIT RESULTS

The findings in this management report are based on fieldwork that my staff performed between November 29, 2010 and January 14, 2011. My staff met with management on January 13, 2011 to discuss the findings and recommendations, as well as other issues.

This report is intended for the information of the Board of Directors, management, and the Division of Fairs and Expositions. However, this report is a matter of public record and its distribution is not limited.



For Ron Shackelford, CPA  
Chief, Audit Office

January 14, 2010

**REPORT DISTRIBUTION**

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1	Director, Division of Fairs and Expositions
1	Chief Counsel, CDFA Legal Office
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