

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 8570	Department California Department of Food & Agriculture	Priority No. 2
Budget Request Name 8570-402-BCP-DP-2016-MR		Program 6580-Assistance to Fair and County Agricultural Activities	Subprogram

Budget Request Description
 Network of California Fairs Oversight

Budget Request Summary

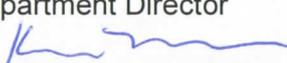
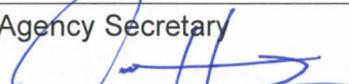
The California Department of Food and Agriculture requests 2.0 permanent positions and \$435,000 Fair and Exposition Fund in Fiscal Year (FY) 2016-17 and \$392,000 Fair and Exposition Fund in FY 2017-18 and ongoing to better fulfill the statutory mandate of overseeing the activities of the network of California fairs.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed N/A
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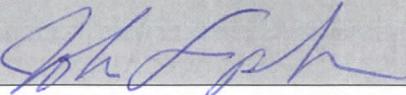
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
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For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.
 FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Kathy Diaz	Date 4/7/2016	Reviewed By Jeff Cesca	Date 4/7/2016
Department Director 	Date 4/22/16	Agency Secretary 	Date 4/22/16

Department of Finance Use Only

Additional Review: <input type="checkbox"/> Capital Outlay <input type="checkbox"/> ITCU <input type="checkbox"/> FSCU <input type="checkbox"/> OSAE <input type="checkbox"/> CALSTARS <input type="checkbox"/> Dept. of Technology	
BCP Type: <input type="checkbox"/> Policy <input type="checkbox"/> Workload Budget per Government Code 13308.05	
PPBA 	Date submitted to the Legislature 5/13/16

BCP Fiscal Detail Sheet

BCP Title: Network of California Fairs Oversight

DP Name: 8570-402-BCP-DP-2016-MR

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	2.0	2.0	2.0	2.0	2.0
Total Positions	0.0	2.0	2.0	2.0	2.0	2.0
Salaries and Wages						
Earnings - Permanent	0	157	157	157	157	157
Total Salaries and Wages	\$0	\$157	\$157	\$157	\$157	\$157
Total Staff Benefits	0	73	73	73	73	73
Total Personal Services	\$0	\$230	\$230	\$230	\$230	\$230
Operating Expenses and Equipment						
5301 - General Expense	0	4	4	4	4	4
5302 - Printing	0	10	10	10	10	10
5304 - Communications	0	3	2	2	2	2
5306 - Postage	0	2	2	2	2	2
5320 - Travel: In-State	0	54	54	54	54	54
5322 - Training	0	5	5	5	5	5
5324 - Facilities Operation	0	11	11	11	11	11
5342 - Departmental Services	0	59	59	59	59	59
5346 - Information Technology	0	3	0	0	0	0
539X - Other	0	54	15	15	15	15
Total Operating Expenses and Equipment	\$0	\$205	\$162	\$162	\$162	\$162
Total Budget Request	\$0	\$435	\$392	\$392	\$392	\$392
Fund Summary						
Fund Source - State Operations						
0191 - Fair and Exposition Fund	0	435	392	392	392	392
Total State Operations Expenditures	\$0	\$435	\$392	\$392	\$392	\$392
Total All Funds	\$0	\$435	\$392	\$392	\$392	\$392
Program Summary						
Program Funding						
6580 - Assistance to Fair and County Agricultural Activities	0	435	392	392	392	392
Total All Programs	\$0	\$435	\$392	\$392	\$392	\$392

Analysis of Problem

A. Budget Request Summary

The California Department of Food and Agriculture (CDFA) requests 2.0 permanent positions (one Agricultural Program Supervisor (APS) and one attorney) and \$435,000 Fair and Exposition Fund in Fiscal Year (FY) 2016-17 and \$392,000 Fair and Exposition Fund in FY 2017-18 and ongoing for the Fairs and Expositions Branch (F&E) to better fulfill the statutory mandate, Business and Profession Code Sections 19620 – 19642.1 and Food and Agricultural Code Sections 3021-3029, 4501-4513, of overseeing the activities of the 79 fairs (of which 77 are active) that make up the network of California fairs.

The passage of Assembly Bill 95 in 2011 resulted in the elimination of \$32 million General Fund for the California fairs and a reduction of CDFA's funding to carry out its oversight mandate of the California Fairs. The mitigation of risk through proactive and timely legal advice is currently one of the most pressing needs of the fairs. This proposal would restore CDFA's ability to provide access to legal counsel to the District Agricultural Associations (DAAs) that are statutorily considered arms of the state, a more consistent level of supervision and guidance to the fairs under its purview, and management of the deferred maintenance funds that were recently allocated for the fairs.

B. Background/History

Over 140 years ago, California began organizing what is today one of the largest fair systems in the nation. Currently, the network consists of 79 fairs that operate under a variety of governance structures, which include six county-operated fairs, 16 nonprofit operated county fairs, two citrus fruit fairs, 54 DAAs, and the California State Fair (an independent state entity). Two of the DAAs are currently inactive, and three do not have permanent fairgrounds.

Throughout the 1940s, a majority of the fairgrounds were constructed through the Federal Works Projects Administration and the California Conservation Corps. The aging inventory of fairground infrastructure in California includes more than 3,000 buildings on nearly 6,295 acres at locations throughout the state. To assist with fairground deferred maintenance, the Budget Act appropriated \$7.0 million in General Fund in FY 2015-16, which will be used to fund 81 deferred maintenance projects at 43 fairgrounds. In addition, \$4.0 million in General Fund has been proposed in FY 2016-17 for additional deferred maintenance projects.

F&E classifies the fairs based on its five-year average of total operating revenues. As detailed in Table 1, smaller fairs are identified as class sizes I to II; medium class III to IV+; and large class V to VII. Fair class size is used to determine the annual allocation disbursed to each fair to supplement its operational costs (i.e., the smaller the class size, the greater the allocation amount). For FY 2015-16 and future fiscal years, approximately \$2.6 million in General Fund will be allocated to class sizes I - IV+. Additionally, approximately \$500,000 General Fund was appropriated in FY 2015-16 and annually thereafter to provide training and training resources to all fairs, and fund an audit component to ensure that the allocated funding is spent properly.

Table 1

Small Fairs		Medium Fairs		Large Fairs	
Class Size	# of Fairs	Class Size	# of Fairs	Class Size	# of Fairs
I-X ¹	3	III	14	V	4
I	9	III+	14	VI	5
II	9	IV	8	VII	5
-	-	IV+	6	-	-
Total # of Small Fairs	21	Total # of Medium Fairs	42	Total # of Large Fairs	14
Grand total 77²		¹ Class I-X fairs do not have permanent facilities ² Grand total fair count does not include two DAAs that were deactivated			

Analysis of Problem

In 2009, the network of California fairs had a \$2.9 billion economic impact providing \$127.0 million in state and local taxes and over 25,000 jobs. Many fairs serve as a platform for fundraising activities by local and regional nonprofits. It is estimated that more than \$60.0 million was raised at fairgrounds in 2012, including more than \$20.0 million solely in junior livestock sales. These dollars are reinvested into local communities.

Fairs provide agricultural education to the public, an affordable annual community-focused event, and act as staging facilities for emergency services and disaster preparedness. Fairgrounds throughout the state are frequently called upon to house displaced residents, as well as their pets and livestock, during natural disasters such as earthquakes, wildfires and floods. In addition, local agricultural youth groups, such as Future Farmers of America, utilize the fairgrounds to display and sell their projects. Agricultural groups need local, safe and controlled facilities to display their projects and generate funding for its members. Lastly, fairs increase tourism to the state and local economy by increasing hotel occupancy and supporting local businesses.

Fairs & Expositions – Resource History (Dollars in Thousands)

	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Authorized Expenditures						
General Fund – State Operations	\$0	\$0	\$0	\$0	\$0	\$7,486 ²
General Fund – Local Assistance	\$32,000	\$0	\$0	\$0	\$0	\$2,605
Fair and Exposition Fund – State Operations	\$1,142	\$3,466	\$4,440	\$3,350	\$2,836	\$1,319
Fair and Exposition Fund – Local Assistance ¹	\$0	\$709	\$1,694	\$1,994	\$1,535	N/A
Actual Expenditures:						
General Fund – State Ops	\$0	\$0	\$0	\$0	\$0	N/A
General Fund – Local Assistance	\$32,000	\$0	\$0	\$0	\$0	N/A
Fair and Exposition Fund – State Operations	\$1,092	\$1,908	\$2,282	\$862	\$1,030	N/A
Fair and Exposition Fund - Local Assistance	\$0	\$709	\$1,694	\$1,994	\$1,535	N/A
Revenues:						
Fair and Exposition Fund	\$5,802	\$3,224	\$1,609	\$1,515	\$1,336	\$300
Positions:						
Authorized	20.0	13.0	12.0	5.0	5.0	7.0
Filled	17.1	12.3	3.4	3.5	3.3	5.0
Vacant	2.9	0.7	8.6	1.5	1.7	2.0

¹For the purposes of the chart above, the “Authorized Expenditures” amount for continuously appropriated Local Assistance funding is equal to the actual expenditures for that year.

²Of the total, \$7.0 million is one-time General Fund for deferred maintenance projects.

C. State Level Considerations

F&E is responsible for the fiscal and policy oversight of the network of California fairs and its level of responsibility toward each of the fairs depends on their individual governance structure. Since the DAAs are established as arms of the state, CDFA’s oversight efforts are concentrated on DAAs. Each DAA has a Chief Executive Officer (CEO) and a nine member board appointed by the Governor (for a grand total of 468 DAA board members statewide). DAA board members serve four-year terms as uncompensated volunteers; they are responsible for directing policy development, providing direction to fair management regarding DAA activities, and ensuring

Analysis of Problem

fiduciary oversight of the fair. DAA boards adhere to the Bagley-Keene Open meeting act, and meet on a monthly basis. County Fairs operate in a similar manner and adhere to the Brown Act.

D. Justification

F&E is responsible for the fiscal and policy oversight of the network of California fairs and its level of responsibility toward each of the fairs depends on their individual governance structure. With the removal of the \$32.0 million General Fund support, the levels of oversight and guidance F&E has been able to offer to the fairs has been very limited. While the availability of financial resources has declined, F&E's oversight responsibilities of the network of California fairs have remained relatively unchanged.

For legal assistance, the DAA boards and staff have historically been encouraged to work directly with the Department of Justice (DOJ) at a cost of approximately \$150/hour. However, in light of the limited resources available to the network of California fairs and of the seriousness of some of the issues affecting DAAs, whenever possible, CDFA's Legal Office has also occasionally provided legal guidance to these fairs.

In the last couple of years, the absence of legal guidance has been the cause of several serious problems at multiple fairs. In many of these instances, lack of funds to consult with DOJ was cited by fair staff as the reason why legal advice had not been sought. Unbeknownst to CDFA, at times, DAAs relied on other resources, such as other DAAs or private pro bono legal assistance; this is a risky approach to defending the interests of the state. The DAAs utilize these alternative sources because they do not have the necessary financial resources to defray the cost of consulting with legal counsel. Improper unauthorized legal guidance has the potential for serious implications such as lawsuits and/or the dismissal of board members and staff. Over the last three years there have been multiple occasions where a DAA was sued for actions that could have been prevented under proper legal advice. DAAs have agreed to host controversial events where patrons were injured and the public protested. Lack of knowledge regarding the type of situations that may create legal exposure resulted (in multiple occasions) in litigation, threatened litigation and/or public relations crises. Paradoxically, when these unfortunate situations occur, the amount of resources to resolve the issues tends to be consistently higher than it would have been to consult with legal counsel in advance.

The actions of DAAs are a significant concern for CDFA because they were created as arms of state government and are directed by Governor Appointees. One of the main concerns, after half a decade of conducting oversight activities at minimal levels, is the need to provide a higher level of guidance to each of the fairs' board of directors and staff. Fair boards discuss critical issues and make important decisions during public meetings. Reduced level of guidance by F&E, combined with turnover of long-term fair staff, and terming out of experienced board members has significantly depleted the institutional knowledge of the network of California Fairs. As a result many of the DAA boards/staff have become accustomed to making decisions in a manner that does not adhere to CDFA guidelines, and ultimately the interests of the fair and the state.

Regarding the statutory mandate for oversight of the network of California fairs, CDFA is primarily concerned about the potential for the following type of issues: Bagley-Keene Open Meeting Act violations, lack of financial transparency due to reporting deficiencies to CDFA, potential exposure to events involving the misappropriation of state funds, litigation resulting from actions taken without considering the governmental nature of DAAs, as well as personnel actions/decisions inconsistent with state rules.

Because of the number of fairs under F&E's supervision and the complexity of the issues, F&E is requesting one middle level supervisor (APS) and one attorney. The supervisor would supervise existing staff, manage the deferred maintenance funds, and attend board meetings involving only the most critical/complex issues. Although the number of fair meeting varies per year, most DAAs

Analysis of Problem

and county fairs meet between eight to ten times a year. The attorney would help DAAs mitigate its risk through proactive legal guidance, and provide specialized training for board members and staff. The addition of the requested staff would provide a comprehensive and proactive approach to prevent serious issues.

E. Outcomes and Accountability

**Table 3
Projected Outcomes**

Workload Measure	CY 16/17	BY 17/18	BY+1	BY+2	BY+3	BY+4
Attend 4 DAA meetings per year (52 DAAs)	208	208	208	208	208	208
Attend 1-2 County Fair meetings (including CalExpo/citrus fairs)	25-50	25-50	25-50	25-50	25-50	25-50
Provide 16 hours of legal assistance to 52 DAAs	832 hrs	832 hrs	832 hrs	832 hrs	832 hrs	832 hrs
Train DAA board members (3 areas of state; twice per year)	6 training sessions	6 training sessions	6 training sessions	6 training sessions	6 training sessions	6 training sessions
Provide oversight to 81 projects at 43 fairs (\$7.0m) plus expected 30+ projects (\$4.0m)	111 projects	111 existing projects	30 existing projects			

F. Analysis of All Feasible Alternatives

Alternative 1: Approve 2.0 positions and \$435,000 Fair and Exposition Fund in FY 2016-17 and \$392,000 Fair and Exposition Fund in FY 2017-18 and ongoing.

Advantages: This alternative provides F&E with the resources to provide access to legal counsel and reduce and/or prevent potential legal liabilities to the DAAs that are statutorily considered arms of the state. F&E will also provide a more consistent level of supervision and guidance to the fairs under its purview, and management of the deferred maintenance funds that were recently allocated for the fairs.

Disadvantages: This alternative will increase the obligation to the Fair and Exposition Fund.

Alternative 2: Do not approve 2.0 positions and \$435,000 Fair and Exposition Fund in FY 2016-17 and \$392,000 Fair and Exposition Fund in FY 2017-18 and ongoing.

Advantages: There will be no obligation to the Fair and Exposition Fund.

Disadvantages: In the absence of the APS attending meetings with the most complex, challenging issues, and the attorney providing the appropriate level of training and legal guidance to the DAAs; including referring to DOJ items requiring specialized legal advice, the fair boards and staff will not receive timely and proactive guidance thereby potentially increasing liability to the fair and state. Additionally, it can be reasonably expected that, due to lack of knowledge and/or funding, the DAAs will continue to make significant decisions without proper consideration of legal factors.

Alternative 3: Have existing F&E staff attend as many fair board meetings as possible and allow the DAAs to seek legal guidance at their own discretion.

Advantages: No additional resources would be needed. Current, F&E staff would attend as many fair meetings as possible.

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Disadvantages: F&E staff would not regularly attend meetings of fairs identified with critical fiscal issues. With less focus and assistance to these fairs, an increased chance of financial default could occur, leaving the state liable for unpaid debt, property closure, fair staff layoffs, and potential public liability. Without guidance from F&E the DAAs may be unable to identify situations with risk of liability or may utilize unauthorized legal counsel, thus attempting to operate as businesses or trade associations, as opposed to state entities.

G. Implementation Plan

Hire one APS to start July, 2016. The APS will oversee approximately 110 deferred maintenance projects; supervise existing staff; develop a plan for F&E staff to attend multiple board meetings, per DAA, per year; and attend meetings with the most complex, challenging issues.

Hire one attorney to start July, 2016. The attorney, to be housed in CDFA's Legal Office, will work in tandem with F&E to ensure that an appropriate level of training and legal guidance is available to the DAAs including referring to DOJ items requiring specialized legal advice.

H. Supplemental Information

Given the geographical coverage of the DAAs and the number of meetings and trainings that staff are expecting to attend, the request of funding for the purchase of two vehicles is included in this proposal. The vehicles will be used to attend meetings and trainings from northern California, as there are no major airports north of Sacramento, to the near/around the Grapevine. Fairs further south of the Grapevine will involve airfare and rental cars. It is anticipated that the requested APS and attorney, as well as the existing staff will utilize the vehicles.

I. Recommendation

CDFA recommends approval of Alternative #1. This alternative will provide a higher level of support to CDFA and California fairs to ensure that proper oversight and legal guidance is being provided. California fairs have immense economic, educational, social and cultural impacts to their communities. The requested resources will help the fairs with much needed oversight, guidance, and resources thereby reducing liability to the DAAs and the state.