DEPARTMENT OF FINANCE

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January 14, 2010

Mr. Kevin Masuhara, Director
California Department of Food and Agriculture
Division of Marketing Services
560 J Street, Suite 150
Sacramento, CA 95814

Dear Mr. Masuhara:

Final Report—California Department of Food and Agriculture's Marketing Program Oversight

The Department of Finance, Office of State Audits and Evaluations (Finance), has completed its performance review of the California Department of Food and Agriculture's (CDFA) oversight of the 55 marketing programs.

The enclosed report is for your information and use. The CDFA's response to the report findings are incorporated into this final report. The CDFA agreed with our observations and we appreciate its willingness to implement corrective actions. The observations in our report are intended to assist management in improving the effectiveness and efficiency of its operations.

In accordance with Finance's policy of increased transparency, this report will be placed on our website. Additionally, pursuant to Executive Order S-20-09, please post this report in its entirety to the Reporting Government Transparency website at http://www.reportingtransparency.ca.gov/ within five working days of this transmittal.

We appreciate the assistance and cooperation of the CDFA's staff. If you have any questions regarding this report, please contact Susan Botkin, Manager, or Zachary Stacy, Supervisor, at (916) 322-2985.

Sincerely,

David Botelho, CPA
Chief, Office of State Audits and Evaluations

Enclosure

cc: Mr. Robert Maxie, Chief, Marketing Branch, California Department of Food and Agriculture
Mr. Ron Shackelford, Chief, Audit Office, California Department of Food and Agriculture

A PERFORMANCE REVIEW

California Department of Food and Agriculture Review of Marketing Program Oversight

Prepared By:
Office of State Audits and Evaluations
Department of Finance

098570143

November 2009

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Final reports are available on our website at http://www.dof.ca.gov

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BACKGROUND, SCOPE, AND METHODOLOGY

BACKGROUND

The California Marketing Act of 1937 authorized the creation of marketing orders, agreements, and councils to promote the sale of commodities produced within the state. In the mid-1980s, Divisions 21 and 22 of the California Food and Agriculture Code established a framework to create commissions as a more independent type of marketing program for specific types of commodities.

The Division of Marketing Services within the California Department of Food and Agriculture (CDFA), assists in the promotion and administrative oversight of 55 marketing programs promoting over 350 California agricultural products. These marketing programs, along with the CDFA's Division of Marketing Services, are funded through fee assessments of producers, shippers, or processors. Marketing Branch personnel within the Division of Marketing Services are charged with the responsibility of overseeing policy formulation, the annual budget process, and elections and referendums for the marketing programs.

SCOPE

In accordance with an interagency agreement with the CDFA, the Department of Finance, Office of State Audits and Evaluations, conducted a performance review of the CDFA's oversight responsibilities for 55 marketing programs within the state. The objectives of the review were to:

- Document the oversight responsibilities required by the California Marketing Act of 1937, Divisions 21 and 22 of the California Food and Agriculture Code and the CDFA Marketing Branch's policies and procedures.
- Determine whether CDFA personnel are regularly complying with these oversight requirements.
- Assess whether the CDFA's oversight is perceived to be effective by the 55 marketing programs.

Our review was limited to the oversight responsibilities performed by the CDFA's Marketing Branch. Oversight provided through assessment or fiscal and compliance audits, and oversight provided from outside the Marketing Branch, were not analyzed in this review. Additionally, our review focused on the current processes of the CDFA's Marketing Branch. However, when testing compliance with oversight requirements, we reviewed activities during the period September 2006 through August 2009.

We conducted our review in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

METHODOLOGY

In order to document the CDFA's oversight responsibilities for the 55 marketing programs, we:

- Reviewed the California Marketing Act of 1937.
- Reviewed Divisions 21 and 22 of the California Food and Agriculture Code.
- Reviewed the CDFA's Policies for Marketing Programs, 4th Edition, May 2006.
- Reviewed the CDFA's 2009 Notices to Industry on the Marketing Branch's website.
- Reviewed Marketing Branch Program Assignments, effective August 1, 2009.
- Interviewed Marketing Branch management and staff.

In order to determine whether the CDFA was regularly performing its oversight responsibilities we selected 12 (22 percent) of the marketing programs to evaluate oversight documentation and activities. The sample included marketing programs from all 4 types of entities (Marketing Order, Commission, Agreement, and Council) and from each of the 5 Marketing Branch liaisons. Additionally, the sample included smaller marketing programs that contracted with 3 management companies to provide financial and administrative services. The steps outlined below were completed to determine whether proper oversight was being completed on a regular basis:

- Interviewed current and former Marketing Branch liaisons.
- Reviewed various documents relating to oversight activities.
- Reviewed the Marketing Branch's Program Information Database.

To assess whether the CDFA's oversight is perceived to be effective, we developed and distributed a 13-question survey to the 55 marketing programs.

RESULTS

The Department of Finance, Office of State Audits and Evaluations, completed its performance review of the California Department of Food and Agriculture's (CDFA) oversight responsibilities for 55 marketing programs within the state. Based on the results reported below, the CDFA is generally in compliance with its statutory and regulatory oversight requirements. However, we identified three observations requiring improvement, as noted in the *Observations and Recommendations* Section below. The results for each audit objective are as follows:

Inventory of Oversight Requirements
The oversight requirements for each marketing program are presented in Appendix A–*CDFA's Oversight Responsibilities by Type of Commodity Marketing Program.*

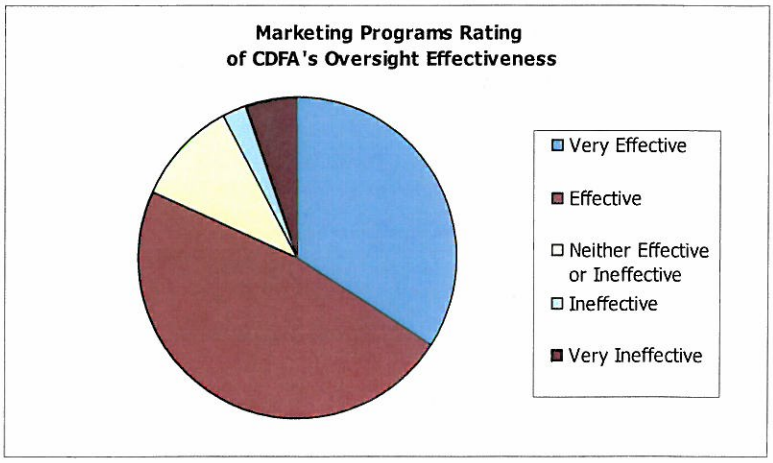
Compliance with Oversight Requirements
In general, the CDFA is providing adequate oversight for the marketing programs. Of the 12 marketing programs sampled, most aspects of the oversight processes were completed on a regular basis. Marketing Branch liaisons were regularly attending Board and Executive Committee meetings, overseeing policy formulation, and reviewing financial data. The Marketing Branch also has taken steps to provide its liaisons with adequate training to provide oversight to marketing programs.

Our review identified three issues regarding:

- Financial statements not being audited.
- Certified Public Accountant (CPA) status not being verified.
- Inconsistent oversight of elections and referendums.

See the *Observations and Recommendations* Section below for specific details.

Marketing Program Survey Results
A majority of marketing programs perceive the CDFA's oversight as effective. Representatives from 41 of the 55 marketing programs, or over 74 percent, participated in our oversight survey. The graph below summarizes the participant's responses regarding oversight effectiveness.



Over 81 percent of the participants rated the CDFA's oversight as either effective or very effective. Less than 8 percent rated oversight as either ineffective or very ineffective. Additionally, participants were given the opportunity to provide comments regarding the CDFA's oversight. Eighty-two percent of the comments were positive versus 18 percent negative. Specific responses and comments to the 13-question survey were shared with CDFA Marketing Branch management.

Observations and Recommendations

OBSERVATION 1: FINANCIAL STATEMENTS NOT AUDITED

The CDFA is not consistently requiring marketing programs to undergo an annual financial statement audit. Three of the 12 marketing programs sampled (25 percent) did not have their most recent financial statements audited by an independent CPA.

Two of these programs (Mendocino County Winegrape and Wine Commission and California Grown Agreement) have not had their financial statements audited since their inception. The Executive Director of the Mendocino County Wine and Winegrape Commission was terminated in December 2007 for misappropriating over $217,000. An independent audit of financial records may have prevented or at least deterred this misappropriation. The third marketing program (Sheep Commission) has not had a financial audit since the fiscal year ending March 31, 2005.

The CDFA's Policies for Marketing Programs, 4th Edition, Policy M711, "strongly recommends" expenditures for all Marketing Orders, Councils, and Agreements (MOCAs) be audited annually. Section 58937 (b) of the California Marketing Act of 1937 requires MOCAs be audited at least once every two years. Further, Sections 76289 and 7881 (f) of the California Food and Agriculture Code for the Sheep Commission and Mendocino County Winegrape and Wine Commission, respectively, indicate the Commissions' books, records, and accounts are subject to an annual audit. An independent audit of financial records would serve as a first line of defense against improper accounting activities or misappropriation of funds.

Marketing Branch management also indicated two other marketing programs (Pistachio Agreement and Salmon Council) not included in our sample did not have their most recent financial statements audited. As a result, all three marketing programs that contract with DG Management Consultants (Sheep Commission, Pistachio Agreement, and Salmon Council) have not undergone a recent financial statement audit.

Recommendation:
The CDFA should closely monitor the submission of annual audited financial statements for all marketing programs. Audited financial statements should include an independent CPA's opinion attesting whether the program is adhering to Generally Accepted Accounting Principles. If audited financial statements are not submitted to the CDFA in a reasonable time, the issue should be escalated to senior management within the CDFA.

OBSERVATION 2: VERIFICATION OF CPA STATUS NOT COMPLETED

The CDFA does not verify whether CPA firms are in good standing with the California Board of Accountancy (CBA). The CDFA's Program Information Database system has the capability of verifying whether CPA firms are in good standing with the CBA, but none of the 12 marketing programs sampled had current CPA contact information in the system. There is no evidence the CPA firm's status with the CBA was verified.

Marketing Branch management indicated it is their practice to check a CPA's status with the CBA when a new CPA is hired. Best business practices require CPA firms auditing financial statements should be in good standing with the CBA. Reported problems or complaints against a CPA firm may indicate a lack of professional standards, unresponsiveness to clients, or unethical behavior. The lack of current CPA status verification may result in substandard audits, inaccurate financial data, or delays in issuance of audited financial statements.

Recommendation:
As part of the CDFA's standard practices, the status of each independent CPA firm (new and ongoing) should be verified each year. The CPA's status should be recorded in the Marketing Branch's Program Information Database. If a program's CPA is not in good standing with the CBA, the CDFA should initiate discussions with the program to retain a new CPA.

OBSERVATION 3: INCONSISTENT OVERSIGHT OF ELECTIONS AND REFERENDUMS

The CDFA's involvement in elections and referendums is not consistently applied among marketing programs. For some marketing programs, the CDFA issues calls for nominations and receives and tallies votes directly from ratepayers. In other programs, the CDFA oversees the vote count at the marketing program's headquarters. Other marketing programs tally votes and announce election results without any CDFA involvement.

Because CDFA practices are inconsistent regarding election and referendum oversight, potential conflicts of interest in marketing programs may lead to election fraud and abuse. The CDFA receives several complaints each year regarding these processes. Best practices require independent oversight.

Recommendation:
The CDFA should be directly involved in the following aspects of the election and referendum process for each marketing program:

- Calls for nominations
- Receipt and tally of nominations
- Direct mailings of ballots
- Receipt and tally of votes

More independent oversight over elections and referendums would minimize potential conflicts of interest and reduce complaints.

ATTACHMENT A

CDFA's Oversight Responsibilities by Type of Commodity Marketing Program

		GENERAL							ELECTIONS				FINANCE							AUDITS / ENFORCEMENT						LEGAL				
#	Marketing Orders	Attends Board of Directors and Executive Committee meetings	Approves minor program amendments[d]	Concurs with redistricting	Ensures marketing programs pursue declared objectives	Mediates ratepayer grievances	Appoints Board members from industry	Appoints public members	Monitors voter eligibility and nominations	Conducts referendums or public hearings for continuation or suspension and termination	Concurs with changes to rate maximums	Tallies and certifies votes	Reviews and approves annual budgets	Reviews Annual List of Contemplated Activities	Reviews and approves assessment rates	Purchases liability insurance for marketing programs	Reviews June 30 bank account balances each year	Approves executive salaries or management contract amounts	Reviews marketing program's annual financial statements	Reviews status and approves selection of audit firms	Reviews annual financial audit reports	Pursues collection of delinquent assessment fees	Conducts assessment audits	Conducts fiscal and compliance audits of marketing programs	Follows up on audit findings and corrective action plans[g]	Ensures confidentiality of producer lists	Investigates statutory and regulatory violations	Issues Cease and Desist orders	Ensures compliance with Public Records Act	Ensures compliance with Bagley Keene Open Meeting Act
1	Alfalfa Seed Research[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
2	Artichoke	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
3	Dry Bean[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
4	Cantaloupe[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
5	Carrot[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
6	Celery Research[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
7	Cherry	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
8	Citrus Nursery[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
9	Citrus Research	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
10	Fig	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
11	Garlic & Onion Inspection	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
12	Garlic & Onion Research	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
13	Leafy Greens Research	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X		X		X	X
14	Melon Research[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
15	Milk Processor Board	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
16	Manufacturing Milk	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
17	Milk Advisory Board	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
18	Cling Peach Grower[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
19	Pear[b]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
20	Pistachio Research	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
21	Plum	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
22	Dried Plum	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X

CDFA's Oversight Responsibilities by Type of Commodity Marketing Program

		GENERAL							ELECTIONS				FINANCE							AUDITS / ENFORCEMENT						LEGAL				
		Attends Board of Directors and Executive Committee meetings	Approves minor program amendments[d]	Concurs with redistricting	Ensures marketing programs pursue declared objectives	Mediates ratepayer grievances	Appoints Board members from industry	Appoints public members	Monitors voter eligibility and nominations	Conducts referendums or public hearings for continuation or suspension and termination	Concurs with changes to rate maximums	Tallies and certifies votes	Reviews and approves annual budgets	Reviews Annual List of Contemplated Activities	Reviews and approves assessment rates	Purchases liability insurance for marketing programs	Reviews June 30 bank account balances each year	Approves executive salaries or management contract amounts	Reviews marketing program's annual financial statements	Reviews status and approves selection of audit firms	Reviews annual financial audit reports	Pursues collection of delinquent assessment fees	Conducts assessment audits	Conducts fiscal and compliance audits of marketing programs	Follows up on audit findings and corrective action plans[g]	Ensures confidentiality of producer lists	Investigates statutory and regulatory violations	Issues Cease and Desist orders	Ensures compliance with Public Records Act	Ensures compliance with Bagley Keene Open Meeting Act
#	**Marketing Orders**																													
23	Potato Research[a]	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
24	Raisin	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
25	Rice Research	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
26	Wild Rice	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
27	Processing Strawberry	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
28	Processing Tomato	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
29	Tree Fruit	X	X		X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
#	**Commissions**																													
1	Apple	X		X	X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
2	Asparagus	X		X	X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
3	Avocado	X		X	X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
4	Cut Flower[b]	X		X	X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
5	Date	X		X	X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
6	Grape Rootstock[b]	X			X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
7	Kiwifruit[b]	X		X	X	X		X	X	X		X	X	X					X	X	X		X	X	X			X	X	X
8	Pepper[a]	X		X	X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
9	Rice	X			X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
10	Sea Urchin	X			X	X		X	X	X	X	X	X	X					X	X	X	e	X	X	X	X		X	X	X
11	Sheep[c]	X		X	X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
12	Strawberry	X		X	X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
13	Table Grape				X	X	X	X		X		X							X	X	X		X	f	X	X			X	X
14	Walnut	X		X	X	X		X	X	X	X	X	X	X					X	X	X		X	X	X	X		X	X	X
15	Wheat	X		X	X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X

CDFA's Oversight Responsibilities by Type of Commodity Marketing Program

		GENERAL							ELECTIONS				FINANCE							AUDITS / ENFORCEMENT						LEGAL				
		Attends Board of Directors and Executive Committee meetings	Approves minor program amendments[d]	Concurs with redistricting	Ensures marketing programs pursue declared objectives	Mediates ratepayer grievances	Appoints Board members from industry	Appoints public members	Monitors voter eligibility and nominations	Conducts referendums or public hearings for continuation or suspension and termination	Concurs with changes to rate maximums	Tallies and certifies votes	Reviews and approves annual budgets	Reviews Annual List of Contemplated Activities	Reviews and approves assessment rates	Purchases liability insurance for marketing programs	Reviews June 30 bank account balances each year	Approves executive salaries or management contract amounts	Reviews marketing program's annual financial statements	Reviews status and approves selection of audit firms	Reviews annual financial audit reports	Pursues collection of delinquent assessment fees	Conducts assessment audits	Conducts fiscal and compliance audits of marketing programs	Follows up on audit findings and corrective action plans[g]	Ensures confidentiality of producer lists	Investigates statutory and regulatory violations	Issues Cease and Desist orders	Ensures compliance with Public Records Act	Ensures compliance with Bagley Keene Open Meeting Act
16	Lake County Winegrape	X			X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
17	Lodi Winegrape	X			X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
18	Mendocino County Winegrape	X			X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
19	Sonoma Winegrape	X			X	X		X	X	X		X	X	X					X	X	X		X	X	X	X		X	X	X
#	**Agreements**																													
1	California Grown		X		X	X	X	X	X	X			X		X	X	X	X	X	X	X	X	X	X	X		X		X	X
2	Leafy Green Handler	X	X		X	X	X	X	X	X			X		X	X	X	X	X	X	X	X	X	X	X		X		X	X
3	Pistachio[c]	X	X		X	X	X	X	X	X			X		X	X	X	X	X	X	X	X	X	X	X		X		X	X
4	Winegrape Inspection Board[a]	X	X		X	X	X	X	X	X			X		X	X	X	X	X	X	X	X	X	X	X		X		X	X
#	**Councils**																													
1	Beef	X			X	X	X	X	X	X		X	X			X	X	X	X	X	X	X	X	X	X	X	X		X	X
2	Dairy	X			X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X		X	X
3	Salmon[c]	X			X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	e	X	X	X	X	X		X	X

X = CDFA oversight is required for the marketing program.

[a] Ten marketing programs contract with Monfort Management Services, Inc. to provide them with management and financial services.
[b] Four marketing programs contract with the California Grain and Feed Association, Inc. to provide them with management and financial services.
[c] Three marketing programs contract with DG Management Consultants to provide them with management and financial services.
[d] Major amendments to marketing programs require public hearings and referendums.
[e] Department of Fish and Game pursues collection of delinquent assessment fees for the Sea Urchin Commission and the Salmon Council.
[f] Department of Finance conducts the fiscal and compliance audit of the Table Grape Commission as required by California Food and Agriculture Code, Division 22, Chapter 3.
[g] The Market Enforcement & Marketing Branches are responsible for following up on assessment audit findings while CDFA's Audit Office follows up on fiscal and compliance audit findings.

cdfa CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE
A. G. Kawamura, Secretary

December 23, 2009

Mr. David Botelho, CPA
Chief, Office of State Audits and Evaluations
Department of Finance
300 Capitol Mall, Suite 801
Sacramento, CA 95814-4336

Dear Mr. Botelho:

Thank you for the opportunity to submit our response to the Office of State Audits and Evaluations (OSAE) preliminary performance review report of the Department's oversight responsibilities regarding its 55 commodity marketing programs.

The staff at the Department of Food and Agriculture wishes to express its appreciation for the professionalism and consideration given by Randy McClendon and John Ponce, OSAE's Auditors and Zachary Stacy, the Supervising Auditor during the conduct of its review.

The Department will respond to each of the three issues raised and the recommendations made in OSAE's report. The issues raised are:

1. Financial Statements not being audited pursuant to the requirements of the law
2. Certified Public Accountant (CPA) status not being verified and logged
3. Inconsistent oversight of elections and referendums

Financial Statements Not Being Audited

The Department acknowledges that there are six marketing programs that are deficient in the conduct of annual financial audits. These programs are:

1. The Buy California Marketing Agreement
2. The California Pistachio Marketing Agreement
3. The California Salmon Council
4. The California Sheep Commission
5. The Mendocino Winegrape and Wine Commission
6. The California Kiwifruit Commission

The Buy California Marketing Program is unique in its administration from the other marketing programs. The formation of the Program and its subsequent oversight in its early years was the responsibility of an assigned member of the Executive Office of the Department. This responsibility was subsequently transferred to the Marketing Branch.

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The Program has its own authority within the California Marketing Act (reference Section 58750). The Agreement's assessment (Signatory contribution level) is determined by the value of the crop represented by each Signatory to the Agreement rather than an assessment rate applied to a unit of production.

While the Program utilizes the Signatory contributions to fund its administrative costs, much of the Program's activities are funded by grants from private organizations and government sources.

The Marketing Branch has been working with the Buy California (California Grown) staff to comply with statutory provisions and the recently adopted Accounting Guidelines and General Rules for California Marketing Programs. This includes:

1. Approval of Annual Budgets
2. Department approval of minutes for all meetings of the Board of Directors.
3. Department appointment of members to the Board of Directors
4. Compliance with the Open Meeting Act
5. Audits of program expenditures for each fiscal year.

The Department will advise the OSAE when the audit of the most recently completed fiscal year for the Program is received.

The California Pistachio Agreement, California Salmon Council and California Sheep Commission – Each of these programs, according to each program's enabling statutes is required to have financial audits performed on all expenditures conducted. The president of these three programs has advised the Department that a CPA firm has been engaged to conduct an audit for the last three completed fiscal years. The Department has confirmed directly from the audit firm (correspondence enclosed as Attachment 1) that the audits are in process and should be finalized in the first quarter of 2010.

The Mendocino County Winegrape and Wine Commission – This Commission held its first meeting on August 26, 2006. While it adopted a nine month operating budget for its inaugural year, its first full fiscal year was the year beginning July 1, 2007 through June 30, 2008. In hindsight, a financial audit should have been conducted for the first (nine-month) fiscal year shortly after the year was completed. As a result, discovery of apparent improprieties were not discovered as quickly as they would have been if an audit had been conducted.

The Commission recently received its financial audit for the most recent fiscal year which is 2008-09.

The California Kiwifruit Commission – The most current financial audit for the Kiwifruit Commission is for the 2006-07 fiscal year. The Commission changed management services firms during 2008. The new management firm, California Grain and Feed Association is arranging for an audit for the 2007-08 and the 2008-09 fiscal years.

To help ensure that financial audits are current for each marketing program, the Marketing Branch will add an additional section to its Database Entry Form to check that the audit for the prior fiscal year has been received and provides an unqualified opinion regarding the fair representation of financial statements before approving the budget for the upcoming fiscal year.

Verification of CPA Status Not Completed

The Department will bring current its database regarding the audit firms retained by each marketing program. This will also include checking annually to ensure that each CPA, or CPA firm, in our database is licensed by the Board of Accountancy. Enclosed, as Attachment 2, is a spreadsheet indicating the audit firm engaged by each program and the date that its CPA license expires. Also listed in the far right column of the spreadsheet is the most current fiscal year for which a financial audit has been completed for each program.

Inconsistent Oversight of Elections and Referendums

The Marketing Branch's role (oversight responsibilities) for each marketing program regarding nominations and elections for membership on boards of directors differs depending on the applicable enabling statute, program bylaws (commissions), election rules, policies and procedures. These roles range from no involvement (for some commissions) to being actively involved in each process from requesting nominations to making appointments to the board.

The Department will work with each marketing program to ensure the Marketing Branch is involved in overseeing each step in the nomination and election (or preference voting) process. The means, and degree of direct involvement for each program, will differ based on the applicable law and the procedures used by the program to nominate and appoint its members.

The Department looks forward to communicating to OSAE its progress in implementing each of the recommendations made in OSAE's report.

Sincerely,

Kevin Masuhara, Director
Division of Marketing Services

Enclosures

cc: Ron Shackelford
John Hewitt

Attachment 1

-----Original Message-----
From: David Kasperik [mailto:davidk@dhscpa.com]
Sent: Thursday, December 17, 2009 2:23 PM
To: Joe Monson
Cc: Ronald Ley
Subject: Sheep, Salmon and Pistachio Audits

Joe, as requested, here is a status regarding the Sheep, Salmon and Pistachio audits managed by David Goldenberg.

Damore, Hamric & Schneider's audit department will be closed for the holiday season beginning tomorrow, December 18th. We will return on Monday, January 4th. We expect to have drafts of the audited financial statements issued to David Goldenberg for his review by January 22, 2010. With the client's cooperation and prompt review of the drafts, we expect to issue the final audits by February 1, 2010.

Regards,

David S. Kasperik, CPA
Damore, Hamric & Schneider, Inc.
Certified Public Accountants
2856 Arden Way, Suite 200
Sacramento, CA 95825
(916) 481-2856
(916) 488-4428 fax

davidk@dhscpa.com

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Attachment 2

California Marketing Programs	Audit Firm	Street Address	City	Zip	Phone	Fax	Email	Contact Person	License Status/No.	Exp. Date	Most Recent Fiscal Yr Audited
									C=CLEAR		
Alfalfa Seed Advisory Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2009
Apple Commission	Sampson & Sampson and Partners, LLP	3148 Willow Ave, Suite 102	Clovis	93612	559-291-0277	559-291-6411	katiesampson@sampsoncpa.com	Katie Sampson	C - 7157	31-Aug-11	2008-09
Artichoke Advisory Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2009
Asparagus Commission	Croce and Company Accountantcy Corp	PO Box 1607	Stockton	95201-1607	209-943-2222	209-943-2220		Anna Lovecchio	C - 1607	31-Oct-10	2007-08
Avocado Commission	Macias, Gini & O'Connell, LLP	1201 Dove St, Suite 680	Newport Beach	92660	949-221-0025	949-221-0035	kbeseau@mgocpa.com	Kathryn Beseau	C - 5230	31-Jul-10	2007-08
Beef Council	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428			C - 1899	31-Oct-11	2008
Buy California Marketing Agreement	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	NOT AVAILABLE
Cantaloupe Advisory Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008-09
Celery Research Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008
Cherry Advisory Board	Croce and Company	PO Box 1607	Stockton	95201-1607	209-943-2222	209-943-2220		Anna Lovecchio	C - 1607	31-Oct-10	2008
Citrus Nursery Research Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008
Citrus Research Board	Ronald E. Greenall	4806 W. Mineral King, Ste A	Visalia	93291	559-625-1867	559-625-0565		Ronald Greenall	C - 48355	30-Nov-10	2007-08
Cling Peach Growers Advisory Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2007-08
Cut Flower Commission	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	2008
Dairy Council	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428	martaw@dhscpa.com	Marta Williams	C - 1899	31-Oct-11	2008-09
Date Commission	Robert Testa Accountancy Inc	81474 Avenida Gonzalez	Indio	92201	760-347-0347			Robert Testa	C - 17099	31-Jan-11	2008-09
Dried Plum Advisory Board	Hood & Strong, LLP	100 First St, 14th Floor	San Francisco	94105	415-781-0793		rhernandez@hoodstrong.com	Raul Hernandez	C - 11	31-Mar-10	2008-09
Dry Bean Advisory Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008-09
Fig Advisory Board	Mastro and Associates	6740 N West Ave, Suite 103	Fresno	93711	559-449-1040				C - 6316	30-Nov-11	2007-08
Fresh Carrot Advisory Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008
Garlic & Onion Dehydrator Board	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428			C - 1899	31-Oct-11	2008-09
Garlic & Onion Research Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008-09
Grape Rootstock Commission	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	2008
Kiwifruit Commission	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	2006
Lake County Winegrape Commission	Sturges, Pehling& Associates	3385 White Oak Way	Kelseyville	95451	707-279-1188		Zpehling@SodaBayCPA.com	Zach Pehing	C-7280	31-Jul-11	2007-08
Leafy Greens Marketing Agreement	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	2008-09
Leafy Greens Research Board	Bianchi, Kasavan, and Pope	450 Lincoln Ave, Ste 200	Salinas	93901	831-757-5311				C - 3335	30-Sep-10	NEW PROGRAM
Lodi Winegrape Commission	Croce and Company	PO Box 1607	Stockton	95201-1607	209-943-2222	209-943-2220		Anna Lovecchio	C - 1607	31-Oct-10	2008-09
Manufacturing Milk Advisory Board	Gary Woehl, CPA	3439 Brookside Road, #201	Stockton	95219				Gary Woehl	C - 54632	30-Jun-10	2008
Melon Research Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2009
Mendocino Winegrape Commission	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	2008-09
Milk Advisory Board	Gary Woehl, CPA	3439 Brookside Road, #201	Stockton	95219				Gary Woehl	C - 54632	30-Jun-10	2008
Milk Processor Board	Bentson & Vuona, LLP	17 Goddard	Irvine	92618	949-789-1050		jack@bvcpas.net	tcope@bvcpas.net	C - 6210	31-Dec-10	2008-09
Pear Advisory Board	Keith Rood, CPA	875 University Ave	Sacramento	95825	916-929-4450		keith@cpataxadvice.com	Keith Rood	C - 38712	30-Jun-11	2008-09
Pepper Commission	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008-09
Pistachio Marketing Agreement	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428		David Kasperik	C - 1899	31-Oct-11	Eff. 12-1-06
Pistachio Research Board	Sampson & Sampson and Partners, LLP	3148 Willow Ave, Suite 102	Clovis	93612	559-291-0277	559-291-6411	dougsampson@sampsoncpa.com	Doug Sampson	C - 7157	31-Aug-11	2007-08
Plum Marketing Board	Morse, Yardumian & Wittwer, LLP	8365 N Fresno St. Ste. 110	Fresno	93720	559-389-5700	559-389-5701		Sheryl Yardumian, Partner	C - 7212	31-May-10	2008-09
Potato Research Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008
Processing Strawberry Advisory Board	Hayashi and Wayland Accounting and Cnslt.	PO Box 1879	Salinas	93902-1879	831-759-6300	831-759-6380		Mike Briley, Partner	C - 6946	31-Jan-11	2008
Processing Tomato Advisory Board	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428	ronl@dhscpa.com	Ronald Ley	C - 1899	31-Oct-11	2008
Raisin Marketing Board	Mastro and Associates	6740 N West Ave, Suite 103	Fresno	93711	559-449-1040				C - 6316	30-Nov-11	2008-09
Rice Commission	Michelle O. Nelson, CPA, CFE, CVA	2515 Venture Oaks Way, Ste 135	Sacramento	95833	916-929-0540	916-929-0541		Michelle Nelson	C - 57102	28-Feb-10	2007-08
Rice Research Board	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2007-08
Salmon Council[3]	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428	ronl@dhscpa.com	Ronald Ley	C - 1899	31-Oct-11	2003-04
Sea Urchin Commission	Grant Bennett Associates	1425 River Park Drive, Suite 250	Sacramento	95815-4515	916-922-5109	916-641-5200		David Kasperik	C - 1494	31-Oct-11	2007-08
Sheep Commission	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428	ronl@dhscpa.com	Ronald Ley	C - 1899	31-Oct-11	2004-05
Sonoma Co Winegrape Commission	John A. Rettig, CPA	1891 Redwood Drive	Healdsburg	95448	707-799-8989			David Kasperik	C - 76104	31-Jan-10	2008-09
Strawberry Commission	Hayashi and Wayland Accounting and Cnslt.	PO Box 1879	Salinas	93902-1879	831-759-6300	831-759-6380		Mike Briley, Partner	C - 6946	31-Jan-11	2008-09
Table Grape Commission	Sampson & Sampson and Partners, LLP	3148 Willow Ave, Suite 102	Clovis	93612	559-291-0277	559-291-6411	dougsampson@sampsoncpa.com	Doug Sampson	C - 7157	31-Aug-11	2008-09
Tree Fruit Advisory Board	Morse, Yardumian & Wittwer, LLP	8365 N Fresno St. Ste. 110	Fresno	93720	559-389-5700	559-389-5701		Sheryl Yardumian, Partner	C - 7212	31-May-10	2008-09
Walnut Commission	Gilbert Associates	2880 Gateway Oaks Dr, Ste 100	Sacramento	95833	916-646-6464			Dave Ljung	C- 20794	30-Nov-11	2007-08
Wheat Commission	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428			C - 1899	31-Oct-11	2007-08
Wild Rice Advisory Board	Damore, Hamric & Schneider, Inc.	2856 Arden Way, Suite 200	Sacramento	95825-1379	916-481-2856	916-488-4428			C - 1899	31-Oct-11	2005-06
Winegrape Inspection Marketing Agr.	Borchardt, Corona & Faeth	1540 E Shaw Ave, Suite 118	Fresno	93710	559-225-6891	559-225-6951	scott@bcf-cpa.com	Scott Faeth	C - 3892	30-Apr-11	2008-09