



November 30, 2023

Ms. Phyllis K. Fong
USDA, Office of Inspector General
Room 117-W Jamie Whitten Bldg
1400 Independence Avenue SW
Washington, DC 20250

RE: Request for Investigation of the National Organic Program

Dear Ms. Fong,

OrganicEye, a tax-exempt public interest group acting as an organic industry watchdog, requests that the Office of Inspector General initiate an investigation into the activities of the USDA's National Organic Program (NOP). It is the position of OrganicEye that numerous NOP actions – and inactions – indicate the NOP is failing to enforce the intent and the letter of the Organic Foods Production Act of 1990 (OFPA) requiring that an accredited certification agent must be free from conflicts of interest.

Specifically:

Code of Federal Regulations, Title 7 (Agriculture), Subtitle B (Regulations for the Department of Agriculture), Chapter 1 (Agricultural Marketing Service)

§ 205.501 General requirements for accreditation.

(a)(11) Prevent conflicts of interest by:

(i) Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

(ii) Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

(iii) Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected: *Except*, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a

comparable recognition of not-for-profit status from its government, may accept voluntary labor from certified operations;

(iv) Not giving advice or providing consultancy services, to certification applicants or certified operations, for overcoming identified barriers to certification;

(v) Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and

(vi) Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection.

Certification structures, systems, and processes were meant to be independent and objective, not influenced by membership, member revenues or acreage, size of certification fees, or other close connections.

In 2002, California Certified Organic Farmers (CCOF) – the largest organic certifying agent in the U.S. – created three separate entities to avoid the appearance of any conflict of interest:

- **CCOF, Inc.**, a 501(c)(5) nonprofit, is a member-directed, politically active entity chartered as a trade association.
- **CCOF Certification Services, LLC**, a 501(c)(5) nonprofit, is a wholly owned subsidiary of CCOF, Inc.
- **CCOF Foundation**, is a 501(c)(3) tax-exempt nonprofit.

These organizations are separate on paper only, filing separate IRS Form 990s. There is extensive overlap in management and at the board/trustee levels, as well as intermingling of staff, donations by large agribusinesses certified by CCOF to the Foundation, and “grants and other assistance” provided to the Certification Services LLC and the Foundation¹.

Some of the activities detailed below appear illegal, while others reflect ethical lapses.

1. **Commingling Leadership: Board of Directors, Board of Trustees, and Management Committee**

Currently Kelly Damewood serves as the Chief Executive Officer, CCOF, Inc., the Chair of the CCOF Foundation Board of Trustees for the CCOF Foundation, and the Management Committee Chair for CCOF Certification Services.

The fact that Ms. Damewood is both the CEO of CCOF, Inc., and the Management Committee Chair for CCOF Certification Services LLC, is a clear example of the non-existent boundaries between these entities.

Leadership of both CCOF Inc. and the CCOF Foundation is dominated by large growers, consumer packaged goods (CPG) marketers, and corporate agribusiness. For the example, all

but one of the fourteen members and officers of the CCOF Inc. Board of Directors are growers and agribusinesses certified by CCOF Certification Services.

The Certification Services Management Committee is made up of 5 members: Ms. Damewood (chair), a current employee of a privately owned, \$3.6 billion ag input company, two retired small family farmers, and a retired past CCOF Director of Certification.

2. **Shared Staffing**

The CCOF Foundation, in its 2021 IRS Form 990, reported zero individuals employed in calendar year 2021 – in two places on the form. Yet according to LinkedIn and the CCOF website, the current CCOF Foundation staff count is six. For 2021, the Foundation reported total compensation expenses of \$552,652, all the while reporting zero employees. (Compensation expenses include salaries, pension plan contributions, and other benefits.) This strongly suggests that they are using staff, on a contractual basis, from CCOF, Inc. and/or CCOF Certification Services.

During the same year, the Foundation was awarded two cash grants totaling \$403,600 from CCOF Inc. (per the CCOF Inc. 2021 IRS Form 990).

And the CCOF Foundation Board of Trustees comprises five members, all certified by CCOF Certification Services, two of whom are employees of multi-billion-dollar agribusinesses.

3. **Large Donors, Sponsors, and Advertisers**

Funding for CCOF in its various corporate structures comes from multiple sources: direct donations, a percentage taken from certification fees, state and federal funding, programming and education, advertising and promotion in publications and at event sponsorships, and other sources such as rents and internal cross-organization charges and payments. It is not always clear from the CCOF website, annual reports, and press releases to *which* entity funds are being donated.

Since they all operate in concert, our contention is that it is not really critical in evaluating the merits of this complaint as to which corporate entity the funds are funneled through (again, separation of the revenue streams is blurred and appears, as with staffing and management, to be reflected on paper only.)

Two of the CCOF Foundation top ten donors over a five-year period from 2019 through 2023, Cal-Organic/Grimmway Farms and Driscoll's (both certified by CCOF), each donated \$125,000. And each also contributed to advertising space in CCOF's Certified Organic magazine valued at \$8,580 and \$5,795, respectively, between 2018 and 2022 when the last print copy of the magazine was published. Their total donations were \$133,580 and \$130,795, respectively, from 2018 through 2023.

During the same period, **True Organic Products, the largest organic fertilizer producer in the western U.S., donated \$30,000** and contributed to advertising space valued at \$22,060. True Organic's total contributions were \$52,060. This donor, and some others like it, manufacture or distribute agricultural inputs that are used by certified organic growers,

and thus need to be approved by CCOF inspectors.

A total of 182 individual annual donations were made between 2019 and 2023; of those, 82 (45%) were made by operations certified by CCOF.

4. **Shared Physical Address and Contact Information**

As indicated at the foot of the company website (www.ccof.org), CCOF Certification Services, LLC, CCOF, Inc., and CCOF Foundation share the following address and contact information:

2155 Delaware Avenue, Suite 150, Santa Cruz, CA 95060

T: (831) 423-2263

F: (831) 423-4528

Email: ccof@ccof.org

Corporate email addresses do not indicate the specific organization with which the employee is on staff, potentially confusing correspondents as to which organization they are contacting. All three of the corporate entities use the ccof.org domain in their email addresses.

We respectfully submit that the matters detailed above provide the basis for a broad investigation into the activities of the USDA's National Organic Program and its failure to enforce federal regulations put into place to avoid any conflicts of interest between accredited certifiers and their certified operations.

It should be emphasized that preliminary research relating to other NOP accredited certifiers indicates the same type of conflict of interest exist elsewhere.

Thousands of organic farmers, expecting the highest standards and ethics from their accredited certifiers, deserve the protection of their business and practices from doubt, illegalities, and unfair competition which may impact their ability to continue farming while employing the practices they believe in and which are clearly outlined by the Organic Food Production Act that codified this movement into law. Additionally, the interest of consumers, paying a premium for organic food in the marketplace, must be protected. That was the intent of Congress.

Please keep us informed of the status of this request.

Sincerely,

Mark Kastel
Executive Director

OrganicEye
PO Box 8
La Farge, WI 54639

¹ See CCOF Inc. IRS Form 990 2021: Schedule J – Part II, Grants and Other Assistance to Domestic Organizations -

<https://projects.propublica.org/nonprofits/organizations/770070930/202213189349306196/full>