



March 12, 2024

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

RE: Addition to Our Amended Request for Investigation of the National Organic Program Submitted February 12, 2024

Dear Ms. Fong,

We wish to add the following information to our Amended Request for Investigation of the National Organic Program dated February 12, 2024:

It is the position of OrganicEye, that numerous NOP actions – and inactions – indicate the NOP is failing to enforce the intent of Congress and the letter of the Organic Foods Production Act of 1990 (OFPA), and published regulation, requiring that an accredited certification agent and its employees, inspectors, contractors, or other personnel must be free from conflicts of interest. This is one of the foundational precepts of organic certification predating Congress vesting the authority in the USDA to regulate the industry.

We contend that numerous conflicts of interest lie within and between the two closely related groups consisting of Oregon Tilth Inc. and the Oregon Tilth Certification Services Program (providing certification as Oregon Tilth Certified Organic – OTCO).

- The Oregon Tilth Certified Organic (OTCO) initiative is not a separate business or business unit, it is a programmatic function within Oregon Tilth Inc. which is engaged in advocacy and lobbying activities in addition to their business-to-business certification enterprise.
- Although Oregon Tilth Inc. is chartered as a 501(c)(3) tax-exempt non-profit corporation, nearly ninety-three percent of Oregon Tilth's revenues come from fees paid for certification services to farmers and agribusiness, through certification as Oregon Tilth Certified Organic (OTCO).

- Huge industrial organic operations are paying large certification fees to Oregon Tilth Inc. that support the organization's advocacy and lobbying at state and federal levels; lobbying that is directly paid for and potentially subject to influence by these industrial organic operations which include some of the country's largest CAFOs and aquaponic/hydroponic growers.
- Although prohibited under the statutes governing organic certifiers, we have documented Oregon Tilth accepting contributions and sponsorships from clients they are certifying.
- Despite the need for separation between certification services, corporate management, and advocacy and lobbying to prevent conflicts of interest, Oregon Tilth Inc. remains a single corporate structure. Other certifiers, following instructions from the NOP as the organic regulations went into effect in 2002, heeded their guidance and separated these functions into standalone corporate entities with their own governance. One example would be the Massachusetts chapter of the Northeast Organic Farming Association. Prior to 2002 they conducted organic certification. After that they spun-off the certification business which now operates as Baystate Organic Certifiers.
- As a single entity, Oregon Tilth, Inc. has an executive management team, one board of directors, and shared website, physical location, and contact information – including a single email domain: tilth.org.

Conclusion

Clearly there is no true independence for the certification operation within Oregon Tilth Inc., as ninety-three percent of Oregon Tilth's revenues come from fees paid for certification services by farmers and agribusiness.

Those revenues pay all corporate expenses as well as fund lobbying efforts that are at risk of influence by huge industrial organic operations, including some of the country's largest CAFOs and hydroponic growers.

Furthermore, certification revenue pays for the Organic Tilth membership dues and contributions to the leading industry lobby group, the Organic Trade Association. The Oregon Tilth Managing Director currently sits on the OTA board. The OTA lobbies on behalf of their members, some of whom are certified by OTCO and others who purchase commodities or other products from OTCO certified entities.

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.

Thank you for considering these additional facts emanating from research by our staff subsequent to the filing of our initial request.

Please keep us informed of the status of this request.

Sincerely,

Mark Kastel
Executive Director

OrganicEye
PO Box 8
La Farge, WI 54639



February 12, 2024

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

RE: Amended Request for Investigation of the National Organic Program

Dear Ms. Fong,

We wish to amend our **Request for Investigation of the National Organic Program (NOP) dated** November 30, 2023 (Addendum 1) to include information referencing regulations under **7 USC 6515: Requirements of certifying agents**, as well as those previously referenced under **7CFR 205: 205.501: General requirements for accreditation**. Please also see additional facts found, below.

The additional regulations we are citing apply to accredited certifying agents, of which CCOF is one, and any employee, inspector, contractor, or other personnel of that certifying agent.

The pertinent sections of the two regulations are reproduced here:

7 USC 6515: Requirements of certifying agents includes the following points regarding conflicts of interest:

Any certifying agent shall not:

- (1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;
- (2) **accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or [emphasis added]**
- (3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

7CFR 205: 205.501: General requirements for accreditation includes the following points regarding conflicts of interest:

(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; [emphasis added]

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), and published regulation, requiring that an accredited certification agent and its employees, inspectors, contractors, or other personnel must be free from conflicts of interest. Both the organization and employees have benefited from the largess of corporate agribusinesses who have made payments to CCOF over and above certification fees.

We contend that CCOF, across their three separate corporate entities, is acting as a single operation while attempting to show independence through the creation of separate nonprofit businesses each filing annual IRS Form 990s required of all tax-exempt organizations.

1. Separated only on paper, CCOF is acting as single operation:¹

- CCOF Inc.'s governing body, its Board of Directors, is elected by certified members for three-year terms. CCOF, Inc., a 501(c)(5) nonprofit, is a member-directed, politically active entity chartered as a trade association.

¹ <https://www.ccof.org/page/board-committees>

- CCOF Certification Services LLC’s governing body, its Management Committee, is appointed by the CCOF, Inc. Board of Directors for three-year terms. CCOF Certification Services, LLC, a 501(c)(5) nonprofit, is a **wholly owned subsidiary of CCOF, Inc.**
- CCOF Foundation’s governing body, its Board of Trustees, is appointed by the CCOF, Inc. Board of Directors for three-year terms. CCOF Foundation, is a 501(c)(3) tax-exempt nonprofit.

2. CCOF Inc. filed for and received a registration² for an image that is used both as a trademark (as seen in the upper left corner of the organization’s website (<http://www.ccof.org>) and as a certification mark which is licensed to CCOF Certification services to be used to indicate labeled products are certified organic.

3. CCOF Inc., CCOF Certification Services LLC, and CCOF Foundation all have the same chief executive:

- CCOF Inc. CEO: Kelly Damewood
- CCOF Certification Services LLC, Management Committee Chair: Kelly Damewood: the CCOF Inc. CEO and Board of Directors have complete control of the Certification Services Management Committee
- CCOF Foundation Board of Trustees Chair: Kelly Damewood

4. CCOF Inc. uses the possessive *our* (denoting ownership) when describing the functions of the organization; for example, “CCOF, Inc. provides cost-effective infrastructure for **our certification, advocacy, and Foundation programs...**”³ [emphasis added]

5. The CCOF website ((<http://www.ccof.org>) is owned and managed by CCOF Inc.⁴ and shared among the three organizations. CCOF Certification Services LLC and CCOF Foundation do not have their own separate, organizational websites. CCOF certification services are offered for sale and for which payment is accepted on the navigation tab labeled Certification Services on the CCOF website home page.

6. CCOF Inc. owns and/or controls management of all three business groups, all profits from CCOF Certification Services LLC flow to CCOF Inc., and the three groups intermingle funds through transfers to and from each other as grants,

² Serial number: 77818393, owned by California Certified Organic Farmers Inc., US Patent and Trademark Office

³ <https://www.ccof.org/page/how-we-do-our-work>

⁴ CCOF.org domain was registered 08-17-1995 (Source: <https://lookup.icann.org/en/lookup>)

reimbursements, and cash payments, therefore we contend they are acting as a single business entity.

CCOF, Inc. has a defined arrangement with CCOF Certification Services LLC to receive a certain percentage of its gross revenue. This constitutes a direct business relationship.

Most importantly, as delineated below, given the abundant evidence that these organizations are interrelated, the massive amounts of payments, other than certification fees, by CCOF clients, undermine the independence of accredited certifiers mandated by federal law.

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.

Thank you for considering these additional facts emanating from research by our staff subsequent to the filing of our initial request.

Please keep us informed of the status of this request.

Sincerely,

Mark Kastel
Executive Director

OrganicEye
PO Box 8
La Farge, WI 54639

Addendum 1



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 the management, at the board/trustee levels, intermingling of staff, and 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 totally \$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 percent 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 not really critical in evaluating the merits of this complaint as to which corporate entity the funds are funneled through (since the separation, again, of the revenue streams are blurred and appear, like 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 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 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 indicate the same type of conflict of interest exist elsewhere.

Thousands of organic farmers expecting that the highest standards and ethics from their accredited certifier 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, as outlined by the Organic Food Production Act that codified this movement into law. Even more importantly, 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

ⁱ 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>