



September 10, 2024

Dr. Jennifer Tucker
Agricultural Marketing Service
United States Department of Agriculture
1400 Independence Avenue SW
Mail Stop 0268, Room 2648-S
Washington DC 20250-0268

Re: Legal complaint and request for action regarding documented conflicts of interest exhibited by Florida Organic Growers (FOG) and Quality Certification Services (QCS).

Dear Dr. Tucker,

In 2002, with final implementation of the federal organic certification standards under the National Organic Program (NOP), the USDA determined that accredited certification agencies must be free from conflict of interest.

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.

The Organic Foods Production Act (OFPA) gives the NOP the authority to take such action:

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.¹

(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

¹ <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-1/subchapter-M/part-205/subpart-F/section-205.501>

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.

In addition, 7 USC 6515²: 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
- (3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

We respectfully request that your office thoroughly investigate and take appropriate enforcement action to address violations of the NOP requirements for accreditation of FOG because of its intimate working relationship, and integrated financials, with QCS, and the apparent subterfuge representing them as separate organizations.

We contend that FOG and QCS are a single operation attempting to show independence through the creation of a separate name and website for a program managed and funded by FOG. As a result, FOG appears to be in violation of the requirements for accreditation of certifying agents because of its intimate working relationship with QCS.

Alleged Violations of the NOP Requirements for Accreditation to Avoid Conflicts

² <https://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter94&edition=prelim>

of Interest

- IRS Form 990 is filed annually by Florida Certified Organic Growers and Consumers Inc. (FOG) and indicates it is also doing business as Quality Certification Services.³
- QCS is the certification program of Florida Certified Organic Growers and Consumers Inc., a nonprofit organization that began certifying organic growers in 1987 and received its USDA accreditation in 2001.⁴
- FOG, the nonprofit organization, and the certification program, QCS, operate separate websites from the following domains: <https://foginfo.org/> and <https://qcsinfo.org/>.
- Ramkrishnan (Ram) Balasubramanian, Executive Director, is the head of FOG, a 503(1)(c) non-profit, and is listed as Chief Executive Officer of QCS, which is an organic certification program wholly managed by FOG.⁵
- Both FOG and QCS operate from the same physical address⁶ however with separate telephone numbers and email formats:
5700 SW 34TH Street, Suite 349
Gainesville, FL 32608
- While FOG's staff and QCS' staff are listed separately on their respective websites, FOG reports 59 employees across all its programs on the IRS 2022 Form 990.⁷ This appears to include QCS staff.
- FOG's Sponsorship Programs⁸ offer a range of marketing programs priced as low as \$800 for simple targeted marketing programs and as high as \$10,000 for various types of event sponsorship. Those funds are directed to FOG for daily operation of the business, including the operation of FOG's certification program, QCS. (source)
- Top "partners,"⁹ (major donors) including organizations that are certified by QCS or market OMRI-listed products, including:
 - Uncle Matt's (juices): QCS
 - Frog Song Organics: QCS
 - Sweetwater Organic Coffee: QCS
 - Orlando Brewing Partners: QCS (Suspended)
 - Everlizer: OMRI-listed fertilizer
 - Nature Safe Fertilizer: OMRI-listed fertilizer
 - Ag Nutrients: OMRI-listed nutrient inputs
 - ICL Group, a leading global specialty minerals company: OMRI-listed fertilizer

³ <https://projects.propublica.org/nonprofits/organizations/593006664/202333129349300528/full>

⁴ <https://qcsinfo.org/about-us/>

⁵ <https://foginfo.org/about/our-team/> and <https://qcsinfo.org/staff/>

⁶ <https://foginfo.org/contact-us/> and <https://qcsinfo.org/contact-us-2/>

⁷ <https://projects.propublica.org/nonprofits/organizations/593006664/202333129349300528/full>

⁸ <https://foginfo.org/wp-content/uploads/2024/05/PDF-FOG-Sponsorship-Opportunities-pdf>

⁹ <https://foginfo.org/about/our-partners-2/>

Financial Inconsistencies and Questions

As part of our investigation into the relationship between FOG and QCS, we have uncovered a number of financial inconsistencies that have raised serious questions. OrganicEye an independent, tax-exempt public charity focusing on protecting the integrity of the organic farming and food industry. Unlike the NOP, we do not have the authority to access source documents required to fully examine the financial statements of this organization. However, we believe these anomalies warrant an audit by the NOP.

Several questions have surfaced upon an examination of their IRS Form 990s filed from 2017 through 2022:

1. During 2019 and 2020, \$477,648 and \$499,648, respectively, was identified as “unsecured notes and loans payable to unrelated third parties (Form 990, Part X, Balance Sheet, Liabilities, Line 24). What was that for and to whom was it owed? Many government agencies view indebtedness as a red flag as a potential to compromise independence and security issues for individuals and organizations.
2. Regarding Related Organizations: Quality Certification Service Certification EC (Ecuador) and QCS Caribe SRL Certification DR (Dominican Republic), “Share of Total Income” totaled \$814,114 from 2017 to 2022 inclusive, and “Share of Year-end Assets” total was \$2,479,905. It is not clear if payments of income were exchanged or how the shared assets were calculated, nor how the Percent Ownership is allotted: to FOG/QCS or to the related organizations? If these are independent organizations, they should be separately accredited by the NOP.
3. In 2022, FOG first reported the existence of a pension plan for the Executive Director. 2022 was a year in which FOG had a net loss – revenue less expenses – of (\$106,872) and finished the year with net assets of just \$29,434. (Lines 102 and 105 in the attached spreadsheet Historical data from **QCS 990s – Consolidated (attached)**, on the tab labeled Historical Data 2017-2022). That same year, the Executive Director’s compensation was increased \$61,228.

Conclusion

United States Code 7 USC 6515¹⁰: 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*
- (3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.*

¹⁰ <https://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter94&edition=prelim>

There is no true independence for QCS, FOG's certification program. These entities reside at the same business address (including suite number) and share staff and funds across business units. Government grants, advertising revenue, and volunteer hours funnel value through FOG to the QCS certification program and other FOG programs including:¹¹

- Southeast Center for Organic Transition
- Certified Organic Farm Technician Training
- Florida Local Food Project
- Florida Farmers Market Association
- The Backyard Market
- Fresh Access Bucks

At the same time, there are financial inconsistencies that have raised questions. We would emphasize that we don't have evidence to conclude that there's something questionable going on nor do we have the investigative tools that the NOP has to dig deeper. However, we believe a thorough investigation is warranted by the NOP.

OrganicEye requests that the NOP's Compliance and Enforcement Branch make a timely, full, and good-faith effort in their investigation of these allegations and bring the alleged conflict of interest between FOG and QCS to an end.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process.

Sincerely,

Mark Kastel
Executive Director

OrganicEye
PO Box 8
La Farge, WI 54639

Reference: All Form 990s dated 2017 through 2022 are available here:
<https://projects.propublica.org/nonprofits/organizations/593006664>

¹¹ <https://foginfo.org/> - click on the "Our Programs" tab.