



United States Department of Agriculture

United States
Department of
Agriculture

Office of the Chief
Information Officer

1400 Independence
Avenue SW
Washington, DC
20250

January 31, 2017

Delivered via Electronic Mail

Lamar Echols
Cause of Action Institute
1875 Eye Street, NW
Washington, DC 20006
Email: lamar.echols@causeofaction.org

**RE: Freedom of Information Act (FOIA) Request 2017-OCIO-01559-F
Final Response**

Dear Mr. Echols:

This is the final response to the January 18, 2017, Freedom of Information Act (FOIA) request you submitted to the U.S. Department of Agriculture (USDA), Department FOIA Office. You sought records related to former Secretary Vilsack's notification to the Office of Ethics (OE) or the Office of the General Counsel (OGC) regarding his negotiations for subsequent employment with the U.S. Dairy Export Council, and also regarding any matters from which he requested to be recused due to his employment negotiations with the U.S. Dairy Export Council.

In an e-mail dated January 30, 2017, you clarified your request, advising this office that your request is limited to the ethics records submitted by former Secretary Vilsack pertaining to his employment negotiations with the U.S. Dairy Council. The DFO inquired of OE and OGC regarding responsive records. The ethics records you sought are maintained by OE, not OGC.

Your request has been processed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

A search for responsive records was conducted in OE. The search located four (4) pages of records that are responsive to your request. These four pages are being released in full, with no FOIA exemptions applied.

If you have any questions regarding this letter, please contact Ms. Christine Jordan at 202-772-9091, or electronically at Christine.Jordan@ocio.usda.gov or USDAFOIA@ocio.usda.gov.

You may also seek dispute resolution services from the Department FOIA Office's FOIA Public Liaison, Marqui Barnes. She may be reached at (202) 694-1802, or electronically at Marqui.Barnes@ocio.usda.gov or USDAFOIA@ocio.usda.gov

You also have the option to seek assistance from the Office of Government Information Services (OGIS). Please visit <https://ogis.archives.gov/mediation-program/request-assistance.htm> for information about how to request OGIS assistance in relation to a FOIA request.

The Department FOIA Office appreciates the opportunity to assist you in this matter.

Sincerely,

**ALEXIS
GRAVES**

Digitally signed by ALEXIS GRAVES
DN: c=US, o=U.S. Government,
ou=Department of Agriculture, cn=ALEXIS
GRAVES,
c.3.2.342.19200300.100.1.1+120010029360
24
Date: 2017.01.30 22:12:44 -0500

Alexis R. Graves
Department FOIA Officer
Department FOIA Office

Enclosure: Responsive Records (4 pages)



NOTIFICATION OF POST-GOVERNMENT EMPLOYMENT OR COMPENSATION NEGOTIATION OR AGREEMENT AND RECUSAL STATEMENT FOR USDA EMPLOYEES

Section 17 of the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) requires USDA public financial disclosure report filers to file a statement notifying the USDA Office of Ethics (Room 347-W Whitten Bldg, 1400 Independence Ave, S.W., Washington, DC 20250) of any negotiation for or agreement of future employment or compensation with a non-federal entity, within **three (3) business days** after commencement of the negotiation or agreement. We advise that employees who file this notification statement and recusal statement share it with their immediate supervisor and direct subordinates in order to increase its efficacy. Note: the term "entity" as used below may refer to more than one entity.

NOTIFICATION OF POST-EMPLOYMENT NEGOTIATION OR AGREEMENT

1. Name of Employee

Thomas J. Vilsack

2. Agency/Office

U.S. Department of Agriculture / Office of the Secretary

3. Date of Negotiation or Agreement Commenced

September 29, 2016

4. Name(s) of Non-Federal Entity or Entities

Dairy Management, Inc. (DMI)

Disclose each non-federal entity with which you are negotiating for or have an agreement of future employment or compensation.

RECUSAL STATEMENT

Under 18 U.S.C. § 208, I am prohibited from participating personally and substantially in any particular matter that would have a direct and predictable effect on the financial interests of an entity with which I am negotiating for or have an agreement of employment or compensation, unless I first obtain a written waiver.

In view of the potential conflict of interest and impartiality appearances that might otherwise arise, for the duration of my discussions with the entity listed above concerning future employment or compensation, I hereby disqualify myself from personally and substantially participating in any particular matter that I know, or reasonably should know, directly and predictably affects the entity's financial interests. At a minimum, this would entail any particular matters in which the entity is a party including, among other matters:

- bids on Federal contracts;
- applications for loans, grants, or benefits;
- audits;
- litigation;
- claims; or
- investigations.

However, it would also involve legislation, rulemaking, or policymaking that is narrowly focused on the interests of a discrete and identifiable class of persons. See [5 C.F.R. § 2640.103\(a\)\(1\)](#).

Finally, I acknowledge that even if I do not participate personally and substantially in a particular matter, but the matter actually was pending under my official responsibility during my last year of service and involved specific parties during that time, I will be barred from "representing" another before the Executive Branch for two years from the date of my termination from Federal service. See 18 U.S.C. § 207(a)(2). This is in addition to other post-Government employment restrictions.


I understand that I can receive ethics advice from the USDA Office of Ethics on post-Government employment or compensation questions, both while a Federal employee and afterward.

5. Employee Signature

6. Date

September 29, 2016

TO: Stuart A. Bender
Designated Agency Ethics Official and
Director, Office of Ethics

FROM: Thomas J. Vilsack 
Secretary of Agriculture

SUBJECT: Recusal and Disqualification from Matters Involving the Dairy Management, Inc.

DATE: September 29, 2016

The purpose of this memorandum is to memorialize the steps that I have taken to recuse and disqualify myself from participating personally and substantially in any official actions involving the Dairy Management, Inc. According to its website, Dairy Management, Inc. (DMI) is an organization funded by America's 45,000-plus dairy farmers, as well as dairy importers. Created to help increase sales and demand for dairy products, DMI and its related organizations work to increase demand for dairy through research, education and innovation, and to maintain confidence in dairy foods, farms and businesses. DMI manages the National Dairy Council and the American Dairy Association, and founded the U.S. Dairy Export Council and the Innovation Center for U.S. Dairy. (See, <http://www.dairy.org/about-dmi>.)

Background

I have been approached by the Dairy Management, Inc. to gauge my interest in discussing the possibility of employment with DMI. Because I may have an interest in exploring this opportunity with the DMI, I have implemented this recusal to avoid any risk of a potential conflict of interest. As described below, this recusal disqualifies me from participating personally and substantially in any particular matter that I know, or reasonably should know, would have a direct and predictable effect upon DMI and the organizations it manages (the National Dairy Council, the American Dairy Association, the U.S. Dairy Export Council and the Innovation Center for U.S. Dairy).

General Requirements

The Conflicts of Interest Statute (18 U.S.C. Section 208)

Pursuant to the requirements of Title 18 U.S. Code, Section 208(a), I will not participate personally and substantially as a Government officer or employee in any particular matter that, to my knowledge, would have a direct and predictable effect upon my financial interests or those financial interests imputed to me (such as any person or organization with whom I am negotiating or have any financial arrangement concerning prospective employment), unless I first obtain a written waiver or qualify for a regulatory exemption.

Recusal

Recusal from Matters Involving Dairy Management, Inc. (DMI).

I have recused myself from working personally and substantially on any particular matters that I know, or reasonably should know, that DMI is directly and predictably involved (such as agreements, procurements, grants, loans, applications for funding, partnership agreements, cooperative agreements, litigation or claims involving USDA or the United States government). This recusal includes a complete ban on my involvement in litigation matters, the development of any partnership agreements, selection of contracts or grant funding awards that would directly and predictably effect DMI, as well as my providing advice, recommendations, decisions, opinions, participation in meetings or in discussions on matters that would have a direct and predictable effect upon the financial interests of DMI and the organizations it manages (the National Dairy Council, the American Dairy Association, the U.S. Dairy Export Council and the Innovation Center for U.S. Dairy), unless I first obtain a written waiver or qualify for a regulatory exemption.

I have been advised by you, as USDA's Designated Agency Ethics Official, that I may, in full compliance with applicable conflict of interest rules, continue to work on broad agricultural and environmental policy matters, such as USDA's implementation of the Farm Bill. However, for the duration of this recusal, I will disqualify myself from participating personally and substantially in any grant application, contract, litigation or other particular matters involving DMI pertaining to any specific USDA or United States government program, contract, grant, or loan.

Screening Arrangements

In order to effectively manage my recusal, I have implemented the following prudential protections and screening arrangements to ensure that I comply with my obligations to recuse myself from those matters referenced above:

- i.) In the event that an official USDA matter arises affecting DMI, such matter will not be handled by me, but will be referred to a person selected by Mr. Michael Scuse, USDA's Acting Deputy Secretary in his sole discretion. The person he selects will handle such matters and act on USDA's behalf without my knowledge of, or involvement in, the matter. In no event should any such matters involving DMI. be brought to my attention or discussed with me.
- ii.) I will provide Acting Deputy Secretary Scuse with a copy of this recusal memorandum so he will fully understand the purpose and scope of my recusal obligation. In order to help ensure that I do not inadvertently participate in matters from which I should be recused, appropriate individuals should seek ethics advice and assistance from you as USDA's Designated Agency Ethics Official, if they are ever uncertain whether I may participate in a matter.

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iii.) I will provide you with updated information regarding this recusal as necessary. Moreover, in consultation with you, I will revise and update this memorandum whenever warranted by changed circumstances, such as if I decline further consideration for a position with the Dairy Management, Inc.

Thank you for your assistance.

CC: Mr. Michael Scusc, Acting Deputy Secretary
Ms. Karla Thieman, Chief of Staff