

# Organization for Competitive Markets Briefing Paper

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## Basis for OCM's FOIA Claim Regarding Beef Checkoff Program

In 2010, the [Clifton Gunderson Accounting Firm performance review](#), commissioned by the Cattlemen's Beef Board, examined small number of expenditures and personnel time cards charged by the National Cattlemen's Beef Association (NCBA) to the Beef Checkoff Program over a 29-month period ending in 2010. Irregularities were uncovered which resulted in the NCBA being required to return to the National Beef Board more than \$200,000. These numerous irregularities included improper payment for such things as spousal travel and private loans. Nine days equaled \$200,000 in wrongdoing.

With this evidence, OCM, along with others, pressured the U.S. Department of Agriculture (USDA) Office of Inspector General (OIG) to audit the Beef Checkoff Program. They agreed, and in 2011 OIG began their audit of USDA Agriculture Marketing Services (AMS), the agency whose responsibility is to oversee the checkoff programs. The investigative phase of the audit was completed in December of 2011, with the final report expected by March of 2012. A scant 17-page report was finally released on March 29, 2013, 15 months after completion of the investigation.

The *first* "final" audit report concluded that NCBA had properly expended all Beef Checkoff Program funds and that the relationship between the Beef Checkoff Program's Cattlemen's Beef Board (CBB) and the NCBA complied with U.S. law. Because these findings flew in the face of the Clifton Gunderson Accounting Firm 2010 performance review and [screamed of a whitewashing of the facts](#), OCM promptly filed a request under the Freedom of Information Act (FOIA) for an extensive list of records pertaining to the audit report. The OIG FOIA office initially responded by releasing 101 heavily redacted pages of printed documents and denied release of the 3,120 pages of report drafts and 125 pages of related emails under a claim of exemption. OCM challenged this claim. At about the same time, [R-CALF USA filed a complaint](#) against this *first* final audit report. Under this pressure, the *first* final audit report was withdrawn in July 2013.

On January 31, 2014 OIG issued a corrected final report, some 36 months after the initiation of the audit. This [corrected final report](#) withdrew OIG's conclusions that the NCBA had properly expended all Beef Checkoff Program funds and that the relationship between the Beef Checkoff Program's Cattlemen's Beef Board (CBB) and the NCBA complied with U.S. law. OCM has questioned what is the truth, and what evidence caused OIG to change their conclusions. What evidence were they trying to cover up on behalf of NCBA in their *first* final report?

When the audit report was not issued in March of 2012, OCM engaged one of Kansas City, Missouri's large law firms that assisted OCM with filing a lawsuit against NCBA, only to have NCBA and their Big Ag partners pressure them, causing the law firm to withdraw. It was then that OCM reached out through one of OCM's members to seek the assistance of The Humane Society of the United States (HSUS). It agreed to help OCM bring this cloud of contradictions to light by pursuing the FOIA request and which has now become the subject of this legal complaint. HSUS had the courage and experience to provide the needed legal assistance to assist OCM in filing the [OCM FOIA complaint](#) on November 12, 2014.

OCM now has reason to believe that the OIG because of outside industry pressure or just in an effort to cover their tracks "rebooted" its initial findings that would have exposed vulnerabilities in the checkoff.

Further, OCM suspects the evidence will demonstrate that a central finding of an early draft audit report by OIG determined that as much as 25% of checkoff funds were “vulnerable to misuse” and that *producers lack assurance* that the Beef Board could protect those funds. After inter-agency concerns were expressed that such a finding could be seen as reflecting negatively on USDA and that it could result in increased “fracturing” of the agency’s relationship with the beef industry, the publicly released audit report omitted these central findings and substituted watered down, harmless language instead. OCM simply wants to know the truth: did this happen, is NCBA properly expending the beef checkoff dollars, and what is being done about the conflict of interest issues that exist between the Cattlemen’s Beef Board and NCBA.

During OCM’s five-year struggle to simply get the truth, NCBA has continued to have a stranglehold on the Beef Board’s operating committee, ensuring it receives the lion’s share of our checkoff dollars. With these millions of dollars, NCBA is able, through paid advertisements and other expenditures, to increase its positive name identity which it then uses when pushing its anti-independent family farm policy in the halls of the capitols claiming it is the voice of the U.S. cattle producers, in spite of the fact it represents fewer than 4% of the U.S. cattle producers. NCBA used this ill-gotten influence to nearly singlehandedly end Country of Origin Labeling (COOL) and stop the new GIPSA rules that, if implemented, would have ended predatory market practices which are driving independent cattle producers out of business and off the land. This is a clear conflict of interest that is prohibited by law.