

October 3, 2016

**INFORMATIONAL MEMORANDUM FOR THE ADMINISTRATOR**

**TO:** Elanor Starmer  
Administrator

**FROM:** Dana H. Coale /s/  
Acting Associate Administrator

**SUBJECT:** Analysis of the AMS Review involving the American Egg Board (AEB)

**ISSUE:**

On July 7, 2016, the Agricultural Marketing Service's (AMS) Compliance and Analysis Program completed its Review Report, Case Number L-014-15, of nine allegations of misconduct by the AEB made by Mr. Joshua Tetrick, Chief Executive Officer, Hampton Creek, Inc., San Francisco, CA. A copy of the AMS Review Report is attached.

**DISCUSSION:**

The AMS Compliance and Analysis (C&A) Program conducted an extensive review of all relevant documents, budgets and AEB meeting notes. In addition, interviews were conducted with current and former AEB board and staff members, outside individuals referenced in the documents reviewed, and AMS' Research and Promotion staff.

The results of the AMS Review Report have been analyzed in coordination with USDA's Office of General Counsel to determine if any violations of the statute or regulations governing the AEB occurred. While the AMS Review Report did not find evidence to substantiate all nine allegations, the AMS Review Report did reveal several instances of inappropriate conduct by AEB staff and Board members, including:

- Inappropriate emails between AEB staff members and a Board member.
- Inappropriate emails by the former AEB Chief Executive Officer (CEO).
- Focusing on a specific company and product by AEB.
- Failing to adhere to the *USDA Guidelines for AMS Oversight of Commodity Research and Promotion Programs* (AMS Guidelines).

At the time AMS C&A initiated the review, all of the inappropriate activities had stopped. The CEO and President of AEB retired on September 30, 2015.

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The Egg Research and Consumer Information Act of 1974 provides limited authority for USDA to address the types of inappropriate conduct evidenced in the AMS Review Report. However, within this limited authority, I recommend the following corrective actions be immediately implemented with respect to AEB. These actions are designed to improve overall performance and compliance with AEB authorizing statutes, order, and AMS Guidelines:

- Require AEB staff and Board members to complete additional training regarding the AMS Guidelines on acceptable research and promotion activities and business operations.
- Require AEB staff to complete further training regarding the ethical principles of holding a public trust position with USDA's Research and Promotion Board.
- Require annual management reviews of AEB by the AMS Compliance and Analysis Program, Compliance Branch for at least three years from issuance of this memorandum.
- Conduct a program evaluation of the Livestock, Poultry and Seed Programs' Research and Promotion oversight activities to ensure adherence with applicable laws and USDA's policies and procedures.
- Initiate rulemaking to standardize all Research and Promotion order provisions regarding the removal of Research and Promotion Board and staff members when necessary.

Although Mr. Tetrick's allegations did not extend to AMS's oversight of AEB, AMS took this opportunity to thoroughly review our oversight procedures for both AEB and all other Research and Promotion Programs. To further strengthen AMS' oversight of the AEB, as well as all other Research and Promotion Programs, the following actions are recommended to be immediately undertaken:

- Provide all AMS Research and Promotion Program staff with additional training in areas including:
  - Reviewing budget and financial activities of the boards.
  - Documenting Agency communications with Board staff.
  - Applying the AMS Guidelines and program specific authorizing statutes.
  - Reviewing what constitutes and what does not constitute influencing Government policy.
- Enhance the AMS Guidelines by developing and implementing a standardized new Board member orientation to include consistent information on areas such as Board member responsibilities, oversight functions, and proper use of checkoff funds.
- Revise the AMS Guidelines to include requirements for CEO contracts.
- Evaluate AMS' consistency in oversight of all Research and Promotion Programs.
- Provide additional information to Research and Promotion staff members, as appropriate.

A Summary of Allegations and Findings with Corrective Actions is attached.

Attachments:

AMS Review Report  
Summary of Allegations and Findings