United States
Department of
Agriculture

Office of the
Assistant Secretary
for Administration

Office of Ethics
Office of the Director

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MEMORANDUM FOR UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS RAJIV J. SHAH

FROM: Raymond J. Sheehan
Designated Agency Ethics Official

SUBJECT: Waiver of Paragraph 2 of the Ethics Pledge

I have determined that it is in the public interest to grant a waiver of paragraph 2 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009) to Rajiv J. Shah as Under Secretary for Research, Education and Economics (REE), U.S. Department of Agriculture (USDA).

USDA's mission is to provide leadership on food, agriculture, natural resources, and related issues based on sound public policy, the best available science, and efficient management. In order to accomplish this mission, USDA partners with a large number of non-Federal entities, including charitable, non-profit foundations that participate substantially in activities that align with USDA's mission. This waiver addresses Dr. Shah's relationship with The Bill & Melinda Gates Foundation (Gates Foundation), his former employer and a potential partner in USDA's Global Food Security Initiative. The Gates Foundation is a potential funding source for the Initiative but not a recipient of USDA grants and funding.

Dr. Shah came to USDA after having served in a variety of roles at the Gates Foundation, including as Director of Strategic Opportunities and as Director of the Agricultural Development Program. The Foundation is significantly involved in national and international efforts to alleviate hunger and poverty and to improve health around the world. Support for agricultural initiatives is a major component of the Foundation's Global Development Program (Program). Dr. Shah, while at the Gates Foundation, led the agricultural development aspects of that Program.

Currently, based specifically upon his extensive experience in the Program at the Gates Foundation, Dr. Shah has been assigned by Secretary Vilsack to serve as the chief USDA representative in the Global Food Security Initiative (Initiative) which is driven by a "Whole of Government" approach and is led collectively by the Department of State, the National Security Council, USAID, the Treasury Department and USDA. The Initiative involves a collaboration with multiple partners, including public-private partnerships that implicate the Federal Government and various non-governmental entities, including, but not limited to, foundations, including the Gates Foundation. Ultimately, these non-governmental entities will work to provide both technical expertise and financial assistance in which the non-governmental entities

provide the funding. In connection with the Initiative, Dr. Shah needs to engage in meetings-both one-on-one and in group settings, involving Federal agencies, foreign countries, grantees, and non-Federal entities to assess the most efficient and effective means for distributing the technical and financial assistance committed by these various parties The non-federal entities he needs to engage with include the Gates Foundation. In these efforts, the Gates Foundation is expected to be a major participant through its Global Development and Global Health programs Other collaborations with the Gates Foundation on national agricultural policy goals are anticipated.

In light of the importance of the aforementioned efforts to the U.S Department of Agriculture, I have determined that it is in the public interest to grant Dr. Shah a waiver of the provisions of paragraph 2 of Executive Order 13490. Accordingly, I authorize Dr. Rajiv J. Shah to participate personally and substantially in all matters affecting the Gates Foundation including particular matters involving specific parties, in connection with the development and implementation of the Food Security Initiative and other national and international food, agricultural and health initiatives and other programs to which he is assigned as Under Secretary for REE. However, he is not authorized to participate in any grants or procurement contracts given by USDA to the Gates Foundation, or in any similar transactions that would result in a transfer of Federal funds to the Gates Foundation.

Raymond J. Sheehan
Designated Agency Ethics Official

Dated: 11/9/2009

January 12, 2010

MEMORANDUM FOR THE ADMINISTRATOR

FROM: James M. Peters, Alternate Designated Agency Ethics Official

SUBJECT: Waiver Pursuant to 5 C.F.R. §2635.502(d) and of Paragraph 2 of the President's Ethics Pledge

I have determined that it is in the public interest to grant a waiver pursuant to 5 C.F.R. §2635.502(d) and of Paragraph 2 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009) to Rajiv J. Shah as Administrator of the United States Agency for International Development (USAID).

This waiver addresses Dr. Shah's relationship with the Bill & Melinda Gates Foundation (Gates Foundation), his former employer and a partner in USAID's mission to provide economic, development, and humanitarian assistance around the world. The Gates Foundation is a funding source for projects in which the two organizations share the same objectives, but generally not a recipient of USAID grants or other funding. Dr. Shah has a "covered relationship" with the Gates Foundation based solely upon his former employment, which ended in June 2009. Pursuant to 5 C.F.R. §2635.502(b)(iv) this covered relationship will last until June 2010. In addition, under Paragraph 2 of the President's Ethics Pledge, a similar relationship will last until June 2011.

Dr. Shah previously served in a variety of roles at the Gates Foundation, including as Director of Strategic Opportunities and as Director of the Agricultural Development Program. The Gates Foundation is significantly involved in national and international efforts to alleviate hunger and poverty and to improve health around the world, and as such shares many of the same objectives as USAID. While at the Gates Foundation, Dr. Shah led the agricultural development aspects of its mission. In his most recent position as the Under Secretary for Research, Education and Economics at the U.S. Department of Agriculture (USDA), Dr. Shah was responsible for similar efforts. The Designated Agency Ethics Official at USDA granted a waiver for these purposes.

In his capacity as the Administrator, Dr. Shah needs to engage in communications and meetings – both one-on-one and in group settings – involving Federal agencies, foreign countries, grantees, and non-Federal entities to assess the most efficient and effective means for distributing the technical and financial assistance committed by these various parties. The non-Federal entities he needs to engage with include the Gates

Foundation. In these efforts, the Gates Foundation is expected to be a major participant through its Global Development and Global Health programs. Other collaborations with the Gates Foundation are anticipated.

In light of the importance of the aforementioned efforts by USAID, I have determined that it is in the public interest to grant Dr. Shah a waiver pursuant to 5 C.F.R. §2635.502(d) and of Paragraph 2 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009). This is based upon my consideration of: 1) the nature of the covered relationship (a former employer, with no continuing financial interests); 2) the potential effect any given matter will have on the financial interests of the Gates Foundation (none are foreseen); 3) the nature and importance of Dr. Shah's role in the matter (potentially significant, but with no financial impact on the Gates Foundation); 4) the sensitivity of the matter (potentially sensitive, but with no financial impact on the Gates Foundation); 5) the difficulty of reassigning the matter to another employee (difficult to reassign the role of the Administrator); and 6) adjustments that may be made in Dr. Shah's duties (difficult to make adjustments to the role of the Administrator).

Accordingly, I authorize Dr. Rajiv J. Shah to participate personally and substantially in all matters affecting the Gates Foundation, including particular matters involving specific parties, in connection with the development and implementation of partnerships and in connection with shared USAID and Gates Foundation objectives. This includes all communications with the Gates Foundation that do not have a direct and predictable financial impact upon the Gates Foundation, as well as public meetings and public recognition of the Gates Foundation.

This waiver does not include authorization for participation in any grants or procurement instruments between USAID and the Gates Foundation, or in any similar transactions that would result in a transfer of Federal funds to the Gates Foundation. In the event that a particular matter should arise in which Dr. Shah may be personally and substantially involved, and which would require his authorization for participation in any grants or procurement instruments between USAID and the Gates Foundation, or in any similar transactions that would result in a transfer of Federal funds to the Gates Foundation, Karen Turner or Jerry O'Brien, of USAID's Office of Development Partners, will screen such matters and consult with me as USAID's Assistant General Counsel for Ethics and Administration. At that point, a determination will be made that 1) the legal disqualification does not apply; 2) that a specific waiver is appropriate; or 3) that Dr. Shah must be recused from the specific matter.