



Mr. Paul Bonicelli
Assistant Administrator for Latin America and the Caribbean
USAID

August 6, 2007

Dear Mr. Bonicelli

As you may be aware, in June of 2006 USAID approved a \$5MM three year grant to create FUNIDES in Nicaragua. It was established in Nicaragua through Cooperative Agreement (596-A-00-04-00235-00) to emulate FUSADES in El Salvador in order to promote objective economic analysis and public policies in favor of democracy, free markets and individual rights in Nicaragua. In May of 2006 I took a leave of absence from a successful career in banking in order to explore ways to serve my country and began consulting for CCAA/USAID. CCAA, a Washington D.C. based NGO, was selected as the organization to administer the funds. In July of 2006 I accepted the position of Executive Director at FUNIDES in Nicaragua, a position ratified through votes by the Board of Directors and one in which Mr. Alex Dickie, Mission Director in Nicaragua, participated and voted in my favor. By early 2007 (shortly after the Nicaraguan Presidential elections) USAID sought to provoke a failure: funds were blocked, processes modified, controls tightened and work censured. In May of 2007 USAID decided to seize funding.

Despite being told that USAID would comply with local labor laws in the liquidation of the staff, I have discovered that, once again, the opposite of what is promised is to be delivered. After hiring a professional legal firm to calculate payouts, USAID orchestrated a manipulation of the law through a second opinion from a trusted USAID lawyer, from whom evidence was concealed in order to nullify the existence of labor relationships and avoid employee payouts. ***Consequently, I am writing to request your support so that ethics and respect for local laws can be ensured as promised and would be expected from USAID for the close-out of the FUNIDES project.***

I escalate this matter to your attention because I have already made at least five attempts over the past 45 days or so to reach out to Mr. Alex Dickie and Manuel Rosales (President and CEO of CCAA) in order to follow-up on the commitment to a formal (legal and ethical) close-out of the project, as promised. Both have ignored every attempt. In the words of Manuel Rosales “USAID forced us to agree to a “mutual” closing or else they threatened to reduce funding to other CCAA projects and we are 85% dependent on them so I had to agree.”

This is troubling for a US organization founded and entrusted to represent and promote American values of governance, transparency, and rule of law internationally. The reckless bravado should not be acceptable. America can't ensure its own prosperity or that of other countries by destroying its own values. To date, USAID Nicaragua and CCAA have demonstrated a considerable lack of ethics, professionalism and respect for local laws. At a minimum, USAID should be willing to apply to itself the standards it promulgates and applies to others. Otherwise, if supremacy justifies impunity, moral truisms are disdained, declaring unique exemption from the principle of universality. Therefore, I write to you in hopes that through your leadership Nicaraguan laws are respected – respecting and adhering to local laws in which employee liquidations for terminations are covered. I would like to thank you for your consideration and look forward to a response.

Regards,

Javier Arguello
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Following is a description of two attachments that support my arguments.

Attachment # 1 → Manipulating facts and concealing evidence from lawyers

The attached excel document *created by CCAA* contains three tabs and clearly reveal how facts have been manipulated and evidence concealed from Garcia & Bodan attorneys in order to obtain a legal opinion that nullifies labor relationships for the FUNIDES staff. The tab titled “old” reflects the original staff positions, unaltered. The third tab titled “attorney” reflects the altered table, created specifically for the attorney chosen by USAID to override the legal opinion presented by the first attorney.

CCAA/FUNIDES had already obtained a legal opinion from a reputable local legal firm that demonstrated through four distinct labor laws that labor relationships existed with CCAA requiring dutiful liquidation for the termination of employment. These were shared with USAID over a month ago. However, USAID felt it did not need to observe local labor laws. And, requested that CCAA rely on the USAID’s trusted Garcia & Bodan Attorneys in order to provide a legal opinion that would liberate USAID from the employee liquidation expenses lawfully due for terminating employees.

By manipulating the facts and concealing the evidence Garcia & Bodan was only able to provide the opinion sought –that no labor relationship existed with the staff. However, ample media coverage, including the launch of FUNIDES, which include my appointment as the Executive Director is available on our website (http://funides.org/notas_prensa.php).

Attachment # 2 → Letter to Mr. Alex Dickie

My most recent letter to Mr. Dickie was the last of many attempts to resolve this as had been promised by USAID and would be expected from representatives of the US Agency for International Development. However, since he did not respond to any of my attempts I raise the issue for your attention in hopes of a ethical and legal response and resolution.