

Javier Arguello
FUNIDES

Alex Dickie
Mission Director
USAID Nicaragua

July 30, 2007

Mr. Dickie,

I am writing to request your support for ensuring a proper close-out of the FUNIDES project, one which abides local labor laws as was as promised by USAID through CCAA. As you know, CCAA is eager to accede to the terms of your "mutual" closing as they are hopeful of their organizations survival, which is 85% dependent on USAID funding.

Therefore, as Mission Director for USIAD Nicaragua, your organization determines the process and outcome, which is why I write to kindly request that you steer this close-out properly. As I am sure you'll agree a proper close-out entails covering the employee liquidations due by local law for their service. The total cost of this is equal to less than a month of the original agreements terms -approximately 1.5% of the original grant amount.

As agreed to by CCAA, Dr. Evenor Valdivia was hired to determine labor relationships and to calculate employee termination/liquidation costs. However, once CCAA received the report, they sought services from another law firm in order to obtain a different "interpretation of the law." Naturally this firm was not hired to re-calculate the cost to liquidate each employee, rather to refute the actual existence of labor relationships. Clearly, this was done by CCAA with the consent and request of USAID. It is my understanding that CCAA recurred to a legal firm recommended by USAID. The information that was provided to the law firm was in complete secrecy and isolation from FUNIDES. This should be done through an "open and transparent" process to ensure all the facts are provided so that the firm can prepare a valid and accurate assessment.

Thus far, our Director of Social and Economic Studies, Luisangel Hernandez has made three attempts to elicit a response on this matter from CCAA/USAID as well as various efforts on my behalf. To date all efforts have been ignored. The secrecy, silence and delays in the process are natural causes for our concern.

Here are some of the facts that the lawyer should have been provided:

1. **August 2006:** We met during a Board of Directors meeting last August in which you voted to name me Executive Director of FUNIDES, which was later announced publicly at an event we held on September 6th, this was covered by the media and has been published on our website for months (along with other similar anecdotes).
2. **August 2006 to June 2007:** I attended USAID seminars and meetings, to which I was invited as the Executive Director of FUNIDES.

3. **November 2006:** Luisangel Hernandez incorporates himself as Director of Social and Economic Studies, leaving his position as consultant for Pro-Cafta.
4. **Salary:**
 - a. We were paid on a monthly basis based on fixed salaries (June is pending).
 - b. We received recurring payments by CCAA for producing work constantly during office hours in a fixed setting.
5. **CCAA Management Relationship:**
 - a. I reported directly to Federico Sacasa as President and CEO of CCAA through March of 2007, with a dual reporting responsibility to the FUNIDES Board of Directors. As part of my responsibility, I managed the staff and approved their timesheets and activities.
 - b. Upon Manuel Rosales' arrival in March, we held periodic conference calls with CCAA to debrief on the progress and plans.
 - c. Despite numerous attempts, we never received an operating manual or guidelines from CCAA, which caused many operational difficulties.
 - d. As the first employee of FUNIDES I helped select, interview and hire this staff with support from our board members –abiding to a team selection/ranking process I shared with Tim O'Hare.
 - e. All of this was in direct communication and supervision of CCAA as the administrators of the grant.
 - f. Upon being hired as Executive Director (in August of 2006), and made a permanent staff of the organization, I became **legal representative** of FUNIDES and held power of attorney (*poder general*). This is not the status that can be given to a contractor (provider of professional services).
6. Furthermore, we are protected as employees under Nicaraguan laws, which don't require to be "interpreted" if the facts are not ignored. For your records I am attaching the labor laws that a proper and legal close-out would entail.

In the event that you were not aware of the hiring of a secondary law firm to determine labor relationships I write to inform you so that a proper action can be conducted. In the event that you were aware of this action, I ask that you reconsider the approach to ensure a just process. I am firmly committed to a professional and ethical close-out. As I am aware that USAID is managing CCAA's execution of this process I trust that the outcome will be fair and just.

Regards,

Javier Arguello