



USAID
FROM THE AMERICAN PEOPLE

March 31, 2006

Office of the Administrator

The President
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

On behalf of the U.S Agency for International Development (USAID), this letter is to report a violation of the Antideficiency Act, as required by Section 1351 of Title 31, United States Code.

USAID has determined that a violation of section 1341(a) of the Antideficiency Act occurred in the Operating Expenses of the USAID for FY 2005 (72 51000). USAID conducted an initial inquiry into the violation. The report of that inquiry from the Office of the Chief Financial Officer is attached. Additionally, we have asked the USAID Office of the Inspector General to conduct an investigation, and that investigation is currently underway. This letter is based on the facts as they are currently known; once the Inspector General's investigation is complete, USAID will take action in addition to that described below, as appropriate.

The violation occurred on September 30, 2005, when USAID entered into a five-year lease agreement for additional office space in Washington, D.C. USAID created an obligation of funds in advance of an appropriation because the lease agreement did not condition future lease payments as subject to the availability of funds and the affirmative action by the U.S. Government. The lease, therefore, obligated the Agency to the full cost of the lease over a five-year period with fiscal year 2005 Operating Expense funds. The Agency had no statutory authority to extend the availability of the Operating Expense funds for the entire term of the lease. The total estimated amount of the violation, \$7,484,573.00, represents rent and the projected future year costs of annual operating charges due under the terms of the lease.

In addition, USAID created an obligation of funds in excess of an amount available in an appropriation because the lease agreement contained

indemnification provisions subjecting the Agency to unlimited liability. Such provisions committed the Agency to an indefinite liability that could exceed available appropriations.

The lease was signed by Mr. Roberto Miranda, the Director of USAID's Office of Administrative Services. Prior to signing the lease Mr. Miranda received legal guidance, both from Mr. Stephen Kaplitt, an attorney in USAID's Office of General Counsel, and from expert outside counsel who was retained specifically to review the lease. Based on USAID's initial inquiry, there are no indications that there were any knowing or willful violations of the Antideficiency Act. These Agency employees have been counseled on their official responsibilities and the legal requirements of administrative control of funds. Further administrative discipline, as appropriate, will be imposed after review of the findings of the Inspector General investigation. In addition to appropriate disciplinary action, USAID will examine possible legal actions against retained counsel. Any further report by USAID will identify those actions, and will include any statements from those determined to be the responsible officers with respect to any circumstances believed to be extenuating.

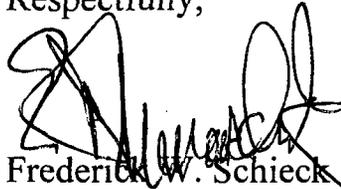
The adequacy of USAID's system of administrative control has been approved by OMB. However, the initial inquiry reported several administrative funds control violations, in addition to the Antideficiency Act violation. Immediate corrective action was taken by the removal of financial responsibilities from the Office of Administrative Services until completion of review of its administrative control of funds. Additionally, the delegation of authority for execution of leases has been revoked from the Director of the Office of Administrative Services. USAID will take further appropriate steps as necessary upon review of the Inspector General's report.

Since the execution of the lease, USAID has had to re-examine its space needs because of a reduction in Operating Expense budgets for FY 2006 and a workforce restructuring initiative. Consequently, in lieu of seeking to amend the lease to conform to the requirements of the Antideficiency Act, USAID is entering into negotiations with the landlord to terminate the lease as soon as possible.

To prevent recurrence of the same type of violation, USAID is conducting thorough assessments of its management and legal practices to strengthen identified weaknesses in the internal review and clearance process.

Identical reports are being submitted to the President of the Senate and the Speaker of the House of Representatives as well as the Comptroller General.

Respectfully,

A handwritten signature in black ink, appearing to read "Frederick W. Schieck". The signature is written in a cursive style with a large initial "F".

Frederick W. Schieck
Acting Administrator

Enclosures: a/s