



USAID

FROM THE AMERICAN PEOPLE

Mr. Frank Calzon
Executive Director
Center for a Free Cuba
1319 18th Street NW Suite 400
Washington, DC 20036

Subject: Appeal of Agreement Officer's Decision under Cooperative Agreement
RLA-A-00-05-00023-00

Ref: Your Appeal of July 8, 2011

Dear Mr. Calzon:

This is the Final Decision by USAID on the referenced Appeal of the Agreement Officer's (AO's) decision. Per 22 CFR 226.90(d), this decision shall be final. I have reviewed the information submitted with your Appeal and concluded to allow (b)(4) of disallowed costs. My decision in this Appeal is explained below.

You appealed the AO's disallowance of (b)(4). Of that amount, (b)(4) was spent on portable DVD players.

Firstly, in accordance with 22 CFR 226.90(b), you had 30 days to appeal to the AO's final decision letter dated November 15, 2010. Your appeal was received on July 8, 2011. Although it is within the Agency's discretion to consider an untimely appeal, we are under no obligation to do so. For future reference, please bear in mind that appeals not filed within 30 days of date of the AO's final decision letter are untimely in accordance with 22 CFR 226.90(b) and will not be considered.

Secondly, we turn to the merits of your appeal. The AO disallowed the cost of DVD players based on the fact that you did not show that the purchase of DVD players benefitted the agreement. In your appeal, you stated that the DVD players purchased were sent to the island to help overcome the strict censorship imposed by the regime, so that opposition leaders could view DVDs on topics in the democracy and governance and human rights areas.

I note that one of the objectives of the award stated: "To continue its democracy building program that attempts to break Castro's monopoly of information *by providing Cubans with literature on transition to democracy and market economics*" (emphasis added). Moreover, the award stated that one of the ways the objectives will be achieved is by "*Publishing and distributing books, brochures and videos in Cuba.*" You also provided a list of DVD titles sent to the island, all of which are relevant to the issues mentioned in the objectives.

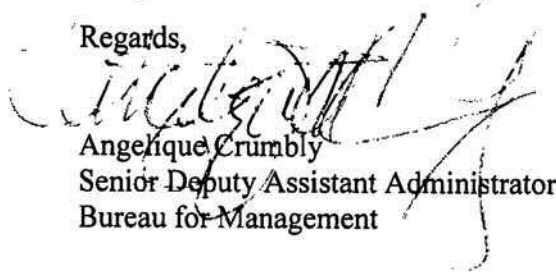
I find that the AO's disallowance of the cost for the DVD players was proper. While the program description listed videos as items that would be distributed through the program, it said nothing of DVD players or similar equipment. DVD players are neither literature nor videos. However, I also conclude that, in sending DVD players to the island, you sought to utilize the videos explicitly listed in the program description.

Although Center for a Free Cuba should not have purchased equipment that was not an approved part of the program, you have now provided sufficient justification on how the DVD players benefitted the objectives of the grant that I nevertheless allow the costs. I caution you, though, that future purchases that do not comply with the terms of the award will remain disallowed.

Finally, you appealed the disallowance of (b)(4) that the demand letter identified as unsupported non-payroll costs erroneously billed to the USAID award. After review of the audit report, I am unable to determine to which cost the letter refers. Therefore, I also grant your appeal of (b)(4)

As Senior Deputy Assistant Administrator for Management, I have considered your appeal and concluded that the costs appealed will be allowed.

Regards,



Angelique Crumbly
Senior Deputy Assistant Administrator
Bureau for Management