



USAID
FROM THE AMERICAN PEOPLE

Ms. Barbara DiPietro
Chief Financial Officer
Conservation International
2011 Crystal Dr., Suite 500
Arlington, VA 22202

Subject: Appeal of Agreement Officer's Decision under Cooperative Agreement
687-A-00-04-00090-00, Maintaining Biological Integrity of Critical Biodiversity
Habitats

Ref: Conservation International Appeal of October 17, 2011

Dear Ms. DiPietro:

This is the Final Decision by USAID on the referenced Appeal of the Agreement Officer's decision under the subject Cooperative Agreement. Per 22 CFR 226.90(d), this decision shall be final. I have reviewed the information submitted with your Appeal and concluded that the costs totaling (b)(4) Conservation International has proposed as stand-in costs will not be approved. My decision in this Appeal is explained below.

In April 2006, due to donor concerns, Conservation International initiated an audit to review the finances and internal controls of its subrecipient (b)(4). The internal audit revealed ineligible costs, unsupported charges, and a lack of internal controls. These results were corroborated in A-133 Audit Reports for FY 2006, 2007 and 2008, which brought the total amount of costs questioned to (b)(4). After consultation with mission staff, CI guided (b)(4) to a corrective action plan to remediate some of its internal control challenges.

As one step of the corrective action plan, CI and (b)(4) eliminated the improper costs. However, (b)(4) maintained that it had expended funds which, though they were not originally charged to the program, nevertheless supported its objectives. The AOTR and mission Controller concurred with CI's intention to help (b)(4) identify costs which could be allowable and substitute them for the ineligible costs.

In 2010, staff in M/OAA/CAS/CAM reviewed the associated documentation, including that which CI presented to support (b)(4) stand-in costs. Although the auditors were persuaded that CI had adequately documented a portion of the costs, they continued to question (b)(4). On September 23, 2011, the AO issued a final decision letter disallowing that amount. The letter explained that the costs had been found unallowable and unallocable because the costs were not originally included in the program budget, and there was no evidence that the AO had authorized

a revision.

On October 15, 2011, CI timely appealed. Although CI concurred with a portion of the disallowance, it disputed the remaining (b)(4). In its appeal, CI argued that, instead of the AO, it had corresponded with technical and financial staff in USAID/Madagascar regarding (b)(4) corrective actions; because it had acted in good faith, CI asserted, it should not be penalized for not working more closely with the AO.

On November 22, M/OAA/COPP contacted CI in a letter which explained that the person with whom CI had coordinated had not prompted the disallowance. Rather, the final decision found that not all of the stand-in costs had conformed to the federal cost principles. To be valid expenses, the stand-in costs needed to be allowable under and allocable to the award. M/OAA/COPP invited CI to supplement its appeal with any documentation that would verify that the stand-in costs fit within the program description and were allowable and allocable. CI submitted its response in January 2012. It provided an explanation of (b)(4) activities and the associated budget of the workplan.

A recipient may present stand-in costs to substitute for those that are disallowed, but to be allowed, those costs must still conform to the standards that govern cost allowability. Thus, before it could substitute them, under OMB Circular A-122, CI was required to demonstrate that the stand-in costs were actually incurred, and that they were allowable, allocable, and reasonable. Although CI has now provided work plans and activities, those do not establish the costs' allowability. Though a linkage may exist from the costs to the work plan activities to the award's program description and budget, CI has not documented one, and as a result has not demonstrated that its proposed substitute costs were tied to award performance. Likewise, it has submitted no documentation that the costs were actually incurred.

Therefore, I cannot conclude that the proposed stand-in costs should be allowed. I uphold the disallowance of (b)(4) in proposed stand-in costs. I have considered your appeal in my capacity as Senior Deputy Assistant Administrator and determined that I will not retroactively approve the subcontracts. In accordance with 22 C.F.R. 226.90(d), this decision is final.

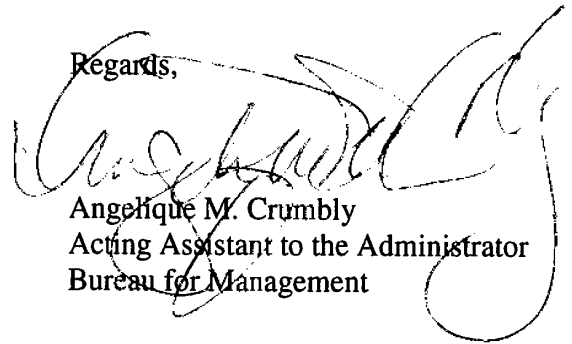
When the upheld disallowance is combined with the amount with which CI concurs, it yields a total of (b)(4) the amount listed in the September 19, 2011 demand letter. Please remit a check in the amount of (b)(4) to USAID, and include a copy of this letter with your remittance. The check should be sent to:

U.S. Agency for International Development
Cashier M/CFO/CAR-SA-44, Room 485-C
1300 Pennsylvania Ave. NW
Washington, DC 20523-2052

Payment is due within 30 days of the date of this letter, and any amounts which remain unpaid after 30 days will bear interest from the date of the demand at the rate established by the Secretary of the Treasury, for the period affected, under Public Law 92-41. If immediate

payment is not practicable, you may submit a proposal for deferment of collection to our financial management section.

Regards,

A large, stylized handwritten signature in black ink, appearing to read 'Angelique M. Crumbly', is written over the typed name and title.

Angelique M. Crumbly
Acting Assistant to the Administrator
Bureau for Management