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April 11, 2006

The Hon. Randall Tobias
U.S. Director of Foreign Assistance and Administrator
United States Agency for International Development
Ronald Reagan Building
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20523-1000

Dear Mr. Ambassador:

Staff of the Subcommittee which I chair will be in Guatemala from April 19 to April 22, 2006, for on-the-ground oversight of matters within the Subcommittee's jurisdiction. This morning USAID briefers from the offices of Population Control and Reproductive Health, Global Health and General Counsel were gracious enough to brief my staff, as well as staff from the House International Relations Committee, the Government Reform Subcommittee on National Security, Emerging Threats, and International Relations and the office of Congressman Todd Tiahrt about an ongoing investigation into a violation of the Tiahrt amendment in Guatemala.

The Tiahrt Amendment (law since the FY99 Foreign Ops bill signed on October 21, 1998) requires that organizations receiving funds for family planning or population control services operate in a completely voluntary manner to prevent the coercion and exploitation of women. The language sets forth a five-part definition of what constitutes voluntary participation in a population control program: (1) a program shall not use quotas or numerical goals for the total number of a method chosen, including sterilizations performed, or total number of program users; (2) a program could not use incentives or bribes...such as money, food, housing or gifts...to (a) an individual in exchange for becoming a participant, or (b) to program personnel for achieving a numerical target or quota of total number of a method chosen or total number of users; (3) a program could not deny any right or public service as a consequence or punishment for non-participation; (4) a program must provide every participant a full disclosure of the nature of the method chosen and any possible health risks associated with such method; and (5) a program must ensure that experimental methods of family planning are administered only in a scientifically controlled study and all participants are advised of potential risks. USAID is required to report to Congress within 60 days upon making a determination that a violation of this provision has occurred.

My staff has learned the following about this matter:

- That a memorandum has been submitted for your signature determining that there was a Tiahrt violation by a USAID contractor in Guatemala.
- That the contractor, APROFAM (the Asociacion Pro-Bienestar de la Familia de Guatemala, or the Family Welfare Association of Guatemala) is an affiliate of the International Planned Parenthood Federation.

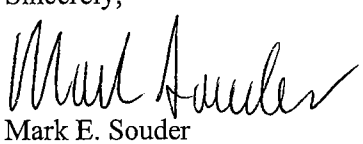
- That USAID has built APROFAM into Guatemala's largest NGO by financing it for almost 40 years.
- That for a period spanning most of the Bush Administration, from 2002-2005, APROFAM paid health promoters to refer clients for sterilization through a system of target quotas with corresponding financial bonuses for program personnel, a practice explicitly prohibited by the Tiahrt amendment.
- That during the 2002-2005 period, there were only two USAID Cognizant Technical Officers (CTOs) overseeing this contract: Ed Scholl (2001-2003) and Isabel Stout (2003-present).
- That Mary Ann Anderson, the USAID Director of the Office of Health and Education in Guatemala during the time period in question, or Isabel Stout notified APROFAM in June 2005 that it was in violation of the Tiahrt Amendment.
- That Mary Ann Anderson, the Director of the Office of Health and Education, and Isabel Stout, Cognizant Technical Officer, both failed to report the violation to any other USAID supervisor or office.
- That a USAID assessment team was sent from Washington to Guatemala from February 28 to March 7, 2006 to evaluate the damage from the violation.
- That Isabel Stout, the CTO responsible for monitoring APROFAM for compliance with the Tiahrt amendment while the violations occurred, asked APROFAM to provide witnesses for the USAID assessment team.
- That the USAID assessment team did not interview Ed Scholl, the CTO from 2001-2003.
- That the USAID assessment team, during its investigation, interviewed only a "very small percentage" of APROFAM service recipients who received treatment during the 2002-2005 timeframe when violations reportedly occurred.
- That the names of the APROFAM-provided service recipients interviewed were in the possession of USAID, but that it was questionable whether such names could be provided to facilitate potential verifying interviews of the same patients by USAID or other government agencies.

I ask that you bear these facts in mind as you review this matter and reach your own determination as to whether a Tiahrt Amendment violation occurred or not.

Since bonus payments were made for USAID-funded sterilizations for at least three years without being recognized by USAID/Washington, I also request that the Subcommittee be provided a copy of the travel records of Adolfo Franco, Assistant Administrator for Latin America and the Caribbean, since he was sworn in on January 31, 2002. I also request the names and contact information for members of the USAID assessment team, and contact information and performance evaluations for Mary Ann Anderson, Ed Scholl, and Isabel Stout.

I request that the Subcommittee receive these records by close of business April 26, 2006. If there are any questions, please direct them to Malia Holst, Clerk of the Subcommittee, at (202) 225-2577.

Sincerely,



Mark E. Souder
Chairman
Subcommittee on Criminal Justice,
Drug Policy and Human Resources
Government Reform Committee

cc: The Honorable Clay Johnson
The Honorable Donald A. Gambatesa