Office of Inspector General

June 5, 2012

Mr. Patrick Fine
Vice President, Department of Compact Operations
Millennium Challenge Corporation
875 15th Street, NW
Washington, DC 20005

Subject: Review of MCC and Implementing Partner's Management Controls, and Compliance With Laws and Regulations Related to Drug-Trafficking and Criminal Activities (Report No. M-000-12-004-S)

Dear Mr. Fine:

This letter transmits the results of the review conducted by the Regional Inspector General/San Salvador. In finalizing the report, the Regional Inspector General considered MCC's comments on the draft and has included the comments in their entirety in appendix II.

The report contains five recommendations to strengthen the Productive Development Project's investment support program. We consider that management decisions have been reached on all five recommendations.

I appreciate the cooperation and courtesy extended to Regional Inspector General staff during this review.

Sincerely,

/s/

Richard J. Taylor
Deputy Assistant Inspector General
for Audit
Millennium Challenge Corporation

Millennium Challenge Corporation
1401 H Street NW
Suite 770
Washington, DC 20005
www.usaid.gov/oig

SUMMARY

On November 29, 2006, the Millennium Challenge Corporation (MCC) signed a 5-year, $461 million compact with the Government of El Salvador to improve the lives of people in the northern part of the country through investments in education, public services, agricultural production, rural business development, and transportation infrastructure. Fondo Del Milenio (FOMILENIO) was the legal and accountable entity designated by the Government of El Salvador to implement the compact, which started on September 20, 2007. The compact had three projects, shown in Table 1.

Table 1. Projects in MCC Compact with El Salvador

Project	Description	Amount (million $)
Productive Development	Assist in developing profitable, sustainable, productive business ventures with a primary focus on poor individuals and organizations that benefit them	71.6
Human Development	Increase human and physical capital of residents of the Northern Zone to take advantage of employment and business opportunities	99.5
Connectivity	Reduce travel cost and time in the northern Zone, the region, and the rest of the country	255.3

Source: *El Salvador Compact: Quarterly Status Report*, MCC*, September 2011.*

Part of the Productive Development Project was to provide $7 million in loans and investment support activities to impoverished people in northern El Salvador and organizations that benefited them. Through the loans and investment support activities, the project intended to reduce poverty by creating profitable, sustainable businesses that then create jobs and significantly raise incomes.

The Government of El Salvador implemented the investment support program through the Fideicomiso de Apoyo a la Inversion en la Zona Norte (FIDENORTE) trust fund managed by Banco de Desarrollo de El Salvador (BANDESAL, formerly known as Banco Multisectorial de Inversiones or BMI), the country's national development bank. The funds flowed from MCC to BANDESAL through FOMILENIO. BANDESAL was responsible for distributing the funds to loan recipients. Management responsibilities were outlined in an implementing agreement between BANDESAL and FOMILENIO.

In May 2011, an article in the *El Faro* newspaper claimed that one of the FIDENORTE loan recipients had links to an alleged drug trafficker who operated in the northern and western regions of El Salvador. Consequently, MCC asked RIG/San Salvador to conduct a review of the case to determine whether:

- FOMILENIO and BANDESAL had complied with U.S. laws and regulations while mitigating the risk that the funds were used in illegal activities.

- FOMILENIO had properly addressed allegations that a beneficiary had ties to drug trafficking.

- FOMILENIO's management controls provided reasonable assurance that FOMILENIO and its recipients were using the funds as intended.

The review found that FOMILENIO and BANDESAL needed to strengthen their internal controls to better mitigate the risk that loan recipients could use MCC funds for illegal activities. Furthermore, BANDESAL did not investigate irregular and questionable transactions by two loan recipients with ties to an alleged drug trafficker. Until these matters are addressed, the loan program's management controls cannot provide reasonable assurance that MCC funds are being used as intended. The review specifically noted the following problems:

- BANDESAL and FOMILENIO had weak internal controls. The review found that BANDESAL and FOMILENIO's internal control processes should be strengthen to identify fraud, corruption and other illegal activities, including potential drug traffickers. (page 4);

- BANDESAL did not review financial information from applicants adequately. BANDESAL and FOMILENIO approved loans even though the income reported in financial statements did not agree with the income reported in tax records (page 5).

- BANDESAL lacked procedures for reporting fraud, irregularities and questionable acts (page 6).

- BANDESAL did not investigate irregular and inconsistent transactions of two loan recipients. BANDESAL signed a loan with two co-applicants to acquire equipment and building facilities for an animal feed factory and a milk production business. The loan recipients were the father and brother of an alleged drug trafficker who is currently on the International Criminal Police Organization's watch list. Although there is no conclusive evidence to suggest that the loan recipients participated in unlawful activities, irregular and inconsistent business transactions by the recipients warrant further examination (page 7).

To help the Millennium Challenge Corporation San Salvador ensure that FOMILENIO and BANDESAL complied with U.S. laws, regulations, and the compact's requirements, this report recommends that Millennium Challenge Corporation San Salvador:

- Require BANDESAL and FOMILENIO to include language to retroactively amend all loan agreements to indicate that agreements would be cancelled upon conviction of a narcotics offense or engaging in drug trafficking (page 4).

- Complete an independent review of approved applicants to determine whether financial irregularities were overlooked, terminate loans if warranted, and report the results to the appropriate local agency (page 5).

- Require BANDESAL and FOMILENIO to perform criminal background checks on existing loan applicants, including reviewing police records and the U.S. Government's Excluded Parties Lists (page 6).

- Require BANDESAL to (1) develop and implement a process—including training and policies and procedures—for members of the organizations, loan recipients, and others to report fraud, irregularities, and questionable acts and (2) implement detailed policies and procedures to investigate any allegations (page 7).

- Require BANDESAL to (1) investigate the inconsistencies and irregularities noted in this review regarding two loan recipients who received a loan for an animal feed factory, (2) terminate the agreement if warranted, and (3) refer the case, if appropriate, to tax officials for investigation (page 8).

Detailed review results follow. Our evaluation of management's comments begins on page 9. Appendix I contains the review's scope and methodology. The full text of management comments appear in Appendix II.

REVIEW RESULTS

BANDESAL and FOMILENIO Had Weak Internal Controls

According to the Code of Federal Regulations 140.1, which implements Section 487 of the Foreign Assistance Act of 1961 as amended, foreign assistance agencies shall take all reasonable steps to ensure that foreign assistance is not provided to or through any individual or entity that is, has been, or has assisted an illicit trafficker in controlled substances. While the act does not cover MCC, the Corporation's policies and procedures are consistent with the act's intent. In fact, MCC's General Provisions Annex states that a contract party shall comply with all applicable U.S. laws, regulations, and executive orders regarding money laundering. Furthermore, according to the policy on preventing, detecting and remediating fraud and corruption in MCC operations, MCC recognizes that fraud and corruption can undermine the core principle on which the MCC is built. Therefore, MCC develops and follows a comprehensive and consistent approach to preventing and detecting incidents of fraud in its programs and adopting best practices from other institutions, donors, governments and civil society.

In the El Salvador compact, Section 5 of Annex I states that transparency and accountability to MCC and the beneficiaries are important aspects of the projects. Also, Section 5.4.b.viii stated that the Compact will be terminated if any third party (directors, officers, employees, affiliates, contractors, subcontractors, grantees, subgrantees, representatives, or agents) receiving MCC funding or project assets is convicted of a narcotics offense or engaged in drug trafficking.

However, the review found that FOMILENIO and BANDESAL should strengthen internal control processes to identify fraud, corruption, or other illegal activities, including drug trafficking. The review noted that two of seven loans examined did not include language indicating that the loan would be subject to cancellation or refund if the borrower was convicted of a narcotics offense. BANDESAL officials explained that agreements for loans processed prior to October 15, 2010, did not include such language because applicants were required to sign a *declaracion jurada* (affidavit) in which they affirmed that proceeds from the business did not originate from drug trafficking. However, this document did not include any clause regarding termination in the case of violation of the narcotics offense. The remaining five loan agreements reviewed were all approved after October 15, 2010, and they had new language in which the client agreed to follow local legislation against money laundering.

Without the proper language included in the agreements, there is less assurance that the recipients were not involved in illegal drug tracking activities. Therefore, we make the following recommendation.

> ***Recommendation 1.*** *We recommend that Millennium Challenge Corporation San Salvador require BANDESAL and FOMILENIO to amend all loan agreements to include language indicating that the agreements would be subject to cancellation upon conviction of a narcotics offense or engaging in drug trafficking.*

BANDESAL Did Not Review Applicants' Financial Information Adequately

According to BANDESAL's procedures, loans should be approved based on, among other things, the borrower's ability to repay them. BANDESAL required applicants to submit a financial statement and tax records to demonstrate the borrower's ability to repay their debts. However, BANDESAL did not take reasonable steps to verify that the statements were factual and consistent with the tax records. The review found that BANDESAL and FOMILENIO approved loans even though the income reported in financial statements did not agree with the income reported in tax records. Of seven loan applications examined during the review, three had financial statements showing significantly higher income than in the corresponding tax returns, as shown in Table 2.

Table 2. Differences in Net Income Reported on Financial Statements and Tax Returns (Audited)

Applications	Loan Amount ($)	Financial Statements ($)	Tax Records ($)	Difference ($)	Tax Underreporting (%)
Borrower 1	200,000	102,312	6,466	(95,846)	93.7
Borrower 2	118,740	85,300	3,470	(81,830)	95.9
Borrower 3	232,098	51,171	11,078	(40,093)	78.4

Source: Supporting documentation submitted with loan application by loan applicants

Furthermore, BANDESAL did not apply its requirements consistently. One of the seven applications we reviewed did not have tax records, and another did not include financial statements. BANDESAL officials said there was no requirement to compare tax records with audited financial statements nor was there a requirement that such records must agree with each other for approval.

We also noted that an audit submitted by one of the seven loan recipients tested contained inconsistencies in the amounts reported in the midyear and year-end financial statements. The recipient reported gross sales of $22,511 for the period ending July 31, 2010. However, on the year-end audited financial statements, the gross sales amount was only $7,110 (a 68 percent reduction) without any footnotes or explanations on the financial statements. The unexplained drop raised questions about the quality or veracity of both the midyear and year-end financial statements and whether income figures were manipulated. However, BANDESAL reviewed the audit and did not seek explanations for these discrepancies. This happened because BANDESAL and FOMILENIO only used the financial information submitted by the applicants to do an initial assessment whether a loan to the particular applicant was viable.

Because BANDESAL and FOMILENIO overlooked questionable financial data submitted by applicants, there is no reasonable assurance that applicants are not engaged in illegal activities. To correct this situation, we make the following recommendation.

Recommendation 2. *We recommend that Millennium Challenge Corporation San Salvador complete an independent review of approved applicants to determine whether*

financial irregularities were overlooked, terminate loans if applicable, and report the results to the appropriate local agency.

BANDESAL Did Not Review Background Information Adequately - BANDESAL did not conduct or require any criminal background checks or investigations before making loan approvals. Criminal background checks should be used to evaluate an applicant's character and to identify potential risks, such as connections to drug trafficking or other unlawful activities. Not conducting these background checks increases the likelihood that a person who is not trustworthy or who is or has been convicted of a narcotics offense, drug trafficking or any other serious offense could receive assistance from MCC.

BANDESAL did not conduct or require that criminal background checks or investigations be conducted prior to approving loans. BANDESAL staff members said the bank did not require background checks because banks in El Salvador normally do not perform checks for this type of loan. Furthermore, FOMILENIO and MCC did not perform background checks of loan applicants or excluded parties' background checks.

The lack of a criminal background checks may result in loans given to undesirable recipients. To address these concerns, we make the following recommendation.

Recommendation 3. *We recommend that Millennium Challenge Corporation San Salvador require BANDESAL and FOMILENIO to perform and document criminal background checks, which includes reviewing police records and the U.S. Government's Excluded Parties Lists, on existing loan applicants.*

BANDESAL Lacked Procedures for Reporting Fraud, Irregularities, and Questionable Acts

According to the American Institute of Internal Auditors, the American Institute of Certified Public Accountants, and the Association of Certified Fraud Examiners, organizations should develop a process for prompt, competent, and confidential review, investigation, and resolution of allegations involving potential fraud or misconduct. Once an allegation is received, the organization should follow that process to evaluate the allegation and determine the appropriate course of action to resolve it.

BANDESAL has not established any procedures for reporting fraud, irregularities, or questionable acts. BANDESAL officials stated that it has established controls to ensure that loan recipients were using the funds as intended by conducting regular visits to loan recipients' locations (as stipulated in the loan agreements). As of April 9, 2012, we noted that BANDESAL did in fact conduct regular site visits to recipients' locations, but did not conduct any review of irregularities or questionable acts despite the irregularities noted in this review. This occurred mainly because BANDESAL did not have procedures for reporting fraud, irregularities, or questionable acts.

Although financial and operating controls may be in place to provide reasonable assurance that fraudulent, illegal, or dishonest activity is prevented or detected, the potential for inappropriate activities and behavior remains. The lack of policies and procedures for reporting fraud, irregularities, and questionable acts increases the risk that these activities will go undetected. To correct this problem, we make the following recommendation.

Recommendation 4. *We recommend that Millennium Challenge Corporation San Salvador require BANDESAL to (1) develop and implement a process—including training—* and policies and procedures *for members of the organization, loan recipients, and others to report fraud, irregularities, and questionable acts and (2) implement detailed policies and procedures to investigate any allegations.*

BANDESAL Did Not Investigate Irregular, Inconsistent Transactions of Two Loan Recipients

The Productive Development Project directed resources to promising business endeavors. The project encouraged alliances, joint ventures, and other forms of collaboration among established enterprises and smaller, disadvantaged organizations and individuals in northern El Salvador. The compact encourages transparency and accountability of its beneficiaries and prohibits giving funds to anyone who has been convicted of a narcotics offense.

On November 18, 2009, BANDESAL signed a $500,000 loan with a father (Recipient I) and son (Recipient II) so they could buy equipment and expand building facilities for an animal feed factory and buy 50 cows for a milk production business. The loan recipients were the father and brother of an alleged drug trafficker who is on the International Criminal Police Organization's watch list. Although there was no conclusive evidence to suggest that the loan recipients participated in unlawful activities, they conducted irregular, inconsistent business transactions that warranted further examination.

Concerns about Ownership of the Animal Feed Factory. Of the $500,000 the recipients got from BANDESAL, they used $235,000 to increase production at their animal feed factory. The animal feed factory has been in business for 20 years and is currently owned and managed by one of the recipients.

The review noted that until January 22, 2008, the alleged drug trafficker owned the land beneath the factory. He sold that land to his brother, Recipient II, for $18,000 about a year before BANDESAL approved the loan on November 18, 2009.

According to the business plan the recipients submitted to BANDESAL in 2009, the land was worth $30,000, the factory $200,000, and the offices $60,000, for a total of $290,000. Although the documentation submitted to the bank was not specific, it implied that the 2008 property sales price included the factory and the offices. Furthermore, Recipient I reported in his 2007 financial statements that the factory generated approximately $350,000, although the alleged drug trafficker may have owned the factory at the time.

Irregularities in the Business Plan. The recipients' business plan and loan application had numerous inconsistencies and irregularities and raised questions about the actual ownership of the business and its assets as follows:

- According to the business plan, Recipient I owned all business assets and directed the operations even though the title to the land where the factory was located belonged to

Recipient II. Recipient II was identified in the business plan as the business manager, not the owner.

- The business plan explicitly stated that all proceeds from the animal feed factory were reported by Recipient I while all proceeds from the milk business were reported by Recipient II in each of their financial statements and tax returns. However, such reporting was not consistent with the individuals' actual ownership of the business assets.

- On September 7, 2009, Recipient I gave Recipient II full power of attorney to handle all business matters. The business plan, which was presented to the bank for the loan approval around June 2009, describes Recipient I as the head of the business with complete control and power and made no mention of the delegation of authority. On November 20, 2009, 2 days after the signing of the loan, a local cemetery published an obituary stating that Recipient I died and was being cremated. This suggests that Recipient I may have been dead when the loan was signed on November 18.

- According to a draft business plan submitted to the bank, the recipients stated that actual revenues were considerably higher than those reported on their financial statements and tax returns. Furthermore, the consultant who prepared the business plan suggested that, based on his visits, the factory's actual cash flow may have been much higher than the amounts reported. While this would mean that the bank had minimal risk because the borrowers had greater revenue than had been reported, the consultant's report also suggested that the recipients had inaccurate financial statements and had been underpaying taxes.

Despite these inconsistencies and irregularities, BANDESAL officials said they approved the loan primarily because the recipients met the bank's criteria: they submitted a business plan, possessed the technical ability to develop the project, reported an adequate debt/asset ratio, had a low risk of default, and demonstrated the potential to generate employment. Although BANDESAL officials said they reviewed the loan application, they did not provide any documentation related to their efforts to confirm the accuracy of the information in the business plan, the recipients' financial statements, tax returns, or loan application.

These inconsistencies and irregularities warranted further investigation. BANDESAL said that a consultant reviewed and approved the loan application and supporting documentation and they did not have supporting documentation for such review; however, there is no documentation indicating that an investigation actually took place. Because BANDESAL did not initiate an investigation to determine who owned the feed factory and who benefited from its proceeds, the review concludes that BANDESAL did not adequately address allegations that the loan recipients had ties to drug trafficking. Without proper follow-up to determine the reasons for irregular, inconsistent transactions, MCC does not have reasonable assurance that this loan did not support an alleged drug trafficker.

Recommendation 5. *We recommend that Millennium Challenge Corporation San Salvador require BANDESAL to (1) further investigate the inconsistencies and irregularities noted in this review regarding the loan application and loan recipients of the animal feed factory, (2) terminate the agreement if applicable, (3) refer the case, if appropriate, to tax officials for investigation and document the results of these actions.*

EVALUATION OF MANAGEMENT COMMENTS

MCC has agreed with all five recommendations and expects to take action on the recommendations by November 3, 2012 (for details, see Appendix II.) Therefore, we concluded that management decisions have been reached on all five recommendations.

SCOPE AND METHODOLOGY

Scope

The Regional Inspector General/San Salvador conducted this review in accordance with generally accepted government auditing standards. This review is not an audit, but it complies with the general standards in Chapters 2 and 3, as well as with the evidence and documentation standards in paragraphs 7.55, and 7.77 through 7.84, of the *Government Auditing Standards*. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis in accordance with our review objective. We believe that the evidence obtained provides that reasonable basis.

The objectives of this review were to determine whether:

- FOMILENIO and BANDESAL had complied with U.S. laws and regulations while mitigating the risk that the funds were used in illegal activities.

- FOMILENIO had properly addressed allegations that a beneficiary had ties to drug trafficking.

- FOMILENIO's management controls provided reasonable assurance that FOMILENIO and its recipients were using the funds as intended.

In planning and performing the review, we assessed FOMILENIO's and BANDESAL's internal controls over loans related to the investment support activities managed by BANDESAL. The management controls reviewed included approval and monitoring of loans, adherence with laws and regulations and with the compact's terms and agreements.

Of the 29 active loan agreements managed by BANDESAL from October 16, 2009, to November 30, 2011, totaling $5.7 million, we judgmentally selected seven loan agreements totaling $1.4 million. The Regional Inspector General conducted the review in San Salvador from December 15, 2011, to February 24, 2012.

Methodology

To answer the review objective, we met with personnel from Millennium Challenge Corporation San Salvador, BANDESAL, and FOMILENIO to obtain an understanding of the policies and procedures that were in place to ensure adequate internal controls over the loan process as well as compliance with laws and regulations and the compact's terms and agreements. We reviewed and summarized the compact's main provisions. We reviewed various internal documentation from FOMILENIO and BANDESAL, including loan agreements, bylaws, policies and procedures, loan applications, loan agreements, financial analysis, and audited financial statements. We also identified and tested internal controls over loans selected. Our testing included controls over the approval process of loans, which included segregation of duties, and controls to ensure that the funds were used as intended.

MILLENNIUM CHALLENGE CORPORATION
UNITED STATES OF AMERICA

MANAGEMENT COMMENTS

Date: May 3, 2012

To: Jon Chasson
Regional Inspector General/San Salvador
Office of Inspector General – U.S. Agency for International Development

From: Thomas Hurley
Deputy Vice President, Europe, Asia Pacific and Latin America

Subject: MCC Response to Report No. 1-519-12-XXX-S, Review of MCC and Implementing Partner's Management Controls, and Compliance with Laws and Regulations Related to Drug-Trafficking and Criminal Activities

Dear Mr. Chasson:

The Millennium Challenge Corporation (MCC) appreciates the opportunity to respond to the Regional Inspector General's draft report. MCC's responses to the report's five recommendations are given below. Attached at Tab A are additional comments, clarifications and corrections to the summary of results and audit findings. MCC will undertake any actions in response to the Recommendations herein within six (6) months from the date of these management comments.

Recommendation 1. *We recommend that MCC/El Salvador require BANDESAL and FOMILENIO to amend all loan agreements to include language indicating that the contract would be subject to cancellation upon conviction of a narcotics offense or to engaging in drug trafficking.*

MCC Response:

MCC agrees with this recommendation. MCC will require FOMILENIO to require BANDESAL to amend all the FIDENORTE loan agreements currently in force to include appropriate language indicating that the loan agreement would be subject to cancellation upon conviction of a narcotics offense or if the borrower is found to be engaging in drug trafficking.

Recommendation 2. *We recommend that MCC/El Salvador complete an independent review of approved applicants to determine if financial irregularities have been overlooked, terminate loans if applicable, and report to the appropriate local agency the results.*

MCC Response:

MCC notes the findings by the Regional Inspector General of inconsistencies between the financial statements and tax records of BANDESAL borrowers. In this regard, MCC wishes to clarify that the cited financial information was not used to ensure that the borrowers were using the funds as intended, and instead was part of an initial assessment as to whether a loan to the particular applicant was financially viable, and the FIDENORTE operations manual does not require BANDESAL to reconcile applicants' income statements with tax statements. As a result, MCC disagrees (a) that this information, once obtained, has bearing on whether *El Faro* article's allegations regarding Recipient I and Recipient II have merit; and (b) as a general matter, that MCC is in a position to review the applicable records and make recommendations to BANDESAL regarding appropriate actions. Accordingly, the recommendation is outside the scope of the review and its intended focus on the specific case of Recipient I and Recipient II.

Notwithstanding the question of scope, MCC acknowledges that BANDESAL should have controls in place to address inconsistencies in the documentation submitted as part of the FIDENORTE application packages. Accordingly, MCC will recommend to FOMILENIO that BANDESAL make arrangements for a review of the approved application packages to determine whether financial irregularities were overlooked and recommend appropriate actions. This action will be undertaken as part of FOMILENIO and BANDESAL's response to Recommendation 5.

Recommendation 3*. We recommend that MCC/El Salvador require BANDESAL and FOMILENIO to perform criminal background checks (which includes reviewing police records and excluded parties lists) on existing loan applicants.*

MCC Response:

MCC agrees with this recommendation. MCC will require FOMILENIO and BANDESAL to perform criminal background checks on existing FIDENORTE loan applicants. In addition, MCC will take this recommendation a step further and extend such background checks on existing FIDENORTE borrowers, not just applicants.

Recommendation 4*. We recommend that MCC/El Salvador require BANDESAL to develop a process, including training, for members of the organizations, loan recipients, and others to report fraud, irregularities, and questionable acts and detailed policies and procedures to investigate any allegations.*

MCC Response:

MCC agrees with this recommendation. MCC will require FOMILENIO to require BANDESAL to develop a process to report fraud, irregularities and questionable acts, and to develop detailed policies and procedures to investigate any allegations for FIDENORTE.

Recommendation 5*. We recommend that MCC/El Salvador require BANDESAL to (a) further investigate the inconsistencies and irregularities noted in this review with regards*

to the loan application and loan recipients of the animal factory; (b) terminate the agreement if applicable, and (c) refer the case, if appropriate, to tax officials for investigation.

MCC Response:

MCC notes that the primary purpose of the RIG's review was to investigate whether the BANDESAL loan was misused by Recipient I and Recipient II to support drug trafficking. MCC is disappointed that the RIG's report is inconclusive on this point. Notwithstanding this result, and appreciating the difficulty of such an investigation, MCC will comply with the recommendation by instructing FOMILENIO to require that BANDESAL take the actions noted in such recommendation.

Attachment

Tab A: MCC Management Comments on OIG Report No. 1-519-12-XXX-S

Tab A: MCC Management Comments on OIG Report No. 1-519-12-XXX-S

MCC would like to make the following clarifications and corrections to certain factual errors and/or inconsistencies in the draft report.

Compact Requirements

The draft report indicates that "*the Compact states that agreements may be terminated if any third party receiving MCC funding or any other program asset was found to have been convicted of a narcotics offense or to have been engaged in drug trafficking.*" Section 5.4(b) (viii) of the Compact instead provides that the Compact itself may be terminated upon such an event.

BANDESAL Controls

The draft report states:

> According to BANDESAL, they did not have policies and procedures in place for reporting fraud, irregularities, questionable acts, mainly because they have already established controls to ensure that loan recipients are using the funds as intended and stated in the loan agreements. These controls included initial and regular visits to the loan recipient's business locations. As of April 9, 2012, no review had been issued on any loan recipients.

In contrast, it is MCC's understanding that site visits to borrowers were conducted regularly by BANDESAL's contractor, GyS. For example, in the case of Recipients I and II, visits were conducted by GyS on at least the following dates:

- April 20, 2010;
- September 23, 2011;
- November 15, 2011; and
- December 5, 2011.