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Environmental Compliance Roles, Responsibilities, Reporting and Resources

Environmental Compliance and the Automated Directives System (ADS)

- **USAID’s Automated Directives System (ADS) sets out mandatory procedures, roles and responsibilities for:**
 - “Upstream compliance”
Design and 22 CFR 216 process
 - “Downstream compliance”
Implementing IEE and EA conditions



Environmental Compliance and the ADS

ADS 204 (“Environmental Procedures”) is the core ADS reference, but environmental compliance is mainstreamed throughout the ADS

Overarching requirement:

Operating units must have systems in place for environmental compliance over life of project and must make sufficient resources available for this purpose

(202.3.6; 204.3.4)

Compliance Requirement	Responsible Parties	ADS Reference
Environmental considerations in activity planning	Team Leaders, Activity Managers	201.3.8.1 204.3.3
No activity implemented without approved Reg. 216 environmental documentation	COR/AOR/ Activity Manager	201.3.9.3 201.3.11 204.3.1 204.3.3.b 303.3.2.e
IEE & EA conditions incorporated into procurement instruments	COR/AOR/ Activity Manager; Agreement Officer	204.3.4.a.6 303.3.6.3e 303.3.13
IEE & EA conditions are implemented, and implementation is monitored and adjusted as necessary	COR/AOR	202.3.6; 204.3.4 303.2.f
Environmental compliance documentation is maintained	PO, COR/AOR, Team Leader, MEO	202.3.4.6

A Note About Record Keeping

- **Approved 22 CFR 216 documents are kept in 2 places**
 - in official project files maintained by C/AOR
 - in official BEO files
- **22 CFR 216.10 makes all of these available to the public**
 - **Agency-wide searchable database of all Reg 216 docs approved since 2000:**
<http://gemini.info.usaid.gov/egat/envcomp/>
- **Annual reporting is required**





Mission Environmental Officer



- At each Mission
- Quality Assurance/Quality Control reviewer for Reg. 216 docs
- Clears Reg. 216 docs before they go to Mission Director
- Mission compliance advisor and coordinator, assists in compliance monitoring
- Mission point of contact to Regional Environmental Advisor and Bureau Environmental Officer

Regional Environmental Advisor



- Based in regional Missions
- Assists Missions (MEOs and program teams) and BEO with implementing environmental compliance
- Provides quality assurance and quality control of Reg. 216 documentation before it goes to the Bureau Environmental Officer
- Provides environmental compliance advice and clearance, conducts training, audits Mission portfolios for compliance
- Assists in arranging additional environmental expertise, when required

Bureau Environmental Officers

- Based in Washington DC;
- Oversee environmental compliance in their Bureaus
- Primary decision makers on 22 CFR 216 threshold decisions for activities under the purview of their Bureau
- Concurs with recommendations from Mission Directors for environmental threshold decisions for activities under the purview of their Bureau
- Approves scoping statements and clears on EAs

Sector Teams & Mission Management

CORs/AORs & Activity Managers.

Assure Reg. 216 documentation in place. Assure IEE/EA conditions & compliance requirements incorporated into procurement instruments. Monitor compliance with IEE/EA conditions & modify or end activities not in compliance.


Primary
Responsibility for
Environmental
Compliance

Team Leaders

Oversee CORs/AORs. Assure that their teams have environmental compliance system in place.

Mission Director

Ultimately responsible for environmental compliance. Mandatory clearance on all Reg. 216 environmental documentation.

 The MEO is a member of every sector team (ADS 204.3.5)

Agency Environmental Coordinator, Office of the General Counsel

Agency Environmental Coordinator (AEC)

- Coordinates Agency-wide implementation of 22 CFR 216
- Advises on issues related to Reg 216 and coordinates with GC in interpreting Reg 216 in new situations
- Concurs in AA's appointments of BEOs
- Serves as USAID liaison on NEPA to CEQ, coordinates domestic EIS process (rare)

Regional Legal Advisors (RLAs)

- Provide legal advice on environmental compliance to field staff. Some regions require RLA clearance on Reg 216 documents.

Assistant General Counselors (AGCs)

- Provide legal advice to BEOs and RLAs on environmental compliance in their regions

Reg 216 docs: Who writes? Who clears?

- **Who writes?**

- AOR/COR responsible for assuring Reg. 216 documentation in place.*
- Can engage a consultant/contractor to develop — Environmental Assessments almost always developed by 3rd party consultants.
- USAID is responsible for contents/determinations **NO MATTER WHO DEVELOPS IT!**

- **Who clears?**

- COR/AOR, Activity Manager or Team Leader
- MEO (for Mission)
- REA (depending on Mission/regional policy)
- **Mission Director or Washington equivalent clears**
- **Bureau Environmental Officer concurs.**
Responsibility/authority cannot be delegated.

**Required by
Reg. 216**

Who is responsible?

USAID

Assures Reg. 216 documentation in place. Establishes/approves environmental mitigation & monitoring conditions. Verifies compliance.

In the Mission

Fundamental responsibility & accountability:

- Sector Team Leader
- Activity Managers & COTR/AOTRs
- ultimately with the Mission Director

MEO: quality and completeness reviewer for Reg. 216 documentation; compliance advisor and coordinator; assists in compliance monitoring.

Implementing Partners

ALWAYS: Implement mitigation and monitoring conditions that apply to their project activities & report to USAID.

ALWAYS responsible for design of detailed environmental mitigation and monitoring plan (EMMP) in response to mitigation and monitoring conditions established by the Reg. 216 documentation.

SOMETIMES develop Reg. 216 documentation (IEEs, EAs)* for new project components; develop subproject env. review reports (for subgrants/subprojects).

Environmental Compliance Verification/Oversight by USAID

1. Prior Review/Approval of partner-developed

→ **EMMP**→

ensure responsive to IEE/EA conditions

→ **Budgets and workplans**→

ensure EMMP implementation planned & funded

→ **Project Reporting Framework**→

ensure environmental compliance reporting requirements are met

Primary responsibility for ensuring compliance lies with C/AOTR.

MEO will also review/clear where activities are env. Sensitive &/or IEE/EA conditions are complex.

2. Ongoing review of **partner progress reports** to monitor EMMP implementation

MEO on distribution list for IP's quarterly/semi-annual project reports.

3. **Field visits:**

→ at a minimum, all visits integrate a quick check for significant env. design/management problems

→ For environmentally sensitive activities, specific visit(s) to audit against EMMP.

Most field visits are by C/AOR or M&E Officer

MEO should visit the most environmentally sensitive activities (REA may assist)

Environmental Compliance and Procurement Instruments

ADS Requires. . .

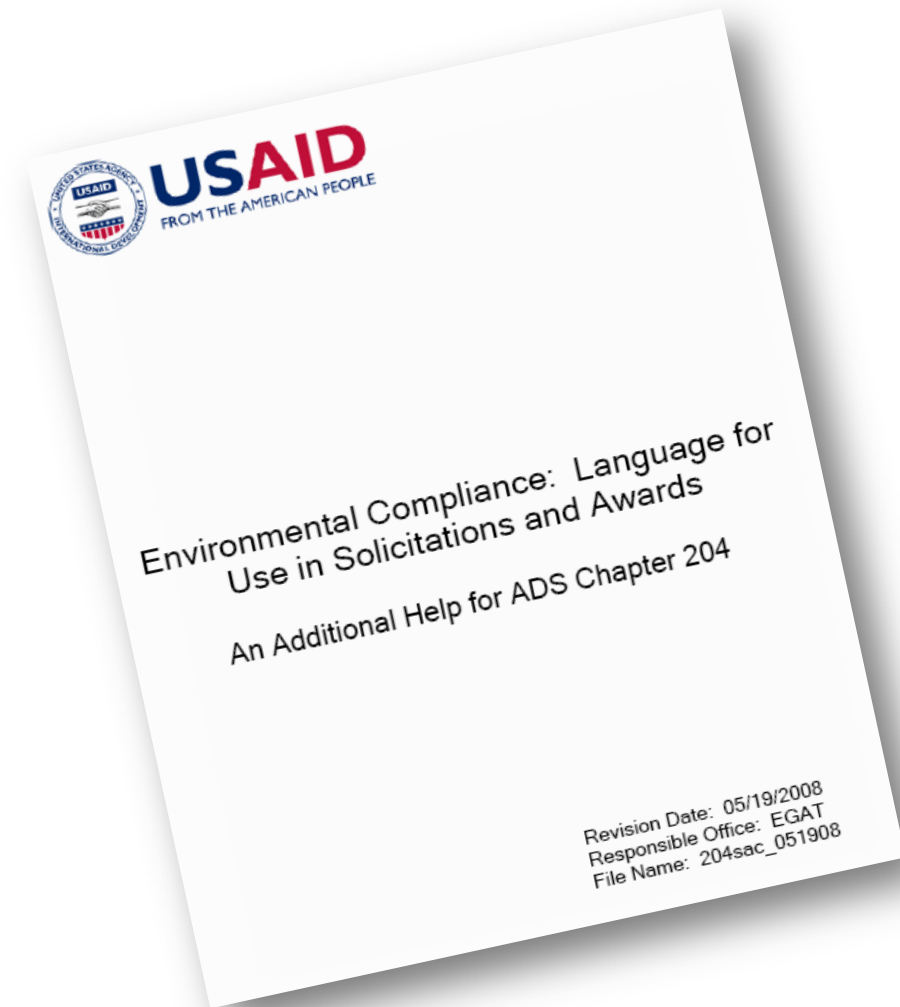
“Incorporating environmental factors and mitigative measures identified in IEEs, EAs, and EISs, as appropriate, in the design and the implementation instruments for programs, projects, activities or amendments.”

(204.3.4(a)(6))

- **Critical to IP compliance with IEE/EA conditions**
- **BUT: historically, problems in implementation:**
 - Many USAID procurement instruments have NOT adequately addressed environmental compliance
 - Lack of guidance required A/CORs, COs to repeatedly “reinvent the wheel”
 - Partners/contractors fail to budget for environmental requirements

The solution. . .

Environmental Compliance: Language for Use in Solicitations and Awards (ECL)



**Step-by-step guidance
and boilerplate language**

- **For RFAs/ RFPs/
agreements/ grants/
contracts**
- **Optional, not required**
- **ADS Help Document**

**Available from
[www.usaid.gov/policy/
ads/200/204sac.pdf](http://www.usaid.gov/policy/ads/200/204sac.pdf)**

The Environmental Compliance Language document generates. . .

Best practice solicitation language



Requiring that:
Proposals address **qualifications and proposed approaches to compliance/ ESDM** for environmentally complex activities.

Best practice award language



Requiring that:
IP verifies current & planned activities annually against the scope of the RCE/IEE/EA.

The **necessary mechanisms and budget** for IP implementation of IEE/EA conditions are in place.

To assure that projects do not “creep” out of compliance as activities are modified and added over their life.

Specifically:

1. Complete **EMMP** exists or is developed.
2. Workplans & budgets integrate the EMMP
3. Project reporting tracks EMMP implementation

The ECL strengthens Environmentally Sound Design & Management, and . . .

Provides cost & efficiency benefits to both Mission Staff & Implementing Partners

USAID Staff

Avoids the effort, costs and loss of good will that come from imposing “corrective compliance” measures on IPs after implementation has started.

Reduces USAID cost and effort of env compliance verification/oversight by assuring that IPs integrate environmental compliance reporting into routine project performance reporting.

Implementing Partners

Provides clarity regarding environmental compliance responsibilities

Prevents “unfunded mandates”—USAID requirements to implement M&M after implementation has started & without additional budget.

References and Useful Information

- USAID Environmental Compliance and Related Links
http://www.usaid.gov/our_work/environment/compliance
- 22 CFR 216 Environmental Compliance Procedures
http://www.usaid.gov/our_work/environment/compliance/22cfr216
- Automated Directives System Series 200 (with link to Chapter 204)
www.usaid.gov/policy/ads/200/
- Environmental Compliance Language for Use in Solicitations and Awards
<http://www.usaid.gov/sites/default/files/documents/1865/204.pdf>
- Global Environmental Management Support with Sectoral Environmental Guidelines and many other resources
<http://www.usaidgems.org/>



References & Useful Information

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- **USAID Environmental Compliance & Related Links**
http://www.usaid.gov/our_work/environment/compliance
- **22 CFR 216**
http://www.usaid.gov/our_work/environment/compliance/22cfr216
- **ADS Series 200 (with link to Chapter 204 & ECL)**
www.usaid.gov/policy/ads/200/
- **IEE Assistant (help in preparing Reg. 216 documentation) and Sectoral Environmental Guidelines + many other resources**
www.usaidgems.org





GEMS Services

❖ GEMS . . .

- *provides tools, resources, technical assistance and capacity building **to strengthen environmental management and environmental compliance***
- *serves USAID Missions and partners globally*

❖ GEMS services are available. . .

- *On a subsidized basis (access via request to REA), or*
- *Via buy-in to GEMS*

**For more info consult
the GEMS Factsheet
(next pages)**