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Environmental Compliance: Language for Use in Solicitations/Notice of Funding Opportunities and Awards

An Additional Help for ADS Chapter 204

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Environmental Compliance: Language for Use in Solicitations and Awards

ABOUT THIS LANGUAGE

The following recommended language is for use by Contracting/Agreement Officer's Representatives (COR/AORs), Activity Managers, Contracting Officers (COs), Mission Environmental Officers (MEOs), Program Officers, Regional Environmental Advisors (REAs), Bureau Environmental Officers (BEOs), and other USAID staff involved in the preparation of solicitations, awards, and activity design and management. This guide helps to take CORs/AORs through the steps of determining the appropriate language for insertion into solicitations and contracts (acquisition) under Section H, notice of funding opportunity (assistance) under Section F, and for grants and cooperative agreements under Section A.

Its purpose is to ensure adequate time is provided for environmental review and that environmental factors and mitigative measures identified in approved environmental impact assessment documentation are incorporated in the design and approval of each program and activity before the Operating Unit, Team, Activity Manager or COR/AOR makes an irreversible commitment of resources for the program or activity. It also is intended to help improve application of USAID's environmental procedures (22 CFR 216 or Regulation 216¹) to create more sustainable and successful implementation of activities, projects and programs:

- By explicitly enumerating the environmental compliance responsibilities of project implementers, use of this recommended language can help ensure that environmental compliance requirements stemming from the Regulation 216 process are fully integrated into project designs, work plans, and implementation of activities.
- Use of the language also alerts USAID staff and implementing partners early on to the need for a budget to implement environmental compliance measures and to the importance of providing sufficient Regulation 216 technical capacity to implement, monitor, and report on environmental compliance. Doing so is intended to ensure that compliance is maintained throughout design and implementation—over the entire life of a project or program.
- Further, the language contributes to mainstreaming of environmental concerns by integrating environmental compliance into USAID's typical project design and implementation processes.

The language can be used in any type of procurement instrument (contracts, cooperative agreements, grants, etc.). Although not explicitly required by ADS 305 for Host Country Contracts, this language also recommended for Host Country solicitations and in Implementation Letters and is especially appropriate when contracting for construction services and technical or professional services.

For greatest benefit, Technical Teams and other USAID staff should review and discuss the recommended language during project design, and modify it as may be necessary, so it is well-integrated with the activity description/scope of work. Together the COR/AOR, CO, and MEO should identify where and which language to insert based on the type of solicitation and award. For activities that are designed and managed out of USAID/Washington (in Pillar or Regional Bureaus), the BEO would serve a similar technical role as the MEO does at the Mission level. The MEO, REA, BEO, or other trained staff may be able to provide staff training or guidance, if necessary, on use of the language in solicitations and contracting documents.

¹ Full text of 22 CFR 216 can be found at http://www.usaid.gov/our_work/environment/compliance/22cfr216

How to use this guideline

Within each USAID program planning process outlined in ADS Chapter 201, the Project Approval Document (PAD) indicates the initial environmental compliance determination as set forth under the “Environmental Review” section of the PAD Action Memorandum. This determination is made within the Initial Environmental Examination (IEE), a standard and required screening of potential program related environmental impacts conducted by the Activity Manager/COR/AOR and the Mission Environmental Officer (MEO).

In preparation of a final solicitation or award, the COR/AOR should reference the PAD Environmental Review Section to the following pre-selected environmental compliance determinations found in the IEE:

1. Categorical Exclusion,
2. Negative Determination.
3. Negative Determination with Conditions,
4. Positive Determination

These determinations define the appropriate environmental compliance language that must be included in solicitations and subsequent awards. This language will help provide guidance on the environmental compliance requirements to the COR/AOR, Contract Specialist, and the Implementing Partner (IP) throughout the life of the project. It also ensures that implementers are made directly accountable for sound environmental management.

This document provides specific language for each type of determination and takes into account whether or not the award has a sub-award component. The author of the solicitation/award should first select they type of language necessary from the categories listed, cop and paste this language into the new document and finalize by filling a few specific questions highlighted in yellow.

For further information of clarifications, please consult the MEO or REA.

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1) Categorical Exclusions and Negative Determinations Only – Insert the following text. Areas highlighted in yellow require a selection by the user.

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID’s activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID’s Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities.

[Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFTOP/RFA/contract/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/task order/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), or Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as “approved Regulation 216 environmental documentation.”).

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the scope of the approved Regulation 216 environmental documentation.

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

2) At least one Negative Determination with Conditions, no sub-awards - Insert the following text. Areas highlighted in yellow require a selection by the user.

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. [Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFA/contract/task order/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")

An Initial Environmental Examination (IEE) [(insert IEE # or hyperlink, if available)] has been approved for [theActivity] funding this [RFA/RFP/contract/task order/grant/cooperative agreement (CA)]. The IEE covers activities expected to be implemented under this [contract/task order/grant/CA]. USAID has determined that a **Negative Determination with Conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The [offeror/applicant/contractor/recipient] shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this [solicitation/award].

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the scope of the approved Regulation 216 environmental documentation

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Negative Determinations with Conditions, the [contractor/recipient] shall:

- Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M plan), the contractor/recipient shall prepare an EMMP describing how the contractor/recipient will, in specific terms, implement all IEE conditions that apply to proposed project activities within the scope of the award. [The EMMP format is attached]. The EMMP shall include monitoring the implementation of the conditions and their effectiveness.
- Integrate a completed EMMP into the initial work plan.
- Prepare an Environmental Compliance Report (ECR) at the end of the year or as per reporting requirements of the contract. The ECR shall be based on the monitoring of mitigation measures using Table 3 of the EMMP.
- A revised EMMP must be completed and approved in subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.

Additional language to include for RFAs/RFPs

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] shall include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an EMMP.
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.
- The respondent's illustrative budget for implementing the environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for development of the EMMP and environmental compliance implementation and monitoring in their cost proposal.

3) At least one Negative Determination with Conditions, with sub-awards - Insert the following text. Areas highlighted in yellow require a selection by the user.

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID’s activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID’s Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. [Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFA/contract/task order/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/task order/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as “approved Regulation 216 environmental documentation.”).

An Initial Environmental Examination (IEE) [(insert IEE # or hyperlink, if available)] has been approved for [theActivity] funding this [RFA/RFP/contract/task order/grant/cooperative agreement (CA)]. The IEE covers activities expected to be implemented under this [contract/task order/grant/CA]. USAID has determined that a **Negative Determination with Conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The [offeror/applicant/contractor/recipient] shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this [solicitation/award].

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the scope of the approved Regulation 216 environmental documentation.

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Negative Determinations with Conditions, the [contractor/recipient] shall:

- Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M plan), the contractor/recipient shall prepare an EMMP describing how the contractor/recipient will, in specific terms, implement all IEE conditions that apply to proposed project activities within the scope of the award. **The EMMP format is attached.** The EMMP shall include monitoring the implementation of the conditions and their effectiveness.
- Integrate a completed EMMP into the initial work plan.
- Prepare an Environmental Compliance Report (ECR) at the end of the year or as per reporting requirements of the contract. The ECR shall be based on the monitoring of mitigation measures using Table 3 of the EMMP.
- A revised EMMP must be completed and approved in subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.

A provision for sub-awards is included under this award. Therefore, the [contractor/recipient] will be required to use an Environmental Review Form (ERF), an EMMP form (in LAC) or Environmental Review (ER) checklist (Table 1 of the EMMP for LAC) to screen grant proposals to ensure the funded proposals will result in no adverse environmental impact, to develop mitigation measures, as necessary, and to specify monitoring and reporting. Use of the ERF or ER checklist is called for when the nature of the grant proposals to be funded is not well enough known to make an informed decision about their potential environmental impacts, yet due to the type and extent of activities to be funded, any adverse impacts are expected to be easily mitigated. Implementation of sub-grant activities cannot go forward until the ERF or ER checklist is completed and approved by USAID. The contractor/recipient is responsible for ensuring that mitigation measures specified by the ERF or ER checklist process are implemented. The contractor/recipient will also be responsible for periodic reporting to the USAID COR/AOR, as specified in the Schedule/Program Description of this solicitation/award.

Additional language to include for RFAs/RFPs

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] shall include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an EMMP.
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.

- The respondent's illustrative budget for implementing the environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for developing the EMMP and environmental compliance implementation and monitoring in their cost proposal.

4) At least one Positive Determination, recipient not required to write an EA - Insert the following text. Areas highlighted in yellow require a selection by the user.

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID’s activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID’s Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. [Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFA/contract/task order/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE), or Environmental Assessment (EA) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as “approved Regulation 216 environmental documentation.”).

An Initial Environmental Examination (IEE) has been approved for the [Activity funding] this [RFA/RFP/contract/agreement] and for activities to be undertaken herein [insert IEE # or hyperlink, if available]. The IEE contains a Positive Determination for the following proposed activities: [(specify)]. This indicates that these activities have the potential for significant environmental effects. Accordingly, the [contractor/recipient] is required to comply with the terms of an approved Environmental Assessment (EA)[insert IEE # or hyperlink, if available] that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the scope of the approved Regulation 216 environmental documentation.

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Positive Determinations, an EA has been prepared [attach EA or include a hyperlink]. The EA includes a Mitigation and Monitoring (M & M) Plan (Table 3 of the EMMP for LAC) that shall be used to document the progress and impacts of the selected alternative actions.

Language for environment compliance for RFA/RFPs:

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] should therefore include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to implementing the mitigation measures prescribed in the EA
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.
- The respondent's illustrative budget for implementing environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for environmental compliance implementation and monitoring in their cost proposal.

5) At least one Positive Determination, recipient required to write an EA - Insert the following text. Areas highlighted in yellow require a selection by the user.

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. [Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFA/contract/task order/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE), or Environmental Assessment (EA) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.").

An Initial Environmental Examination (IEE) has been approved for the [Activity funding] this [RFA/RFP/contract/agreement] and for activities to be undertaken herein [insert IEE # or hyperlink, if available]. The IEE contains a Positive Determination for the following proposed activities: [(specify)]. This indicates that these activities have the potential for significant environmental effects. Accordingly, the [contractor/recipient] is required to develop and comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the scope of the approved Regulation 216 environmental documentation.

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Positive Determinations, an EA is required to be prepared. Accordingly, the [contractor/recipient] is required to develop and comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

Language for environment compliance for RFA/RFPs:

This [RFA/RFP] specifies that the [contractor/recipient] will be required to prepare Regulation 216 documentation (IEE or EA) for some or all activities. As such:

- Cost and technical proposals must reflect IEE or EA preparation costs and approaches.
- [Contractor/recipient] will be expected to comply with all conditions specified in the approved EA.

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] should therefore include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an EA.
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.
- The respondent's illustrative budget for developing the EA and implementing the environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for developing the EA and environmental compliance implementation and monitoring in their cost proposal.

6) At least one Negative Determination with Conditions and at least one Positive Determination, no sub-awards, recipient not required to write an EA

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities.

[Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFTOP/RFA/contract/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/task order/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), or Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")

An Initial Environmental Examination (IEE) [(insert IEE # and download reference here, if available)] has been approved for [theActivity] funding this [RFA/RFP/contract/task order/grant/cooperative agreement (CA)]. The IEE covers activities expected to be implemented under this [contract/task order/grant/CA]. USAID has determined that a **Negative Determination with Conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The [offeror/applicant/contractor/recipient] shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this [solicitation/award].

The IEE also contains a **Positive Determination** for the following proposed activities: [(specify)]. This indicates that these activities have the potential for significant environmental effects. Accordingly, the [contractor/recipient] is required to comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the

scope of the approved Regulation 216 environmental documentation

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Negative Determinations with Conditions, the [contractor/recipient] shall:

- Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M plan), the contractor/recipient shall prepare an EMMP describing how the contractor/recipient will, in specific terms, implement all IEE conditions that apply to proposed project activities within the scope of the award. The EMMP format is attached. The EMMP shall include monitoring the implementation of the conditions and their effectiveness.
- Integrate a completed EMMP into the initial work plan.
- Prepare an Environmental Compliance Report (ECR) at the end of the year or as per reporting requirements of the contract. The ECR shall be based on the monitoring of mitigation measures using Table 3 of the EMMP.
- A revised EMMP must be completed and approved in subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.

When the approved Regulation 216 documentation is an IEE that contains one or more Positive Determinations, an EA has been prepared [attach or include hyperlink]. The EA includes a Mitigation and Monitoring (M & M) Plan (Table 3 of the EMMP for LAC) that shall be used to document the progress and impacts of the selected alternative actions.

Language for environment compliance for RFA/RFPs:

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] should therefore include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an EMMP and implementing the mitigation measures prescribed in the EA.
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.

- The respondent's illustrative budget for developing and implementing an EMMP and for implementing environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for environmental compliance implementation and monitoring in their cost proposal.

7) At least one Negative Determination with Conditions and at least one Positive Determination, no sub-awards, recipient required to write an EA

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities.

[Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFTOP/RFA/contract/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/task order/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), or Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")

An Initial Environmental Examination (IEE) [(insert IEE # or hyperlink, if available)] has been approved for [theActivity] funding this [RFA/RFP/contract/task order/grant/cooperative agreement (CA)]. The IEE covers activities expected to be implemented under this [contract/task order/grant/CA]. USAID has determined that a **Negative Determination with Conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The [offeror/applicant/contractor/recipient] shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this [solicitation/award].

The IEE also contains a Positive Determination for the following proposed activities: [(specify)]. This indicates that these activities have the potential for significant environmental effects. Accordingly, the [contractor/recipient] is required to develop and comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the

scope of the approved Regulation 216 environmental documentation

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Negative Determinations with Conditions, the [contractor/recipient] shall:

- Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M plan), the contractor/recipient shall prepare an EMMP describing how the contractor/recipient will, in specific terms, implement all IEE conditions that apply to proposed project activities within the scope of the award. The EMMP format is attached. The EMMP shall include monitoring the implementation of the conditions and their effectiveness.
- Integrate a completed EMMP into the initial work plan.
- Prepare an Environmental Compliance Report (ECR) at the end of the year or as per reporting requirements of the contract. The ECR shall be based on the monitoring of mitigation measures using Table 3 of the EMMP.
- A revised EMMP must be completed and approved in subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.

When the approved Regulation 216 documentation is an IEE that contains one or more Positive Determinations, an EA is required to be prepared. The EA shall include a Mitigation and Monitoring (M & M) Plan (Table 3 of the EMMP for LAC) that shall be used to document the progress and impacts of the selected alternative actions.

Language for environment compliance for RFA/RFPs:

This [RFA/RFP] specifies that the [contractor/recipient] will be required to prepare Regulation 216 documentation (IEE or EA) for some or all activities. As such:

- Cost and technical proposals must reflect IEE or EA preparation costs and approaches.
- [Contractor/recipient] will be expected to comply with all conditions specified in the approved EA.

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP]

should therefore include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an [EMMP and/or EA]
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.
- The respondent's illustrative budget for developing an [EMMP and/or EA] and implementing the environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for developing the EA and environmental compliance implementation and monitoring in their cost proposal.

8) At least one Negative Determination with Conditions and at least one Positive Determination, with sub-awards, recipient not required to write an EA

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities.

[Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFTOP/RFA/contract/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/task order/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), or Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")

An Initial Environmental Examination (IEE) [(insert IEE # or hyperlink, if available)] has been approved for [the Activity] funding this [RFA/RFP/contract/task order/grant/cooperative agreement (CA)]. The IEE covers activities expected to be implemented under this [contract/task order/grant/CA]. USAID has determined that a **Negative Determination with Conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The [offeror/applicant/contractor/recipient] shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this [solicitation/award].

The IEE also contains a Positive Determination for the following proposed activities: [(specify)]. This indicates that these activities have the potential for significant environmental effects. Accordingly, the [contractor/recipient] is required to comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the

scope of the approved Regulation 216 environmental documentation

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Negative Determinations with Conditions, the [contractor/recipient] shall:

- Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M plan), the contractor/recipient shall prepare an EMMP describing how the contractor/recipient will, in specific terms, implement all IEE conditions that apply to proposed project activities within the scope of the award. The EMMP format is attached. The EMMP shall include monitoring the implementation of the conditions and their effectiveness.
- Integrate a completed EMMP into the initial work plan.
- Prepare an Environmental Compliance Report (ECR) at the end of the year or as per reporting requirements of the contract. The ECR shall be based on the monitoring of mitigation measures using Table 3 of the EMMP.
- A revised EMMP must be completed and approved in subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.

When the approved Regulation 216 documentation is an IEE that contains one or more Positive Determinations, an EA has been prepared [insert EA or hyperlink]. The EA includes a Mitigation and Monitoring (M & M) Plan (Table 3 of the EMMP for LAC) that shall be used to document the progress and impacts of the selected alternative actions.

A provision for sub-awards is included under this award. Therefore, the [contractor/recipient] will be required to use an Environmental Review Form (ERF), an EMMP form (in LAC) or Environmental Review (ER) checklist (Table 1 of the EMMP for LAC) to screen grant proposals to ensure the funded proposals will result in no adverse environmental impact, to develop mitigation measures, as necessary, and to specify monitoring and reporting. Use of the ERF or ER checklist is called for when the nature of the grant proposals to be funded is not well enough known to make an informed decision about their potential environmental impacts, yet due to the type and extent of activities to be funded, any adverse impacts are expected to be easily mitigated. Implementation of sub-grant activities cannot go forward until the ERF or ER checklist is completed and approved by USAID. The contractor/recipient is responsible for ensuring that mitigation measures specified by the ERF or ER checklist process are

implemented. The contractor/recipient will also be responsible for periodic reporting to the USAID COR/AOR, as specified in the Schedule/Program Description of this solicitation/award.

Language for environment compliance for RFA/RFPs:

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] should therefore include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an EMMP and implementing the mitigation measures prescribed in the EA
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.
- The respondent's illustrative budget for developing and implementing an EMMP and implementing environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for environmental compliance implementation and monitoring in their cost proposal.

9) At least one Negative Determination with Conditions and at least one Positive Determination, with sub-awards, recipient required to write an EA

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/who-we-are/agency-policy/series-200>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities.

[Offeror/applicant/contractor/recipient] environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this [RFP/RFTOP/RFA/contract/grant/cooperative agreement].

In addition, the contractor/recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this [contract/task order/grant/CA] will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), or Initial Environmental Examination (IEE) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")

An Initial Environmental Examination (IEE) [(insert IEE # or hyperlink, if available)] has been approved for [the Activity] funding this [RFA/RFP/contract/task order/grant/cooperative agreement (CA)]. The IEE covers activities expected to be implemented under this [contract/task order/grant/CA]. USAID has determined that a **Negative Determination with Conditions** applies to one or more of the proposed activities. This indicates that if these activities are implemented subject to the specified conditions, they are expected to have no significant adverse effect on the environment. The [offeror/applicant/contractor/recipient] shall be responsible for implementing all IEE conditions pertaining to activities to be funded under this [solicitation/award].

The IEE also contains a Positive Determination for the following proposed activities: [(specify)]. This indicates that these activities have the potential for significant environmental effects. Accordingly, the [contractor/recipient] is required to develop and comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor/recipient, in collaboration with the USAID COR/AOR and MEO, REA or BEO, as appropriate, shall review all ongoing and planned activities under this [contract/task order/grant/CA] to determine if they are within the

scope of the approved Regulation 216 environmental documentation

If the contractor/recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, if the life of activity funding ceiling will be eclipsed, or if a time extension is required, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

When the approved Regulation 216 documentation is an IEE that contains one or more Negative Determinations with Conditions, the [contractor/recipient] shall:

- Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M plan), the contractor/recipient shall prepare an EMMP describing how the contractor/recipient will, in specific terms, implement all IEE conditions that apply to proposed project activities within the scope of the award. The EMMP format is attached. The EMMP shall include monitoring the implementation of the conditions and their effectiveness.
- Integrate a completed EMMP into the initial work plan.
- Prepare an Environmental Compliance Report (ECR) at the end of the year or as per reporting requirements of the contract. The ECR shall be based on the monitoring of mitigation measures using Table 3 of the EMMP.
- A revised EMMP must be completed and approved in subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.

When the approved Regulation 216 documentation is an IEE that contains one or more Positive Determinations, an EA is required to be prepared. Accordingly, the [contractor/recipient] is required to develop and comply with the terms of an approved Environmental Assessment (EA) that addresses the environmental concerns raised by these activities. No activity identified under this Positive Determination can proceed until Scoping as described in §216.3(a)(4) and an EA as described in §216.6 are completed and approved by USAID.

A provision for sub-awards is included under this award. Therefore, the [contractor/recipient] will be required to use an Environmental Review Form (ERF), an EMMP form (in LAC) or Environmental Review (ER) checklist (Table 1 of the EMMP for LAC) to screen grant proposals to ensure the funded proposals will result in no adverse environmental impact, to develop mitigation measures, as necessary, and to specify monitoring and reporting. Use of the ERF or ER checklist is called for when the nature of the grant proposals to be funded is not well enough known to make an informed decision about their potential environmental impacts, yet due to the type and extent of activities to be funded, any adverse impacts are expected to be easily mitigated. Implementation of sub-grant activities cannot go forward until the ERF or ER checklist is completed and approved by USAID. The contractor/recipient is

responsible for ensuring that mitigation measures specified by the ERF or ER checklist process are implemented. The contractor/recipient will also be responsible for periodic reporting to the USAID COR/AOR, as specified in the Schedule/Program Description of this solicitation/award.

Language for environment compliance for RFA/RFPs:

This [RFA/RFP] specifies that the [contractor/recipient] will be required to prepare Regulation 216 documentation (IEE or EA) for some or all activities. As such:

- Cost and technical proposals must reflect IEE or EA preparation costs and approaches.
- [Contractor/recipient] will be expected to comply with all conditions specified in the approved EA.

USAID anticipates that environmental compliance and achieving optimal development outcomes for the proposed activities will require environmental management expertise. Respondents to the [RFA/RFP] should therefore include as part of their [application/proposal] their approach to achieving environmental compliance and management, to include:

- The respondent's approach to developing and implementing an [EMMP and/or EA]
- The respondent's approach to providing necessary environmental management expertise, including examples of past experience of environmental management of similar activities.
- The respondent's illustrative budget for developing an [EMMP and/or EA] and implementing the environmental compliance activities. For the purposes of this solicitation, [offerors/applicants] should reflect illustrative costs for developing the EA and environmental compliance implementation and monitoring in their cost proposal.

10) Additional language where at least one Negative Determination with Condition or Positive Determination is issued for the training on, the purchase of, or use of pesticides are involved and the offeror/applicant is required to prepare a PERSUAP.

The successful respondent will be required to prepare a “Pesticide Evaluation Report and Safer Use Action Plan” (PERSUAP) addressing the analytical requirements of the Pesticide Procedures addressed in 22 CFR 216.3(b). Additional information on PERSUAP preparation is found at the following website:

http://www.encapafrika.org/meo_course/course_materials/module9--special_topics/agriculture_irrigation_pest_pesticide_management/how_to_prepare_a_persuap_031504.doc

Neither pesticide procurement nor use may commence until a USAID approved IEE or IEE amendment including the required information in the PERSUAP has been approved by the BEO.