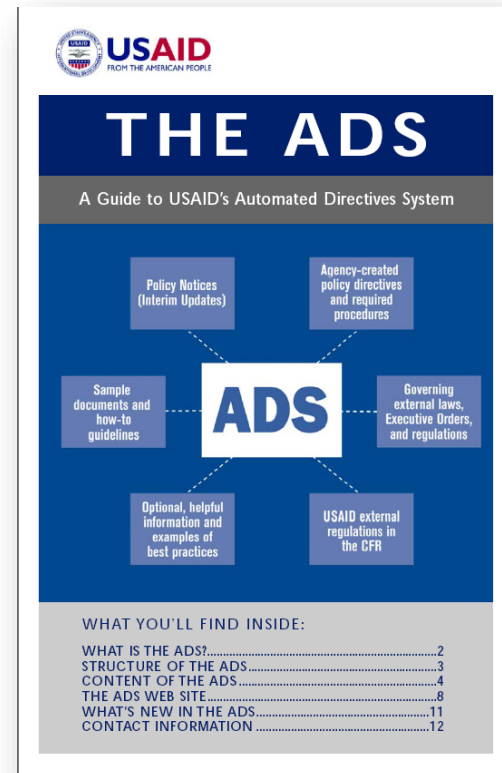# Session 15:

Environmental Compliance:
Roles, Responsibilities, Reporting & Resources

Environmental Compliance & the Automated Directives System (ADS)

- **USAID's Automated Directives System (ADS) sets out mandatory procedures, roles & responsibilities for:**
  - "Upstream compliance:" Design & 22 CFR 216 process
  - "Downstream compliance:" implementing IEE & EA conditions

Environmental Compliance & the ADS

ADS 204 ("Environmental Procedures") is the core ADS reference. But environmental compliance is <u>mainstreamed</u> throughout the ADS.

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

(204.3.4)

Compliance Requirement	Responsible Parties	ADS Reference
Environmental considerations in activity planning	Team Leaders, Activity Managers	201.3.16.3.b 204.3.3
No activity implemented without approved Reg. 216 environmental documentation	COR/AOR/ Activity Manager	201.3.16.16.4.i 204.3.l 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.6 303.3.6.2e
IEE & EA conditions are implemented, and implementation is monitored & adjusted as necessary	COR/AOR	202.3.6; 204.3.4.b 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;**

- **Environmental compliance technical assistance to Missions;**

- **Provides quality assurance and quality control of Reg. 216 documentation before it goes to the Bureau Environmental Officer.**

Bureau Environmental Officers

- **Based in Washington DC;**

- **Oversee environmental compliance in their Bureau;**

- **Primary decision makers on 22 CFR 216 threshold decisions for activities under the purview of their Bureau.**

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 & <u>modify or end activities not in compliance</u>.

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 22 CFR 216 implementation & advises regarding the application of Reg 216 in new situations.

Concurs in AA's appointments of BEOs.

Coordinates EIS process for USAID (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 Counsels (AGCs)

provide legal advice to BEOs & RLAs on environmental compliance in their regions.

! When the BEO and MD cannot agree regarding a threshold decision, the issue goes to the AA with AEC consultation

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** <u>clears</u>

    - **Bureau Environmental Officer** <u>concurs</u>. Responsibility/authority cannot be delegated.

Required by Reg. 216

Who is responsible?

USAID

Assures Reg. 216 documentation in place. Establishes/approves environ-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).

*Title II CSs develop IEEs as part of their MYAPs.

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, <u>all visits</u> 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/AOTR or M&E Officer MEO should visit the most environmentally sensitive activities (REA may assist)

12

# Environmental Compliance & 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)
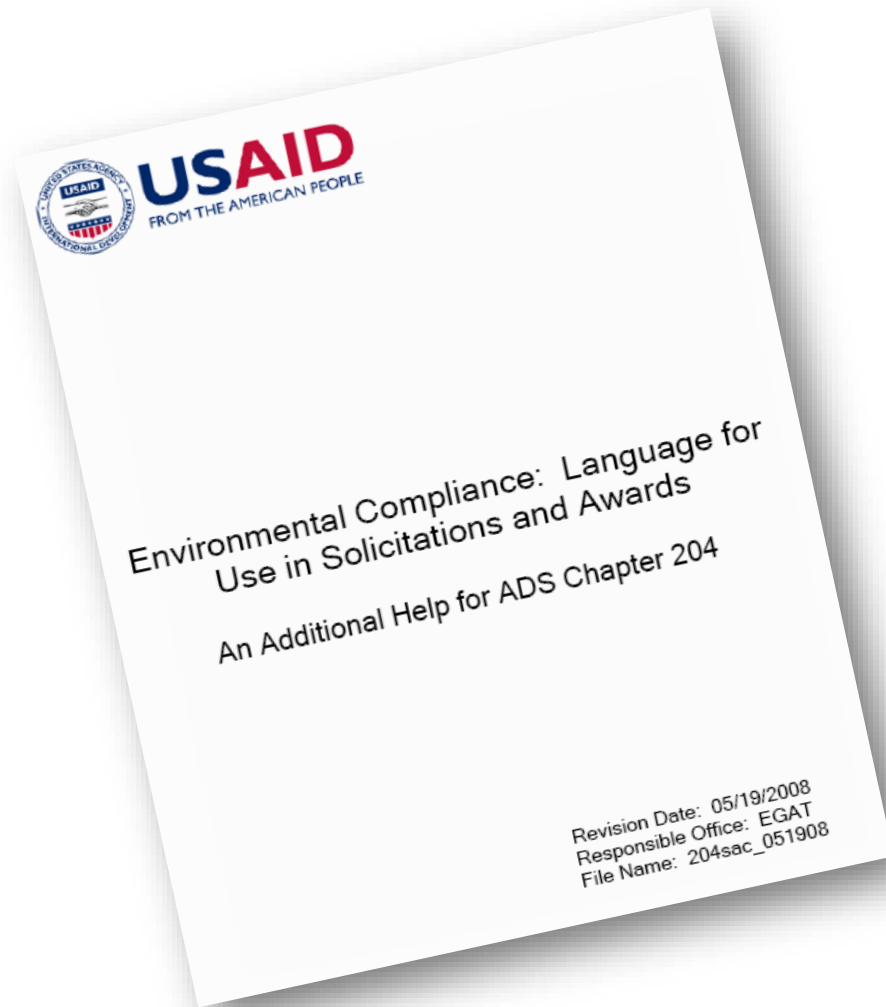
Step-by-step guidance and boilerplate language

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

Available from www.usaid.gov/policy/ads/200/204sac.pdf

The ECL 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

15

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

<u>Provides cost & efficiency benefits</u> to both Mission Staff & Implementing Partners

USAID Staff	Implementing Partners
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 <u>environmental</u> compliance reporting into routine project performance reporting.	Provides clarity regarding environmental compliance responsibilities Prevents "unfunded mandates"– USAID requirements to implement M&M after implementation has started & without additional budget.

Who can help?

**MEOs in every bilateral Mission AND the <u>BEOs</u> and <u>REAs</u>:**

AFR: Brian Hirsch, Asia & ME: Will Gibson, <u>BFS:</u> TBD; <u>DCHA:</u> Erika Clescer<u>i</u> <u>E&E:</u> Mark Kamiya, <u>E3:</u> Teresa Bernhard, <u>GH:</u> Rachel Dagovitz, <u>LAC:</u> Victor Bullen, <u>M/ODP:</u> Dennis Durbin, <u>OAPA:</u> Gordon Weynand; <u>GDL:</u> Dan Evans.

References & Useful Information

SECTORAL ENVIRONMENTAL GUIDELINES
Chapter 11: Livestock
AUGUST 2012

- **USAID Environmental Compliance & Related Links**
  www.usaid.gov/our_work/environment/compliance

- **22 CFR 216**
  www.usaid.gov/our_work/environment/compliance/22cfr216

- **ADS Series 200 (with link to Chapter 204 & ECL)**
  www.usaid.gov/policy/ads/200/

- **Plain-language overview of USAID's environmental procedures & the EIA process**
- **Sectoral Environmental Guidelines**
  + many other resources
  www.usaidgems.org
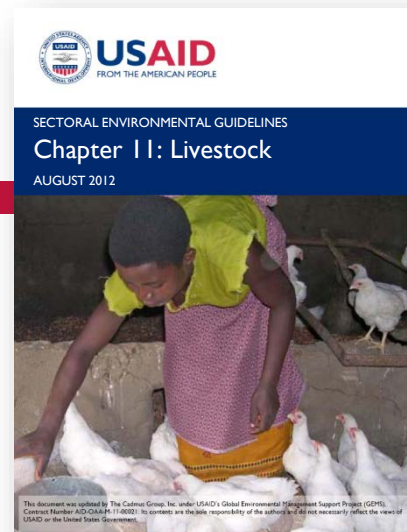
GEMS Services

❖ **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)