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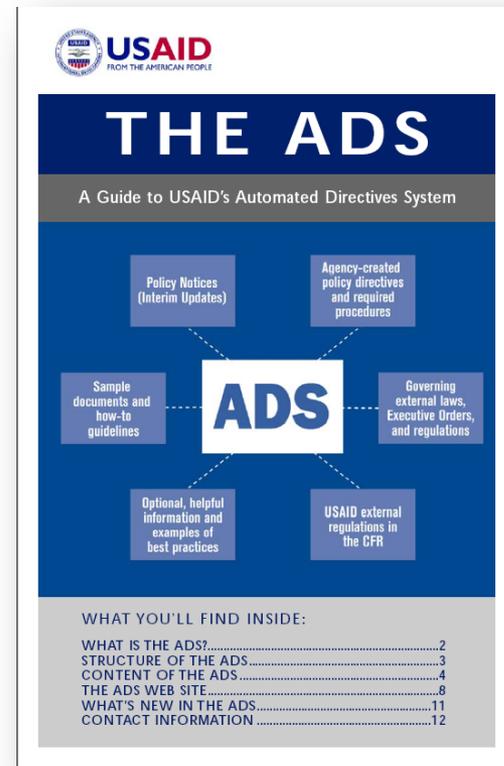


# Environmental Compliance: Roles, Responsibilities & Resources

GEMS Environmental Compliance-ESDM Training Series  
Uganda, September, 2014

# 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 mainstreamed 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

(202.3.6; 204.3.4)

Compliance Requirement	Responsible Parties	ADS Reference
Environmental considerations in activity planning	Team Leaders, Activity Managers	201.3.8.3.a 201.3.15.3.b 204.3.3
No activity implemented without approved Reg. 216 environmental documentation	COR/AOR/ Activity Manager	201.3.11 204.3.1 204.3.3.b 303.2.f
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 & 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 two 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 doc's approved since 2000:**  
<http://gemini.info.usaid.gov/egat/envcomp/>
- **Annual reporting is required**





# Mission Environmental Officer (MEO)

- **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**
- **Ms. Jessica Okui**



# Regional Environmental Advisor (REA)

- **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**
- **Mr. David Kinyua**



# Bureau Environmental Officer (BEO)

- **Based in Washington, D.C.**
- **Oversees environmental compliance in their Bureau**
- **Primary decision maker on 22 CFR 216 threshold decisions for activities under the purview of their Bureau.**
- **Mr. Brian Hirsch**



# Sector Teams & Mission Management

## CORs/AORs and Activity Managers.

Assure Reg. 216 documentation in place. Assure IEE/EA conditions and compliance requirements incorporated into procurement instruments. Monitor compliance with IEE/EA conditions and 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)

Oversees 22 CFR 216 implementation and interprets Reg. 216 in new situations.

Concurs in AA's appointments of BEOs.

Decides appeals to BEO decisions (rare). Presents appeals of AEC decisions to CEQ (rare) 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 and RLAs on environmental compliance in their regions.



BEOs and AEC take legal advice into account but are responsible for decision-making in interpreting 22 CFR 216



# Reg. 216 docs: Who writes? Who clears?

- **Who writes?**
  - AOR/COR responsible for assuring Reg. 216 documentation is in place.\*
  - Can engage a consultant/contractor to develop—Environmental Assessments almost always developed by third-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 and monitoring conditions. Verifies compliance.

## In the Mission

Fundamental responsibility & accountability:

- Sector Team Leader
- Activity Managers & COR/AORs
- 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 and 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 sub-project Environmental Review Reports (ERRs) (for sub-grants/sub-projects).

\*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/AOR.**

MEO will also review/clear where activities are env. sensitive and/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 & Procurement Instruments

## ADS Requires. . .

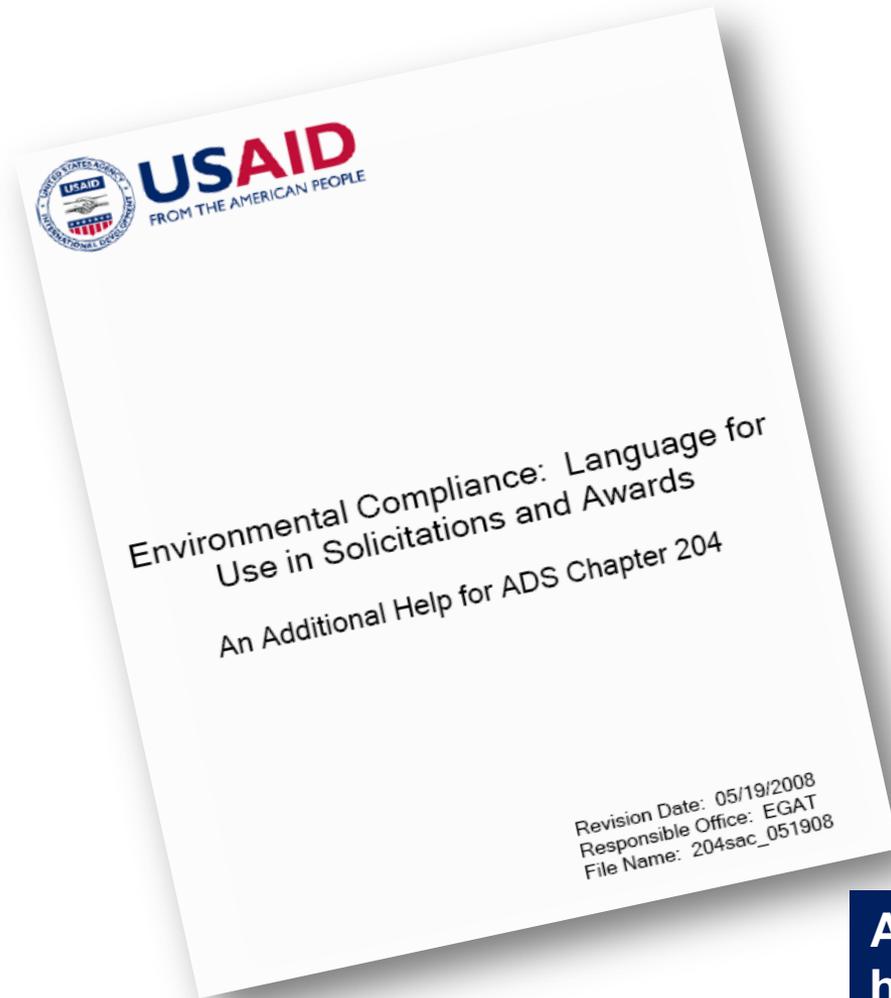
“Incorporating environmental factors and mitigative measures identified in IEEs, EAs, and EISs, as appropriate, in the design and the implementation instruments for programs, projects, activities or amendments.”

(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 “re-invent 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:

<http://www.usaid.gov/ads/policy/200/204>

# The ECL 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 and 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.

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### Specifically:

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

# The ECL Strengthens ESDM and ...

## Provides cost and efficiency benefits to Mission Staff and 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 environmental compliance verification/oversight by assuring that IPs integrate environmental compliance reporting into routine project performance reporting.

### Implementing Partners

Provides certainty regarding environmental compliance responsibilities

Prevents “unfunded mandates”—USAID requirements to implement mitigation and monitoring after implementation has started and without additional budget.

# Who Can Help?

MEOs in every bilateral Mission AND the BEOs and REAs:



AFR: Brian Hirsch, Asia & ME: John O. Wilson, BFS: Ron Greenberg (acting); DCHA: Erika Clesceri  
E&E: Will Gibson (acting), E3: Teresa Bernhard, GH: Rachel Dagovitz, LAC: Victor Bullen, M/ODP:  
Dennis Durbin, OAPA: Gordon Weynand

# References & Useful Information

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

