



# Environmental Compliance: : Language for Use in Solicitations and Awards

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GEMS Environmental Compliance-  
ESDM Training Series

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# USAID REQUIREMENTS ARE SPECIFIC

## LOP Environmental Compliance:

- Environmental considerations must be taken into account in activity planning.
- No activities may be implemented without **approved Reg. 216 environmental documentation.**
- Any resulting mitigation and monitoring conditions are:
  1. written into contract instruments.
  2. implemented, and this implementation is monitored

**USAID IS REQUIRED TO  
WRITE IEE/EA  
CONDITIONS INTO  
AWARDS.**

### WHAT DOES THE ADS SAY?

ADS requires  
“incorporating . . . mitigative  
measures identified in IEEs  
[and] EAs into implementation  
instruments for programs,  
projects, activities or  
amendments.”

(204.3.4.a.6; also 303.3.6.3e)

# SOURCE OF BEST-PRACTICE LANGUAGE

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

- An ADS “Additional Help” document
- Easy step-by-step guidance and “boilerplate” language
- For RFAs/ RFPs/ agreements/ grants/ contracts
- **Optional ...**  
but its use is strongly encouraged

### Environmental Compliance: Language for Use in Solicitations and Awards

#### ABOUT THIS LANGUAGE

The following recommended language is for use by Cognizant Technical Officers (CTOs), Activity Managers, Contracting Officers (COs), Mission Environmental Officers (MEOs), Program Officers, Bureau Environmental Officers (BEOs), and other USAID staff involved in solicitations, awards, and activity design and management.

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 CTO 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 216<sup>3</sup>) 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, workplans, 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 can be used 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 program description. Together the CTO, 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 AID/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.

<sup>3</sup> Full text of 22 CFR 216 can be found at [http://www.usaid.gov/our\\_work/environment/compliance/reg216.pdf](http://www.usaid.gov/our_work/environment/compliance/reg216.pdf)

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

# CURRENT BEST PRACTICE EXCEEDS REQUIREMENT

USAID is increasingly using best-practice environmental compliance language that goes beyond the ADS minimum

New awards and significant modifications are requiring that:

- *The partner verifies current and planned activities annually against the scope of the RCE/IEE/EA*
- *The **necessary mechanisms** and budget for partner implementation of IEE/EA conditions are in place*

***And new solicitations require that***

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

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

## **SPECIFICALLY:**

- *Complete EMMP exists/is developed*
- *Workplans and budgets integrate the EMMP*
- ◀ *Project reporting tracks EMMP implementation*

# ECL PROMOTES COMPLIANCE + ESDM, AND ...

## BENEFITS BOTH MISSION STAFF & PARTNERS:

### USAID MISSION STAFF

Assures that environmental monitoring and reporting is integrated into *routine activity monitoring and reporting*; reduces the cost and effort of USAID verification/oversight.

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

### IMPLEMENTING PARTNERS

Provides clarity regarding environmental compliance responsibilities

Prevents “unfunded mandates”—requirements to implement mitigation and monitoring after activity has commenced and without additional budget.

Missions and centrally funded programs are increasingly using the ECL. Partners should expect that future solicitations and awards will incorporate ECL-based environmental compliance language.