

USAID Environmental Procedures Briefing for USAID/XXX Staff

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Attachments:

1. *Environmental Compliance Language for Use in Solicitations and Awards*
2. *Annotated Environmental Mitigation and Monitoring Plan (EMMP) Template*

Acronyms

| | | | |
|-----|---|----------|---|
| ADS | Automated Directives System | EMMP | Environmental Mitigation & Monitoring Plan |
| BEO | Bureau Environmental Officer | ESDM | Environmentally Sound Design and Management |
| CFR | Code of (US) Federal Regulations | IEE | Initial Environmental Examination |
| CTO | Cognizant Technical Officer | LOP | Life-of-Project |
| EA | Environmental Assessment | MEO | Mission Environmental Officer |
| ECL | Environmental Compliance Language for Use in Solicitations and Awards (ADS 204 help document) | PMP | Performance Monitoring Plan |
| EIA | Environmental Impact Assessment | REA | Regional Environmental Advisor |
| | | Reg. 216 | 22 CFR 216 |

About this *Briefing*

All USAID Missions and operating units are required to fully implement and comply with USAID’s mandatory environmental procedures. This briefing is intended to support short mission staff trainings in these procedures and to serve as a succinct post-training reference. Towards these ends, it:

- ✓ summarizes the environmental procedures in plain language, and
- ✓ sets out the roles and responsibilities of organizational units and functions in the Mission in achieving and assuring compliance.

This briefing is closely based on and fully compatible with the new model *Environmental Compliance Mission Order* adopted by Africa Bureau. The plain-language summary in this *Briefing* does not supersede the statutory, regulatory and ADS language that governs and constitutes these procedures. This language may be accessed via <http://www.encapafrika.org/meoEntry.htm> or [provide internal server filelink](#).

Legal Authority for and Purpose of USAID's Environmental Procedures

Section 117 of the Foreign Assistance Act of 1961, as amended, **requires** that USAID use an Environmental Impact Assessment (EIA) process to evaluate the potential impact of the Agency's activities on the environment **prior** to implementation, and that USAID "fully take into account" environmental sustainability in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216 or "Reg. 216") and in USAID's Automated Directives System (ADS), particularly Parts 201.3.12.2.b and 204.

These procedures are USAID's principal mechanism to ensure environmentally sound design and management (ESDM) of development activities. Put another way, they are USAID's principal mechanism to prevent USAID-funded activities from having significant, unforeseen, avoidable or mitigable adverse impacts on critical environmental resources, ecosystems, and the health and livelihoods of beneficiaries or other groups. They strengthen development outcomes and help safeguard the good name and reputation of the Agency.

Compliance with these procedures is mandatory. With limited exceptions for international disaster assistance, they apply to every program, project, activity, and amendment supported with USAID funds or managed by USAID. USAID/XXX is fully committed to their systematic and complete implementation.

Environmental Compliance Requirements over Life of Project

In general, the procedures specify an EIA process that must be applied to all activities *before implementation*—including new activities introduced into an existing program or substantive changes to existing activities. This pre-implementation EIA process, defined by Reg. 216, frequently results in environmental management requirements (mitigative measures) that must be implemented and monitored over the life of the activity.

Specifically, EXCEPT for international disaster assistance activities verified as EXEMPT from the procedures, the procedures impose the following compliance requirements over life of project (LOP):

1. **Environmental considerations must be taken into account in activity planning.** (ADS 201.3.12.6 & 204.1).
2. **No activity is implemented without approved Reg. 216 environmental documentation. This documentation must be approved PRIOR to any irreversible commitment of resources.** (ADS 204.3.1).

This documentation is the output of the EIA process specified by Reg. 216 and takes one of three forms: Request for Categorical Exclusion, Initial Environmental Examination (IEE) or Environmental Assessment (EA).

Documentation is approved ONLY when it is signed by the Mission Environmental Officer, the Mission Director AND the Bureau Environmental Officer. As a condition of approval, most IEEs and all EAs contain environmental mitigation and monitoring requirements ("IEE or EA conditions") for at least some of the activities they cover.

Note that Activity Approval Documents must summarize how environmental documentation requirements have been met. (ADS 201.3.12.15).

3. **All IEE and EA conditions are incorporated in procurement instruments.** (ADS 204.3.4.a.6; 303.3.6.3e).
4. **All IEE and EA conditions are implemented, and this implementation is monitored and adjusted as necessary.** (ADS 204.3.4; 303.2.f).

Operationally, this requires that:

- ✓ *Conditions established in program- (“FO”-)level IEEs and EAs are mapped to the activity level;*
- ✓ *Environmental Mitigation and Monitoring Plans (EMMPs) are developed at the project or activity level to implement these conditions. EMMPs set out the mitigation measures required by the IEE/EA; indicators or criteria for monitoring their implementation & effectiveness; and the parties responsible for implementation & monitoring;*
- ✓ *Project workplans and budgets specifically provide for implementation of EMMPs; and*
- ✓ *PMPs incorporate measures of EMMP implementation.*

USAID/XXX mission policy is that each of these prerequisites for successful implementation of IEE and EA conditions will be executed in full.

An annotated EMMP template is attached to this Briefing and also available at www.encapafrika.org/meoEntry.htm and [provide internal server filelink](#).

5. Environmental compliance is assessed in annual reports. (ADS 203.3.8.7; 204.3.3.a).

Annual reports must assess environmental compliance of existing activities, including whether all activities are covered by approved Reg. 216 environmental documentation, whether the mitigation measures specified in IEEs and EAs are being implemented, and whether these measures are adequate. If activities are discovered to be out of compliance, the report must specify actions to be taken to remedy the situation.

6. Environmental compliance documentation is maintained in Program area Team files. (ADS 202.3.4.6).

A more extensive discussion of LOP environmental compliance requirements is found in the Bureau for Africa’s *Mission Environmental Officer Handbook*, available via www.encapafrika.org/meoentry.htm and [provide internal server filelink](#). A hardcopy of the handbook is available for loan from the Mission Environmental Officer.

Responsibilities for Implementation

Primary responsibility: Team Leaders, CTOs, and Activity Managers. The ADS makes clear that primary responsibility and accountability for environmental compliance is shared by the USAID staff acting in the capacities of Team Leader and each CTO or Activity Manager. This includes assuring that Reg. 216 documentation is developed and in-place for activities under their purview.

Specific responsibilities established by the ADS and Mission policy for these positions are set out in the table below. All USAID/XXX staff are obliged to fulfill the enumerated environmental compliance responsibilities attendant to their position.

Final responsibility: Mission Director. Final responsibility for environmental compliance lies with the Mission Director. The Mission Director must approve all Reg. 216 documentation for Mission activities.

Field Implementation: Contractors and Implementing Partners. Environmental management must be an integral part of project implementation, and thus field implementation of environmental mitigation is the responsibility of contractors/IPs with oversight from USAID.

Advice & Gatekeeping: Mission Environmental Officer (MEO). The MEO (1) is a core member of each mission program team and serves the team as an environmental compliance advisor; (2) serves as a gatekeeper (quality and completeness reviewer) for Reg. 216 Documentation and must clear all

documentation before submission to the Mission Director; and (3) is the primary point of Mission contact with the Bureau Environmental Officer and the Regional Environmental Advisor (see “Environmental Compliance Resources and Key Contacts,” below).

A more complete description of MEO roles and responsibilities is provided by the Bureau for Africa’s MEO Handbook, available via www.encapafrika.org/meoEntry.htm and [provide internal server filelink](#).

Regional Environmental Advisors (REAs). REAs advise MEOs and program teams on environmental compliance, including development of Reg. 216 documentation and monitoring protocols, and can assist teams in obtaining additional environmental expertise when required. REAs also help to monitor the mission’s implementation of the Agency’s Environmental Procedures. The MEO is the liaison with the REA on behalf of program teams. The REA supporting **XXXX** is based in USAID/(**EA/WA/SA**), **CITY**.

Bureau Environmental Officers (BEOs). The BEOs, based in Washington, DC, must clear all Reg. 216 documentation for activities under the purview of their Bureau. USAID/**XXXX** activities are under the purview of the AFR, EGAT, GH and DCHA Bureaus.

Environmental Compliance Responsibilities of Team Leaders, CTOs, Activity Managers and the MEO

| Compliance action | Responsible parties |
|--|--|
| <p>Prepare Reg 216 environmental documentation.</p> <p>Reg 216 documentation includes:</p> <ul style="list-style-type: none"> ✓ Requests for Categorical Exclusions (RCEs) ✓ Initial Environmental Examinations (IEEs) ✓ Environmental Assessments (EAs) ✓ Amendments to all of the above | <p>CTO/Activity Manager (MEO reviews/provides advice).</p> <p>EXCEPT:</p> <ul style="list-style-type: none"> ✓ Teams may engage partners or outside contractors to prepare IEEs under the supervision of the CTO/Activity Manager. <u>The use of external expertise is RECOMMENDED for complex programs and activities.</u> ✓ EAs are almost always prepared by 3rd-party contractors. ✓ Title II IEEs are prepared by Implementing Partners as part of their MYAP submissions. |
| <p>Approve and Clear Reg. 216 Documentation.</p> | <p>All of the following must clear:</p> <ul style="list-style-type: none"> ✓ CTO, Activity Manager or Team Leader ✓ MEO ✓ Mission Director ✓ Bureau Environmental Officer |
| <p>Clear sub-project/sub-grant Environmental Reviews.</p> | <p>Activity Manager AND MEO</p> <p>(Activities identified by the sub-project/sub-grant screening process as “high risk” are forwarded for REA & BEO review and clearance.)</p> |
| <p>Incorporate environmental compliance requirements into procurement documents.</p> | <p>CTO/Activity manager (MEO assists.)</p> |
| <p>Ensure Reg. 216 documentation is current and covers all activities being implemented.</p> | <p>CTO/Activity Manager</p> |
| <p>Assure an EMMP addressing all relevant mitigation and monitoring conditions is</p> | <p>CTO/Activity Manager (MEO may review)</p> |

| Compliance action | Responsible parties |
|---|---|
| developed, and reflected in workplan, budget, and PMP. | Contractors/IPs will in most cases develop EMMPs for CTO/Activity Manager review. If they do not, this responsibility falls directly on the CTO/Activity Manager. |
| Monitoring to ensure partner/contractor compliance with IEE/EA conditions. | CTO/Activity Manager (MEO assists) |
| Ensure that environmental compliance lessons learned are incorporated in closure reports & environmental compliance issues are included in SOWs for evaluations. | MEO |
| Prepare environmental compliance section of Mission Annual Reports. | MEO , with support from CTOs and Activity Managers. |
| Maintain environmental compliance documentation. | Program Officer, CTO/Activity Manager/Team Leader, MEO |

Additional Directives and Responsibilities to Assure LOP Compliance

To assure that the LOP compliance elements listed in the table above are well-implemented, the following directives and responsibilities apply Mission-wide:

1. **Awareness of Activity Determinations and Conditions.** It is the responsibility of each CTO and Activity Manager to know the **Reg. 216 Determination, including any conditions**, assigned to the activities under their purview. These conditions are assigned in the Reg. 216 documentation that applies to the activity. The possible determinations are enumerated in the table below:

| | |
|---|--|
| Categorical Exclusion | The activity falls into one of the classes of activities enumerated by Reg, 216 as posing low risks of significant adverse environmental impacts, and no unusual circumstances exist to contradict this assumption. The activity has no attached environmental management conditions. |
| Negative Determination | Per analysis set out in an IEE, the activity is found to pose very low risk of significant adverse environmental impact. The activity has no attached environmental management conditions. |
| Negative Determination with Conditions | Per analysis set out in an IEE, the activity is found to pose very low risk of significant adverse environmental impact <i>if</i> specified environmental mitigation and monitoring measures are implemented. The activity proceeds on the condition and requirement that these measures ("conditions") are fully implemented. |
| Positive Determination | Per analysis set out in an IEE, the activity is found to pose substantial risks of significant adverse environmental impacts. Therefore, the activity cannot proceed until an Environmental Assessment (EA) is developed and duly approved, and then on the condition that environmental mitigation and monitoring measures specified by the EA are fully implemented. |

The only activities not assigned such determinations are international disaster assistance activities verified as **exempt** from the procedures. CTOs and Activity Managers must also be aware of any activities under their purview having exempt status, and when such exempt status will terminate.

2. **Team-level Compliance Planning & Compliance Verification Systems.** As specified by ADS 204.3.4, each program team must collaborate effectively with the MEO during all program designs and approvals to create a system and secure adequate resources to ensure LOP environmental compliance.

This system must include: EMMP review and approval; assuring the budgets provide for EMMP implementation, and that PMPs integrate measures of EMMP implementation. Environmental compliance verification will be part of field visits/inspections.

*Note that several general and sector-specific tools exist to support field and desk assessment and tracking of partner environmental compliance. Use of these tools is recommended and may be required in some circumstances. Examples include the “Environmental Mitigation and Monitoring Tracking System” (developed in the Southern Africa region for compliance monitoring of Indoor Residual Spraying activities and the general “Site Visit Guide and Report Template.” Both are available at www.encapafrika.org/meoentry.htm (Mitigation and Monitoring section) or **provide internal server filelink**. Contact the MEO for more information.*

3. Functional specifications for Environmental Compliance Clauses in Procurement

Instruments. The ADS states that CTOs and Activity Managers are responsible for ensuring that environmental conditions from IEEs and EAs are incorporated into solicitation and award documents (ADS 204.3.4.a.6; 303.3.6.3e). Beyond this, **it is Mission policy that environmental compliance language in all solicitation and award instruments specifically requires that:**

- ✓ The partner verifies current and planned activities annually against the scope of the approved environmental documentation.
- ✓ Where activities demand environmental management expertise, appropriate qualifications and proposed approaches to compliance are addressed in technical and cost proposals.
- ✓ The partner develop an EMMP fully responsive to all IEE/EA conditions, unless this already exists in the Reg. 216 documentation or will be developed by Mission program staff.
- ✓ Budgets and workplans integrate the EMMP.
- ✓ PMPs measure EMMP implementation.

The ADS help document *Environmental Compliance Language for Use in Solicitations and Awards* (ECL) provides a combination of step-by-step guidance and standard text to assemble environmental compliance language meeting these requirements for any solicitation or award. Its use is strongly recommended.

*The ECL and an annotated EMMP template are attached to this Order and also available at www.encapafrika.org/meoentry.htm and **provide internal server filelink**.*

4. **Confirming Reg. 216 documentation coverage in the course of project designs, amendments, extensions, and during the preparation of the Annual Reports.** During these exercises, the Team should review planned/ongoing activities against the scope of existing, approved Reg. 216 documentation and either: (1) confirm that the activities are fully covered or (2) assure that such documentation is developed and approved *prior* to implementation. For activities begun under a disaster assistance exemption, the Team must confirm that their exempt status still applies.

*Activities modified or added during project implementation may require new or amended Reg. 216 documentation. Maintaining Reg. 216 documentation coverage of all activities is critical, as the ADS requires that ongoing activities found to be outside the scope of approved Reg. 216 documentation **be halted** until an amendment to the documentation is approved by the Mission Director and the BEO.*

Critical Non-Compliance Situations

If any USAID/XXX staff member believes that (1) failure to implement mitigation measures or (2) unforeseen environmental impacts of project implementation is **creating a significant and imminent danger to human health or the integrity of critical environmental resources**, **IMMEDIATELY notify the CTO, MEO and Mission Management.**

Environmental Compliance Resources and Key Contacts

The **on-line MEO Resource Center** contains a wide range of environmental compliance and best practice materials, including step-by-step guidance for development of Reg. 216 documentation and sectoral guidance for design of environmental mitigation and monitoring measures. The Center is hosted on Africa Bureau's ENCAP website (www.encapafrika.org/meoEntry.htm) and copied in full at **insert internal server filelink.**

Reg. 216 documentation for Mission programs is posted at **insert internal server filelink.**

Key contacts. As of **INSERT DATE**, key environmental compliance contacts for USAID/XXX are as follows. Up-to-date contacts are available via www.encapafrika.org/meoEntry.htm.

| Mission Environmental Officer | Insert name, email and extension |
|---|--|
| Regional Environmental Advisors (REAs) | East and Central Africa (USAID/EA, Nairobi) <i>David Kinyua: dkinyua@usaid.gov</i> <hr/> Southern Africa R (USAID/SA, Pretoria) <i>Camilien J.W. Saint-Cyr: csaint-cyr@usaid.gov*</i> West Africa (USAID/WA, Accra) <i>Bob Buzzard: robuzzard@usaid.gov</i> |
| Bureau Environmental Officers (BEOs; Washington, DC) | Bureau for Africa (AFR/SD) <i>Brian Hirsch: bhirsch@usaid.gov</i> Bureau for Economic Growth, Agriculture & Trade Bureau (EGAT): <i>Joyce A. Jatko: jjatko@usaid.gov</i> Democracy, Conflict and Humanitarian Assistance (DCHA): <i>Erika Clesceri: eclesceri@usaid.gov</i> Global Health (GH/HIDN) <i>Theresa Bernhard, tbernhard@usaid.gov</i> |