Memorandum

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Subject: **Synthesis of Findings from**

Environmental Procedures Best Practice Reviews (BPRs) to Date *(Deliverable submitted under GEMS Activity AF20).*

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Introduction: BPRs

An Environmental Procedures Best Practice Review (BPR) characterizes (1) compliance with United States Agency for International Development's (USAID's) mandatory environmental procedures[1] across the Mission's portfolio and (2) compliance capacity and processes. On this basis, a BPR develops recommendations to address gaps and strengthen Mission environmental compliance (EC) systems with the goal of improving the level, effectiveness, and efficiency of Mission compliance with USAID's environmental procedures and better integrating compliance into normal Mission operations. BPRs assess compliance, capacity and processes against Africa Bureau's Environmental Compliance Best Practice Standard ("BP Standard," see Appendix 2).

As of January 2015, twenty-four Missions have undergone a BPR, beginning with a 2007 pilot in Ghana (see table 1, below). BPRs are voluntary and undertaken at a time of the Mission's choosing. However, as part of its response to the Office of the Inspector General's global environmental compliance audit[2], Africa Bureau committed Missions in the region to undertake a BPR every 5 years.

USAID's Automated Directives System (ADS) 204.2e assigns Bureau Environmental Officers (BEOs) the responsibility of "*overseeing the effective implementation of 22 CFR 216 throughout all Operating Units*

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[1] *USAID's environmental procedures consist of 22 Code of Federal Regulations [CFR] 216 (22 CFR 216), otherwise known as Reg. 216, and mandatory procedures to implement the regulation per USAID's Automated Directives System (ADS).*

[2] *Audit of Selected USAID Missions' Efforts to Mitigate Environmental Impact on Their Project Portfolios*, NO 9-000-11-002-P available at: http://oig.usaid.gov/sites/default/files/audit-reports/9-000-11-002-p.pdf

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in their Bureau through timely decision making and adherence to consistent and strong environmental principles that lead to environmentally sound development and wise use of taxpayer money and that protect their Operating Units and the Agency from legal challenge."

In addition to serving mission needs, BPRs are intended to provide key information to the BEO to implement this responsibility. Taken together, BPRs identify compliance strengths and gaps across the USAID Missions and Programs in sub-Saharan Africa as a whole. The information provided by BPRs is intended to inform the BEO and Regional Environmental Advisors (REAs) in targeting environmental compliance technical assistance, guidance, and training efforts.

Purpose and Intent of this Memo

Under Global Environmental Management Support (GEMS) activity specification **AF20: Consultative Revision of the AFR Best Practice Review Standard and Related Materials**, GEMS is tasked with "*Revisiting the BPR Synthesis Findings (Appendix 1) compiled in Aug 2010 by reviewing all BPRs since that time. [GEMS will] Develop draft revised synthesis findings and a short memo noting how findings have and have not changed since Aug 2010.*"

This memo documents this synthesis and is submitted to satisfy this requirement, providing an updated picture of environmental compliance strengths and weaknesses across AFR Missions as a whole. Additionally, this synthesis is intended to inform the current revision of AFR's Environmental Compliance best practice standard on which future BPRs will be based.

Note that this synthesis reflects strengths and gaps as identified by the BPRs, and NOT the extent to which Missions have implemented BPR action plans and remedied gaps so identified.

This synthesis involved a fresh review of the findings and recommendations from all BPRs conducted to date. Findings and recommendations in each area were summarized and then generalized conclusions made across each criterion. Per the activity specification, the conclusions were then compared against those provided in the August 2010 BPR Synthesis (see Appendix 1 for reference).

Table 1: Best Practice Reviews to Date

Mission/Region	In-mission segment	Final Report Date
Ghana	2007*/June 17th-28th, 2013	July 2013
Liberia	July 08**/October 17th -November 3rd , 2013	November 2013
Malawi	April 14th-24th, 2008 and December 8th-12th, 2008	September 2009
Tanzania	July 7th-16th, 2009	November 2009
Sudan	March 16th-April 3rd, 2009	October 2009
Ethiopia	June 15th-July 3rd, 2009	July 2009
Mozambique	January 9th-22nd, 2010	April 2010
Zambia	February 16-26th, 2010	June 2010
Uganda	June 29-July 13th, 2010	August 2010
Senegal	November 30-December 18th, 2010	March 2010

Angola	June 1st -13th , 2011	June 2011
Zimbabwe	July 3rd-22nd, 2011	July 2011
Rwanda	August 8th-30th, 2011	August 2011
Namibia	February 29th-March 14th, 2012	July 2012
E AFR	April 25th-May 24th, 2012	August 2012
Madagascar	June 3rd-16th, 2012	August, 2012
W AFR	August 20th-31st, 2012	August 2012
S AFR	August 1st-November 31st, 2012	November 2012
Guinea	January 8th- February 2nd, 2013	February 2013
Sierra Leone	January 8th- February 2nd, 2013	February 2013
Benin	July 2013	July 2013
Nigeria	September 20th -October 11th, 2013	October 2013
Mali	October 28th- November 31st, 2013	January 2014
Kenya	August 11th-21st 2014	October 2014

General Findings and Comparison to August 2010 Synthesis (see Appendix 1)

More recent BPRs generally find **stronger mission performance** against the BP standard than did those conducted prior to 2013 (i.e., Missions have a satisfactory review for more elements of the standard). Mission Environmental Officers (MEOs) have almost universally been trained and are actively working toward improving Mission practices against the BP Standard. Also, resource allocation to the MEOs (e.g., funding for field visits, training budgets) has been improved. Agreement/Contracting Officer's Representatives (A/CORs) are generally aware of their responsibilities; however, A/CORs do not always follow through on their EC responsibilities, such as field monitoring, ensuring regular reporting cycles include EC, requiring Environmental Mitigation and Management Plans (EMMPs).

Missions are generally maintaining complete, current Reg. 216 documentation coverage for their portfolios and are drafting new Reg. 216 documentation with new Project Appraisal Documents (PADs) and awards/contracts (e.g., Initial Environmental Examinations [IEEs], Requests for Categorical Exclusions [RCEs], Environmental Assessments [EAs]). However, the Missions are not actively monitoring whether conditions are implemented. This issue of **better "upstream" compliance than "downstream" compliance** was also noted in the previous synthesis document.

The reporting by partners has improved in quality and frequency compared to earlier BPRs; however, improvements are still needed in the EC processes across all phases of the EMMP including drafting, implementing, monitoring, and reporting.

As noted, BPRs are in principle conducted on 5-year cycles. Changes in staffing, funding patterns, or new partners unfamiliar with Reg. 216 procedures can all impact the environmental compliance performance at Missions. By conducting a BPR every five years, Missions have an opportunity to assess and track their performance since the last BPR as well as document their current compliance status. **Only two Missions have undergone their second BPR** with Tanzania, Malawi, Sudan, and Ethiopia due for BPRs in 2014 and Mozambique, Zambia, Uganda, and Senegal due in 2015.

Findings Criterion 1: Core Environmental Documents are in Place

- Mission Orders have been drafted for nearly all Missions or were drafted as part of the BPR, except at four Missions. Strong Mission Orders tailored to that Mission seems to be an important indicator for overall performance. However, many of the Mission Order requirements, especially for awards, contracts and Mission operations in Criterion 4, are not being implemented.
- Appointment memos are generally in place for the MEO position, but appointment memos are not regularly in place for Deputy MEOs or alternates.
- Environmental Threats and Opportunity Assessments (ETOAs) and Foreign Assistance Act (FAA) 118/119 are being conducted consistently. Analyses of the quality of the ETOAs and FAA 118/119 assessments are not typically reviewed during the BPR process.
- Centrally managed IEEs (Programmatic and Supplemental, country-specific IEEs) are frequently not on file with the Mission but may be available from the A/COR in Washington. Although in some cases they may, most BPRs do not focus on central programs or reach back to Washington A/CORs for follow-up.
- IEEs are typically in place prior to award and are drafted with PADs when applicable but are not being regularly reviewed by the MEO or the A/CORs for "activity creep" or new activities.

Findings Criterion 2: Staff and Implementing Partners have Capacity to Ensure Environmental Compliance

- Almost all MEOs are trained and competent in EIA and Reg. 216 procedures.
- For almost all BPRs, additional training of implementing partners (IPs) and staff was noted as a critical need. On-going training is usually available but turnover and having the available time to participate are problems. IPs need specific EMMP training.
- Deputy or alternate MEOs have been appointed in some cases but not in all missions. However, in many missions, the deputy or alternate does not regularly participate in MEO duties. Some missions have taken the extra step of appointing points of contact in each office to liaise with the MEO.
- MEO work load and allotted time is a concern in many missions. The level of effort (LOE) for MEOs range from 10-100%.
- MEOs have challenges with doing field monitoring because of limited time and the challenges of being away from the office.

Findings Criterion 3: Processes are in Place to Ensure Environmental Compliance

- MEOs are often located in a technical office such as Economic Growth or in a Program Office. MEOs usually report to the office lead depending on which office primarily funds their position.
- Tracking systems are usually in place to determine if IEEs are present, track expiration dates, and assign IEEs to active awards. In most instances, the tracker is also available to other staff. However, the tracking system is not consistent and almost never tracks the EMMP drafts, implementation, and timing of field inspections.
- The Mission Order seems to be the most important element dictating a process for environmental compliance within the Mission. The Mission Order is the most frequently cited

item for a compliance process. However, although the process is in place, the Missions are almost never actually building it into critical Mission processes such as annual work plans, award meetings, RFAs, activity design, etc. See Criterion 4.

- MEO engagement by sector teams and the program office is usually on an *ad hoc* basis. Mostly, the MEO is asked to comment on the portfolio reviews. The MEO is often not aware of new awards until after they are approved. General Counsel will verify an IEE is in place during their checklist review prior to sending an award/contract for the Mission Director's signature. This process often takes place without consulting the MEO.

- The lack of implementation of the IEE conditions by the partners can often be traced to a failure across the entire Mission's processes to comply with the Mission Order. Most IPs are not including compliance in their budgets and work plans; they are not regularly briefed during pre- and post-award meetings; they do not draft EMMPs; and their awards usually do not have EC language (ECL). Even in Missions where ECL is regularly used, it still does not result in EMMPs being submitted in timely manner or verification and monitoring of condition implementation. A consistent process for EMMPs is lacking and may be the critical gap that needs to be filled by Mission processes.

- Financial resources for environmental compliance are typically available to the Missions.

- Partners are more frequently reporting on environmental compliance in the quarterly and annual reports of partners compared to earlier BPRs. As best practice, some Missions also include environmental compliance in their field visit checklists.

Findings Criterion 4: Environmental Compliance is addressed in Approval, Award, Evaluation, Review, and Partner Reporting Documents

- Criterion 4 is the poorest performing section of all BPRs. Nearly all Missions are deficient in most areas. The Missions perform best in ensuring awards with significant environmental components (e.g., infrastructure, agriculture) have environmental compliance language. Language is lacking from many other awards.

- The ECL is being used erratically across almost all Missions. Even if the language is used by the Office of Acquisitions and Assistance (OAA), it is used by some of the office staff but not all, and at times the ECL is misinterpreted or added without being relevant (e.g., identifying an EA is required when there is no positive determination [or deferral] in the IEE). The use and understanding of the ECL universally needs strengthening. Ghana seems to be the most consistent user.

- MEOs are infrequently participating in the RFA, work plan, pre- and post-award briefings, and budgeting phases. They are being engaged more frequently for portfolio reviews and PAD participation. There has been improvement in the past two years in this area but it is still lacking.

Acronyms
A/COR – Agreement/Contracting Officer's Representative
BEO – Bureau Environmental Officer
BP – Best Practice
BPR – Environmental Procedures Best Practice Review
CFR – Code of Federal Regulations
dMEO – deputy Mission Environmental Officer

EA – Environmental Assessment
EC – environmental compliance
ECL – environmental compliance language
EIA – environmental impact assessment
EMMP – Environmental Mitigation and Management Plan
ETOA – Environmental Threats and Opportunity Assessment
FAA – Foreign Assistance Act
GC – General Council
GEMS- Global Environmental Management Support
IEE – Initial Environmental Examination
IP – implementing partner
LOE – level of effort
MEO – Mission Environmental Officer
OAA – Office of Acquisitions and Assistance
PAD – Project Appraisal Document
RCE – Request for Categorical Exclusion
RFA/P – Request for Application/Proposal
USAID – United States Agency for International Development

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Appendix 1. Previous Synthesis of BPR Findings (all BPRs thru August 2010)

(note: findings characterize Mission compliance status at the time of the BPR; they do NOT reflect changes resulting from the BPR.)

1. "**upstream" compliance** (i.e. Reg. 216 documentation coverage for the Mission Portfolio) is generally reasonable, but not perfect:

   o   Approval delays, especially for PERSUAPs, are a problem

   o   Some but not all missions verify IEE coverage for new activities

2. However, **poor IEE Quality & Lack of Specificity** adversely affect the ability of IEEs to serve as a clear basis for project mitigation actions and project compliance.

   o   In part, the problem is intrinsic to sector program level IEEs (SO-level IEEs), particularly those put in place when the sector program is in the early design stage.

   o   Problem is not that there are a few notably bad IEEs, but that the current standard of IEE practice in AFR is not adequate.

3. In almost every mission, **a few project examples of good "downstream" compliance** exist. (that is, IEE/EA conditions are being implemented and reported on.)

   o   But these examples of strong compliance are person-driven (a proactive C/AOTR, a diligent partner), not systems-driven.

   o   Compliance seems to be better for Title II CSs (who write their own, project-level IEEs)

4. Generally though, **IP reporting on environmental compliance is very, very limited**. That is, there is no auditable, verifiable record of IEE implementation (or lack thereof)

5. This makes determining the extent of IEE conditions implementation difficult. Different BPRs have had differing levels of success in truly verifying the extent of IEE conditions implementation on a project-by-project basis—depends on level of team cooperation, partner availability.

6. However, in the large majority of cases where we have successfully "drilled down" to the project level, **implementation of IEE/EA conditions is POOR**:

   o   Partners and C/AOTRs unaware of conditions

   o   Contractual requirements for conditions implementation not in place.

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7. **C/AOTR awareness of environmental compliance responsibilities is generally poor**—and where present, is often limited to "upstream compliance." (Of well-informed/pro-active A/COTRs, almost all have attended ENCAP trainings.)

8. Effective **sector team compliance planning as mandated by ADS is almost non-existent.**

9. **MEO position is chronically under-resourced.** In some cases MEO authority and reporting lines are adequate—in some cases not.

10. **Environmental compliance verification is seldom part of the Mission M&E function.**

Appendix 2. AFR Environmental Compliance Best Practice Standard (August 2010)

USAID Mission Environmental Compliance Best Practice Standard
A) Environmental documents are in place, including:
1) Environmental Compliance Mission Order
2) MEO Appointment Memo
3) Up-to-date ETOA or FAA 118/119, prepared with MEO involvement or review
4) IEEs at SO level, updated as necessary
5) IEEs at activity level, updated as necessary (if not included in SO-level IEE)
6) IEE quality and specificity is sufficient to serve as a sound basis for project-level compliance. (proposed addition)
B) Staff and implementing partners have capacity to ensure environmental compliance:
1) Staff and implementing partners have been trained in environmental compliance/ESDM
2) MEO has knowledge of country level environmental assessment legislation and country environmental issues
3) MEO has skills and expertise to identify potential environmental components for Mission SOs and activities;
4) A "Deputy" or "Alternate" MEO has been appointed to assist when the MEO is unavailable
5) Opportunities for ongoing training in environmental compliance are provided to staff and implementing partners
C) Processes are in place to ensure environmental compliance:
1) MEO reports directly to Mission Director or senior management on matters pertaining to compliance with USAID Environmental Procedures
2) MEO has mission-wide tracking process for IEE status, which is readily available to all mission staff.
3) MEO and CTOs/Activity Managers have process for collaborating on activities with potential environmental impacts (from design to closure)
4) Process exists to identify activities that need amended IEEs (not already covered by the SO level IEE)
5) Process exists for ensuring IEE conditions are incorporated into Request for Proposals/Request for Applications (RFP/RFA), or process exists for ensuring activity-level IEE will be undertaken by the contractor (and included as a task in the RFA/RFP)
6) Process exists for incorporating IEE conditions into contracts; and including mitigation and monitoring costs into project budgets
7) Process exists for ensuring mission or implementing partner develops and implements an Environmental Management Plan/Mitigation and Monitoring Plan (EMP/MMP)
8) Process exists for reporting to USAID on implementation of mitigation measures and continued assessment of potential environmental impacts (in project semi-annual or quarterly reports);
9) Financial resources available to support mission environmental compliance processes, including training, analytical support, MEO travel to assist CTOs with field monitoring, etc. When the MEO reports to a sectoral team (Economic Growth, etc.), these resources would ideally be provided by the Program Office, since the MEO duties support the mission as a whole
D) The following mission contracting, project, and review/status documents include environmental compliance language:
1) Strategic Objective Agreement (SOAg) approvals
2) Activity Approval Documents (AAD)

3) Modified Acquisition and Assistance Request Documents (MAARDs)
4) RFPs/RFAs
5) Contracts and cooperative agreements with budget that reflects mitigation and monitoring costs;
6) Quarterly or semi-annual reports, submitted by project staff to the CTO
7) Most recent Annual Report submitted by Mission to USAID/W
8) Portfolio reviews, conducted semi-annually
9) Closure report, where lessons learned regarding ESDM and Reg. 216 should be documented; and
10) Federal Management Financial Information Act (FMFIA) review, wherein, on an annual basis, every mission conducts a review of all their systems (financial and otherwise, including ADS 204)