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Session 10: Environmental Compliance: Roles, Responsibilities, Reporting & Resources



Session Objectives

- Explain that environmental compliance is mainstreamed throughout the Automated Directives System (ADS);
- State the main environmental compliance record-keeping requirements established by the ADS;
- State the roles and responsibilities of USAID staff in respect to compliance;
- Explain the importance of incorporating best-practice Environmental Compliance Language (ECL);
- Explain the basic elements of implementing partners' environmental compliance reporting.

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 | 201.3.8.1 204.3.3 |
| No activity implemented without approved Reg. 216 environmental documentation | COR/AOR/ Activity Manager | 201.3.9.3 201.3.11 204.3.1 204.3.3.b 303.3.2.e |
| IEE & EA conditions incorporated into procurement instruments | COR/AOR/ Activity Manager; Agreement Officer | 204.3.4.a.6 303.3.6.3e 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 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 & 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 & 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 & 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 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 clears**
 - **Bureau Environmental Officer concurs.** Responsibility/authority cannot be delegated.

**Required by
Reg. 216**

Environmental Compliance & Procurement Instruments

ADS Requires. . .

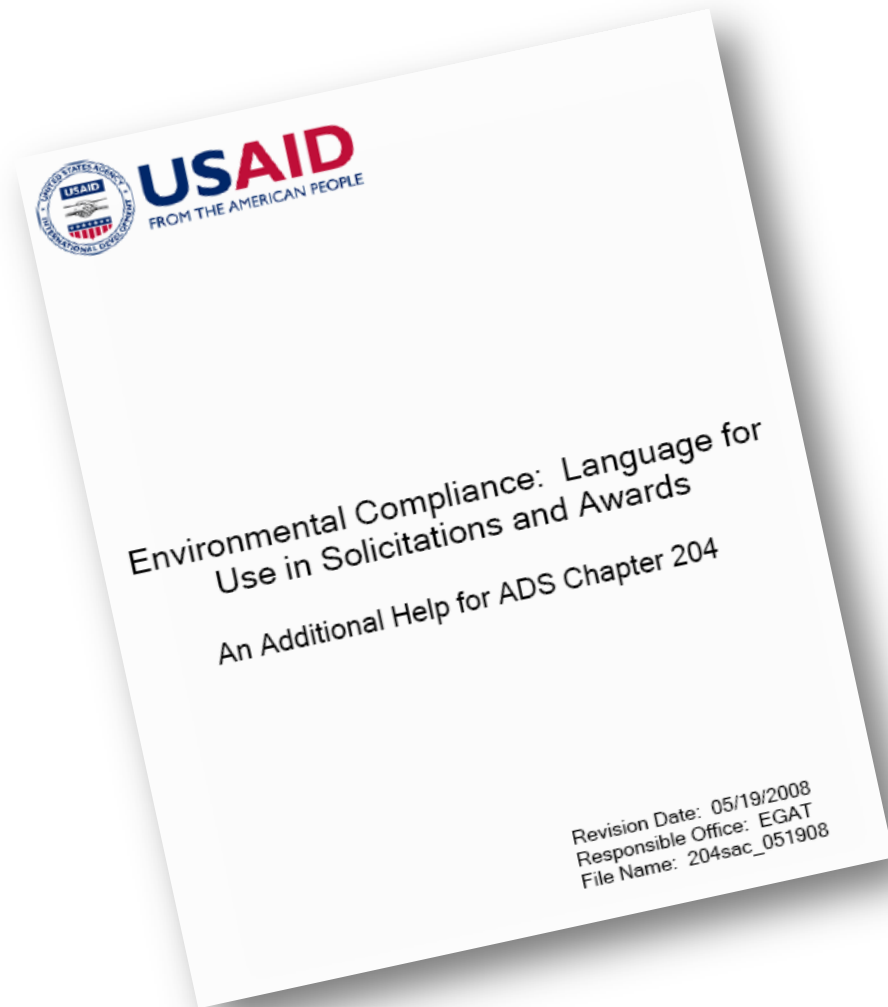
“Incorporating environmental factors and mitigative measures identified in IEEs, EAs, and EISs, as appropriate, in the design and the implementation instruments for programs, projects, activities or amendments.”

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

The Environmental Compliance Language 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 & 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

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

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

Implementing Partners

Provides clarity regarding environmental compliance responsibilities

Prevents “unfunded mandates”—USAID requirements to implement M&M after implementation has started & without additional budget.

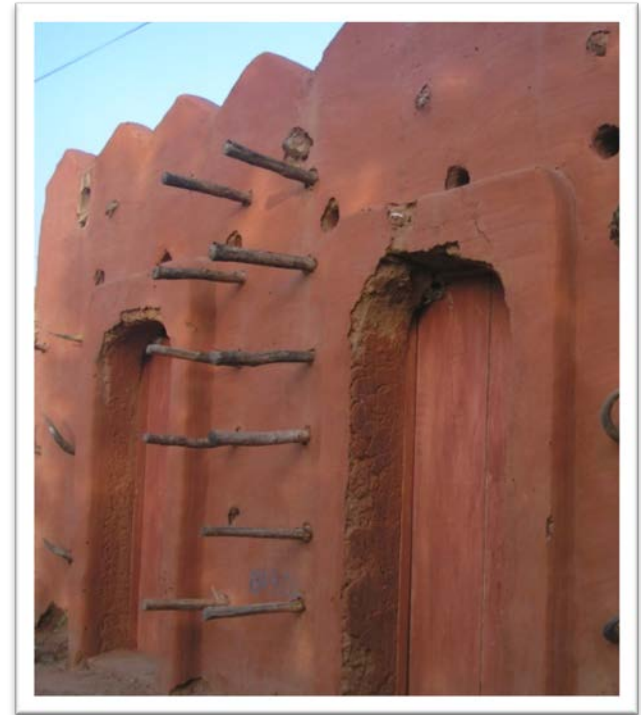
Speaking of reporting...

What form does “environmental compliance reporting” take?

For simpler projects,

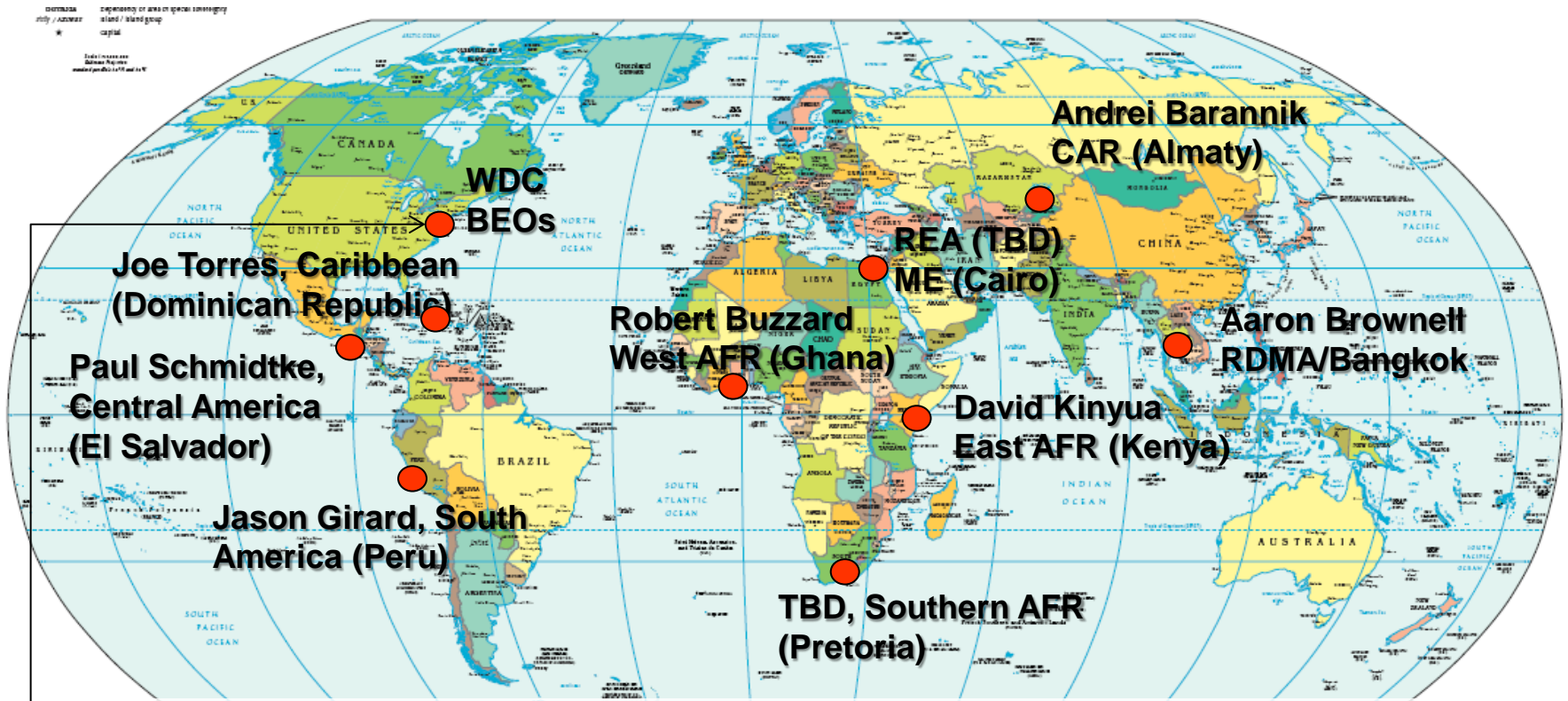
If the EMMP contains a “monitoring record” section, the EMMP with current monitoring results can simply be appended to the quarterly report.

For large projects with complicated EMMPs, a text summary/short analysis of EMMP implementation is needed.



Who can help?

MEOs in every bilateral Mission AND the BEOs and REAs:



AFR: Brian Hirsch, Asia & ME: Robert MacLeod, BFS: Walter Knausenberger (acting); DCHA: Erika Clesceri E&E: Will Gibson (acting), E3: Teresa Bernhard, GH: Teresa Bernhard (acting), LAC: Victor Bullen, M/ODP: Dennis Durbin, OAPA: Gordon Weynand

References & Useful Information

- **USAID Environmental Compliance & Related Links**
www.usaid.gov/our_work/environment/compliance/index.html
- **22 CFR 216**
www.usaid.gov/our_work/environment/compliance/reg216.pdf
- **ADS Series 200 (with link to Chapter 204 & ECL)**
www.usaid.gov/policy/ads/200/
- **IEE Assistant (help in preparing Reg. 216 documentation)**
- **Sectoral Environmental Guidelines + many other resources**
www.usaidgems.org

