



# 9. ENVIRONMENTAL COMPLIANCE IN SOLICITATIONS AND AWARDS

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# ENVIRONMENTAL COMPLIANCE IN SOLICITATIONS AND AWARDS

## Learning Outcomes

1. Appreciate the utility and benefits of environmental compliance language
2. Know the necessary mechanisms for implementing partner implementation of IEE/EA conditions
3. Understand how to use the environmental compliance language



# WHY REQUIRE COMPLIANCE WITH IEE AND EA CONDITIONS IN SOLICITATIONS AND AWARDS?



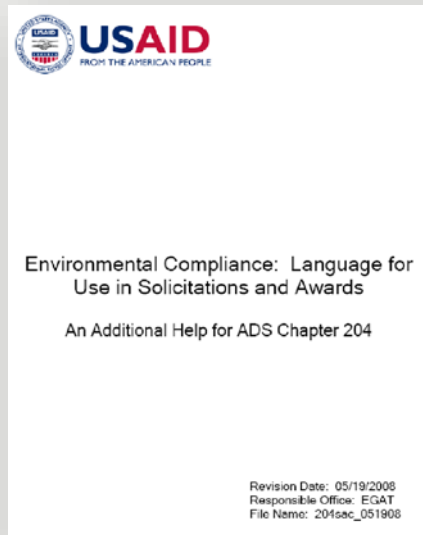
Opportunity	Agency/Office/Location	Type / Set-aside	Posted On
<a href="#">PARAMOS &amp; FORESTS</a> SOL-514-16-000024 R -- Professional, administrative, and management support services	Agency for International Development Overseas Missions Colombia USAID-Bogota	Combined Synopsis/Solicitation (Modified)	Sep 26, 2016
<a href="#">NATURAL WEALTH</a> SOL-514-16-000014 R -- Professional, administrative, and management support services	Agency for International Development Overseas Missions Colombia USAID-Bogota	Combined Synopsis/Solicitation (Modified)	Sep 21, 2016
<a href="#">Regional Program Support for Balkan countries</a> SOL-167-16-000010 A -- Research & Development	Agency for International Development Overseas Missions Kosovo USAID-Pristina	Combined Synopsis/Solicitation (Modified)	Sep 21, 2016

Required by the ADS because otherwise the entire Reg 216 process has no effect on implementation.

Problem: Many past solicitations & awards have NOT adequately addressed environmental compliance

The solution. .

# ENVIRONMENTAL COMPLIANCE: LANGUAGE FOR USE IN SOLICITATIONS AND AWARDS



- ADS Help Document
- Step-by-step guidance and boilerplate language for:
  - RFAs
  - RFPs
  - Agreements
  - Grants
  - Contracts

Available from  
<https://www.usaid.gov/ads/policy/200/204sac>  
& via the GEMS website

# ENVIRONMENTAL COMPLIANCE LANGUAGE GENERATES

Best  
practice  
**solicitation**  
language

*Requiring that:*

Proposals address **qualifications and proposed approaches to compliance/environmentally sound design and management (ESDM)** for environmentally complex activities

Best  
practice  
**award**  
language

*Requiring that:*

1. Implementing partner (IP) verifies current & planned activities annually against the scope of the RCE/IEE/EA
2. The **necessary mechanisms** and budget for IP implementation of IEE/EA conditions are in place

# WHAT ARE THE “NECESSARY MECHANISMS” FOR IP IMPLEMENTATION OF IEE/EA CONDITIONS?

1. A complete **EMMP** exists or is developed.
2. Work plans & budgets integrate the EMMP
3. Project reporting tracks EMMP implementation

## When a Negative Determination with Conditions applies or an Environmental Assessment is in place. . .

“5a) Unless the approved Regulation 216 documentation contains a complete environmental mitigation and monitoring plan (EMMP) or a project mitigation and monitoring (M&M) plan, the [contractor/recipient] shall prepare an EMMP or M&M Plan describing how the [contractor/recipient] will, in specific terms, implement all IEE and/or Environmental Assessment conditions that apply to proposed project activities within the scope of the award. The EMMP or M&M Plan shall include monitoring the implementation of the conditions and their effectiveness.

“5b) Integrate a completed EMMP or M&M Plan into the initial work plan.

“5c) Integrate an EMMP or M&M Plan into subsequent Annual Work Plans, making any necessary adjustments to activity implementation in order to minimize adverse impacts to the environment.”

# ENVIRONMENTAL COMPLIANCE LANGUAGE STRENGTHENS ENVIRONMENTALLY SOUND DESIGN & MANAGEMENT, AND...

Provides multiple benefits  
to both Mission Staff & Implementing Partners

## USAID

Avoids imposing compliance measures on Implementing Partners after implementation has started.

Reduces USAID cost and effort of environmental compliance verification/oversight.

## IMPLEMENTING PARTNERS

Provides clarity regarding environmental compliance responsibilities

Prevents “unfunded mandates” to implement mitigation & monitoring after implementation has started & without additional budget.



# HOW TO USE ENVIRONMENTAL COMPLIANCE LANGUAGE


1. Find the “Reg 216 documentation” situation that applies.
2. Assemble compliance language by cutting and pasting from the indicated sections of the ECL.
3. Fill in [bracketed fields] as necessary

<b>HOW TO ASSEMBLE COMPLIANCE LANGUAGE</b>	
<p>To assemble the compliance language for a particular solicitation or award, the following table should be used as guidance. Multiple situations can apply to a single procurement; if this is the case, use all indicated language. You may need to revise and/or renumber the language depending on which element you select and where you place them in the award or solicitation. <i>[Bracketed text]</i> in the model language indicates that you must select the appropriate option or provide other input.</p>	
When the situation is that. . .	Use these environmental compliance language paragraphs from the Model Language. . .
<p>Approved Regulation 216 documentation<sup>2</sup> exists and it contains. . .</p> <p style="text-align: center;"><b>Categorical Exclusions and Negative Determinations only</b></p>	<p>1a through 1c 4a through 4c</p>
<p style="text-align: center;"><b>at least one Negative Determination with conditions</b></p>	<p>1a through 1c 2 4a through 4c 5a through 5d 8a through 8d (optional: to be used when project will involve environmental compliance expertise; collaborate with MEO, or BEO for projects originating out of AID/W, for guidance, as needed)</p>
<p style="text-align: center;"><b>at least one Positive Determination</b></p>	<p>1a through 1c 3 4a through 4c 5a through 5d 8a through 8d</p>
<p>The contractor/recipient will be required to prepare Regulation 216 documentation (an EA or IEE)</p>	<p>1a through 1c 4a through 4c 5a through 5d 6a through 6c 8a through 8d 2 If there is also an existing IEE that contains a Negative Determination with conditions 3 If there is also an existing IEE that contains a Positive Determination</p>



# WHERE IS ENVIRONMENTAL COMPLIANCE LANGUAGE INCORPORATED?

Usually in  
“special  
requirements”  
section of  
solicitation &  
award



## But effectiveness depends on:

- Cross-referencing in the statement of work
- Include EMMP reporting requirements in reporting section
- Listing EMMP as a deliverable with the work plan
- If relevant, provide environmental compliance budgeting guidance in “plug budget”

## WHO IS RESPONSIBLE?

- **Drafting:** AOR/COR, AM (if named), or Project Design Team Lead
- **Review:** MEO (BEO for pillar bureaus)
- **Office of Acquisition and Assistance (OAA)** incorporates the language in the solicitation/award

