

USAID MISSION to ZAMBIA MISSION ORDER

ORDER NO. MO 2____

Subject: USAID Environmental Policies and Procedures

Date Effective: Effective as of Date Issued

Supersedes: New Mission Order

Maintenance: Program Office

I. PURPOSE OF MISSION ORDER

The purpose of this Mission Order is to provide summary guidance to Mission staff on how to comply with USAID environmental policies and procedures, including the roles and responsibilities of organizational units in USAID/Zambia. This document is only intended to provide an overview of the subject matter. The Bureau for Africa, Office of Sustainable Development has developed documents and websites which provide detailed and practical guidance on how to comply with USAID environmental procedures, and these are listed in the References section of this Mission Order. Also, USAID policies and procedures related to environmental compliance are spelled out in detail in the Automated Directives System (ADS) Chapter 204. When in doubt, readers of this Mission Order should refer to the AFR/SD guidance documents, the ADS, and/or to the relevant laws and regulations listed below for clarification.

II. LEGAL AUTHORITY

The legal authority and requirement for environmental review of all USAID activities derives from the following documents:

1. Section 117 of the Foreign Assistance Act of 1961, as amended.
Section 117 requires preparing and taking fully into account an environmental assessment "of any proposed program or project significantly affecting the environment of any foreign country."
2. National Environmental Policy Act, 42 USC 4371, et seq.
NEPA mandates that before federal agencies make decisions, they must consider the effects of their actions on the quality of the human environment.
3. Executive Order 12114 dated January 4, 1979.

EO12114 requires that federal agencies apply NEPA's general requirements when operating outside the United States.

4. Title 22 of the Code of Federal Regulations, Part 216 dated October 9, 1980.

22CFR216 codifies USAID's environmental procedures, and has the force of law. Regulation 216 outlines a particular implementation of the general environmental impact assessment (EIA) process, and conforms to norms of good EIA practice.

The legal authority and requirement for additional environmental analyses of USAID programs with respect to tropical forests and biological diversity in the host country derive from the following:

Section 118 and 119 of the Foreign Assistance Act of 1961.

Sections 118 "Tropical Forests" and 119 "Endangered Species" of the FAA codify the more specific U.S. interests in forests and biological diversity. These two provisions require that all country plans include (a) an analysis of the actions necessary in that country to conserve biological diversity and tropical forests; and (b) the extent to which current or proposed USAID actions meet those needs. Section 118/119 analyses are specific legal requirements of all USAID operating unit strategic plans. It should be noted that 22 CFR 216.5 presents a requirement that is similar to FAA Sections 118 and 119, as it requires USAID to conduct assistance programs in a manner that is sensitive to the protection of endangered or threatened species and their critical habitats.

III. AGENCY POLICIES and PROCEDURES

The overarching goals of USAID's environmental policy, as stated in 22CFR216.1(b), are the following:

- 1) Ensure that the environmental consequences of USAID-financed activities are identified and considered by USAID and the host country prior to a final decision to proceed and that appropriate environmental safeguards are adopted;
- 2) Assist developing countries to strengthen their capabilities to appreciate and effectively evaluate the potential environmental effects of proposed development strategies and projects, and to select, implement and manage effective environmental programs;
- 3) Identify impacts resulting from USAID's actions upon the environment, including those aspects of the biosphere which are the common and cultural heritage of all mankind; and

4) Define environmental limiting factors that constrain development and identify and carry out activities that assist in restoring the renewable resource base on which sustained development depends.

Specific policies and procedures by which these goals are to be met are spelled out in the following documents:

Title 22 of the Code of Federal Regulations, Part 216 dated October 9, 1980. See above.

Automated Directives System (ADS) Chapter 201.6.3.b, "Environmental Analysis"

This brief section of ADS 201 provides guidance for complying with FAA Sections 118 and 119 through the preparation of an Environmental Analysis as part of Strategic Plan development.

ADS 204 – Environmental Procedures

This chapter of the ADS spells out in detail the USAID policies and procedures related to environmental compliance.

IV. ROLES AND RESPONSIBILITIES

According to ADS 204, at the mission level, the SO Teams and the Mission Environmental Officer have direct responsibility for assuring USAID/Zambia compliance with USAID environmental procedures, in collaboration with the Regional Environmental Officer and the Bureau Environmental Officer. Regulation 216 gives the Mission Director and the Bureau Environmental Officer shared responsibility for final approval of all environmental reviews. A summary of principal responsibilities is found below. USAID staff are encouraged to consult ADS 204.3 and 204.5 for specific details of their duties.

The Bureau for Africa advocates delegation of much of the responsibility for conducting and monitoring environmental reviews to implementing partner organizations. Activity implementers are best placed to understand their activity and thereby conduct a thorough and accurate environmental review, and they are best placed to monitor the implementation of any mitigation measures.

Strategic Objective Teams (SO Teams), are obligated by ADS 204.5.4.4 to "actively plan how it will comply with 22 CFR 216 requirements for each activity it undertakes, actively monitor ongoing activities for compliance with approved IEE, EA, or EIS recommendations or mitigative measures; and modify or end activities that are not in compliance." The team must also "ensure that adequate time and resources are available to complete all environmental work required under 22 CFR 216 before funds are obligated."

Mission Environmental Officer (MEO), nominated by the Mission Director, takes the lead in overseeing 22 CFR 216 document preparation on new activities and for monitoring compliance of ongoing activities. The MEO (or the Deputy MEO) serves as a "core member" of each SO team, helping them to identify potential adverse impacts from their activities, to prepare necessary environmental analyses, and to monitor implementation of approved environmental mitigation measures. The MEO acts as liaison for the SO teams with the REO and the BEO, and helps to obtain additional environmental expertise to aid in SO team environmental compliance, as needed. However, the ultimate responsibility and accountability for successfully meeting 22 CFR 216 requirements belongs to every member of the SO Team and in particular to the team leader.

Mission Director provides final approval of all environmental documentation prior to submission to the Bureau Environmental Officer.

Regional Environmental Officer (REO) and Regional Environmental Advisor (REA) advises MEO and SO Teams on how best to comply with 22 CFR 216 requirements, how SO Teams can effectively monitor implementation of approved mitigation measures, and how SO Teams can obtain additional environmental expertise to assist them. The MEO is the liaison with the REO/REA on behalf of SO teams. The REO directly tasked with supporting Zambia is based in Nairobi, with another REO for West Africa in Ghana. The REA is attached to AFR/SD in USAID/Washington, and he/she acts as backstop to the REO.

Africa Bureau Environmental Officer (BEO) oversees the effective implementation of 22 CFR 216 throughout all Operating Units in the Africa region and provides final approval of IEE and supplementary environmental assessments.

Agency Environmental Coordinator (AEC), based in Washington, oversees the effective implementation of 22 CFR 216 throughout the Agency, monitors its implementation, resolves disputes, advises in selection of BEOs, and liaises with the President's Council on Environmental Quality and the public.

Implementing Partner Organizations are typically delegated responsibility for preparation of environmental reviews, with collaboration and oversight by the relevant USAID/Zambia SO team and the MEO. These organizations should assure, therefore, that they have staff on hand who are trained in the practice of environmental impact assessment of USAID activities.

V. ENVIRONMENTAL REVIEW PROCEDURES

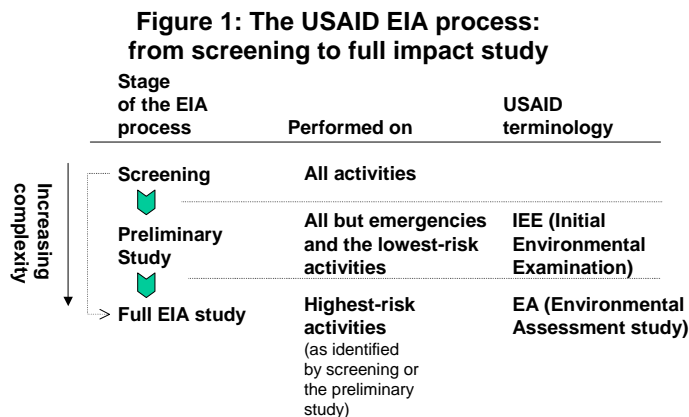
The first environmental analysis that should have an impact on mission programs is the country environmental analysis performed in compliance with FAA Sections

118 and 119 and ADS 201. This environmental analysis should be considered during Country Strategic Plan development.

The process that will have the most day-to-day impact on mission activities is that of compliance with the requirements of 22CFR216, which requires the environmental review of all USAID activities and the approval of necessary documentation prior to any irreversible commitment of resources. The process also requires monitoring of activity implementation to assure compliance with environmental determinations.

Part A Environmental Review of New Program Activities

Regulation 216 requires the environmental review of all new program activities, including new activities that are being introduced into an old program. USAID environmental review procedures specify a particular implementation of the general environmental impact assessment (EIA) process, conforming to norms of good EIA practice. Figure 1 shows a schematic of the USAID EIA process. In most USAID cases, the process ends after the Preliminary Study stage, termed the Initial Environmental Examination (IEE).



This section outlines steps for conducting an environmental review of a new program activity.

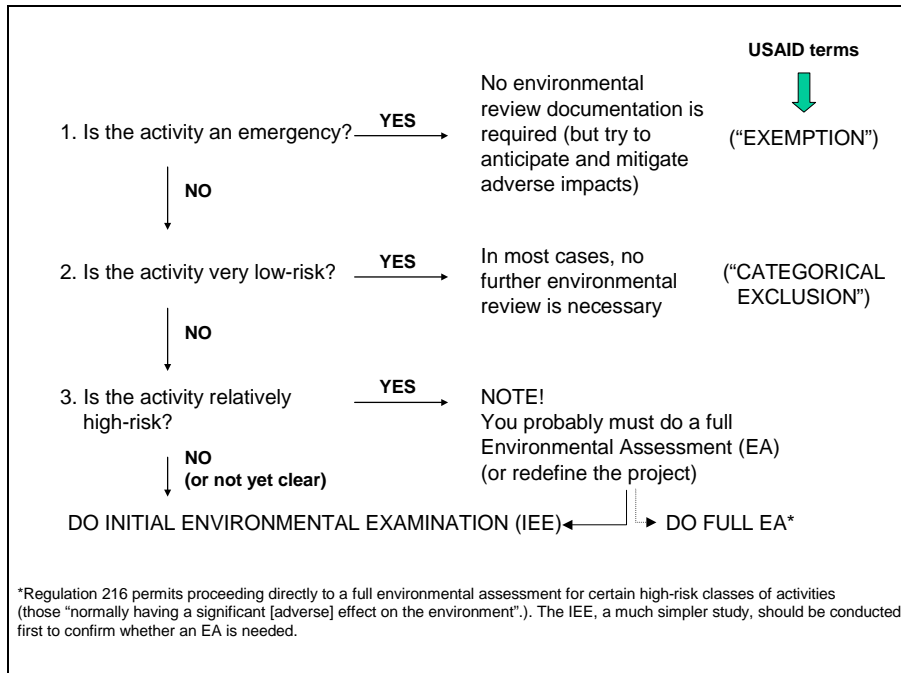
Step 1: Summarize all of the proposed activities.

The essential first step is to gather information describing all activities being planned, including the location and specific nature of all components of the activity.

Step 2: Screening – classify each activity under Reg. 216.

Figure 2 identifies the potential outcomes of the Screening process.

Figure 2: USAID screening procedures



If all of the examined activities are either Exempt or qualify for Categorical Exclusion, prepare a document stating that fact and end the process by submitting that document for approval. Otherwise, continue to Step 3.

Step 3: Preliminary study (IEE).

The mission must conduct an IEE unless screening shows that ALL of the subject activities are either exempt or categorically excluded. An IEE is a review of the *reasonably foreseeable effects* on the environment of a proposed action. IEEs also identify the mitigation and monitoring actions needed.

An IEE is a streamlined, simplified version of a full environmental assessment (EA) study.

A single IEE can—and most often does—assess more than one activity. **For each activity assessed**, the IEE has four possible outcomes, as depicted in **Figure 3:**

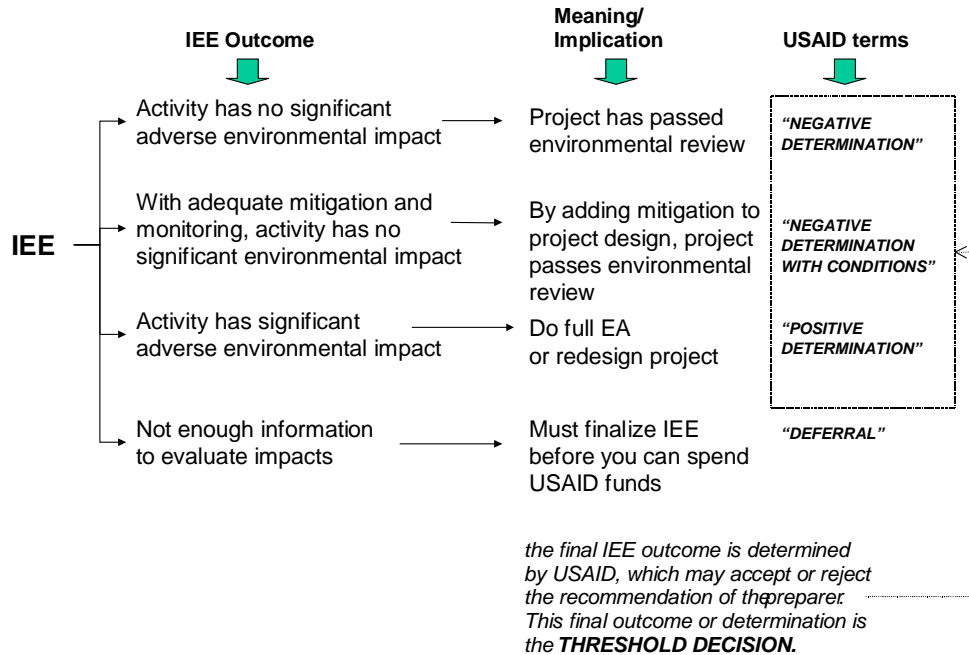
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Figure 3: Four possible results of the IEE



After writing the basic environmental analysis, you must consider the threshold decision(s) the IEE will recommend. Again, the IEE recommends a threshold decision for EACH activity it covers. Each recommendation MUST be supported by the analysis presented in the IEE, as detailed below:

1. A **negative determination without conditions** indicates that the activity is routine and is expected to have no significant effect on the environment.
2. A **negative determination with conditions** indicates that, with appropriate mitigation and monitoring, the proposed activity will produce no significant harm to the environment. Mitigation and monitoring might produce this result in one of two ways:
 - any adverse impacts that occur will be mitigated, and/or;
 - monitoring will identify adverse impacts before they become significant, and project implementation will be adjusted to prevent significant harm from occurring.

Absent those mitigation and monitoring conditions, the implication is that a positive determination would result.

3. A **positive determination** indicates that the activity has the potential for creating significant adverse effects on the environment. A positive

determination means that an IEE alone is not sufficient to assess and address the environmental concerns raised by the proposed activity, and an Environmental Assessment (EA) or Programmatic Environmental Assessment (PEA) is required. The affected activity cannot proceed until the EA is completed and approved, although normally the other activities in the project or program may proceed once the IEE is approved.

4. A **deferral** indicates that no threshold decision can yet be reached, because of insufficient information.

USAID Partners submitting an IEE recommend or request one of the four IEE outcomes for EACH activity covered by the IEE. The appropriate Bureau Environmental Officer (BEO) at USAID makes the final determination on these outcomes, and can accept or reject the recommendation. This final determination is called a **THRESHOLD DECISION** in Regulation 216. (Note that a deferral is not a threshold decision. Rather, a request for deferral is a request to *defer* the threshold determination.)

Step 4: Further analysis, as needed.

There are three general circumstances under which the preliminary study would lead to further analysis:

1. the threshold decision was a Positive Determination, meaning that the proposed activity has the potential to create significant adverse impacts on the environment;
2. the threshold decision was a Negative Determination, with conditions, and one of the conditions was that further analysis be conducted. This is often the case with activities involving pesticides, which generally requires preparation of a Pesticide Evaluation Report and Safer Use Action Plan (PERSUAP). Another common situation in which further analysis is required is when the IEE is an "Umbrella IEE." This establishes a commitment for the subsequent environmental review of undefined elements such as small subgrants that are yet to be granted; and
3. the threshold decision on at least some of the subject activities was deferred for lack of information and/or because the activities were not sufficiently well defined at the time of the IEE. This leads to further analysis once the lacking information is available;

Part B Existing Program Activities

Each SO Team should review each SO level and IR level environmental documentation during amendments, extensions, and during the preparation of the Annual Report. If activities remain substantively the same in nature, character and scale as those covered in the existing IEE or EA, the SO Team should insert a note in the extension or amendment document to note this situation. If activities are new, different, or expanded in scope, SO Teams should formally amend the IEE or EA. An amended IEE may require formal or informal agreement with partners about the mode of implementation in accordance with the amended IEE. SO Teams should consult the Mission Environmental Officer to assist with the technical aspects of portfolio review for Reg. 216 compliance.

PART C During Implementation

During program implementation, periodic reviews should take place. If activities have been approved with any conditions or deferrals and contain mitigating measures, the SO Team Leader is responsible for assuring compliance with the IEE requirements and for periodically reviewing and monitoring compliance. The implementing partners are responsible for reporting on the status of the mitigating conditions, and for addressing any deferrals specified in the IEE before undertaking any activities that have been deferred.

In the case of an "Umbrella IEE," an environmental review process is conducted during implementation of the subject program, most often as a mechanism for screening sub-grants that were not yet identified at the time the IEE was prepared. The Umbrella IEE process is most often applied to Title II programs. Partners report on the status of their environmental reviews and program implementation in the Annual Title II Results Report, as well as to the Mission Environmental Officer, as requested.

SO teams, together with the MEO, should conduct field visits to all mission activities at least once a year

Step 1: Annual Workplan – The touchstone for environmental compliance.

The approved IEE defines the environmental determinations for activities at the SO level. This central document serves as a guide as to what can be done, under what conditions and the mitigation measures that must be applied; and which activities would trigger further review before implementation.

At the contract/CoAg/grant level, within each SO, specific activities are finalized each year in the approved Annual Workplan. For environmental compliance

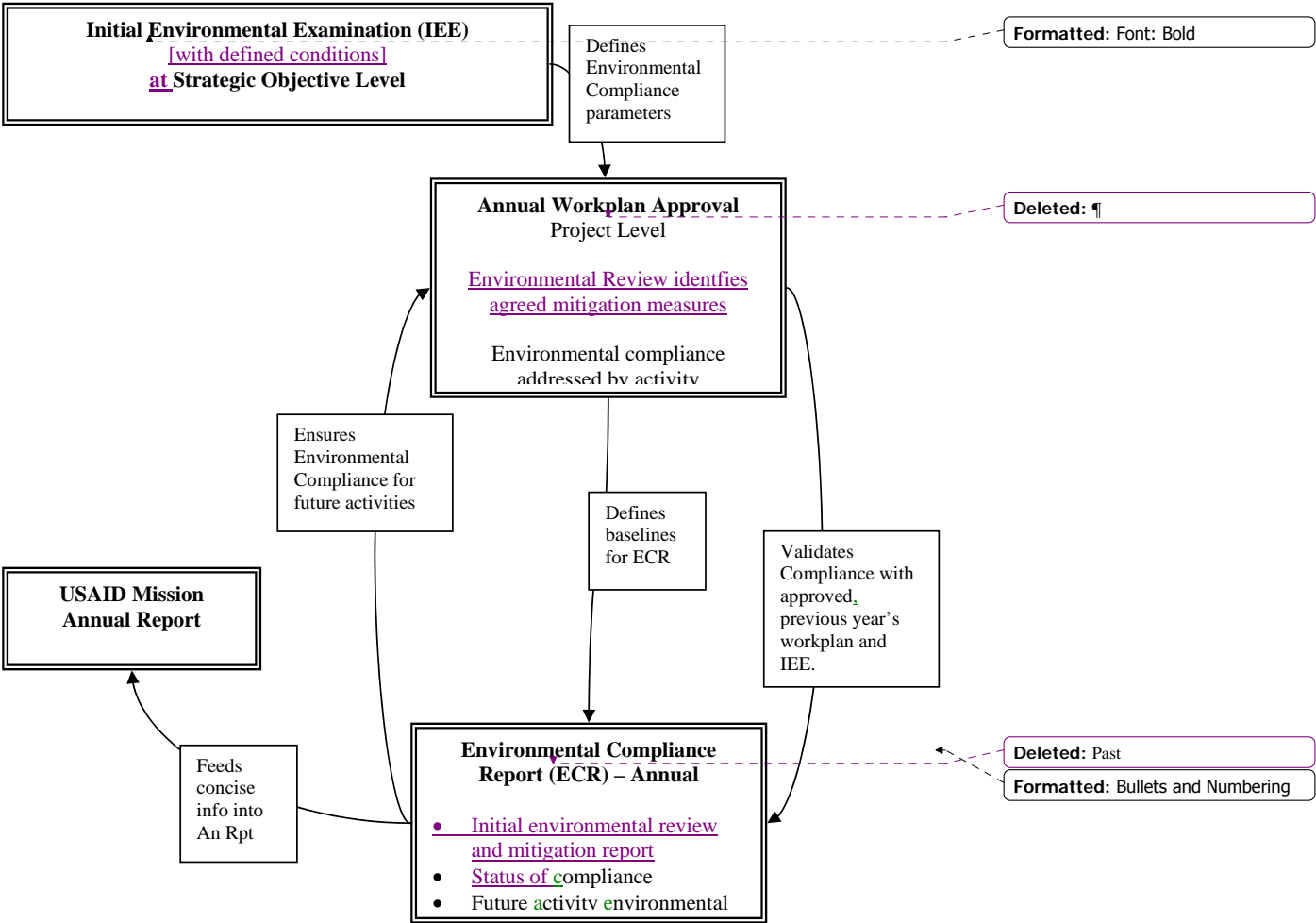
purposes, the IEE forms the basis for what must be done in relation to activities with environmental implications. In a similar fashion, the annual workplan forms the baseline for the annual Environmental Compliance Report (ECR). A second purpose of the ECR is to ensure environmental compliance for future activities that are planned/proposed for the next year's Annual Workplan.

The initial ECR is prepared at the outset of the activity, which may or may not coincide with the Annual Workplan preparation. Annually thereafter, the ECR would be updated.

The following diagram depicts the relationships between the IEE, the Annual Workplan and the ECR.

[WHO IS THE TARGET? We need to reconsider the presentation of the MO if it is to be used as guidance *outside* the core SOTs and Mission staff, for guidance to contractors and grantees. Most grantees do not iprepare IEEs (only CSs do at this oint). In fact, the ECR and related processes are subsidiary to the IEE, and the screening and reporting (and status report) steps occur once the IEE is done. An ECR is prepared by the (sub) grantee at the outset of the subject activity(ies), and every year thereafter unless some major substantive addition is made, then the ECR would be updated/amended at that point. – WIK]

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Step 2: Annual Reporting

To facilitate a standardized and simplified reporting system, the Annual Environmental Compliance Report (ECR) format (attached) will be applied to all project activities under each SO. Activity (project) managers, under each SO, will submit an ECR *within 45 days after each anniversary* (??) of the project start date.

Every grantee/contractor needs to provide input at AR time anyway; if the AR does not coincide with project start dates, then the most logical thing is to still expect the ECR at AR (and/or Annual Work Planning) time; if project started less than six months before, then they should not need to report until the next year.

There does need to be a clause stating that any significant amendment in the program changing it substantially (going beyond what has previously been approved) and adding significant funds might trigger the need for an ECR, with emphasis upon the report and mitigation plan. – WIK]

VI. Procurement Language

Following approval of the Strategic Plan, activities must address environmental issues in a manner consistent with the findings of the analytical work performed during development. Findings from environmental analysis help determine how environmental considerations are to be addressed in the acquisition. The language suggested below is not intended to precisely suit the needs of all procurement situations under all SOs. The language is intended to serve as a guide that can be appropriately adapted to suit any given situation.

To ensure that competitive contract solicitations comply with USAID policy regarding Environmental Considerations, the Contracting Officers, with the SOTs, must incorporate into the request for proposal/assistance (RFP/A) a statement outlining Environmental issues, and include in the RFP/A appropriately weighted technical evaluation factor(s) addressing Environmental considerations. Examples include:

1. Proposals will need to reflect cognizance of Zambia's fragile resource base, and to ensure that activities are environmentally sound in design and implementation.
2. Proposed activities should be accompanied by statements outlining potential adverse environmental impacts and discuss how environmentally sound best practices and measures to mitigate adverse impacts will be incorporated in activity design and implementation.
3. A clear and convincing methodology for addressing environmental soundness and adverse impact mitigation in activity design, implementation and monitoring should form part of the Evaluation Criteria.
4. Environmental Compliance Report (ECR) will be submitted to USAID within 45 days* after each anniversary of the project start date taking into account all changes that have occurred during the reporting year.

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Note: Need feedback on timing of ECR – Anniversary of project, or to coincide with Mission Annual Report? [\[see my comment above – wik\]](#)

VII. Contacts

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Bureau Environmental Officer (BDCHA, EGAT, FFP): Paul des Rosiers,
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Agency Environmental Coordinator: James Hester, EGAT, jhester@usaid.gov.

VIII. References and Additional Resources

- USAID’s Africa Bureau maintains a number of pertinent resources and documents (<http://www.afr-sd.org/>). These include a searchable database of the environmental documentation submitted for Africa-based projects = the BEO Actions Tracker (<http://www.afr-sd.org/IEE/>)
- Africa Bureau’s Environmental Capacity-Building Program (ENCAP) website contains training and resource materials on Regulation 216 compliance, environmentally sound design, and environmental review and analysis (www.encapafrika.org).
- USAID’s environment home page is a useful portal to many of the agency’s environmental resources and publications (<http://www.usaid.gov/environment>).
- Other Bureaus also maintain environmental resource sections of their websites, including the Europe and Eurasia Bureau (http://www.usaid.gov/regions/europe_eurasia/), and the Asia and Near East Bureau (<http://www.usaid.gov/regions/ane/>).

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