

Using USAID Environmental Procedures Strategically

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for the USAID Environment Officers Workshop July 1999

Two AFR regional environmental staff offer this brief thought piece, because we want to share our experience in applying USAID environmental procedures, but could not be present at the Environment Officers Workshop. We are informed by the experience of the Africa Bureau over the past five years. The challenge for environmental officers is to ensure compliance with the expectations of USAID's Environmental Procedures in a re-engineered institution and, at the same time, promote enhanced authority, responsibility and accountability in the field.

Section 1 sets the stage with a stereotypical look at how USAID Environmental Procedures, as we sometimes encounter them, barely qualify as compliance. Section 2 describes a way to achieve the legitimate role of compliance with 22 CFR 216 (Reg 216) and ADS 204. Section 3 suggests how we can use the regulation strategically and in ways that satisfy the ultimate objectives of Reg 216 -- environmentally sound activities and the promotion of environmental policies in order to achieve our development mandate.

1. How limited and ineffective can the use of Reg 216 be?¹

- Environmental procedures are applied at the last minute, evidenced by the number of Initial Environmental Examinations (IEEs), the most typical form of documentation, done in late August and September in the race to complete obligations by 30 September. A Regional Environmental Officer (REO) or Mission Environmental Officer (MEO) is in popular demand and the Bureau Environmental Officer (BEO) hits the top of the charts.
- Considerations that could be part of a meaningful IEE have no chance to influence planning and design. The IEE is perceived as a bureaucratic hurdle or even an impediment. Using Reg 216 as an opportunity to achieve environmentally sound development is lost.
- When the IEE is an afterthought and done hurriedly, the Strategic Objective (SO) or Results Package (RP) team is not engaged in shaping it. The team will probably not have understood or even agreed wholeheartedly to IEE conditions for how an activity is to proceed or thought about resources for monitoring. Worse yet is the IEE that commits an implementing partner to carry out conditions, but the partner has never seen or been apprised of the IEE.
- Once the IEE is approved, the SO or RP team sighs with relief and, perhaps files it, too often never to look at it again. ADS 204 clearly sets out this responsibility to do so, but just ask anybody on an SO team if they know what ADS 204 is about.
- The IEE, comfortable in its file drawer or lost to the SO team's consciousness, becomes hopelessly out of synch with how activities evolve, deferrals remain unresolved and conditions are not met.

¹ This is Murphy's law at work (in USAID environmental procedures), compiled by the one of us who thinks Murphy was an optimist.

- As SO team leaders and MEOs rotate out of their positions, institutional memory is lost. A new team leader rarely becomes aware of the IEEs (now in the file or packed up in storage) associated with the SO's activities and probably has forgotten ADS 204.
- **Too little, too late, and mostly forgotten. Reg 216 documents that sit in file drawers are valueless.**

2. Moving Toward More Effective Compliance

How do we (or should we?) move beyond the common perception that one is following the agency's environmental procedures just fine as long as the Mission has a signed piece of paper from the BEO? Succinctly put by one Mission Director, faced with the need to follow-up on an IEE: "What happened to the good old days when we just 'did' these documents? Are we doing this now to ensure that BEOs and REOs have jobs?" Mere filing of documents is necessary but hardly sufficient for effective compliance. Reg 216 certainly views compliance as a process that has the objective of environmentally sound development, but then who reads Reg 216?

The BEO, REO and MEO read Reg 216. We are facilitators and gatekeepers. As facilitators we assist Missions technically by providing information and regional perspective and by stimulating cross-fertilization of ideas among Missions. We can encourage SO teams to think about an environmental review and planning process and help prepare Reg 216 documents that have environmentally sound development as a prime objective. We can introduce new tools, approaches and sources of information and data. As gatekeepers, we can cajole and use the "velvet hammer" of the regulation. Compliance is mandatory, but we do try to be "nice" and, even, logical, persuasive and supportive of enlightened self-interest. The two roles, effectively played, can nicely complement each other.

But it is the SO team that implements and monitors the activities for which the Reg 216 documents are written. The team's role is pivotal, as reflected in ADS 204.

The Africa Bureau has had considerable success with the annual portfolio review, an optional review but the first step on the high road to using Reg 216 strategically. At this annual check-up, preferably early in the year prior to the R4, the MEO (with or without the REO) and the SO team leader look over the status of all current activities and the contents of associated IEEs and determine what IEE promises were not fulfilled or, in some cases, either made no sense or have been overtaken by changing events.

Together (together is a key word) the SO team and the MEO can develop a plan -- what situations need to be remedied, what new activities need Reg 216 documentation, what activities need new documentation. The portfolio review may reveal opportunities to consolidate several old IEEs that need modification within a new SO-level or RP IEE. Once the portfolio review is done, the R4 section on environmental compliance is ready-made.

The portfolio review is also an occasion to review ADS 204, pertinent parts of Reg 216 and the often forgotten provisions of FAA 118 and 119 concerning forests and biodiversity, which call for Environmental Assessments in specific circumstances or prohibit funding in others. Attention can be drawn to new guidance, such as this year's tobacco guidance, concerns regarding water quality testing for parameters such as arsenic or issues surrounding biosafety (genetically modified organisms in agriculture or vaccines, for example). In several cases, the portfolio review, when assisted by the REO or SD, has become genuine training and mentoring for the MEO.

Two other mechanisms to promote compliance are the AFR BEO's REONET (intermittent newsletter to the field) to alert MEOs to some pesky old issues and new ones and Mission Orders. A few Missions have requested these and we have shared with ENI. The trouble with the Mission Order approach is --who reads old Mission Orders and who updates them? A third option, suggested in ADS 204, is that the MEO be a member of each SO team, not yet commonplace in AFR Missions.

Whatever the form of assistance that BEO, REO and MEO may offer in their roles as gatekeepers or facilitators, the trickiest, but most fundamental to achieving effective compliance is convincing an SO team to take ownership of environmental commitments. When ownership occurs, we change the perception that Missions and teams that Reg 216 is uniquely the job of the MEO, REO and BEO happy and that one puts up with such bureaucratic nonsense, because one has to keep them happy or that velvet hammer might turn to stone.

➤ **Two principles characterize effective compliance** (and the first steps toward using Reg 216 and ADS 204 strategically):

a) SO teams (and their partners) must take responsibility for how environmental procedures affect them and not view IEEs or other documents as an externally imposed requirement;

b) MEOs and REOs cannot operate in a vacuum. They need to collaborate with an SO team and their partners in beginning, preparing and following up on Reg 216 processes. There is no sense in imposing conditions that an SO team would not realistically accomplish.

3. Strategic Use of Reg 216 --Using and Going Beyond Compliance to Achieve Results

How can we move from compliance to a process of considering the environment throughout the project cycle (from planning through implementation and closeout) and even seeing the results of compliance as reportable results?

Once an SO team and a Mission have adopted the annual portfolio review and begun to see Reg 216 as an SO team responsibility, it is possible to travel the high road of using Reg 216 strategically. One result of applying the environmental procedures in this way is to integrate compliance or conditions into an activity design. Or, the environmental procedures can be used as a means to leverage better results, results that can be reported. Some examples follow.

- **Being aware of technical and procedural options.**

USAID funds a lot of health programs. Directly or indirectly, health programs generate medical waste. Nearly every health program can build in awareness of medical waste issues, ranging from a small investment in looking at policy and procedures to simply impressing upon implementing partners the ways in which they can become proactive with those to whom USAID is providing technical assistance. Putting medical/health waste management and disposal practices into operation is a useful accomplishment (and it can be reported).

- **Promoting linkages.**

Economic growth SOs (whether agriculturally oriented or more broadly trade, investment and enterprise oriented) as well as E/NRM SOs can foster linkages that encourage adoption of

environmental standards (e.g., ISO 14001, multilateral environmental agreements), eco-labeling, green sourcing or green certification and support growth of environmental businesses. One Mission has made the promotion of linkages among SOs a conscious effort.

Macro and sector economic policies can promote changes in environmental policy, as some of the recent experience with the Asia Environment Program (AEP) and the African Trade and Investment Reform Program (ATRIP) awards demonstrate.

Promotion of active civil society around environmental issues is happening in several places, both promotion of environmental advocacy in DG SOs and the use of environmental screening and review processes for community grants under DG activities.

- **Devolving responsibilities to partners and providing training in environmental review.**

The training and capacity development of USAID partners in principles and practices of environmental assessment is a reportable result, especially within an E/NRM SO, and with creative thinking in other SOs.

SOs of several AFR Missions follow a standardized, but flexible, process to screen and review grants and subgrants made under an umbrella activity. (See Africa Bureau's *Environmental Guidelines for Small-Scale Activities in Africa* for a brief description or request sample IEEs of this type.)

Several AFR Missions have versions of a road-specific environmental screening and review process that requires the implementing partners to perform post-IEE environmental reviews of road rehabilitation (mostly minor or farm-to-market roads). These reviews can be done when there is information about the specific roads and when one can reasonably know what mitigative measures might be needed or if Sections 118 and 119 of the FAA might be contravened. A realistic decision about the need to do an Environmental Assessment can be made.

The devolution of responsibility to prepare IEEs to Cooperating Sponsors of Title II PL480 development food aid activities has been a heartening experience. The *Environmental Documentation Manual for P.L. 480 Title III Cooperating Sponsors*, prepared in collaboration with the Food Aid Management Environmental Working Group and BHR, has allowed some sponsors to prepare IEEs without previous training or experience. The Manual has greatly facilitated training many of the sponsors to the point where several know more than the MEOs with whom they interact. The annual use of an Environmental Status Report allows the sponsors to self-report on their progress with monitoring and mitigation and has a guided set of questions to help a sponsor determine if the IEE should be amended.

- **Reaping the benefits of sharing IEEs and their conditions with partners.**

A spin-off with one USAID partner responsible for an agricultural promotion project was that those who were responsible for preparing road reviews decided to adapt the process to other activities, without prompting by USAID. A deliberate spin-off in another location was to ask NGOs working in a region to become informal "eyes and ears" to monitor indirect effects of road construction, such as forest encroachment or a lot more logging.

A CBNRM project in southern Africa with a major Development Fund has developed a grant procedures Manual, in which environmental review plays a significant, upfront planning role.

Coordination of USAID procedures with host country environmental procedures has been foreseen and made coherent so that grantees can submit one document for the approval of both entities.

Three PVOs in one country -- all proposing agricultural intensification programs with USAID funds -- decided to combine efforts to carry out an environmental review of lowland development, which one PVO had independently decided was needed. It was relevant to all three PVOs and, coincidentally but aptly, responded to the conditions laid out in their IEEs.

- **Leveraging Reg 216 compliance to achieve environmental assessment capacity development with host country agencies.**

One Mission is conducting a Programmatic Environmental Assessment (PEA) in collaboration with the host country National Parks Authority for roads in national parks. This PEA will not only satisfy USAID Reg 216 procedures, but more importantly aims to build the capacity of the parks agency in environmental review, which also has environmental impact assessment policy, and will result in a guidance document that the parks agency can use for all its roads --- not just those that USAID funds.

- **Working with host country governments to achieve environmental assessment.**

One of the East Africa missions completed an Environmental Assessment for Water Hyacinth Control that also satisfied host country environmental procedures. As one of the first and the first controversial Environmental Impact Assessments in that country, some important lessons were learned about public participation and consultation.

- **Training and Re-inventing the MEO.**

The Africa Bureau has taken seriously the training of its MEOs to help them understand their roles better and to become more proactive. A pro-active MEO provides not only the stimulus to help SO teams achieve compliance but becomes an active agent for environmental sustainability. The MEO's function is described in ADS 204, but needs to be incorporated within position descriptions. [As one MEO said, why should I bother if I won't even be evaluated on how well or how badly I might do at this function?].

MEOs maintain the best continuity and become the Mission's long-term institutional memory, when an FSN (or sometimes a long-term USPSC) is a co or adjunct MEO or when he/she is the MEO. Sometimes, however, FSNs, feel they lack clout and/or empowerment. Can empowerment and clout be gained through training and as re-engineering moves along? Nevertheless, sharing the MEO role with an FSN reaps benefits beyond Reg 216. Capacity is gained as human resources are developed.

- **Lesson to learn: Reg 216 and ADS 204 represent a process, not mere documents. The people, including ourselves and all our partners, who design, implement and monitor activities are integral to achieving environmentally sustainable results that not only satisfy the Environmental Procedures but make environmental sense.**

4. Africa Bureau Environmental Office's Approach to Devolving Responsibility to the Field

In 1994/5, the Bureau sought and received approval from Agency legal and environment staff to devolve to USAID Missions significantly enhanced responsibility for environmental compliance and decision-making. While delegation of authority to approve the "foundation" environmental documentation (IEEs, EAs, etc.) is not legally possible under Reg. 216, AFR has promoted devolution of responsibility for approval of small-scale activities and, especially, small grants and sub-grants. The approach rests on a strategy of environmental capacity building, which has provided environmental guidelines, technical assistance and environmental assessment training to upgrade Missions' and implementing partners' capacity to carry out effective environmental review and program implementation.

The Bureau has introduced a practical innovation, an Environmental Screening and Reporting Form (ESF) consistent with Reg. 216 and described in the umbrella IEE that sets forth a process for post-IEE environmental review. Use of this tool has significantly reduced the number of IEE actions needing to be sent to Washington. Typically, the umbrella or SO-level IEE that facilitates delegation of responsibility also includes a combination of the following conditions: a) preparation of a programmatic or sectoral environmental assessment; b) training and capacity building; c) application of a set of guidelines (including monitoring and mitigation of impacts); d) holding SO teams accountable for environmental soundness; and (e) creation of an on-going monitoring process.

The primary mechanism that supports these efforts is the Environmental Management Capacity Building Program or ENCAP. Initially developed with the USAID/G/ENV EPAT Project, ENCAP is now carried out through the Environmental Policy and Institutional Strengthening IQC, or EPIQ. ENCAP sets out to strengthen environmental review, management and monitoring capacity among USAID contractors, grantees and host country collaborators. ENCAP has facilitated over 15 environmental assessment training workshops in the past five years, in at least 12 countries, reaching over 600 people in some 250 organizations working with USAID.

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