

Why an Agency-Wide Accountability Framework is Required to Effectuate Explanatory Statement Language

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To effectively implement the Congressional directives to ensure that “effective grievance and redress mechanisms for victims of human rights violations and other misconduct” exist with respect to USAID’s national parks and protected areas projects, USAID should create an agency-wide accountability framework with two key components: (1) an agency-level independent accountability mechanism that increases accountability of implementing partners, as well as the agency; and (2) implementer-level grievance mechanisms. Both components should incorporate the UN Guiding Principles criteria for an effective grievance mechanism.¹

- **An Independent Accountability Mechanism** - An independent accountability mechanism (IAM) is an independent office that facilitates a process for addressing complaints and resolving disputes about the negative social and environmental impacts of a project. IAMs sit at the institutional or agency level and are independent from management and the operational teams. Several international financial institutions have IAMs, including the World Bank, the new U.S. International Development Finance Corporation, and its predecessor, the Overseas Private Investment Corporation. IAMs address complaints through two functions: (1) compliance review, which investigates compliance with institutional standards and policies; and (2) dispute resolution, which convenes the complainant, the client, and other stakeholders facilitate a mutually agreeable solution to grievances. IAMs also have an advisory function that provides useful lessons for the improvement of future projects and the avoidance of future harm.
- **A requirement for implementing partners to create project-level grievance mechanisms** - Project-level grievance mechanisms (PLGMs) are local systems designed and operated by project implementers to address concerns of individuals, communities, and workers who are negatively affected by a project’s impacts. When designed and implemented properly, a PLGM can be helpful to address local grievances, though they are not appropriate for all grievances, including certain human rights violations or systemic challenges.² Additionally, PLGMs are not fully independent from project management, so may not be able to objectively address some grievances. It is important that implementing partners’ PLGMs are designed and operate according to international best practice in order for them to be an effective component of the accountability framework.

Project-level grievance mechanisms cannot effectively bolster the accountability of implementing partners, unless they connect into a larger accountability framework that includes an IAM that can address complaints

¹ An “effective” grievance mechanism has an internationally agreed-upon definition. The United Nations Guiding Principles on Business and Human Rights (UNGPs) - which the United States has endorsed - defines an “effective” institution-level grievance mechanism as being: (1) legitimate; (2) accessible; (3) predictable; (4) equitable; (5) transparent; (6) rights-compatible; and (7) a source of continuous learning. It defines an “effective” project-level grievance mechanism as including the same seven elements plus an eighth: that it be “based on engagement and dialogue.” USAID must ensure its response to the Explanatory Statement meets this definition of “effective.”

² See Rights and Accountability in Development, Principles without Justice: The Corporate Takeover of Human Rights (Mar. 2015), <http://www.raid-uk.org/sites/default/files/principles-justice-summary.pdf>.

that may not be appropriate for a PLGM. The IAM can increase the effectiveness of project-level grievance mechanisms through its advisory work, similar to how the International Finance Corporation’s Compliance Advisor/Ombudsman created a Grievance Mechanism Toolkit for project-level mechanisms.³ To ensure that PLGMs are effective, USAID should also institute a process to systematically monitor and audit the effectiveness of its implementing partners’ PGLMs. Each implementing partner should be required to regularly report to USAID on the complaints that their PLGMs have received and how those complaints have been addressed.

An agency-wide Independent Accountability Mechanism at USAID would enhance accountability for both implementing partners and the agency.

- **Enhancing Project Implementer Accountability:** An IAM would greatly enhance the accountability of project implementers. The IAM would investigate implementing partners’ compliance with USAID’s policies and standards. The IAM’s dispute resolution function would give implementing partners the opportunity to constructively dialogue and reach solutions with complainants through a process facilitated by a neutral mediator. Information from IAM cases would provide USAID detailed information on implementing partners’ practices, identifying problematic implementing partners and giving USAID the opportunity to work with them to remediate challenges or decide not to work with that implementing partner again in the future.
- **Enhancing USAID Accountability:** An IAM would likewise enhance the accountability of USAID. In addition to examining an implementing partner’s compliance, the IAM would also examine USAID’s actions or inactions related to projects. USAID could also participate as a voluntary party to a dispute resolution process. Through the complaint process, USAID could detect problems in a project’s design, implementation, or viability, correct them at the outset, and prevent them from occurring in future projects. They would also help USAID diagnose weaknesses in its operations, management, or systems and determine how to improve them.

To be effective, USAID’s accountability framework should be agency-wide. The USAID accountability framework should apply to all of USAID’s projects, including those related to protected areas or national parks. The risk of harm to communities and the environment is not limited to certain sectors. Establishing an accountability framework to address grievances from only a subset of USAID’s operations would not be cost effective – as it would have a silo-ing effect by creating a new office and process for a narrow subset of projects – and it would severely limit the agency’s ability to apply lessons learned. Further, an agency-wide accountability framework would better ensure accountability for implementers and the agency in national parks and protected areas projects, as the framework would have full institutional buy-in and attention.

³ *Grievance Mechanism Toolkit*, Compliance Advisor Ombudsman, <https://www.cao-grm.org/> (last visited 5 May 2020).