



ADVOCACY ADVISOR
A Humentum Government Affairs & Advocacy Update
Third & Fourth Quarters, 2021

GLOBAL DEVELOPMENT: ADVANCING A LOCALLY-LED AGENDA

On the 60th anniversary of USAID in November, Administrator Samantha Power announced a new, inclusive global development strategy for the agency. Her remarks come at the convergence of several critical events that make this a promising time for lasting change.

First, despite its worldwide devastation, the COVID-19 pandemic disrupted the status quo of aid delivery. When international organizations and their expat staff could not travel or remain in post, local staff were ready and equipped to carry out programming in their own communities. For USAID, FSNs were key in maintaining the Agency's operations and programming during the height of the global pandemic. The pandemic also re-shone a spotlight on existing injustices and inequalities within the United States, and worldwide.

Second, the global movement for racial equity has necessitated conversations around institutional racism, privilege, and power relations in many INGOs. This intersection of the pandemic and the equity movement has made it all but impossible for donors and INGOs alike to ignore the colonial and racist underpinnings of the sector. Building on this awakening, organizations and practitioners from across the globe also have pushed locally-led development to the fore.

Finally, and not insignificantly, there is rare bi-partisan support for locally-led development in Congress. Yet, for a more inclusive agenda to take root and not be undermined by the shifting political winds of each new administration, we must endeavor to bridge the divides that exist between entrenched interests and agents for change. Administrator Power took the first step in doing so by formally and forcefully acknowledging that prior reforms failed, in part, because of the lack of diversity, equity, and inclusion in the Agency's personnel and programming.

It is now on the sector to advance the growing consensus for change. Over the past year, Humentum has accompanied our members in doing just that. Humentum members have engaged in dialogue and self-examination, developed DEI policies and procedures, and invested in programming co-creation with local actors and entities in a more concerted way. Remarkably, we have also seen INGOs merge, consolidate, and even fully cede power to local groups for the first time in history. Our work with INGO leaders and practitioners has revealed an overwhelming willingness to shift power to local actors that must be replicated on a sector-wide scale.

As we move into 2022, the sector must also continue to engage the administration and Congress on the procurement and compliance policy reforms that will enable a development ecosystem supportive of and conducive to locally-led development. Humentum stands at the ready to do so.

HUMENTUM GOVERNMENT AFFAIRS AND ADVOCACY

✓ **Engaging in Thought Leadership**

Section 889: US Chinese Telecoms Clause Causing Headaches for NGOs (December 2, 2021). Read David Ainsworth's latest Devex article on one of the latest challenges for NGOs, Section 889 of the National Defense Authorization Act, featuring Humentum's own Cynthia Smith.

Operationalizing USAID's New Vision for Global Development (November 29, 2021). Cynthia Smith and Jenna Thoretz discuss what is required to turn policy propositions such as those outlined by USAID Administrator Samantha Power on Nov. 4 into reality.

One INGO's Journey to Work Themselves Out of a Job (November 19, 2021) In October 2021, Health Alliance International announced its intentional dissolution. From the decision-making process and the conditions that enabled it to happen, join Humentum's Kim Kucinkas as she sits down with Tracy Woodman to learn more.

What Implementing Partners need to know about the USAID Office of Inspector General (November 17, 2021). Humentum hosted a webinar with the USAID Office of the Inspector General (OIG) to explore its current priorities, including misuse of funds, digital fraud and preventing PSEAH. Join Jessica Walker and Cynthia Smith as they walk Implementing Partners through the OIG's approach.

Opinion: How INGO CEOs are acting their way into the future (October 22, 2021). Our CEO Christine Sow along with a cohort of other INGO CEOs have been discussing the future of leadership in international development. Learn more in this morning's OpEd with Devex.

SEAH Safeguarding: Operationalizing Preventative Measures (September 20, 2021). Sonam Penzo and Humentum's Cynthia Smith discuss the importance of safeguarding measures to prevent SEAH abuses, outlining the proactive steps organizations can take. Learn more about the support Humentum offers to help build an organizational culture that values safeguarding.

Global Development: Reassembling our World of Work (August 3, 2021). Humentum's Kim Kucinkas shares our OpEx365 zine—a visual storyboard offering

recommendations for acting our way into the future. What does it mean to truly re-imagine our world of work?

✓ Navigating Regional Crises and Sectoral Challenges

○ Ethiopia

The ongoing [conflict in the Tigray region of Ethiopia](#) has exacerbated a humanitarian crisis affecting some 23 million. An ongoing humanitarian blockade, the lack of consistent communication, food insecurity, and mass displacement have left USG implementing partners scrambling for operational solutions to issues that range from banking and payroll administration to duty of care to and safeguarding of local personnel who may be targeted in the conflict. In November, Humentum engaged member organizations in a roundtable discussion about their concerns and continues to field questions and provide updates on donor-related guidance as the situation on the ground continues to shift.

○ Afghanistan

Since the US military withdrawal from [Afghanistan](#), and the Taliban exercise of control over the government in August 2021, Humentum has been engaged in weekly or bi-weekly meetings and/or outreach with USAID, USDOS, and member organizations alike to address emergent risk and compliance matters as they arise. In September, Humentum convened member organizations to identify operational challenges on the ground. These ranged from clarifying the process for evacuations and the status of Special Immigrant Visa (SIV), P-1 and P-2 applications to identifying solutions for staff payroll amid a banking and cash liquidity crisis and local personnel safety.

○ COVID-19 Pandemic

For nearly two years, Humentum has regularly tracked federal government agency policy and guidance to its implementing partners regarding the COVID-19 pandemic and its impacts on funding, compliance, and implementation challenges and opportunities across the globe. In recent months, the government's focus has been on ensuring federal workforce and contractor health and safety, augmenting access to the vaccine globally, and facilitating the slow transition to a post-COVID-19 operational environment.

Of note for the sector, on November 5, 2021, the Occupational Safety and Health Administration (OSHA) published its [Emergency Temporary Standard \(ETS\)](#). The ETS mandates COVID-19 vaccination or testing for employees of all large businesses, which are defined as those with 100 or more employees.

On November 10, 2021, the [Safer Federal Workforce Task Force](#), updated its September 24, 2021, [Guidance](#) for Federal Contractors and Subcontractors pursuant to EO 14042. The Guidance requires covered federal contractors to mandate employee vaccinations

and follow masking guidelines. The vaccination deadline for covered contractors is now January 18, 2022.

For further analysis of the scope and requirements of both the OSHA ETS and the Task Force Guidance, *as well as current litigation to stay their implementation*, please see this [article](#).

- **Section 889 of the National Defense Authorization Act (NDAA) FY19**

Humentum continues to work on finding answers to the challenges of compliance with Section 889 of NDAA FY19 restrictions on the use of certain prohibited technologies. In recent months, we have both individually and in coalition with Humentum member organizations and other sector associations continued to approach USAID, USDA, USDOS, OMB, and related entities on the issue. Since this is a whole of government challenge, it requires a whole of government solution. No one federal donor agency can ensure clarity and consistency across the government. We will continue our outreach and advocacy on this matter.

Of note, please see the November 29, 2021, Devex (under Thought Leadership) 889 article citing Humentum's Director of Government Affairs. Also, in November, USAID shared with Humentum that it has received a Modified Foreign Assistance (FA) waiver. They are in the process of developing guidance to implement the Modified FA waiver for both acquisition and assistance. Like the original FA waiver, the Modified FA waiver is meant to support the Agency's foreign assistance mission and only applies to supplies used or services performed overseas. Also, the Modified FA waiver has further limitations and can only be applied in situations where 889-compliant telecommunications equipment and services are unavailable in the countries where contractors or recipients are working. The current 889 waiver, which has been made applicable only to assistance funding, and issued to USAID by the Office of the Director of National Intelligence in 2020, expires in September 2022. At the time of this writing, there is no information available on similar waivers beyond September 2022 for other federal government agencies.

- ✓ **Advancing Key Operational Policy Priorities**

- **Diversity, Equity, and Inclusion in Global Development**

Building on its co-design and launch of the [Benchmarking Race, Inclusion, and Diversity in Global Engagement, or BRIDGE, survey](#), an institutional survey of U.S.-based development and humanitarian organizations, Humentum convened members in dialogue around the principles of DEI in global development operations. BRIDGE survey data painted a startling picture of inequity and uneven power dynamics. Over the course of the last six months, Humentum has sustained the conversation around these findings through roundtables, deep-dives, spot-polls, and webinars. We examined DEI in this new world of work, employee recruitment, advancement, and compensation, donor funding, program design and implementation, and the like. We memorialized some of these learnings in thought leadership pieces and engaged select government agencies in sustaining the conversation.

For instance, pursuant to [Executive Order 13985](#), Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, USAID and USDOS, engaged the implementing community in dialogue on equity in programming and partnerships. As part of these dialogues, Humentum and its members provided input and insights. On June 29, 2021, Humentum invited USDOS/F/Policy Director Roman Napoli and his co-coordinators of the USDOS Agency Equity Team Working Group on Leveraging Programming, Grants, and Foreign Assistance to Advance Racial Equity and Support Underserved Communities to a webinar discussion with Humentum members on equity in DOS programming and partnerships. Materials and a recording of the webinar can be found [here](#).

We also engaged with others in the sector to examine how we can work together to change donor policy and practice to be more inclusive, equitable, and diverse. To this end, in the Fall of 2021, Humentum joined UK-based Bond's Changing Donor Policy and Practice Group. We are also engaged with several other sector-based change initiatives, including RINGO.

- **Locally-Led Global Development**

Humentum supports its members and the sector in advancing a more equitable, resilient, and inclusive development agenda, where the design, implementation, and evaluation of donor programming is more localized and decision-making authorities are decentralized. Doing this requires a shift in how donors procure and INGOs support the sector. Foundational is ensuring that where the US government donor agencies operate with foreign assistance and related funding, they ensure full cost recovery not just among their US-based partners, but also local and national partnering NGOs.

In Summer 2021, Humentum gathered data from non-US based, “foreign” organizations with funding as either a prime or sub from the Centers for Disease Control and Prevention, and other US Department of Health and Human Services (DHHS) donor entities. In an October [letter](#), Humentum outlined the programmatic and administrative challenges such organizations have implementing CDC funding, given its 8 percent cap on indirect cost recovery for foreign-based entities. In its [response](#), the CDC indicated it could not order a review of this policy as it was within the sole authority of HHS to do so. Humentum is advocating with HHS to review the policy and consider full cost recovery for of its implementing partners – foreign and domestic alike – in keeping with the Administration’s prioritization of greater locally-led development.

In November 2021, Humentum convened members and local organizations alike for a webinar and dialogue with former senior policy appointee to USAID, Randy Tift, to examine the current and future state of USAID locally-led development policy reform. Members identified operational challenges and opportunities which will inform a CGD-sponsored policy reform paper Tift is drafting.

- **Prevention of Sexual Exploitation and Abuse (PSEAH)**

Humentum advocates for policies and practices that advance the prevention of sexual exploitation and abuse in the sector. In addition to our thought leadership over the last quarter, we continued our partnership with CHS Alliance to finalize a training scheme to improve the quality of safeguarding investigations. The training curriculum and manual are in final stages and have benefitted from the review and input of both UK FCDO and USAID technical experts, among others.

- **Participatory Development of International Financial Reporting Guidance for NPOs**

Humentum and the Chartered Institute of Public Finance and Accountancy (CIPFA) released an IFR4NPO Consultation Paper to give non-profit organizations around the world the opportunity to contribute to the development of international financial reporting for the sector. There are no common international accounting standards for NPOs, unlike in the private and public sectors. And, only a few jurisdictions have developed guidance that address the unique characteristics of NPOs and the types of transactions they undertake. Feedback to this Consultation Paper will shape the future of financial reporting in this important but diverse sector. In recent months, Humentum continued its regional consultations across the globe and convened the various advisory groups to the project, including its Donor Reference Group (DRG). The DRG is composed of bilateral, multilateral, and private foundation donor agencies, including USAID, UK FCDO, the World Bank, the Ford Foundation, Open Society Foundation, among others.

- **Full-Cost Recovery: Administration Costs Research (ACR)**

Over the last two quarters, Humentum was commissioned by the community of international grant-making foundations to study the impact of restricted and only partial administration cost funding of NGOs across the globe. Restricted project funding does not typically cover the full share of the administration costs organizations incur, such as organizational management, finance, human resources, head office rent, and utilities. Because administration is essential to the effective, efficient, and safe delivery of projects, NGOs that lack sufficient funding for such costs are hamstrung. Alternatively, they must rely on limited reserves or unrestricted income, if it exists. A general reluctance among NGOs to reveal their full administration costs further exacerbates this conundrum. There is a misperception in the sector that expenditure in these areas demonstrates inefficiency and undermines legitimacy. This creates a vicious cycle of organizations reporting artificially deflated administrative costs and funders unclear whether they cover an appropriate allocation. In the coming months, Humentum will finalize its research and analysis and share findings, as available. We will also continue to advocate for all donors, public and private alike, to provide unrestricted funding or full cost recovery of both direct and indirect costs, to their implementing partners.

✓ Responding to Discrete Member Operational Issues and Regulatory Matters

In addition to navigating select regional and operational crises and promoting its proactive policy agenda, Humentum responds to discrete member operational issues and concerns as they arise. These can include anything from a question about donor policy or practice and interpretation of a new presidential executive order to a request for a sample safeguarding policy. Humentum builds relationships with various offices of key donor agencies to field these questions on behalf of our members in an anonymized fashion.

Over the last two quarters, Humentum convened member webinars with the USAID Offices of the Ombudsman, Inspector General, and Acquisition and Assistance to address key areas of concern to members. In response to questions raised to the Office of the Ombudsman, Humentum received the following [these partial responses](#) in November 2021. Humentum will continue to advocate with the Office to fully respond to these and other inquiries as they arise. Additionally, we are in communication with Steve Mackey at OMB regarding select member questions that the agency has committed to answering.

Humentum also continues to engage in the regulatory process when there are issues impacting our members. We respond to USG donor agency notices of information collection and notice and comment periods for proposed regulation in the Federal Register. In 2020, Humentum [submitted comments](#) in response to a USAID notice of a proposed information collection on USAID-funded education activities. In September 2021, USAID posted a related notice for OMB approval of this collection and a thirty-day comment period in the Federal Register, to which Humentum responded. In November, we received [USAID's response](#) to our combined questions and concerns.

KEY USG DONOR POLICY AND GUIDANCE UPDATES

➤ EXECUTIVE OFFICE OF THE PRESIDENT

○ Executive Orders

Action: Executive Orders.

Summary: Since taking office in January 2021, President Biden has issued [72 Executive Orders](#). Those of note for the sector from the past two quarters:

EO 14042: [Ensuring Adequate COVID Safety Protocols for Federal Contractors](#) (September 14, 2021)

EO 14043: [Requiring Coronavirus Disease 2019 Vaccination for Federal Employees](#) (September 14, 2021)

[EO 14035](#): Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce (June 30, 2021)

- **Presidential Statements**

Action: Presidential Statement.

Summary: On October 22, 2021, the Biden-Harris Administration announced the first-ever [National Gender Equity and Equality Strategy](#). Here is the [report](#) outlining the goals and objectives of the strategy.

Action: Presidential Statement.

Summary: On July 1, 2021, the Office of the President issued a [statement](#) announcing the [US COVID-19 Global Response and Recovery Framework](#).

- **EXECUTIVE OFFICE OF THE PRESIDENT, WHITE HOUSE COVID-19 RESPONSE TEAM, SAFER FEDERAL WORKFORCE TASK FORCE (LED BY THE GENERAL SERVICES ADMINISTRATION AND THE OFFICE OF PERSONNEL MANAGEMENT)**

Action: Guidance.

Summary: On November 12, 2021, the Task Force updated its September 2021, [Guidance](#) to Federal Contractors and Subcontractors on the implementation of EO 14042. The Task Force also maintains a [current FAQs](#) on its website.

- **EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET (OMB)/OFFICE OF FEDERAL FINANCIAL MANAGEMENT (OFFM)**

Action: Compliance Supplement.

Summary: On August 25, 2021, OMB/OFFM issued [2021 Compliance Supplement – 2 CFR Part 200 Appendix XI](#).

Action: Financial Reporting Requirements.

Summary: On August 20, 2021, OMB/OFFM issued [OMB Circular A-136](#), Financial Reporting Requirements – Revised.

- **EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET (OMB)/OFFICE FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)**

Action: Approval of Information Collection Request for Affirmative Action Program Verification Interface.

Summary: On August 31, 2021, OMB approved OFCCP's information collection request for the Affirmative Action Program Verification Interface through a new online portal: the "Contractor Portal." Covered federal contractors and subcontractors must use the portal to certify annually whether they have developed and maintained an affirmative action program. On February 1, 2022, contractors may register for access to the portal. Covered federal contractors in OFCCP's jurisdiction will also receive an email invite to register. On March 31, 2022, contractors can use the certification feature to certify their compliance.

By June 30, 2022, contractors must certify. Additional information, including [Frequently Asked Questions](#), can be found on OFCCP's [Contractor Portal Landing Page](#).

➤ **EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET (OMB)**

Action: Memorandum.

Summary: On December 3, 2021, OMB issued [M-22-04 Promoting Accountability through Cooperation among Agencies and Inspectors General](#), emphasizing the responsibility and expectation of the Agencies to ensure cooperation with and among the various OIG across the federal government.

Action: Memorandum.

Summary: On December 2, 2021, OMB issued [M-22-03 Advancing Equity in Federal Procurement](#), outlining specific steps each federal Agency must take to advance greater equity in all federal procurement actions.

➤ **US DEPARTMENT OF LABOR (DOL)/OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)**

Action: Emergency Temporary Standard (ETS).

Summary: On November 5, 2021, US DOL/OSHA published in the Federal Register a [COVID-19 Vaccination and Testing ETS](#), mandating that US companies with 100 employees or more require their employees to be vaccinated against the Coronavirus. The ETS is also proposal for a permanent standard. Written comments on the ETS must be submitted by January 19, 2022 to www.regulations.gov in Docket number OSHA-2021-0007.

NOTE: On November 12, 2021, the US Court of Appeals for the Fifth Circuit granted a motion to stay OSHA's ETS. The US Court of Appeals for the Sixth Circuit now has jurisdiction over all ETS legal challenges. The DOL has filed a motion to lift the stay. In the meantime, OSHA has suspended all activities related to implementation and enforcement of the ETS pending the outcome of litigation. The comment period remains the same, however.

➤ **US AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID)**

○ **FY2022 First Quarter New Business Forecast**

On December 16, 2022, USAID will host its FY22 First Quarter New Business Forecast webinar. A full list of responses to the General, Washington, and Mission questions submitted, as well as a transcript and recording of the webinar, will be available on [USAID's Business Forecast page](#), along with FAQs and recordings from prior webinars.

- **Inclusive Global Development Strategy**

In November, 2021, USAID Administrator Samantha Power outlined “[A New Vision for Global Development](#),” which places inclusive development at the fore of USAID’s agenda. Power stressed the importance of diversity, equity, and inclusion, localization, and evidence-based decision making in this new vision. As part of this vision, USAID also announced the launch of www.workwithusaid.org. The site serves as a new resource hub for existing and new local and international USAID implementing partners.

- **USAID AAPD on EO 14042 COVID-19 Vaccination Requirement Contract Clause**

On November 12, 2021, USAID issued Acquisition and Assistance Policy Directive ([AAPD](#)) [21-04 Revision 2](#): EXECUTIVE ORDER 14042 ON ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL AWARDS (FAR Deviation No. M-OAA-DEV-FAR-22-01c). This follows on USAID/M/OAA Director Mark Walther’s September 29, 2021, [letter](#) to implementing partners regarding a forthcoming contract clause that will encapsulate IPs responsibilities pursuant to EO 14042.

- **Local Capacity Development Strategy**

On December 8, USAID released a [local capacity development strategy for the Agency](#), which is now open for review and comment through January 2022.

HOW YOU CAN BE INVOLVED

- ✓ Visit the **Humentum Connect Government Affairs & Advocacy Community** for real-time updates on these and other related outreach, engagement, and advocacy opportunities
- ✓ Visit our [Advocacy webpage](#) for a clearinghouse of Humentum advocacy action items and updates
- ✓ **Reach out** to Cynthia Smith, Director of Government Affairs & Advocacy at: Cynthia.Smith@Humentum.org with any questions, concerns, or suggestions regarding current or needed advocacy with donor agencies on the sector’s behalf. Please also join Cynthia for once quarterly Member Office Hours to discuss any concerns, questions, or information that you are confronting as you implement donor funding
- ✓ **Take advantage** of Humentum’s topical webinars and roundtables on donor policies and critical issues, as they arise
- ✓ **Participate in peer-to-peer dialogue** and effective practice and tool sharing on Humentum Connect
- ✓ **Engage in Humentum-facilitated collection, analysis, and submission of comments to pertinent USAID and USDOS notices published in the US Federal Register.** For more information on Humentum’s advocacy through administrative rulemaking and information collections pursuant to regulation, please see [Humentum Connect](#) or our [Advocacy webpage](#)

DISCLAIMER: This *Advocacy Advisor* is intended for informational purposes only and should not be construed as legal or professional advice on any subject matter.