



December 4, 2023

VIA ELECTRONIC SUBMISSION

Steven Mackey
Policy Analyst
Office of Federal Financial Management
Office of Management and Budget
Executive Office of the President
<https://www.regulations.gov/>

RE: Humentum Response to OMB Guidance for Grants and Agreements, published at 88 FR 69390 et seq.

Dear Mr. Mackey:

On behalf of Humentum, I write in response to the Office of Management and Budget (OMB) Guidance for Grants and Agreements, Document Number 2023-21078, published at 88 FR 69390 et seq. (October 5, 2023).

Humentum works to make global development more equitable, resilient, and accountable. We do this by unlocking the strategic power of operating models for social good. We focus on practical solutions to improve the effectiveness of the institutional architecture, funding and financial systems, people and culture, and risk and compliance processes among donors, international non-governmental organizations (INGOs), and local civil society organizations (CSOs).

Humentum's over 270 member organizations receive and administer billions of dollars in federal grants and cooperative agreements from a variety of federal awarding agencies including the Departments of State, Health and Human Services, Labor, Justice, and the U.S. Agency for International Development. Collectively, we are experts on the policies and procedures used to administer these awards and the unique challenges they present when operating outside the United States and interacting with other governments and non-US based entities.

Humentum supports or recommends the following revisions to 2 CFR 200 which we believe will reduce or avoid burden, simplify language, increase clarity, or reduce misinterpretation or potential conflict among federal agencies, recipients, subrecipients, and other stakeholders:

- [2 CFR 200.403(h) and 2 CFR 200.472(b)] Humentum supports the introduction of allowability of administrative closeout costs incurred after the end of the award period of performance, until the due date of final reports.
- [2 CFR 200.1] Humentum supports the revised definition of *Equipment* and the corresponding definition of *Supply* with an increased threshold of \$10,000.

- [2 CFR 200.111] Humentum supports OMB allowing translation of award and funding documents to languages other than English. The English-only requirement has served as a major barrier to non-US entities' ability to apply for funding and work with USAID and other Federal agencies administering U.S. Foreign Assistance. As such, we recommend that OMB strengthen this provision even further to state that when administering programs in foreign countries where the primary language is not English, Federal agencies "will" (rather than "may") translate key award and other documents into the relevant language.
- [2 CFR 200.414(f)] Humentum supports the change in the *de minimis* indirect cost rate to 15 percent (and the revised calculation for modified total direct costs). In the final guidance, however, OMB should clarify that the change would allow a recipient or subrecipient, US and non-US entities alike, to employ a *de minimis* rate of 15 percent without the need for preparation of underlying documentation.
- [2 CFR 200.501(a)] Humentum supports the increase of the federal award expenditure threshold for those recipients and subrecipients that are subject to the Single Audit Act to \$1,000,000. However, we urge that a general statement be made within 2 CFR 200.501 (like what is presented there for commercial organizations) stating a consistent governmentwide policy about the audit of non-US entities that are recipients or subrecipients of federal awards. This is necessary because in certain countries across the world, the single audit requirements are oftentimes difficult or nearly impossible to comply with. In many instances, this is because local firms lack experience and expertise in these kinds of audits. Humentum recommends that OMB include the option, when the single audit requirements cannot be met, that a waiver be made available, and that the entity instead complete an audit in compliance with international standards.
- [2 CFR 200.1] Humentum suggests the following definition changes:
 - The proposed definition of "Participant" should be revised to explicitly state that the term includes those individuals who attend training sessions since that activity is a common one conducted by recipients and subrecipients.
 - The proposed definition of "Prior approval" does not include the word "prior." Coupled with the apparent elimination of the concept of the term "advance understanding," this raises questions about how prior approval will be effectuated in individual cases. It is gratifying to see that OMB is reducing the number costs and administrative actions that require awarding agency approval. However, Humentum urges OMB to clarify the circumstances under which prior approval, approval (such as for pre-award costs), and ratification (after the fact acceptance of failure to obtain prior approval) are permissible.

- [2 CFR 200.425] Humentum recommends that OMB add language to the section on audit costs that establishes that the cost of routine program monitoring and evaluation of subrecipients, as required by 2 CFR 200.332, is an allowable cost.
- [2 CFR 200.414(h)] Humentum supports OMB's decision to defer public posting of organizational negotiated indirect cost rate agreements and sees little positive rationale for OMB to even consider doing so at some later date. Numerous factors go into the legitimate differences that result when indirect cost rates are calculated. Such posting would lead to little more than needless comparison of diverse indirect cost rates among organizations and would open the door to possibly inappropriate and arbitrary policy issuances based on the data compiled.
- [2 CFR 25.110(b)] Despite OMB's efforts to attempt to clarify sections of 2 CFR 25 related to obtaining a Uniform Entity Identifier (UEI) number and their relationship to the reporting requirements under the Federal Funding Accountability and Transparency Act and 2 CFR 170, Humentum members continue to identify circumstances where the two policies do not align, creating policy gaps and burden as pass-through entities attempt to carry out the steps necessary for compliance. Humentum appreciates the clarifications that the requirement to obtain a UEI does not extend to second tier subrecipients or to contractors. However, given the relatively limited benefit to certain small entities obtaining a UEI when their awards are not reportable under 2 CFR 170, OMB should consider making a class deviation for awards and subawards of less than \$30,000 which would align with the threshold for first tier subaward reporting under 2 CFR 170.

Further, UEI and SAM.gov registrations have proven to be a major barrier for many foreign entities whose engagement is vital to realize U.S. foreign policy objectives. Completing these registration processes can be particularly challenging during a humanitarian emergency when local aid organizations that are first responders must prioritize the immediate needs of affected populations. Accordingly, Humentum supports OMB's proposal that Federal agencies have the option to provide recipients an additional 90 days if exigent circumstances persist, and to grant a one-time exception to the requirement as applicable.

- [2 CFR 200.201(a); 2 CFR 200, Appendix I] Humentum supports OMB's objectives related to the revision of the standard solicitation for federal funding opportunities contained in 2 CFR 200, Appendix I and appreciates the continuation of the requirement that federal awarding agencies must identify the nature of "substantial involvement" that they anticipate as part of the decision to award cooperative agreements. However, Humentum members continue to experience expansive interpretation of the concept of substantial involvement by some federal officials which extends to micromanagement and inappropriate and unauthorized imposition of prior approvals. Humentum suggests that further guidance about the selection of the cooperative agreement instrument be included in 2 CFR 200.201(a), clarifying with examples the types of involvement considered valid and the types that would be considered invalid. Section G of the

guidance, which OMB issued to implement the Federal Grant and Cooperative Act (43 FR 36860-36865), is well crafted and suited to this clarification.

Humentum applauds OMB's efforts to bring greater precision and clarity to 2 CFR. We believe that taken as a whole the proposed changes – coupled with our above recommendations – will help dismantle some of the existing barriers to the Federal Government's policy goal of locally-driven development. Thank you for your consideration of Humentum's comments.

Please direct any questions or follow-up to Cynthia Smith, Director of Global Initiatives, Humentum: cynthia.smith@humentum.org.

Sincerely,

DocuSigned by:
Christine Sow
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Dr. Christine Sow
President & Executive Director

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