



April 13, 2020

VIA ELECTRONIC SUBMISSION

Mr. Steve Mackey
Director of Federal Assistance
Office of the Procurement Executive
US Department of State
Washington, DC
mackeysp@state.gov

RE: Humentum Feedback on USDOS COVID-19 Guidance for Implementers

Dear Mr. Mackey:

Bob Lloyd, a member of Humentum's Government Relations Committee, reached out to me regarding your interest in receiving feedback on the interactions between Humentum members and State Department staff about the administrative flexibilities available under OMB Memorandum M-20-17.

As you may know, Humentum is a non-profit social enterprise dedicated to advancing the operational excellence of the global development sector. Humentum's 300 member organizations are among the largest and most productive implementers of US foreign assistance globally. On our membership's behalf, Humentum undertakes targeted outreach and advocacy with donor agencies in the United States. In this work, we identify obstacles to the effective implementation of foreign assistance, articulate our member's first-hand experiences, and propose dialogue and solutions that enable positive change. It is in that spirit that I write today.

To date, the US Department of State's guidance to its implementing partners on COVID-19 has consisted of a notification posted to the Agency's Office of the Procurement Executive website page. In this notice, USDOS states, in pertinent part, that it "is fully implementing OMB Memo M-20-17 and is encouraging all federal assistance personnel to allow for maximum flexibility in approving exemptions, extensions, and other administrative actions as authorized in the memo."

We appreciate the Agency's endorsement of the full flexibilities outlined in OMB Memo M-20-17. These flexibilities are vital to implementers' ability to pivot their administration of US

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foreign assistance quickly in response to the COVID-19 pandemic. On a whole, our members have expressed gratitude for the cooperation and engagement of their DOS counterparts. Here is a sampling of their comments:

- ✓ “We appreciate the efforts that the and the Department of State are making to ease the administrative burden during these difficult and unprecedented times. We have been granted some flexibilities related to COVID -19, mainly pertaining to urgent travel to relocate grantees, and are very appreciative of the Bureau staff (in the program and grants office) for assisting us in pivoting quickly in that regard.”
- ✓ “Although we have not asked for specific clarification on any of the exceptions noted in the memo, [our GOR] reiterated the exceptions during a call with us several weeks ago, and also proactively instituted a one-month extension for the forthcoming quarterly report. Separately, we shared with [our GOR] a contingency plan that outlined the potential impacts of COVID-19 on project activities. In general, she has been responsive and understanding of the need to be flexible during this time.”
- ✓ “In general, ... ECA staff have been very responsive and cooperative as we make program adjustments. We have also appreciated flexibility, for example on the granting of Fly America Act waivers.”
- ✓ “We did note on one of our BPRM projects that there was a very quick and smooth process working with the Department of State Award Officer to redirect award program activities toward COVID-19 response.”
- ✓ “The Office of International Visitors has allowed cancelation fees and penalties to be charged to the IVLP project for hotels and other expenses.”
- ✓ “[W]e did receive, and appreciate, the approval to continue to charge salaries and benefits to the award per section 6 of OMB Memo M-20-17 during the period that activities are disrupted.”

Despite this, our members have also highlighted inconsistencies in the Agency’s approach and response to requests from implementers for the flexibilities outlined in OMB Memo M-20-17. These include, but are not limited to, the following:

- “We have experienced challenges relating to a Department of State award stemming from the lack of consistent and coherent guidance. We were initially told by our Department of State program focal points to follow the safety guidelines of either the US Government or the country of implementation when implementing program activities. Within 24 hours, this guidance changed to an instruction to pause all program activities involving over 10 people. This guidance subsequently changed again with a request to pause all in-person activities regardless of the number of people involved. Not only is this not consistent with the guidelines currently provided by the host country government, it is also not consistent with the guidance USAID is providing in the same country.”
- “ECA appears to believe that OMB memo 20-17 speaks for itself, and little concrete guidance has been issued. This stance contrasts with the specific instructions that USAID has provided and the published Q/As it has released.”
- “Cost Extension Request due to Delayed Programs - The ECA Grants Office has been skeptical about our request for cost extensions due to programs being delayed beyond the end of an award. While we continue to discuss the issue with them, their stance does not

recognize the considerable amount of work that remains to be done to undo previous arrangements and to prepare in advance for the programs. We cannot put staff on hold for a few months and then pull them back out again to implement programs without spending adequate time planning them first. This issue is related to the item of *Allowability of salaries and other project activities* from the OMB memo, which specifies that “awarding agencies may evaluate the grantee's ability to resume the project activity in the future” in allowing grantees to continue to charge salaries and benefits during the delays caused by COVID-19.”

- “No cost extension on expiring awards – The approach to this has varied by office within ECA, with some encouraging NCEs and others not considering them at this time.”
- “Abbreviated NCC requests - We have received no concrete instructions on how to simplify our NCC renewal requests, apart from what the memo describes but do appreciate the opportunity to do NCCs when possible.”

Because of these and similar inconsistencies, our members have uniformly underscored the need for further and more detailed guidance from DOS. Here are some of their recommendations, which Humentum supports:

- ✓ “It would be helpful to have a clearer understanding of how the agency intends to implement the OMB authorized flexibilities. We were informed by DRL, for example, that it acknowledges the flexibilities, but all requests will be handled on a case-by-case basis. This does not seem efficient nor adaptive to the flexibilities OMB is allowing and the realities of the changing circumstances; rather, it creates uncertainties and the potential for inconsistent interpretations and actions. We recommend that DOS issue agency-wide guidance exercising the OMB flexibilities.”
- ✓ “It would be helpful if agency guidance confirmed that adding new activities that still contribute to the current approved objectives can be handled only through notifications, and do not require waiting to receive approval from the Grants Officer. AQM is notoriously slow even without the current circumstances.”
- ✓ “With respect to NICRAs, the following would be helpful: guidance issued to AOs/COs that year end spending will have to accommodate increases in rates, which may mean less funding available for next year program spending; where DOS is the cognizant agency, guidance on calculation of new provisional rates to ensure they are not skewed by the abnormality of 2020.”
- ✓ “We believe that Department-wide policies addressing some items in the OMB Memo M-20-17 would help us to pivot more quickly and effectively in response to the Department’s needs as the situation changes. I have detailed these below:
 - Abbreviated non-competitive continuation requests - We request that the Department of State accept abbreviated statements for all non-competitive requests and renewals. Recipients can submit a letter stating that they will administer the award substantially similar to the prior year’s award and specifically list any exceptions and deviations. Recipients would also provide a detailed budget.
 - Allowability of Salaries and other Project activities - We request that the Department of State adopt a policy to accept requests detailing the recipient’s continuation of salary and benefit payments (paid leave) when reasonable and necessary to avoid the inability to resume activities in the future.

- Allowability of Costs not Normally Chargeable to Awards - We request that the Department of State issue a statement allowing all cancellation costs reasonably incurred due to COVID-19 if the cost would have otherwise been allowable for the award.
- Prior approval requirement waivers - We request that the Department of State adopt a policy that additional or extraordinary programmatic costs incurred due to COVID-19 are allowable if the recipient receives direction to incur the cost in writing from the Grants Officer Representative or other delegate if approved in writing. This policy would supersede the normal requirement to request prior approval for such costs in writing to the Grants Officer and then to wait for any approvals. During this time, where time is of the essence, recipients should be able to assume that necessary internal State Department discussions are taking place. This policy would not supersede the allowability of costs requirements in 2 CFR 200.403.
- Additionally, it would be helpful for us to know the expected response times when submitting approval requests to the Grants Office.”
- ✓ “We suggest that Dept of State issue a memo [like] USAID OAA that specifically invokes the guidance from the OMB memo on flexibilities in response to COVID-19. The USAID memo on flexibilities provides for example: automatic no-cost extensions, automatic report deadline extensions, waivers on pre-approvals for certain costs required in the Uniform Guidance and allowing for costs incurred for canceled workshops, etc. The current Department of State directive is one paragraph found within the Office of Procurement site, which defers guidance down to the project Award Office...Implementors may be unaware of this posting on the Office of Procurement site since there was no announcement or memo made by Department of State Invoking the OMB guidance. Deferring all guidance down to the project Award Officer will also have the potential for inconsistent interpretation of the OMB guidance memo to federal agencies.
 - To that end, we also suggest adapting a FAQ similar to ... USAID, developed as a result of an implementor Town Hall held by USAID to seek out questions and guidance from the implementor community.
 - Within the USAID memo there is also very specific guidelines allowing implementors to continue paying project staff, charging salaries and incurring other costs when the project activities are on hold due to COVID. This will allow for the project to pick back up with minimal loss in capacity and resources once the crisis passes. We recommend this be spelled out in the Dept of State guidance to apply to all projects.
 - Recommend Department of State OIG provide guidance on fraud disclosure and implementor-led investigations during the crisis period. OIG should consider clarification and flexibility as for example: on site investigations may be hampered by government [lock]downs.”

Humentum appreciates the opportunity to provide our members’ feedback with you. On a related note, Humentum has a long history of hosting successful and productive dialogue between our members and your colleagues at USDOS, USAID, and other agencies. For instance, we recently hosted Roman Napoli in a discussion of USDOS FY21 Budget. We would be most pleased

to host you in a discussion of USDOS's response to COVID-19, with specific emphasis on implementing partner guidance. We can schedule such a webinar on a day and time convenient to you. In the meantime, please keep us abreast of any further guidance as it may evolve.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christine K. Sow', with a stylized flourish at the end.

Dr. Christine K. Sow
President and CEO

CKS/cms

Cc: Bob Lloyd, Humentum Members