



**COVID-19 UPDATE:
PATH OUT OF THE PANDEMIC –
NEW VACCINE MANDATES**

ACEC/MA Health & Safety Forum
September 27, 2021

**TOPICS TO BE
DISCUSSED**

Safer Federal Workforce Task Force

COVID-19 Workplace Safety: Guidance for
Federal Contractors and Subcontractors -
September 24, 2021

OSHA's 2nd Emergency Temporary Standard

Open Discussion

SAFER FEDERAL WORKFORCE TASK FORCE

- Established on Inauguration Day
- Significant Regulatory Actions
 - Federal Testing Plan for Federal Employees – April
 - “Reentry Plan” guidance – June
 - July 29 directive for federal agencies and certain on-site contractors
 - Federal agency model safety principles – September 13, 2021 (updated from July)
- Significant Role in Implementing the latest Executive Orders
 - September 16 – details for implementing the mandatory vaccine requirement for all covered agencies under E O 14042
 - September 24 – additional details for implementing E O 14043.

GUIDANCE FOR FEDERAL CONTRACTORS AND SUBCONTRACTORS

- Announced on September 9th as part of President Biden's Path Out of the Pandemic: COVID-19 Action Plan.
- This announcement included the requirement for the Safer Federal Workforce Task Force (Task Force) to issue guidance including definitions and explanation of protocols for compliance.
- Published this guidance on September 24, 2021, as indicated.

GUIDANCE FOR FEDERAL CONTRACTORS AND SUBCONTRACTORS

Key Definitions:

- Contractor or subcontractor workplace location – means a location where covered contract employees work, including a covered contractor workplace or Federal workplace.
- Covered contract – means any contract or contract-like instrument that includes the clause described in Section 2(a) of the order.
- Covered contractor – means a prime contractor or subcontractor at any tier who is party to a covered contract.

GUIDANCE FOR FEDERAL CONTRACTORS AND SUBCONTRACTORS

Key Definitions:

- Covered contractor employee – means any full-time or part-time employee of a covered contractor working on or in connection with a covered contract or working at a covered contractor workplace. This includes employees of covered contractors who are not themselves working on or in connection with a covered contract.

GUIDANCE FOR FEDERAL CONTRACTORS AND SUBCONTRACTORS

Requires Contract Clause applying to:

- Contracts awarded prior to October 15 where performance is ongoing – the requirements must be incorporated at the point at which an option is exercised, or an extension is made.
- New contracts – the requirements must be incorporated into contracts awarded on or after November 14. Between October 15 and November 14, agencies must include the clause in the solicitation and are encouraged to include the clause in contracts awarded during this time period but are not required to do so unless the solicitation for such contract was issued on or after October 15.

REQUIREMENTS OF COVERED CONTRACTORS

1. COVID-19 vaccination of covered contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation;
2. Compliance by individuals, including covered contractor employees and visitors, with the Guidance related to masking and physical distancing while in covered contractor workplaces; and
3. Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

COVID-19 VACCINATION OF COVERED CONTRACTOR EMPLOYEES

- Covered contractors must ensure that all covered contractor employees are fully vaccinated for COVID-19, unless the employee is legally entitled to an accommodation. Covered contractor employees must be fully vaccinated no later than December 8, 2021.

COVID-19 VACCINATION OF COVERED CONTRACTOR EMPLOYEES

- The covered contractor must review its covered employees' documentation to prove vaccination status.
- Covered contractors must require covered contractor employees to show or provide their employer with one of the following documents:
 - A copy of the record of immunization from a health care provider or pharmacy,
 - A copy of the COVID-19 Vaccination Record Card (CDC Form MLS-319813_r, published on September 3, 2020),
 - A copy of medical records documenting the vaccination,

COVID-19 VACCINATION OF COVERED CONTRACTOR EMPLOYEES

- A copy of immunization records from a public health or State immunization information system, or
- A copy of any other official documentation verifying vaccination with information on the vaccine name, date(s) of administration, and the name of health care professional or clinic site administering vaccine. Covered contractors may allow covered
- Contractor employees to show or provide to their employer a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record.

MASKING AND PHYSICAL DISTANCING

- Covered contractors must ensure that all individuals, including covered contractor employees and visitors, comply with published CDC guidance for masking and physical distancing at a covered contractor workplace, as discussed further in this Guidance.

DESIGNATION OF A PERSON TO COORDINATE COVID-19 WORKPLACE SAFETY EFFORTS

- Covered contractors shall designate a person or persons to coordinate implementation of and compliance with this Guidance and the workplace safety protocols detailed herein at covered contractor workplaces. The designated person or persons may be the same individual(s) responsible for implementing any additional COVID-19 workplace safety protocols required by local, State, or Federal law, and their responsibilities to coordinate COVID-19 workplace safety protocols may comprise some or all of their regular duties.

OTHER KEY INFO IN GUIDANCE

Do employers need to provide on-site vaccinations?

- Ensure employees are aware of convenient opportunities, but not required to provide on-site

Is Vaccination required for someone who has had COVID-19?

- Yes

Can a recent anti-body test prove vaccination status?

- No

OTHER KEY INFO IN GUIDANCE

How does this apply to employees who perform work remotely from their residence?

- An individual working on a covered contract from their residence is a covered contractor employee and must comply with the vaccination requirement for covered contractor employees, even if the employee never works at either a covered contractor workplace or Federal workplace during the performance of the contract.
- While in the residence the individual need not comply with requirements for covered contractor workplaces, including those related to masking and physical distancing, even while working on a covered contract.

OTHER KEY INFO IN GUIDANCE

Can a contractor comply with requirements from OSHA, including the forthcoming ETS instead of this guidance?

- No

OSHA EMERGENCY TEMPORARY STANDARD #2 FORTHCOMING

Expected requirements:

- Applicable to companies with >100 employees
- “Soft” Vaccine mandate that includes a testing alternative
- Paid Sick Leave guidance
- How to manage medical or religious exemptions

Open Questions?

- Effective Dates
- Apply to subcontractors with < 100 employees?
- Applicable to fully remote or “hybrid” employees?
- Do companies have to provide testing option?



OPEN DISCUSSION, REACTION,
QUESTIONS