

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

FEDS FOR MEDICAL FREEDOM, et al.,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	No. 3:21-cv-356
	)	
JOSEPH R. BIDEN, JR., et al.,	)	
	)	
<i>Defendants.</i>	)	

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**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION  
AND MEMORANDUM OF LAW IN SUPPORT**

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## INTRODUCTION

Hundreds of thousands of Americans—including the named individual Plaintiffs in this suit—who serve as federal employees and contractors have been put in an intolerable bind: either submit to forced vaccination pursuant to illegal agency mandates, or forfeit a career built up over years or decades of faithful public service. This Court should issue a preliminary injunction to protect these critical workers from the Executive’s overreach.

In September 2021, as part of an acknowledged “work-around” for the absence of valid authority, *BST Holdings, L.L.C. v. OSHA*, 17 F.4th 604, 612 n.13 (5th Cir. 2021), the President issued Executive Orders directing all federal agencies and nearly all federal contractors to vaccinate their workers—or terminate them. Every federal agency has now mandated that its employees be fully vaccinated by November 22, 2021, or face cascading discipline, up to termination. That process has begun. One Plaintiff has received written notice that he will be fired on January 10, 2022. Others have received written warnings.

Similarly, all defendant agencies, acting pursuant to “guidance” from the Office of Management and Budget and Federal Acquisition Regulatory Council, are requiring that nearly all government contracts include a clause requiring contractors to have fully vaccinated almost all employees by January 18, 2021 (which, given the 14-day lag time, means the last necessary shot must have been administered on or before January 4, 2021).

These mandates are reviewable under the long-established *ultra vires* cause of action. As court after court across the country has now held in rejecting these types of federal vaccine mandates, none of the purported statutory authorities relied on by Defendants contain “clear language” allowing the Executive branch to undertake the

economically and politically seismic act of mandating vaccines for so many Americans—an area of law traditionally reserved to the States—under the guise of “procurement” and employee “conduct” regulations. Because the President acted beyond his lawful delegated authority in issuing the Executive Orders, and thus the defendant agencies have likewise acted beyond their lawful authority in implementing the mandates, the Court should enjoin all defendants (except the President himself) from enforcing the mandates.

Even if there were statutory authority to issue these sweeping mandates, they still fail to comply with basic requirements of administrative law. As the Fifth Circuit has made clear, the Court’s review under the Administrative Procedure Act “has serious bite” and requires not only that the agencies reach an acceptable result, but that they provide a proper explanation. *Wages & White Lion Invs., L.L.C. v. FDA*, 16 F.4th 1130, 1136 (5th Cir. 2021).

Defendant agencies have adopted the Safer Federal Workplace Task Force’s guidance and made it binding on their employees. By doing so, the agencies’ acts became subject to APA review. Their mandates often provide extensive lists of requirements—but almost zero rationale. Even if agencies could borrow rationale from the Task Force guidance itself, it provides no help. The explanation of the mandate for federal employees consists of a single sentence: “To ensure the safety of the Federal workforce, Federal employees must be fully vaccinated, except in limited circumstances where an employee is legally entitled to a reasonable accommodation.”

Such conclusory remarks fail the reasoned-decisionmaking requirement for agency action, especially given that the challenged actions fail to address, consider, or even acknowledge dozens of critical legal, factual, and economic issues and questions about the

reasoning for such sweeping agency action. For example:

- There is no recognition of an alternative mechanism for compliance, such as testing and masking, even though the contemporaneous OSHA mandate for companies with 100 or more employees allows for testing and masking in lieu of mandatory vaccination and *expressly found that the two schemes “provide roughly equivalent protection.”* It is arbitrary to treat similarly situated workers in such a different manner, but it is especially absurd not to even *consider* such an alternative for federal employees and contractors.
- Vaccines are mandated for every employee, yet a separate OSHA rule for frontline healthcare workers (those *most* at risk of being exposed to COVID) concluded that even though such workers face a “grave danger” from COVID, there was no need for a vaccine mandate.
- No explanation is provided for why employees with documented COVID antibodies must take the jab.
- No differentiation is made based on agency or workplace—even employees who work from home at all times must get injected.

The mandate for contractors likewise failed to consider the important issues above, or to review relevant data (and the government’s later “do-over” does not solve those flaws), and is also in excess of authority because it violates statutes providing that only the FAR Council can issue government-wide procurement rules.

With so many statutory and procedural flaws, the employee and contractor mandates are likely to be held invalid.

The remaining requirements for a preliminary injunction are also satisfied. As the Fifth Circuit has recognized, employment actions that damage an employee's reputation, as well as those that effectively preclude him from entire fields of employment, are "irreparable." The President labels unvaccinated employees as dangerous and selfish to the point that they are "kill[ing]" others. This is far from an ordinary employment dispute. Plaintiffs also include individuals whose termination would have uniquely devastating consequences. For example, Plaintiff Joshua Roberts's hopes of adopting two foster infants in his family's care may be dashed if he loses his job. If that is not irreparable, nothing is.

Finally, it would be catastrophic to the security and functioning of the government if Defendants follow through on their threats to suspend and terminate unvaccinated workers, who number at least in the hundreds of thousands and perform critical work for the nation.

## **STATEMENT OF FACTS**

### **A. President Biden's COVID Actions**

On January 20, 2021, President Biden established the Safer Federal Workforce Task Force and charged it with "provid[ing] ongoing guidance to heads of agencies on the operation of the Federal Government, the safety of its employees, and the continuity of Government functions during the COVID-19 pandemic." 86 Fed. Reg. 7045, 7046.

On September 9, 2021, President Biden announced that he would issue a slew of vaccine mandates "to protect vaccinated workers from unvaccinated co-workers." Joseph Biden, *Remarks by President Biden on Fighting the Covid-19 Pandemic* (Sept. 9, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/>. One such mandate would be

issued by OSHA via an emergency rule mandating that private employers with 100 or more employees require their employees to get fully vaccinated or submit to weekly testing.

He also announced that federal agencies would create and implement mandates for federal employees and contractors, the two mandates at issue in this case.

## **B. Federal Employee Mandate**

That same day, President Biden issued EO14043, which states that “it is necessary to require COVID-19 vaccination for all Federal employees, subject to such exceptions as required by law.” 86 Fed. Reg. 50989 (attached as Ex. 1). EO14043 tasked every federal agency with “implement[ing], to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees.” *Id.* at 50990. The Agencies were to receive “implementation” guidance from the Task Force, which would issue guidance within seven days. *Id.*

On September 13, 2021, the Task Force issued a guidance document, recommending a deadline of November 22, 2021, for all federal employees to be fully vaccinated. Safer Federal Workforce Task Force, *COVID-19 Workplace Safety: Agency Model Safety Principles 2* (Sept. 13, 2021) (attached as Ex. 2).

In a subsequent “FAQ” posted online, the Task Force stated that “[e]mployees who are on maximum telework or working remotely are not excused from this requirement.” Safer Federal Workforce Task Force, *FAQ* (attached as Ex. 3). All federal employees, regardless of whether the employee has antibodies from a prior infection of COVID, are required to receive the vaccination. *Id.* The medical community agrees, however, that “[i]ndividuals who have had SARS-CoV-2 infection are unlikely to benefit from COVID-

19 vaccination.” Nabin K. Shrestha et al., *Necessity of COVID-19 Vaccination in Previously Infected Individuals* at 2, <https://www.medrxiv.org/content/10.1101/2021.06.01.21258176v3.full.pdf>.

Federal employees who fail to comply with the requirement to be fully vaccinated by November 22, 2021, “are in violation of a lawful order” and are subject to discipline, “up to and including termination or removal.” Safer Federal Workforce Task Force, *FAQ*. The Task Force permits Agencies to “initiate the enforcement process as soon as November 9, 2021, for employees who fail to submit documentation to show that they have completed receiving required vaccination dose(s) by November 8.” *Id.* On October 1, 2021, OPM published agency rules tracking Task Force guidance, applying to current and incoming federal employees. *See* Ex. 4.

All Defendant agencies have implemented the Task Force guidance and/or OPM rules, which extend far beyond the details stated expressly in EO14043, and made it binding, final agency action. *See, e.g.*, Ex. 5. Approximately 330,000 unvaccinated federal employees are subject to the Federal Employee Mandate. Compl. ¶ 126.<sup>1</sup>

### **C. Contractor Mandate**

As noted above, during his September 9 announcement, President Biden also stated that he would require all federal contractors to vaccinate their employees: “If you want to work with the federal government and do business with us, get vaccinated. If you want to do business with the federal government, vaccinate your workforce.” *Remarks by President*

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<sup>1</sup> “Federal Employee Mandate” or “Employee Mandate” refers to EO14043 and the policies of each Defendant Agency adopting and implementing the Task Force and OPM guidance.

*Biden, supra.* He then issued EO14042, 86 Fed. Reg. 50985 (attached as Ex. 6), which directs agencies to ensure that all “contracts and contract-like instruments [covered by the executive order] ... include a clause that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the [Task Force], subject to that guidance being approved by the OMB Director.” *Id.*

EO14042 instructs the Task Force to develop this guidance and directs the OMB Director to determine whether the guidance will promote efficiency in procurement. *Id.* at 50,985–86. EO14042 instructs the Federal Acquisition Regulatory Council to “amend the [FAR]” to include the clause referenced above, and also tasks agencies with implementing the contract clause in contracts not covered by the FAR. *Id.* at 50,986.

On September 24, 2021, the Task Force issued its guidance, recommending vaccination of “covered” contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation. *COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors*, Safer Federal Workforce Task Force (Sept. 24, 2021) (attached as Ex. 7). The scope is as broad as possible. It defines “covered contractor employee” to mean “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.” *Id.* at 3. This includes doing “human resources, billing, and legal review.” *Id.* at 13. A “covered contractor workplace” “means a location controlled by a covered contractor at which any employee of a covered contractor working on or in connection with a covered contract is likely to be present during the period of performance for a covered

contract.” *Id.* at 4. If there is any chance of even fleeting contact in “elevators, stairwells, ... and parking garages,” the entire facility must be vaccinated. *Id.* at 10. Even *subcontractors* must comply. *Id.* at 12. The Task Force guidance set a deadline of December 8, 2021, for covered contractors to be fully vaccinated.

On September 28, the OMB Director published a notice of determination (“First OMB Rule”) stating in conclusory fashion that the Task Force guidance “will improve economy and efficiency by reducing absenteeism and decreasing labor costs for contractors and subcontractors working on or in connection with a [f]ederal [g]overnment contract.” 86 Fed. Reg. 53,691–53,692 (Sept. 28, 2021) (attached as Ex. 8). On September 30, 2021, the FAR Council issued a directive (“FAR Council Directive”) that agencies must include language in new contracts stating that contractors will follow Task Force guidance, and that agencies should unilaterally insist on adding the clause to *ongoing* contracts because it will “get[] more people vaccinated and decrease the spread of COVID-19.”<sup>2</sup>

On November 4, in the face of a growing number of lawsuits, the White House delayed the contractor deadline for full vaccination to January 18, 2022. *Biden Administration Announces Details of Two Major Vaccination Policies*, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/>.

On November 10, the OMB Director published another notice of determination (“Second OMB Rule”) providing additional details about how a mandate supposedly

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<sup>2</sup> *Memorandum from FAR Council to Chief Acquisition Officers et al. re: Issuance of Agency Deviations to Implement Executive Order 14042* (Sept. 30, 2021) (attached as Ex. 9).

benefits procurement but reaching precisely the same conclusion as previously issued, 86 Fed. Reg. 63418 (Nov. 10, 2021) (attached as Ex. 10), and the Task Force issued new guidance also reflecting the new compliance date (attached as Ex. 11).

Although the exact number is unknown, an estimate of the number of unvaccinated employees of contractors subject to the Contractor Mandate is 790,000. Compl. ¶ 136.<sup>3</sup>

#### **D. Other Relevant COVID Measures Taken By Biden Administration**

On June 21, 2021, OSHA issued an emergency temporary standard for healthcare workers to “reduce transmission of COVID-19 in their workplaces.” *Occupational Exposure to COVID-19; Emergency Temporary Standard*, 86 Fed. Reg. 32376 (June 21, 2021) (“Healthcare ETS”). The Healthcare ETS targets healthcare workers specifically because of “the nature of their work often involving frequent and sustained close contact with COVID–19 patients.” *Id.* at 32385. The Healthcare ETS found that such workers face a “grave danger” from COVID—but still did not require vaccination. *Id.* at 32599.

On November 4, 2021, OSHA issued an emergency standard requiring private companies with 100 or more employees either to vaccinate all of their employees, or have them wear masks and undergo weekly testing. *COVID-19 Vaccination and Testing; Emergency Temporary Standard*, 86 Fed. Reg. 61402 (Nov. 5, 2021) (“Private ETS”). The Private ETS found that regular testing/masking and mandatory vaccination “are similar but slightly different schemes that provide roughly equivalent protection.” *Id.* at 61515.

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<sup>3</sup> “Contractor Mandate” refers to Executive Order 14042, the OMB Rule, the FAR Council Directive, and the policies of each Defendant Agency adopting and implementing those documents.

**E. Plaintiffs**

Plaintiff Feds for Medical Freedom is a membership organization with thousands of members across the globe who are federal employees and federal contractors. *See* Ex. 14 (Thornton Affidavit). Individual named plaintiffs are a variety of employees and contractors who work at or for Defendant agencies. *Id.* Feds for Medical Freedom's members and named Plaintiffs include employees and contractors with no pending exemption requests and who have already been subjected to discipline. *See, e.g.*, Exs. 15, 17, 27, 29 (Armbrust, Biggs, Ryan, Schaecher Affidavits).

Local 918, American Federation of Government Employees represents the bargaining unit members of several components of the Department of Homeland Security.

Plaintiff Highland Engineering, Inc., is a federal contractor whose contracts have been unilaterally modified to include a clause requiring Highland to follow all Task Force guidance. As recently as December 10, 2021, Highland Engineering had to agree to follow Task Force guidance just to be able to submit a bid for a contract. Ex. 13 (Beebe Affidavit).

**ARGUMENT**

A party seeking a preliminary injunction must show (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 288 (5th Cir. 2012).

**I. Plaintiffs Are Likely to Prevail on the Merits.****A. The Challenged Actions Are Ultra Vires.**

There has long been authority for a plaintiff to “institute a non-statutory review

action” against an agency head “for allegedly exceeding his statutory authority.” *Chamber of Commerce of U.S. v. Reich*, 74 F.3d 1322, 1327–28 (D.C. Cir. 1996) (the APA “does not repeal the review of *ultra vires* actions,” which pre-dated the APA itself). “Even if the [agency head] were acting at the behest of the President, this does not leave the courts without power to review the legality of the action, for courts have power to compel subordinate executive officials to disobey illegal Presidential commands.” *Id.* (alterations omitted); *Associated Builders & Contractors of Se. Texas v. Rung*, No. 1:16-CV-425, 2016 WL 8188655, at \*5 (E.D. Tex. Oct. 24, 2016) (when “a federal agency operating within the Executive Branch” has “implemented the President’s Executive Order by issuing ... Guidance incorporated by reference in [a] new Rule,” the “Executive Order may be challenged by Plaintiffs on both statutory and non-statutory grounds”).

Several key interpretive doctrines demonstrate that the Employee and Contractor Mandates (including the EOs themselves) are beyond the power statutorily authorized by Congress and thus are *ultra vires*.

*First*, under the “major questions doctrine,” Congress must “speak[] clearly when it delegates the power to make decisions of vast economic and political significance.” *DHS v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1925 (2020) (Thomas, J., concurring in part); *see Ala. Ass’n of Realtors v. HHS*, 141 S. Ct. 2485, 2489 (2021) (“We expect Congress to speak clearly when authorizing an agency to exercise powers of ‘vast economic and political significance.’”); *King v. Burwell*, 576 U.S. 473, 486 (2015). When the Executive “claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy, [courts] typically greet its announcement

with a measure of skepticism.” *Utility Air Reg. Grp. v. EPA*, 573 U.S. 302, 324 (2014).

But none of the statutory authorities relied on in the Mandates indicate—let alone *clearly* state—that Congress handed over the extraordinary power to require vaccines for millions of Americans on pain of termination. The statutes listed in EO14043 state that the “President may prescribe regulations for the conduct of employees in the executive branch,” 5 U.S.C. § 7301, “may prescribe rules governing the competitive service,” *id.*, § 3302, and “may ... prescribe such regulations for the admission of individuals into the civil service in the executive branch as will best promote the efficiency of that service,” *id.*, § 3301. These general grants give no indication that they can be used to require every single federal employee to be vaccinated or terminated. Such a requirement does not regulate “conduct” or “efficiency”—it regulates status, one that is untethered to job requirements, no less. And although the President can “ascertain” the fitness of “applicants” including “age, health, character, knowledge, and ability,” *id.*, that says nothing about *current* employees, nor does the ability to “ascertain” information authorize the President to impose *new* requirements for employment. The statutes cited in EO14042 likewise are bereft of authority to mandate forced vaccinations for millions of Americans. *See* 40 U.S.C. § 101 (stating general purpose of “[p]rocuring and supplying property and nonpersonal services”), 102(4)(A) (defining “executive agency”); 3 U.S.C. § 301 (authorizing certain delegations); 41 U.S.C. § 6701 (definitions). This is why the government admitted to needing a “work-around” for the similar OSHA mandate. *BST*, 17 F.4th at 612 n.13.

To the extent there is any doubt about the President’s power under these statutes, the major-questions doctrine requires those doubts to be resolved against such a massive

assertion of Executive power—one unclaimed in the Nation’s history. Given that the Fifth Circuit held that OSHA’s enabling statute (which provides authority to ensure “every man and woman in the Nation safe and healthful working conditions,” 29 U.S.C. § 651) does not contemplate a nationwide vaccine mandate for private employers with 100 or more employees, *BST*, 17 F.4th at 615–17, it begs belief that such a power nonetheless exists in statutes that reference *procurement* and federal employee “conduct.” See *Kentucky v. Biden*, \_\_\_ F. Supp. 3d \_\_\_, 2021 WL 5587446, at \*6 (E.D. Ky. Nov. 30, 2021) (enjoining Contractor Mandate because “it strains credulity that Congress intended FPASA, a procurement statute, to be the basis for promulgating a public health measure such as mandatory vaccination”); *Georgia v. Biden*, \_\_\_ F. Supp. 3d \_\_\_, 2021 WL 2021 WL 5779939, at \*9 (S.D. Ga. Dec. 7, 2021) (“EO 14042 goes far beyond addressing administrative and management issues in order to promote efficiency and economy in procurement and contracting, and instead, in application, works as a regulation of public health....”). This lack of clear statutory authority is fatal.

*Second*, courts require clear authorization from Congress for an agency to undertake actions—such as “mandat[ing]” that wide swaths of the population “receive a vaccine”—that “fall[] squarely within the States’ police power.” *BST*, 17 F.4th at 617; see *Ala. Ass’n*, 141 S. Ct. at 2489 (expressing especially strong skepticism of federal mandate that “intrudes into an area that is the particular domain of state law”). Courts around the country have already enjoined the Contractor Mandate and a related healthcare mandate on this basis, see, e.g., *Kentucky*, 2021 WL 5587446, at \*10, and the Employee Mandate fails for the same reason: they are all attempts to impose *widespread* mandatory vaccine campaigns,

a power traditionally vested with the States.

*Third*, “[w]here an administrative interpretation of a statute invokes the outer limits of Congress’ power,” Congress must provide “a clear indication that [it] intended that result.” *Solid Waste Agency v. U.S. Army Corps of Eng’rs*, 531 U.S. 159, 172 (2001). The Fifth Circuit has held that Congress itself likely cannot impose such widespread vaccine mandates, *BST*, 17 F.4th at 617, and thus agencies cannot put that limit to the test, absent clear language—which, as noted above, is entirely missing here.

In sum, as one court recently held in enjoining a similar vaccine mandate: “Courts have long required Congress to speak clearly when providing agency authorization if it (1) intends for an agency to exercise powers of vast economic and political significance; (2) if the authority would significantly alter the balance between federal and state power; or (3) if an administrative interpretation of a statute invokes the outer limits of Congress’ power. *Any one of those fundamental principles would require clear congressional authorization for this mandate, but here, all three are present.*” *Missouri v. Biden*, \_\_\_ F. Supp. 3d \_\_\_, 2021 WL 5564501 \*2 (E.D. Mo. Nov. 29, 2021) (emphasis added).

If the government is right that the President can force millions of Americans to be vaccinated-or-terminated, then he could use that power for almost limitless means so long as he can conceive of a connection to contracting or employment. He could mandate that every single federal employee and contractor be terminated unless they: ingest caffeine pills and Adderall to work harder; undergo weight-reduction surgery to improve physical performance; buy Teslas to commute efficiently to work; and eat exclusively vegan meals to be healthier. *See Reich*, 74 F.3d at 1337 (finding EO regulating government contracting

to be ultra vires because, *inter alia*, it sought “to set a broad policy governing the behavior of thousands of American companies and affecting millions of American workers”).

That cannot be right, and it demonstrates that the generic language in the cited statutes did not hand the President powers never previously asserted by any Executive.

And specifically regarding the Contractor Mandate: as discussed below, even where the clear-statement rules above do not apply, the President’s contracting authority is still limited to (at most) actions with a “reasonably close nexus” to procurement. *Reich*, 74 F.3d at 1330-31. But the contrived nature (the “work-around”) of the President’s actions defeats this, as he apparently recognized he is using the procurement powers for non-procurement purposes. The Contractor Mandate’s absurdly broad definitions of a covered contractor and workplace also confirm the President’s contrivance. *See Liberty Mut. Ins. Co. v. Friedman*, 639 F.2d 164, 171–72 (4th Cir. 1981) (finding a lack of nexus where entity does not directly contract with federal government).

The lack of statutory authority is dispositive because the President lacks inherent constitutional authority to undertake such drastic actions. *BST*, 17 F.4th at 618 (“Nor can the Article II executive breathe new power into OSHA’s [vaccine mandate] authority.”).

Finally, if the Executive did have such dramatic power uncabined by statutory text, it would violate the nondelegation doctrine. *See Gundy v. United States*, 139 S. Ct. 2116, 2134-37 (2019) (Gorsuch, J., dissenting); *Industrial Union Dep’t, AFL-CIO v. Am. Petroleum Inst.*, 448 U.S. 607, 646 (1980) (plurality) (where agency asserts generic statutory language authorizes regulation of the national economy, “the statute would make such a sweeping delegation of legislative power that it might be unconstitutional under the

Court’s reasoning in” nondelegation cases); Compl. ¶¶ 179–84.

Plaintiffs are likely to succeed on their claims that the Mandates are *ultra vires*.

## **B. The Challenged Actions Violate the APA.**

Even if the Executive had statutory authority to undertake such drastic actions as the Mandates, they would still violate the APA.

The “Government should turn square corners in dealing with the people.” *Regents*, 140 S. Ct. at 1909. As an important enforcement mechanism for that requirement, agency action implementing an Executive Order is subject to judicial review under the APA. *See, e.g., E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 669 (9th Cir. 2021); *Coliseum Square Ass’n v. Jackson*, 465 F.3d 215, 232 (5th Cir. 2006); *Reich*, 74 F.3d at 1326–28 (holding that mere fact that “regulations are based on the President’s Executive Order hardly seems to insulate them from judicial review under the APA, even if the validity of the Order were thereby drawn into question”); *see also Avoyelles Sportsmen’s League, Inc. v. Marsh*, 715 F.2d 897 (5th Cir. 1983) (holding that the APA’s broad definition of the term “rule” includes “virtually every statement an agency may make”).

The Federal Employee Mandate and Contractor Mandate qualify as reviewable agency actions. President Biden expressly told agencies to “implement ... a program to require COVID-19 vaccinations” for employees, 86 Fed. Reg at 50990, which has now happened as they adopted and are enforcing the detailed Task Force guidance; and he asked OMB and the FAR Council to decide whether to “implement” vaccine-mandate clauses in government contracts, *id.* at 50985–86, which has likewise happened, and agencies are following these requirements. Indeed, the EOs are only a few pages, but the Task Force

“guidance” for employees and contractors—subsequently implemented by agencies—amount to over 50 pages. This Court held in *Rodden v. Fauci* that the Task Force guidance itself is not final agency action, but rather “any final agency action will likely be taken by the specific agency for which each plaintiff works,” as those agencies announce “whether and what additional remedial measures and procedures should be taken.” Opinion 8, *Rodden*, 3:21-cv-317 (S.D. Tex. Nov. 27, 2021). Each agency has adopted and implemented the Task Force guidance, and that act of adoption *is* final agency action.

As agency implementations and expansions of EOs, with significant real-world legal consequences and obligations, the agencies’ actions are therefore subject to APA review. *See Sloan v. HUD*, 231 F.3d 10, 14 (D.C. Cir. 2000); *Batterton v. Marshall*, 648 F.2d 694, 701–02 (D.C. Cir. 1980).

All agencies have the same requirements in terms of deadlines and vaccines required, the refusal to make exceptions for telework or previously infected individuals, and the abject failure to provide reasoned decisionmaking. *See* Ex. 5. Not every agency has publicly advertised its policy, but that makes no difference. The APA authorizes review even when there is no written policy at all, or where its precise terms are unclear. *Texas v. EEOC*, 933 F.3d 433, 441–42 (5th Cir. 2019); *Venetian Casino Resort, L.L.C. v. E.E.O.C.*, 530 F.3d 925, 929–30 (D.C. Cir. 2008) (applying APA where “the details of the Commission’s disclosure policy are still unclear, [but] the record leaves no doubt the Commission has a policy of disclosing confidential information without notice”).

In any event, the government could not in good faith dispute that every agency has imposed these vaccine policies—it would mean admitting there are no such requirements.

As demonstrated next, the Mandates violate the APA’s bar on agency action that is “arbitrary [or] capricious.” 5 U.S.C. § 706(2)(A).

### **1. Lack of Reasoned Decisionmaking**

Federal administrative agencies must engage in “reasoned decisionmaking.” *Allentown Mack Sales & Serv., Inc. v. NLRB*, 522 U.S. 359, 374 (1998) (quotation marks omitted). This means that “[n]ot only must an agency’s decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational.” *Id.* The “agency must examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). This means the agency “decision was based on a consideration of the relevant factors.” *Marsh v. Oregon Nat. Res. Council*, 490 U.S. 360, 378 (1989). The Court “may consider only the reasoning articulated by the agency itself; we cannot consider post hoc rationalizations.” *Wages & White Lion*, 16 F.4th at 1136. This “review is not toothless. ... [I]t has serious bite.” *Id.*

The Employee Mandate abjectly fails this test. The individual agency documents provide almost zero reasoning—only diktats. *See* Ex. 5. Even if the Task Force guidance is deemed incorporated into agency mandates, it provides no help because it contains only one sentence (really, one clause) of rationale: “To ensure the safety of the Federal workforce, Federal employees must be fully vaccinated, except in limited circumstances where an employee is legally entitled to a reasonable accommodation.” Ex. 2.

Such conclusory justifications are *per se* arbitrary and capricious. *See Encino*

*Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2127 (2016) (“[C]onclusory statements do not suffice to explain [an agency’s] decision.”).

And there are plenty of important aspects of the challenged actions that are never justified or even mentioned. For example: Why are vaccines mandated for federal employees when OSHA *just said* that private employers can use testing and masking to provide “roughly equivalent protection” as a vaccine mandate? 86 Fed. Reg. at 61515 (discussed below in more detail). Why are vaccines mandated when OSHA also said that frontline healthcare workers face “grave danger” from COVID but *still* do not need to be vaccinated? 86 Fed. Reg. at 32599. Why are teleworkers covered? Why is every agency and employee treated the same regardless of location and workplace? Why are people with antibodies forced to get vaccinated? What data was examined about the economic and societal damages from imposing the mandates, or the reliance interests in the Executive’s repeated statements that there would be no mandates? How many employees will be covered? How many will be fired? What side effects will they suffer, and why are those side effects outweighed by the benefits of vaccination?

There may be reasonable answers to these questions, but Defendants simply ignored them. *See Texas v. Becerra*, No. 2:21-CV-229, \_\_\_ F. Supp. 3d \_\_\_, 2021 WL 5964687, at \*13 (N.D. Tex. Dec. 16, 2021) (invalidating similar vaccine mandate because, *inter alia*, “Defendants allowed regular testing as an alternative to vaccination in the OSHA mandate but provide no explanation why that exception cannot apply here,” and the mandate made an unjustifiable “sweeping application ... sans exceptions”); *Missouri*, 2021 WL 5564501, at \*7–\*11 (invalidating similar federal vaccine mandate for agency’s utter failure to

address significant questions like those above). *Cf.* 86 Fed. Reg. at 61436 (in Private ETS issued November 4, 2021, OSHA refused to mandate vaccines because there has not been “a full opportunity to study the potential spectrum of impacts on employers and employees, including the economic and health impacts”). Moreover, the failure to take “any consideration whatsoever’ of a [more limited] policy” is itself arbitrary and capricious. *Regents*, 140 S. Ct. at 1912.

Turning to the Contractor Mandate: nowhere did the First OMB Rule nor the FAR Council Directive provide an explanation for how they promote economy and efficiency in procurement, other than *ipse dixit*, and thus they failed to address the same critical questions listed above for the Employee Mandate. After facing nearly a dozen lawsuits pointing out these flaws, the Second OMB Rule was issued on November 10, 2021, with a somewhat longer justification, but it predictably reached the exact same conclusion. 86 Fed. Reg. 63418. The Supreme Court has rejected this type of foregone-conclusion “re-do” in the face of persuasive litigation, and accordingly those reasons cannot be considered. *Regents*, 140 S. Ct. at 1907, 1909 (refusing to countenance DACA rescission memo issued after courts “had identified flaws in the original explanation,” because “[i]t is a foundational principle of administrative law that judicial review of agency action is limited to the grounds that the agency invoked when it took the action”).

In short, the Mandates are *ipse dixit*, not reasoned decisionmaking. *See Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 664, 658 (2007) (action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem”).

These challenged actions are strikingly reminiscent of the Administration’s 100-day

pause on alien removals, which this Court (per Judge Tipton) held had violated the APA. The Court noted “a disconnect” between the government’s action and its stated concerns. *Texas v. United States*, 524 F. Supp. 3d 598, 654 (S.D. Tex. 2021). The Court demonstrated that disconnect by posing a series of questions—similar to the list above—that were left entirely unaddressed. The government’s failure to address such important questions meant that it had failed to provide the needed “rational connection between the facts found and the choice made.” *Id.* The same is true here.

## 2. Inconsistent, Illogical, and Pretextual

The Mandates are arbitrary and capricious for the additional reason that they are illogical, inconsistent, and contrived.

***Inconsistent with Private ETS.*** The Mandates are arbitrary and capricious for not providing *any* alternative to vaccination. This is inconsistent with the OSHA Private ETS, which allows masking and weekly testing as an alternative to mandated vaccinations because “they are similar but slightly different schemes that provide roughly equivalent protection.” 86 Fed. Reg. at 61515. The Private ETS likewise acknowledged that “it is well established that ... regularly testing individuals for COVID-19 infection can be an effective method for reducing virus transmission,” *id.* at 61438, and that “State and local regulations of general applicability that mandate face coverings *or* vaccination ... have significantly reduced the harmful effects of the pandemic and total fatalities,” *id.* at 61509.

There is no rational reason why OSHA gave private employees the option to do regular testing and masking in lieu of vaccination, but federal contractors and federal employees cannot have that same option—especially when these schemes were

promulgated contemporaneously as part of a single COVID policy announced by President Biden on September 9. “Treating similar situations differently without adequate explanation is the very embodiment of arbitrary conduct.” *Rupcich v. United Food & Com. Workers Int’l Union*, 833 F.3d 847, 856 (7th Cir. 2016); *Nat. Res. Def. Council v. U.S. Nuclear Regul. Comm’n*, 879 F.3d 1202, 1214 (D.C. Cir. 2018) (“[I]t would be arbitrary and capricious for the agency’s decision making to be ‘internally inconsistent.’”); *see Missouri*, 2021 WL 5564501, at \*8 (invalidating similar mandate where agency “failed to consider or rejected obvious alternatives to a vaccine mandate without evidence”).

The Fifth Circuit held that the Private ETS itself was a “one-size-fits-all sledgehammer,” yet it still looks like a “delicately handled scalpel” when compared to the Federal Employee and Contractor Mandates. *BST*, 17 F.4th at 612.

***Inconsistent with Healthcare ETS.*** The federal Healthcare ETS issued in June concluded there was no need to mandate vaccines even for the most at-risk workers in the country (frontline healthcare workers), despite the conclusion that they faced a “grave danger” from COVID, and despite the fact that the Delta variant became the predominant strain just a few days afterwards. 86 Fed. Reg at 32599. Unlike the Healthcare ETS, the Federal Employee and Contractor Mandates make no attempt to account for agency- or workplace-specific factors that might increase exposure risk. They apply across the board. Since the Healthcare ETS was issued in June, over 30 million *more* Americans have been fully vaccinated, suggesting that the need for vaccination is lower now than it was when that ETS was issued. *See CDC, Trends in Number of COVID-19 Vaccinations in the US*, <https://covid.cdc.gov/covid-data-tracker/#vaccination-trends>. The Healthcare ETS

“recognize[d] that some employees may decline vaccination for a number of reasons, including underlying medical conditions or conscience-based objections (moral or religious).” 86 Fed. Reg. at 32599. There is no rational reason why this applies to healthcare workers—but not to federal employees or contractors. *Rupcich*, 833 F.3d at 856.

***Zero Consideration of Employee Characteristics.*** The Mandates make almost zero distinction between employees. Someone who works in close contact with infected people for 12 hours a day is treated the same as someone with COVID antibodies who never leaves his house. It is textbook arbitrariness to require every single employee to get vaccinated (and potentially suffer side effects) despite already having protection against infection, or never interacting with other federal workers, or doing so only outside in ventilated or outdoor areas. The lack of consideration for employees with documented antibodies is especially arbitrary because “[i]ndividuals who have had SARS-CoV-2 infection are unlikely to benefit from COVID-19 vaccination.” Nabin K. Shrestha et al., *Necessity of COVID-19 Vaccination in Previously Infected Individuals* at 2, <https://www.medrxiv.org/content/10.1101/2021.06.01.21258176v3.full.pdf>.

In short, the Mandates are arbitrary because their sheer breadth is so discontinuous with the reasons offered for them. *Missouri*, 2021 WL 5564501, at \*7–11.

***Stated Rationale is Pretextual and Inconsistent.*** Both Mandates are premised on a contrived basis: the purpose is not to govern employee conduct or improve government contracting—it is (as the Fifth Circuit has recognized regarding OSHA) part of a “work-around” for a nationwide vaccine mandate. Even if a vaccine mandate were otherwise legal, giving a false explanation is necessarily arbitrary and capricious. *Dep’t of Com. v. New*

*York*, 139 S. Ct. 2551, 2573–76 (2019). This contrived premise is demonstrated by President Biden’s inconsistent statements: he said being vaccinated renders someone “as safe as possible,” but then said vaccinated people need to be “protect[ed]” *from* the unvaccinated. *Remarks by President Biden, supra*. But the Private ETS said—in its very first paragraph—that the purpose of vaccine mandates is to protect the *unvaccinated*. 86 Fed. Reg. at 61402. When the government cannot keep its story straight on the foundational premise of its most significant actions, it is a strong indicator of arbitrary-and-capricious and pretextual action.

***Failure to Consider Reliance Interests.*** None of the Mandates provided meaningful responses about reliance interests on the previous Executive policy of not requiring vaccines. This was arbitrary and capricious. *Regents*, 140 S. Ct. at 1913–14; *see Missouri*, 2021 WL 5564501, at \*7–\*11 (invalidating similar mandate on this ground).

### **3. The Contractor Mandate Is also Contrary to Law.**

The APA requires courts to “hold unlawful” agency action that is “not in accordance with law.” 5 U.S.C. § 706(2)(A). Congress has tasked the FAR Council—and only the FAR Council—with the duty to “issue and maintain ... a single [g]overnment-wide procurement regulation,” 41 U.S.C. § 1303(a)(1), and thus “[o]ther regulations relating to procurement issued by an executive agency [are] limited to” *agency-specific* regulations, *id.*, § 1303(a)(2). The First and Second OMB Rules thus violate § 1303 because they carry out the President’s unlawful instruction to issue a government-wide procurement regulation requiring vaccines—a task exclusively reserved to the FAR Council. 86 Fed. Reg. at 53,691–92. The FAR Council Directive violates § 1303 because it abdicates the FAR

Council’s responsibility to issue such procurement regulations, and instead “remind[s]” agencies to do what EO14042 requires. Because the President and OMB Director attempt to directly exercise authority exclusively reserved to the FAR Council and because the FAR Council acquiesces to this intrusion, the Contractor Mandate is contrary to law.

\* \* \*

For all these reasons, Plaintiffs are likely to succeed on these claims.

## **II. Plaintiffs Will Suffer Irreparable Harm.**

“To show irreparable injury if threatened action is not enjoined, it is not necessary to demonstrate that harm is inevitable and irreparable.” *Humana, Inc. v. Avram A. Jacobson, M.D.*, 804 F.2d 1390, 1394 (5th Cir. 1986). “The plaintiff need show only a significant threat of injury from the impending action, that the injury is imminent, and that money damages would not *fully* repair the harm.” *Id.*

Over a dozen named Plaintiffs have declined to seek exemptions from the Mandates. Exs. 15–20, 22–30 (Armbrust, Ball, Biggs, Clark, Dantuma, Divilbiss, Klosterman, Lawson, McComis, Roberts, Rucker-Reed, Ryan, Sams, Schaecher, Simpson Affidavits). One of them has been given written notice that he will be fired on January 10, 2022. Ex. 29 (Schaecher). Several others have been disciplined with written reprimands and warnings saying that failure to attest to a fully-vaccinated status could result in imminent suspensions and terminations. Exs. 15, 17, 27 (Armbrust, Biggs, Ryan). These Plaintiffs undoubtedly face not just harm—but imminent harm. *See* Opinion 5, *Rodden*, No. 3:21-cv-317 (S.D. Tex. Nov. 27, 2021) (noting that plaintiff who had “not claimed an exemption” and for whom “the process to discipline her has already begun” “appears” to have “shown a likely

irreparable injury”). This is enough to warrant relief for *all* Plaintiffs, given the imminent nature of the federal government’s discipline. *See League of Women Voters of United States v. Newby*, 838 F.3d 1, 8–9 (D.C. Cir. 2016) (“[I]t is unclear whether Alabama and Georgia are currently enforcing their proof-of-citizenship laws. But that does not mean that the Alabama and Georgia [plaintiffs] cannot show a likely injury. Indeed, based on the experience of [other plaintiffs], it seems almost certain that similar obstacles to registration will spring up in Alabama and Georgia when those States decide to enforce their laws. As a preliminary injunction requires only a likelihood of irreparable injury, Damocles’s sword does not have to actually fall on all appellants before the court will issue an injunction.”).

Indeed, it would be disingenuous for the government to dispute that these harms are imminent. The entire point of the Mandates is to force vaccinations quickly by threatening to initiate drastic employment or contractual harms *at any moment*—action that can be avoided only by giving in and getting vaccinated unwillingly. “[T]he value of a sword of Damocles is that it hangs—not that it drops. For every employee who risks his job by testing the limits of the [government’s action], many more will choose the cautious path.” *Arnett v. Kennedy*, 416 U.S. 134, 231 (1974) (Marshall, J., dissenting).

These harms are also irreparable. Anyone forced to get vaccinated pursuant to an invalid regulation will never be made whole with cash damages. *BST*, 17 F.4th at 618; *see* Ex. 23 (Lawson Affidavit). Further, as federal personnel expert Spencer Chretien explains in his attached affidavit, Plaintiffs who resist the Mandates and suffer discipline will incur unique reputational and career harm that would never apply to mine-run federal employment actions. *See* Ex. 12. The President labels these employees as pariahs who

cannot and should not be hired anywhere else. He has deemed them lawbreakers (“violat[ors] of a lawful order”) and “kill[ers].” *Transcript: CNN Presidential Town Hall with President Joe Biden*, CNN (Oct. 21, 2021), <https://transcripts.cnn.com/show/se/date/2021-10-21/segment/01>. In his speech announcing the Mandates, he vented his “anger at those who haven’t gotten vaccinated.” *Remarks by President Biden, supra*. He accused them of killing the innocent: “The unvaccinated overcrowd our hospitals, are overrunning the emergency rooms and intensive care units, leaving no room for someone with a heart attack, or pancreitis [*sic*], or cancer.” *Id.* He said those opposed to forced vaccination “ha[ve] cost us all,” they “stand in the way of protecting the large majority of Americans who have done their part and want to get back to life as normal,” and are “undermining you and ... lifesaving actions”—and he would invoke his tremendous “power as President to get them out of the way.” *Id.* Unvaccinated workers are so dangerous that he would have to step in and “protect vaccinated workers from unvaccinated co-workers.” *Id.*

This is far more than just losing a job. As Chretien’s expert affidavit explains, the government’s pernicious targeting and blackballing result in severe reputational damage that cannot be undone with money. Ex. 12, ¶¶ 12–13. And it also makes it uniquely difficult to find other employment, especially given that *all* federal employment and contractor work will be prohibited due to the Mandates.

The Fifth Circuit has long recognized this kind of severe employment action—causing serious reputational harm—is irreparable, even when it does not result in a permanent bar from industry work. *See BST*, 17 F.4th at 618; *Burgess v. Fed. Deposit Ins.*

*Corp.*, 871 F.3d 297, 304 (5th Cir. 2017) (finding irreparable harm where the government would make plaintiff “withdraw from the banking industry,” which caused “reputational harm” and would leave him “unable to find employment in the banking industry so long as the [government’s] order remains in place”); *Valley v. Rapides Par. Sch. Bd.*, 118 F.3d 1047, 1056 (5th Cir. 1997) (same, for teacher who supplied expert affidavit in support).

Moreover, any employee who loses his job because his security clearance was withdrawn for violating a “lawful” vaccine order will be forever barred from challenging his removal. *See Dep’t of Navy v. Egan*, 484 U.S. 518, 529–30 (1988) (no jurisdiction in court or MSPB to review revocation of security clearance). It is truly now or never. *See* Ex. 24 (McComis Affidavit).

In addition to direct employment harms, some plaintiffs face uniquely damaging losses that money could never repair. If Plaintiff Joshua Roberts is terminated, he and his wife may be deemed jobless and barred from adopting the two infants they have fostered since the babies were only a few weeks old. Ex. 25. Plaintiff Thomas David Green is a DHS employee who served in the Marine Corps and Army during Operation Iraqi Freedom III, and he is a single father whose job provides the sole financial support for four minor children. Ex. 21. If these harms are not irreparable, nothing is.

Finally, employees with religious objections face a “crisis of conscience” that is irreparable. *See Sambrano v. United Airlines, Inc.*, No. 21-11159, \_\_\_ F.4th \_\_\_, 2021 WL 5881819, at \*3 (5th Cir. Dec. 13, 2021) (Ho, J., dissenting); Compl. ¶¶ 17, 20.

The Mandates also cause irreparable harm for *employers* via lost employees and unrecoverable compliance costs. *BST*, 17 F.4th at 618. Plaintiff Highland Engineering is

suffering imminent harm from having to agree to comply with Task Force guidance just to be able to bid on government contracts or sub-contracts as they arise (as recently as December 10, 2021), and Highland Engineering already had GSA unilaterally impose that term for all of their existing contracts. Ex. 13.

Finally, Plaintiffs cannot recover money damages under the APA or an *ultra vires* claim, rendering those particular injuries irreparable. *E. Bay Sanctuary*, 993 F.3d at 677.

### **III. The Balance of Equities and Public Interest Favor Plaintiffs.**

Where the government is the defendant, the consideration of equities and the public interest merge. *Nken v. Holder*, 556 U.S. 418, 426 (2009). These factors strongly favor Plaintiffs. They have committed years to serving the United States and even putting their lives on the line for our freedoms, but now they face discipline and discharge for refusal to comply with Mandates that failed to follow basic tenets of law.

The public also has an exceedingly strong interest in seeing that Plaintiffs remain on the job performing critical functions like national security, border patrol, crime prevention, and signals intelligence. Exs. 15, 16, 18, 19, 20, 23, 24, 25, 26, 28, 29, 30 (Armbrust, Ball, Clark, Dantuma, Divilbiss, Lawson, McComis, Roberts, Rucker-Reed, Sams, Schaecher, Simpson Affidavits). The “mere specter of the Mandate[s] has contributed to untold economic upheaval in recent months.” *BST*, 17 F.4th at 618.

To be sure, “the public has a strong interest in combating the spread of the COVID–19 Delta variant. But our system does not permit agencies to act unlawfully even in pursuit of desirable ends.” *Ala. Ass’n*, 141 S. Ct. at 2490; *see BST*, 17 F.4th at 618 (“Any interest [the government] may claim in enforcing an unlawful” regulation “is illegitimate.”).

#### **IV. Relief Should Be Universal in Scope.**

Plaintiff Feds for Medical Freedom has over 6,000 members (and growing), including both employees and contractors, located in every state and across the world and employed by or contracting with nearly every federal agency in existence. Ex. 14 (Thornton Affidavit). This is therefore the rare case where the only practical way to provide full relief is via a universal injunction. *See Georgia*, 2021 WL 2021 WL 5779939, at \*12 (granting nationwide relief because “the geographic scope of [plaintiff] ABC’s membership [is] broad”). This is especially true because Feds for Medical Freedom has members who are prohibited from publicly acknowledging their government jobs, *see* Ex. 14—and thus, as a practical matter, can obtain relief only as members of Feds for Medical Freedom. *Warth v. Seldin*, 422 U.S. 490, 515 (1975) (“[I]t can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured.”).

Moreover, such an injunction is appropriate because the Mandates are void, and “the scope of injunctive relief is dictated by the extent of the violation established.” *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979); *see Nat’l Mining Ass’n v. U.S. Army Corps of Eng’rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998).

### **CONCLUSION**

The Court should preliminarily enjoin all Defendants (excluding President Biden himself but including all parties listed in Rule 65) from implementing or enforcing the Federal Contractor and Employee Mandates; and requiring no bond.

Dated: December 22, 2021

Respectfully submitted,

/s/ R. Trent McCotter

R. TRENT MCCOTTER (So. Dist. No. 3712529)

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### **CERTIFICATE OF WORD AND PAGE COUNTS**

I hereby certify that the total number of words in this document, exclusive of those sections designated for omission, is 8268 words, as registered by Microsoft Word. I further certify that this document, exclusive of those sections designated for omission for word limit purposes, is 30 pages. I further certify that this document is in size 13 Times New Roman font.

/s/ R. Trent McCotter

R. Trent McCotter

### **CERTIFICATE OF SERVICE**

I certify that on December 22, 2021, a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) and served on all counsel of record. I will also email a copy to U.S. Department of Justice attorneys Kristin Taylor and Zachary Avallone. I will also send copies certified mail to all Defendants with the summons, complaint, and this Court's rules of practice.

/s/ R. Trent McCotter

R. Trent McCotter

### **CERTIFICATE OF CONFERENCE**

I certify that, on December 21, 2021, shortly after filing the Complaint in this matter, I emailed a copy to Kristin Taylor at the U.S. Department of Justice and also indicated that I would promptly be moving for a preliminary injunction. Later that day, I spoke on the phone with Zachary Avallone at the U.S. Department of Justice about timing and the possibility of agreeing to a briefing schedule for this motion. Those discussions are still ongoing. On December 22, 2021, Defendants confirmed that they oppose the motion for a preliminary injunction.

/s/ R. Trent McCotter

R. Trent McCotter

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
1	EO14043
2	Sept. 13 Task Force-Employees
3	Task Force FAQ-Employees
4	Oct. 1 OPM-Current and Incoming Employees
5	Agency Mandates
6	EO14042
7	Sept. 24 Task Force-Contractors
8	Sept. 28 First OMB Rule
9	Sept. 30 FAR Council
10	Nov. 10 Second OMB Rule
11	Nov. 10 Task Force
12	Chretien Expert Affidavit
13	Plaintiff Beebe Affidavit
14	Feds for Medical Freedom Thornton Affidavit
15	Plaintiff Armbrust Affidavit
16	Plaintiff Ball Affidavit
17	Plaintiff Biggs Affidavit
18	Plaintiff Clark Affidavit
19	Plaintiff Dantuma Affidavit
20	Plaintiff Divilbiss Affidavit
21	Plaintiff Green Affidavit
22	Plaintiff Klosterman Affidavit
23	Plaintiff Lawson Affidavit
24	Plaintiff McComis Affidavit
25	Plaintiff Roberts Affidavit
26	Plaintiff Rucker-Reed Affidavit
27	Plaintiff Ryan Affidavit
28	Plaintiff Sams Affidavit
29	Plaintiff Schaecher Affidavit
30	Plaintiff Simpson Affidavit
31	Plaintiff Vrtaric Affidavit
32	Plaintiff Hunter-Andrews Affidavit
33	Draft Order

# EXHIBIT 1

## Presidential Documents

Executive Order 14043 of September 9, 2021

### Requiring Coronavirus Disease 2019 Vaccination for Federal Employees

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301, 3302, and 7301 of title 5, United States Code, it is hereby ordered as follows:

**Section 1. Policy.** It is the policy of my Administration to halt the spread of coronavirus disease 2019 (COVID-19), including the B.1.617.2 (Delta) variant, by relying on the best available data and science-based public health measures. The Delta variant, currently the predominant variant of the virus in the United States, is highly contagious and has led to a rapid rise in cases and hospitalizations. The nationwide public health emergency, first declared by the Secretary of Health and Human Services on January 31, 2020, remains in effect, as does the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) declared pursuant to the National Emergencies Act in Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak). The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services has determined that the best way to slow the spread of COVID-19 and to prevent infection by the Delta variant or other variants is to be vaccinated.

COVID-19 vaccines are widely available in the United States. They protect people from getting infected and severely ill, and they significantly reduce the likelihood of hospitalization and death. As of the date of this order, one of the COVID-19 vaccines, the Pfizer-BioNTech COVID-19 Vaccine, also known as Comirnaty, has received approval from the Food and Drug Administration (FDA), and two others, the Moderna COVID-19 Vaccine and the Janssen COVID-19 Vaccine, have been authorized by the FDA for emergency use. The FDA has determined that all three vaccines meet its rigorous standards for safety, effectiveness, and manufacturing quality.

The health and safety of the Federal workforce, and the health and safety of members of the public with whom they interact, are foundational to the efficiency of the civil service. I have determined that ensuring the health and safety of the Federal workforce and the efficiency of the civil service requires immediate action to protect the Federal workforce and individuals interacting with the Federal workforce. It is essential that Federal employees take all available steps to protect themselves and avoid spreading COVID-19 to their co-workers and members of the public. The CDC has found that the best way to do so is to be vaccinated.

The Safer Federal Workforce Task Force (Task Force), established by Executive Order 13991 of January 20, 2021 (Protecting the Federal Workforce and Requiring Mask-Wearing), has issued important guidance to protect the Federal workforce and individuals interacting with the Federal workforce. Agencies have also taken important actions, including in some cases requiring COVID-19 vaccination for members of their workforce.

Accordingly, building on these actions, and in light of the public health guidance regarding the most effective and necessary defenses against COVID-19, I have determined that to promote the health and safety of the Federal workforce and the efficiency of the civil service, it is necessary to require COVID-19 vaccination for all Federal employees, subject to such exceptions as required by law.

**Sec. 2. *Mandatory Coronavirus Disease 2019 Vaccination for Federal Employees.*** Each agency shall implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law. The Task Force shall issue guidance within 7 days of the date of this order on agency implementation of this requirement for all agencies covered by this order.

**Sec. 3. *Definitions.*** For the purposes of this order:

(a) The term “agency” means an Executive agency as defined in 5 U.S.C. 105 (excluding the Government Accountability Office).

(b) The term “employee” means an employee as defined in 5 U.S.C. 2105 (including an employee paid from nonappropriated funds as referenced in 5 U.S.C. 2105(c)).

**Sec. 4. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

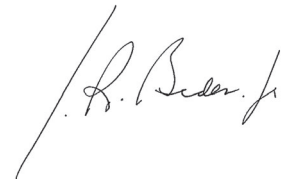
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of any of its other provisions to any other persons or circumstances shall not be affected thereby.



THE WHITE HOUSE,  
September 9, 2021.

# EXHIBIT 2

## **Safer Federal Workforce Task Force**

### **COVID-19 Workplace Safety: Agency Model Safety Principles**

**Last Updated September 13, 2021 (Previously Updated July 29, 2021)**

#### **Recent Updates**

- Federal Executive Branch employees must be fully vaccinated, except in limited circumstances where an employee is legally entitled to a reasonable accommodation. Agencies must work expeditiously so that their employees are fully vaccinated as quickly as possible and by no later than November 22, 2021.
- With the government-wide adoption and implementation of these vaccination requirements, agencies are no longer required to establish a screening testing program for employees or onsite contractor employees who are not fully vaccinated, although they may do so.
- The President has [announced](#) that Federal contractor employees will be required to be vaccinated. Prior to being contractually required to be vaccinated, onsite contractor employees who are not fully vaccinated and are not part of an agency testing program must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building.

#### **Purpose**

The purpose of this document is to provide model safety principles for executive departments and agencies (hereafter, “agency” and collectively, “agencies”) for their COVID-19 workplace safety plans. In Executive Order No. 13991, President Biden established the Safer Federal Workforce Task Force to oversee the development and implementation of agency COVID-19 workplace safety plans across the Federal Government. In his Executive Order on *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees* and his Executive Order on *Ensuring Adequate COVID Safety Protocols for Federal Contractors*, President Biden directed the Task Force to issue guidance on implementation of the requirements in those Orders.

Agencies should incorporate these model safety principles into their existing COVID-19 workplace safety plans.

Agencies with onsite contractor employees should address how the protocols below are applied to those individuals to promote Federal workplace safety in the context of COVID-19.

#### **Overview of Model Principles**

The Federal Government is committed to addressing essential work requirements consistent with best public health practices. The Administration’s paramount concern is the health and safety of all Federal employees, onsite contractor employees, and individuals interacting with the Federal workforce.

The principles presented here are aligned with the latest guidance from the Centers for Disease Control and Prevention (CDC) for employers and for fully vaccinated people and the Occupational Safety and Health Administration (OSHA) on protecting workers, based on evolving understanding of the pandemic. These principles will be reassessed over time, as conditions warrant and as CDC guidelines are updated.

Where a locality has imposed additional pandemic-related requirements more protective than those set forth in these model safety principles, those requirements should be followed in Federal buildings and on Federal land in that locality.

## **Goal**

The health and safety of the Federal workforce is the Administration's highest priority.

## **Health and Safety**

### *Vaccination*

To ensure the safety of the Federal workforce, Federal employees must be fully vaccinated, except in limited circumstances where an employee is legally entitled to a reasonable accommodation. Agencies must work expeditiously so that their employees are fully vaccinated as quickly as possible and by no later than November 22, 2021.

When a Federal employee is required to be vaccinated, the time the employee spends obtaining any COVID-19 vaccination (including travel time) is duty time; thus, there is no need for the employee to take administrative leave for such time during the employee's basic tour of duty. Employees may not be credited with administrative leave for time spent getting a vaccination. If, due to unforeseen circumstances, the employee is unable to obtain the vaccine during basic tour of duty hours the normal overtime hours of work rules apply.

Employees will receive paid time off to address any side effects. Employees will also receive paid time off to accompany a family member being vaccinated. For this purpose, a "family member" is an individual who meets the definition of that term in OPM's leave regulations (see 5 CFR 630.201).

Some contractor employees may not yet be subject to a contractual requirement to be vaccinated, and some visitors may not be fully vaccinated or decline to provide information on their vaccination status. Given the different safety protocols for individuals who are fully vaccinated and those who are not fully vaccinated, agencies need to ask about the vaccination status of visitors to Federal buildings and onsite contractor employees who are not yet contractually required to be vaccinated. Individuals must attest to the truthfulness of the response they provide. When an individual discloses that they are not fully vaccinated or declines to provide information on their vaccination status, agencies should treat that individual as not fully vaccinated for purposes of implementing safety measures, including with respect to mask wearing and physical distancing.

Onsite contractor employees who are not yet contractually required to be vaccinated and who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building—as noted below, if a contractor employee is regularly tested pursuant to an agency testing program, they do not need to provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building unless required to by the agency testing program.

Visitors to Federal buildings who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building. See the section below on Meetings, Events, and Conferences

for how visitor requirements apply to in-person participants in meetings, events, and conferences hosted by agencies.

These requirements related to the provision of information about vaccination and provision of proof of a recent negative COVID-19 test do not apply to members of the public entering a Federal building or Federal land to obtain a public service or benefit. If they are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people.

#### *Levels of Community Transmission*

For purposes of this guidance, when determining levels of community transmission in a given area, agencies should reference the CDC COVID-19 Data Tracker County View. Agencies can use discretion in determining the counties relevant to the determination of the level of community transmission in a given area for a given Federal facility. For example, agencies may consider the county in which an agency facility is located as well as the transmission levels of surrounding local counties from which employees commute to the facility.

#### *Telework and Remote Work*

Agencies should utilize telework and remote work consistent with the principles set forth in OMB Memorandum M-21-25 and agency plans for reentry and post-reentry.

#### *COVID-19 Coordination Team*

Each agency should maintain its COVID-19 Coordination Team, as detailed in OMB Memorandum M-21-15. This team should, at a minimum, include a representative from: each component agency (if applicable); the appropriate human resources office(s); occupational safety and health experts; executive leadership; legal counsel; and a public health expert. If such a public health expert does not exist at the agency, the Safer Federal Workforce Task Force will designate someone. The team should meet regularly to review compliance with agency COVID-19 workplace safety plans and protocols, consider potential revisions to agency COVID-19 workplace safety plans and protocols pursuant to guidance from the Safer Federal Workforce Task Force and current CDC guidelines, and evaluate any other operational needs related to COVID-19 workplace safety. The team should coordinate all decisions with Facility Security Committees, as appropriate. For privately owned facilities leased by the Federal Government, the team must coordinate with the General Services Administration (GSA), where appropriate, and the lessor's designated representative.

#### *Face Masks and Physical Distancing*

Federal employees must be fully vaccinated, except in limited circumstances where an employee is legally entitled to a reasonable accommodation. In addition, some contractor employees may not yet be subject to a contractual requirement to be vaccinated, and some visitors may not be fully vaccinated or decline to provide information on their vaccination status.

Individuals who are not fully vaccinated must wear a mask regardless of community transmission level. In areas of high or substantial transmission, fully vaccinated people must wear a mask in public indoor settings, except for limited exceptions discussed in this section.

In areas of low or moderate transmission, in most settings, fully vaccinated people generally do not need to wear a mask or physically distance in Federal buildings or on Federal land, except where required by Federal, State, local, Tribal, or territorial laws, rules, or regulations. Fully vaccinated individuals might choose to wear a mask regardless of the level of transmission for a variety of reasons. Nothing in CDC guidance precludes an employee from wearing a mask, if the employee so chooses. CDC's guidance for mask wearing and physical distancing in specific settings, including healthcare, transportation, correctional and detention facilities, and schools, should be followed, as applicable.

Individuals who are not fully vaccinated or who decline to provide their vaccination status—or who are in an area of substantial or high transmission—must wear a mask that covers their nose and mouth, and that is in accordance with current CDC guidance. CDC recommends the following: disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, and masks with inner filter pockets. Agencies should not allow novelty or non-protective masks, masks with ventilation valves, or face shields as a substitute for masks.

In addition to properly wearing a mask, individuals who are not fully vaccinated or who decline to provide information about their vaccination status must maintain distance. To the extent practicable, individuals who are not fully vaccinated or who decline to provide information about their vaccination status should maintain a distance of at least six feet from others at all times, consistent with CDC guidelines, including in offices, conference rooms, and all other communal and work spaces.

For individuals who are required to wear a mask:

- Appropriate masks should be worn consistently and correctly (over mouth and nose).
- Appropriate masks should be worn in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).
- In general, people do not need to wear masks when outdoors. However, consistent with CDC guidance, those who are not fully vaccinated should wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated.
- Agencies may provide for exceptions consistent with CDC guidelines, for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining distancing in accordance with CDC guidelines.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Masks do not provide the same level of protection as respirators and should not replace personal protective equipment required or recommended at the workplace.

### *Testing*

Agencies may establish a program to test Federal employees who are not fully vaccinated for COVID-19. Agencies may also test contractor employees working onsite who are not fully vaccinated as part of a

testing program—if contractor employees are tested as part of an agency testing program, they do not need to provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building unless required to by the agency testing program.

Agencies must have a process in place for employee diagnostic testing after a workplace exposure.

#### *Contact Tracing*

The agency's COVID-19 Coordination Team will collaborate with and support the contact tracing programs of local health departments to help identify, track, and manage contacts of COVID-19 cases.

The team will engage in coordination with facilities staff to implement infection control and workplace safety efforts once informed of a known or suspected case of COVID-19 (due either to specific symptoms or a positive test).

The team should ensure that the agency makes disclosures to local public health officials, as required or necessary, to provide for the health and safety of Federal employees, contractor employees, and the general public, in accordance with local public health mandates. If COVID-19 cases occur within a specific building or work setting, it will be the responsibility of that agency's COVID-19 Coordination Team (or a field office or agency component designee) to determine—in consultation with local public health officials—appropriate next steps. Agencies should be transparent in communicating related information to the workforce, as relevant and appropriate; disclosures must be consistent with Federal, State, and local privacy and confidentiality laws and regulations.

#### *Travel*

Federal employees should adhere strictly to CDC guidelines before, during, and after travel.

For Federal employees who are fully vaccinated, there are no Government-wide restrictions on travel (although agency travel policies still apply).

For the limited number of Federal employees who are not fully vaccinated, agencies should generally observe the following guidance, unless it is contrary to a reasonable accommodation to which an employee is legally entitled. Official domestic travel should be limited to only necessary mission-critical trips. International travel should also be avoided, if at all possible, unless it is mission critical (e.g., military deployments, COVID-19 response deployments or activities, diplomats traveling, high-level international negotiations that cannot occur remotely). Heads of agencies should issue specific guidance to account for the particulars of their agency's mission.

#### *Meetings, Events, and Conferences*

Should an agency intend to host an in-person meeting, conference, or event that will be attended by more than 50 participants—regardless of whether participants include members of the public—the agency must first seek the approval of its agency head, in consultation with the agency's COVID-19 Coordination Team.

In-person attendees at any meetings, conferences, and events hosted by an agency, regardless of size, must be asked to provide information about vaccination status. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act. In-person attendees who are not fully vaccinated or decline to provide

information about their vaccination status must provide proof of a negative COVID-19 test completed no later than the previous 3 days and comply with masking and physical distancing requirements for individuals who are not fully vaccinated consistent with the requirements for visitors in the Face Masks and Physical Distancing section above. In-person attendees in areas of high or substantial transmission must wear a mask in public indoor settings regardless of vaccination status.

#### *Symptom Monitoring*

If Federal employees, onsite contractors, or visitors have symptoms consistent with COVID-19, they should not enter a Federal workplace.

Federal employees and contractor employees working on site should regularly complete virtual or in-person health checks (ask about symptoms, close contact with someone with SARS-CoV-2 infection, and SARS-CoV-2 testing and diagnosis status). The agency will use this information to assess the individual's risk level and to determine whether the individual should be allowed entry to the workplace. Visitors may be asked to complete symptom screening before entering a Federal facility. In developing these tools, agencies may adapt the one developed by CDC.

Any individual, regardless of vaccination status, who develops any symptoms consistent with COVID-19 during the workday must immediately isolate, wear a mask (if the individual is not already doing so and one is available), notify their supervisor, and promptly leave the workplace. Agencies should have processes in place to provide advice and support to supervisors on any related reporting or human resources requirements.

#### *Quarantine, Isolation, and Steps for Fully Vaccinated Individuals Following Exposure to Someone with Suspected or Confirmed COVID-19*

Any individual with a suspected or confirmed case of COVID-19 will be advised to isolate, pursuant to CDC guidelines, and in compliance with State, local, and Tribal laws and regulations. Personnel who are not fully vaccinated and who have had a close contact with someone who has tested positive for COVID-19 should follow CDC and State, local, and Tribal guidance for quarantine.

Individuals who have been fully vaccinated and have had close contact with someone with suspected or confirmed COVID-19 should get tested 3-5 days after exposure, even if they do not have symptoms. They should also wear a mask indoors in public for 14 days following exposure or until their test result is negative. If their test result is positive, they should isolate for 10 days.

#### *Confidentiality and Privacy*

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing and symptom monitoring, will be treated in accordance with applicable laws and policies on confidentiality and privacy, and will be accessible only to those with a need to know. Agencies should consult their Senior Agency Officials for Privacy on matters related to the handling of personally identifiable information and identify a point of contact for all questions relating to personal medical information.

### **Workplace Operations**

#### *Occupancy*

Agencies may establish occupancy limits for specific workplaces as a means of facilitating physical distancing. Note that by reducing the number of people in a space, occupancy limits also increase the heating, ventilation, and air conditioning delivery of outdoor air per person.

#### *Environmental Cleaning*

Agencies should ensure regular cleaning of common use, high-touch, and high-density spaces, such as lobbies, restrooms, elevators, and stairwells. Office space that is in regular use is to be cleaned regularly, and in accordance with CDC guidelines. Wipes and other Environmental Protection Agency-approved disinfectants will be made available for use by individuals to wipe down workstations and related personal property. Physical barriers, such as plexiglass shields, may be installed, where appropriate.

In the event of a suspected or confirmed case of COVID-19 in the workplace, agencies should ensure enhanced environmental cleaning of the spaces that the individual occupied or accessed in accordance with CDC and, where applicable, GSA guidance, which provides as follows:

- If fewer than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.
- If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. You may choose to also disinfect depending on certain conditions or everyday practices required by your facility.
- If more than 3 days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.

If enhanced cleaning is required, wait as long as possible (at least several hours) before cleaning and disinfecting. Extended wait periods allow increased opportunity for viral deactivation to occur naturally, while also allowing time for aerosols to settle, prior to surface disinfection.

The agency's COVID-19 Coordination Team will determine the appropriate scope of workplace closures needed—in some cases, it may be a suite or individual offices or part of a floor, in other cases, it may include an entire building.

#### *Hygiene*

Hand sanitizer stations are to be available at the building entrance and throughout workspaces. Hand sanitizers should contain at least 60% alcohol and be manufactured in accordance with the requirements of the U.S. Food and Drug Administration (FDA). Ingredients should be listed on a "Drug Facts" label. Agencies should ensure the hand sanitizer is not on the FDA's do not use list.

#### *Ventilation and Air Filtration*

Modifications to ventilation systems should be considered in accordance with CDC guidance, especially as building population density increases. To the maximum extent feasible, indoor ventilation will be optimized to increase the proportion of outdoor air and improve filtration. Deployment of portable high-efficiency particulate air (HEPA) cleaners should be considered for higher-risk spaces (e.g., health clinics).

#### *Collective Bargaining Obligations*

Consistent with President Biden's policy to support collective bargaining, agencies are reminded to satisfy applicable collective bargaining obligations under 5 U.S.C. Chapter 71 when implementing workplace safety plans, including on a post-implementation basis where necessary. Agencies are also strongly encouraged to communicate regularly with employee representatives on workplace safety matters.

# EXHIBIT 3



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SAFER  
FEDERAL WORKFORCE

MENU

# Vaccinations

## Vaccination Requirement for Federal Employees

### **Q: By what date do Federal employees need to be fully vaccinated?**

A: Federal employees need to be fully vaccinated by November 22, 2021.

Employees will be considered [fully vaccinated](#) for COVID-19 2 weeks after they have received the requisite number of doses of a COVID-19 vaccine approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization. For Pfizer-BioNTech, Moderna, or AstraZeneca/Oxford, that is 2 weeks after an employee has received the second dose in a 2-dose series. For Johnson and Johnson (J&J)/Janssen, that is 2 weeks after an employee has received a single-dose.

More information is available at [Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC](#).

### **Q: By what date do Federal employees need to have had their doses of a COVID-19 vaccination?**

A: Federal employees must receive their last dose of their vaccine no later than November 8, 2021, to meet the November 22, 2021 deadline to be fully vaccinated.

The timing between the first and second shots [depends on which vaccine is received](#).

If someone receives the:

- Pfizer-BioNTech COVID-19 vaccine, then that person should get their second shot 3 weeks (or 21 days) after the first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 18. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.
- Moderna COVID-19 vaccine, then that person should get their second shot 4 weeks (or 28 days) after their first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 11. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.

Since the Johnson & Johnson vaccine only has one shot, Federal employees have until November 8 to receive that shot and still meet the November 22, 2021 deadline to be fully vaccinated.

Depending on employees' locations, they may not have all types of vaccines available to them. Agencies should encourage employees to plan ahead and allow enough time to receive all required vaccine doses before the November 8 deadline to have their second shot.

**Q: By what date do individuals who start their government service after November 22, 2021 need to be fully vaccinated?**

A: Agencies should require that individuals who start their government service after November 22, 2021, be [fully vaccinated](#) prior to their start date, except in limited circumstances where an accommodation is legally required. Agencies should require documentation to prove vaccination prior to the enter on-duty date. However, should an agency have an urgent, mission-critical hiring need to onboard new staff prior to those new staff becoming fully vaccinated, the agency head may delay the vaccination requirement—in the case of such limited delays, agencies should require new hires to be fully vaccinated within 60 days of their start date and to follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

OPM has issued [further guidance](#) to agencies, including suggested language for job opportunity announcements and tentative and final offer letters.

**Q: How does the requirement for federal employees to be [fully vaccinated](#) apply to individuals who start their employment after the issuance of EO 14043 but prior to November 22, 2021?**

A: Agencies should require that individuals who start their government service prior to November 22, 2021 be fully vaccinated by November 22, 2021, except in limited circumstances where an accommodation is legally required. Should an agency have an urgent, mission-critical hiring need to onboard new staff who cannot be fully vaccinated by November 22, 2021, the agency head may delay the vaccination requirement—in the case of such limited delays, agencies should require new hires to be fully vaccinated within 60 days of their start date and to follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

As soon as possible, agencies should ensure that individuals who will or may start their government service prior to November 22, 2021, are aware of the requirement to be fully vaccinated by that date and how to seek an exception required by law to the vaccination requirement. OPM has issued [further guidance](#) to agencies, including suggested language for job opportunity announcements and tentative and final offer letters.

**Q: To what types of Federal employees does the vaccination requirement apply?**

A: The vaccination requirement in Executive Order 14043 (Requiring Coronavirus Disease 2019 Vaccination for Federal Employees) covers employees as defined in 5 U.S.C. 2105 (including an employee paid from nonappropriated funds as referenced in 5 U.S.C. 2105(c)). Agencies are strongly

encouraged to require vaccinations for any employees or other personnel working under an agreement with an agency not covered by the Executive Order, consistent with applicable law and in consultation with the Safer Federal Workforce Task Force. Implementation of such additional requirements should generally follow the Safer Federal Workforce Task Force's guidance for implementing the vaccination requirement in Executive Order 14043.

**Q: Does the requirement to be vaccinated apply to Federal employees who are not reporting to the worksite (e.g., are on maximum telework or working remotely)?**

A: Yes. To protect the health and safety of the Federal workforce and to promote the efficiency of the civil service, all Federal employees covered by Executive Order 14043 and without a legally required exception need to be [fully vaccinated](#) by November 22, 2021, regardless of where they are working. Employees who are on maximum telework or working remotely are not excused from this requirement, including because employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely.

**Q: Do agencies need to provide onsite vaccinations to their employees?**

A: No. Agencies should take steps to make their employees aware of convenient opportunities to be vaccinated. Given the [widespread availability of vaccinations](#), it is not required that agencies provide vaccinations at their facilities or worksites, although agencies may choose to do so.

**Vaccination Documentation and Information** NEW

**Limited Exceptions to Vaccination Requirement** UPDATED

**Enforcement of Vaccination Requirement for Employees**

**Visitors and Onsite Federal Contractors**

**Labor Relations Related to Vaccination**

**Safety Protocols Related to Vaccination**



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)





# Vaccinations

## Vaccination Requirement for Federal Employees

### Vaccination Documentation and Information **NEW**

#### **Q: Must agencies require documentation from employees to prove vaccination status?**

A: Yes, agencies must require documentation from employees to prove vaccination, even if an employee has previously attested to their vaccination status. Employees may provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points (the required data points for such other official documentation are the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)). Employees must certify under penalty of perjury that the documentation they are submitting is true and correct.

Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above. In requesting this information, agencies should comply with any applicable Federal laws, including requirements under the Privacy Act and Rehabilitation Act of 1973.

#### **NEW Q: What steps should an agency take when an employee has lost or does not have a copy of required vaccination documentation?**

A: If an employee states that they have lost their vaccination documentation or do not have a copy of it, the agency should direct the employee to contact the vaccination provider site where they received their vaccine. If the location where the employee received their COVID-19 vaccine is no longer operating, the employee should contact their health care provider, who, in most cases, can access a State or local health department's immunization information system (IIS) for the employee's record. In many States or localities, the employees may themselves be able to get their record by directly contacting the State or local health department's IIS. Employees should contact their State or local health department if they have additional questions about vaccination cards or vaccination records.

If an employee was vaccinated in another country, the agency should direct the employee to contact the vaccination provider site where they received their vaccine for information on how to obtain records. Alternatively, the employee should contact the appropriate health department in that country.

If an employee who claims they are fully vaccinated is able to demonstrate to the agency a good faith effort to locate required documentation, the agency can hold any disciplinary action associated with failure to comply with the vaccination requirement in abeyance for a short period of time, pending the employee's submission of documentation providing proof of vaccination.

**Q: Can an employee provide a recent antibody test in order to prove vaccination status?**

A: No. An employee must provide the required documentation for proof of vaccination. A recent antibody test cannot be used to prove vaccination status.

**Q: How should agencies maintain documentation provided by employees regarding vaccination?**

A: Agencies must collect certain information necessary to verify that an employee is fully vaccinated. This includes the type of vaccine administered, the number of doses received, date of administration of each dose, and the submission of an approved form of required documentation, as set forth in this guidance. When providing this information, employees must also be required to certify under penalty of perjury that the information they are submitting is true and correct.

Agencies have unique operational environments and may develop their own processes to both collect and maintain the required information, in compliance with all applicable laws and in accordance with their agency record management policies. Accordingly, agencies may develop and use new processes, systems, tools, and applications to collect and maintain the required information or choose to leverage existing processes, systems, tools, or applications previously established to collect Certification of Vaccination forms. Agency systems, processes, tools, and applications for the collection of this information must allow an employee to update their vaccination status and related information.

The collection and use of this information for many agencies is subject to the OPM/GOVT-10 Employee Medical File system of records notice (SORN) and OPM regulations (5 C.F.R. part 293, subpart E). Under those rules, each agency must have written instructions for its EMF system with appropriate safeguards. Employees must be provided with a [Privacy Act statement](#) at the point of collection of this information. Agencies that are not subject to OPM's regulations (or who employ categories of employees not covered by OPM/GOVT-10) must give their employees an alternative Privacy Act statement. As a general rule, this information should not be maintained in the Official Personnel Folder.

Agencies are encouraged to take steps to promote privacy and IT security, while also providing the relevant information to those who need to know in order to implement the safety protocols. Agencies

should consult with their Agency Records Officer, Chief Information Officer, Senior Agency Official for Privacy, and agency's legal counsel to determine the best means to maintain this information to meet the agency's needs.

**Q: Which individuals within an agency should have access to information on employees' vaccination status?**

A: The Privacy Act permits disclosure within the agency to employees "who have a need for the record in the performance of their duties." 5 U.S.C. 552a(b)(1). Agencies should only disseminate information to the appropriate agency officials who have a need to know to ensure effective implementation of the safety protocols, which, in many cases, will include the supervisor level. Agencies must comply with the requirements of the Privacy Act at all times. Agencies should consult with their Senior Agency Official for Privacy on any questions related to Privacy Act requirements.

**Q: Should agencies require documentation from visitors to verify their attestation of vaccination status?**

A: Visitors (except those seeking a public benefit or service, who do not need to attest to or otherwise document vaccination status) must attest to their vaccination status using the [Certification of Vaccination form](#), but agencies should not ask them for documentation to verify their attestation.

**Q: Should agencies require documentation from onsite contractor employees to verify their attestation of vaccination status?**

A: Prior to contractor employees being subject to a contractual requirement to be vaccinated, onsite contractor employees need only attest to their vaccination status using the [Certification of Vaccination form](#).

For onsite contractor employees who are not yet subject to a contractual requirement to be vaccinated, agencies should not ask them for documentation to verify their attestation. When a contractor employee discloses that they are unvaccinated or declines to complete the attestation, agencies should treat that individual as not fully vaccinated for purposes of implementing safety measures.

If the agency has reasonable grounds to believe that an onsite contractor employee made a false statement on the Certification of Vaccination form, the agency may require that the contractor verify the contractor employee's vaccination documentation and confirm to the agency that the employee has been vaccinated, as part of the agency's review of the matter. If an onsite contractor employee who has attested to being vaccinated exhibits symptoms of COVID-19 illness, the agency should apply its safety protocols, but this is not an appropriate reason to request documentation to verify vaccination status.

**Limited Exceptions to Vaccination Requirement** UPDATED

## **Enforcement of Vaccination Requirement for Employees**

## **Visitors and Onsite Federal Contractors**

## **Labor Relations Related to Vaccination**

## **Safety Protocols Related to Vaccination**



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)





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SAFER  
 FEDERAL WORKFORCE

MENU

# Vaccinations

## Vaccination Requirement for Federal Employees

### Vaccination Documentation and Information **NEW**

### Limited Exceptions to Vaccination Requirement **UPDATED**

#### **Q: Are there exceptions to the requirement for all employees to be fully vaccinated?**

A: Federal employees must be fully vaccinated other than in limited circumstances where the law requires an exception. In particular, an agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a disability or because of a sincerely held religious belief, practice, or observance. Determining whether an exception is legally required will include consideration of factors such as the basis for the claim; the nature of the employee's job responsibilities; and the reasonably foreseeable effects on the agency's operations, including protecting other agency employees and the public from COVID-19. Because such assessments will be fact- and context-dependent, agencies are encouraged to consult their offices of general counsel with questions related to assessing and implementing any such requested accommodations.

#### **Q: Should agencies establish a date by which employees should notify agencies that they are seeking a legally required exception to the requirement to not be fully vaccinated?**

A: Yes. In order to ensure that agencies can fully understand the effect of accommodation requests on their operations and to seek to ensure timely review of requests for an accommodation, agencies should establish a date by which employees should as a general matter notify agencies that they are seeking a legally required exception to the requirement to be fully vaccinated. Employees can submit requests for an exception after the date established by the agency.

#### **UPDATED Q: Should agencies provide employees who are seeking a legally required exception to the vaccination requirement with a form?**

A: Yes. Agencies can refer to the following templates to develop a form for employees who are seeking an exception based on a [medical condition](#) (template issued October 4, 2021) or based on [religion](#)

(*template updated October 29, 2021*). The information on the forms may be used by the agency to help determine whether the employee is entitled to an accommodation. The agency may also ask for other information as needed to determine if the individual is legally entitled to an accommodation. Agencies should consult with their senior agency official for privacy and their office of general counsel to address all legal considerations and privacy requirements in developing their forms, including but not limited to an appropriate Privacy Act Statement. Agencies should comply with any applicable recordkeeping and other requirements.

**Q: If an employee requests an accommodation, and that accommodation is denied, how long should the employee be afforded to be fully vaccinated?**

A: Agencies should require that an employee whose request for an accommodation is denied receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee must receive the second dose within 6 weeks of receiving the first dose.

If the employee received a first dose of a two-dose series prior to seeking an accommodation, agencies should require that the employee receive their second dose within two weeks of the final determination to deny the accommodation or within a week of the earliest day by which they can receive their second dose, whichever is later.

**Q: If an employee is not fully vaccinated due to a legally required exception, what protocols should that individual follow?**

A: Generally, employees would need to follow applicable masking, physical distancing, and testing protocols for individuals who are not fully vaccinated, as well as applicable travel guidance. Additional guidance will be forthcoming regarding testing protocols for individuals who are excepted from the vaccination requirement. There may be circumstances in which an agency determines that the nature of an employee's job responsibilities requires heightened safety protocols if they are provided with a legally required exception. In some cases, the nature of the employee's job may be such that an agency determines that no safety protocol other than vaccination is adequate. In such circumstances, the agency may deny the requested accommodation.

**Q: Can an agency grant an extension to the deadline for vaccination due to a documented medical necessity even if the employee does not meet the legal definition of "disability" to be entitled to an accommodation?**

A: Even in cases where the employee does not meet the legal definition of "disability" to be entitled to an accommodation under the Rehabilitation Act, in some limited circumstances an agency may grant an extension to a vaccination deadline based upon other medical considerations. For example, as explained in a separate FAQ, the CDC [recommends](#) delaying COVID-19 vaccination for at least 90 days after receiving monoclonal antibodies or convalescent plasma for COVID-19 treatment. Agencies that receive documented medical reasons that may not qualify as a disability but that necessitate a delay

in vaccination should grant extensions but specify, consistent with the nature of the medical necessity, by what date the employee must be fully vaccinated.

Agencies should take note that an individual's medical need should be considered on a case-by-case basis, including any medical evaluation that addresses the individual's particular circumstance.

**Q: What medical conditions does the CDC consider a contraindication to vaccination with COVID-19 vaccines?**

A: The CDC considers a history of the following medical conditions to be [contraindications](#) to vaccination with COVID-19 vaccines:

- Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine; and
- Immediate allergic reaction of any severity to a previous dose or known (diagnosed) allergy to a component of the COVID-19 vaccine.

If an individual is allergic to a component of one or more COVID-19 vaccines, that individual may not be allergic to components in all COVID-19 vaccines.

**Q: Are there circumstances that the CDC recommends delaying vaccination for COVID-19?**

A: Yes. In the following circumstances, the CDC [recommends](#) delaying vaccination for COVID-19 for adults:

- Vaccination of people with known current SARS-CoV-2 infection should be delayed until the person has recovered from the acute illness (if the person had symptoms), and they have met [criteria](#) to discontinue isolation.
- People with a history of multisystem inflammatory syndrome in adults (MIS-A) should consider delaying vaccination until they have recovered from their illness and for 90 days after the date of diagnosis of MIS-A.
- Vaccination should be delayed for 90 days after receiving monoclonal antibodies or convalescent plasma for COVID-19 treatment.
- Whenever possible, mRNA COVID-19 vaccination doses (including the primary series and an additional dose) or the single dose Johnson and Johnson (J&J)/Janssen vaccine should be completed at least two weeks before initiation or resumption of immunosuppressive therapies, but timing of COVID-19 vaccination should take into consideration current or planned immunosuppressive therapies and optimization of both the patient's medical condition and response to vaccine. A patient's clinical team is best positioned to determine the degree of immune compromise and appropriate timing of vaccination.
- People who develop myocarditis or pericarditis after a dose of an mRNA COVID-19 vaccine should delay receiving a subsequent dose. People who choose to receive a subsequent dose should wait until myocarditis has completely resolved.

- People who have a history of myocarditis or pericarditis unrelated to mRNA COVID-19 vaccination may receive any currently FDA-approved or FDA-authorized COVID-19 vaccine after the episode of myocarditis or pericarditis has completely resolved. This includes resolution of symptoms attributed to myocarditis or pericarditis, as well as no evidence of ongoing heart inflammation or sequelae as determined by the person's clinical team, which may include a cardiologist, and special testing to assess cardiac recovery.

This is not an exhaustive list of the circumstances in which clinical considerations may recommend in favor of delaying vaccination.

In circumstances in which delay pursuant to these clinical considerations means that an employee is not fully vaccinated by November 22, 2021, the agency should require that individual to receive their first (or if a one-dose series, only) dose no later than two weeks after clinical considerations no longer recommend delay. If receiving a two-dose series, the employee should be required to receive the second dose within 6 weeks of receiving the first dose. If the employee already received a first dose of a two-dose series, they should be required to receive their second dose no later than two weeks after clinical considerations no longer recommend delay.

During the period in which vaccination is delayed, an employee must follow applicable masking, physical distancing, and testing protocols for not fully vaccinated individuals, as well as applicable travel guidance. There may be circumstances in which an agency determines that the nature of an employee's job responsibilities requires heightened safety protocols during the intervening time.

**Q: Is vaccination for COVID-19 recommended for people who are trying to get pregnant or might become pregnant in the future?**

A: Yes. The CDC has [stated](#) that COVID-19 vaccination is recommended for people who are trying to get pregnant now or might become pregnant in the future, as well as their partners.

**Q: Does the CDC recommend that an employee delay vaccination due to pregnancy?**

A: The CDC recommends COVID-19 vaccination for [people who are pregnant, breastfeeding, trying to become pregnant now, or trying to become pregnant in the future](#). The American College of Obstetricians and Gynecologists and Society for Maternal-Fetal Medicine [recommend](#) that all pregnant individuals be vaccinated against COVID-19. However, an agency may allow such an employee to delay vaccination based on the employee's particular medical circumstances, consistent with the agency's process for reviewing delay requests.

**Q: Is an employee who has had a prior COVID-19 infection required to be fully vaccinated?**

A: Yes, an employee who has had a prior COVID-19 infection is required to be fully vaccinated. The CDC recommends that vaccination of people with known current SARS-CoV-2 infection should be delayed until the person has recovered from the acute illness (if the person had symptoms) and has satisfied the [criteria](#) to discontinue isolation.

**Q: Can an employee delay a COVID-19 vaccine because they have recently received another vaccine, such as the seasonal influenza vaccine?**

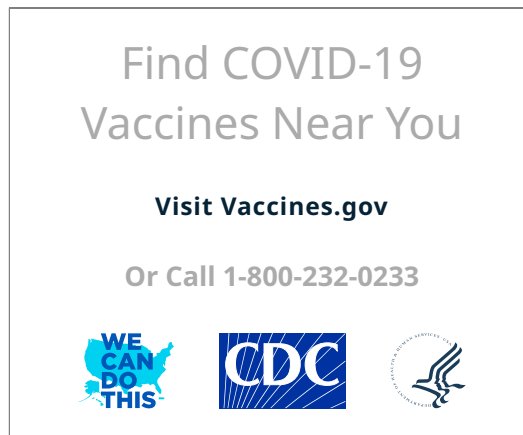
A: COVID-19 vaccines may be administered without regard to timing of other vaccines. This includes simultaneous administration of COVID-19 vaccine and other vaccines on the same day.

**Enforcement of Vaccination Requirement for Employees**

**Visitors and Onsite Federal Contractors**

**Labor Relations Related to Vaccination**

**Safety Protocols Related to Vaccination**



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)





# Vaccinations

## Vaccination Requirement for Federal Employees

### Vaccination Documentation and Information **NEW**

### Limited Exceptions to Vaccination Requirement **UPDATED**

## Enforcement of Vaccination Requirement for Employees

### **Q: What steps may an agency take if a Federal employee refuses to be vaccinated or provide proof of vaccination?**

A: Employees covered by Executive Order 14043 who fail to comply with a requirement to be fully vaccinated or provide proof of vaccination and have neither received an exception nor have an exception request under consideration, are in violation of a lawful order. Employees who violate lawful orders are subject to discipline, up to and including termination or removal.

Consistent with the Administration's policy, agencies should initiate an enforcement process to work with employees to encourage their compliance. Accordingly, agencies should initiate the enforcement process with a brief period of education and counseling (5 days), including providing employees with information regarding the [the benefits of vaccination](#) and [ways to obtain the vaccine](#). If the employee does not demonstrate progress toward becoming fully vaccinated through completion of a required vaccination dose or provision of required documentation by the end of the counseling and education period, it should be followed by a short suspension (14 days or less). Continued noncompliance during the suspension can be followed by proposing removal. Unique operational needs of agencies and the circumstances affecting a particular employee may warrant departure from these guidelines if necessary, but consistency across government in enforcement of this government-wide vaccine policy is desired, and the Executive Order does not permit exceptions from the vaccination requirement except as required by law.

Agencies may initiate the enforcement process as soon as November 9, 2021, for employees who fail to submit documentation to show that they have completed receiving required vaccination dose(s)

by November 8, as long as those employees have not received an exception and the agency is not considering an exception request from the employee.

If an employee responds at any phase of the discipline by submitting proof of progress toward full vaccination (i.e., completion of a required vaccination dose), the agency should hold the discipline in abeyance to afford the employee a reasonable period of time to become fully vaccinated. In pursuing any adverse action, the agency must provide the required procedural rights to an employee and follow normal processes, including any agency policies or collective bargaining agreement requirements concerning disciplinary matters. Employees should not be placed on administrative leave while pursuing an adverse action for refusal to be vaccinated but will be required to follow safety protocols for employees who are not fully vaccinated when reporting to agency worksites.

If the employee claims a legally required exception as the reason for not being vaccinated, an agency should follow its ordinary process to review and consider what, if any, accommodation it must offer. All agency personnel designated to receive requests for accommodations should know how to handle requests consistent with the Federal employment nondiscrimination laws that may apply. If the employee's request for an exception is denied, and the employee does not comply with the vaccination requirement, the agency may pursue disciplinary action, up to and including removal from Federal service.

OPM has issued [additional guidance](#) to further assist agencies with enforcing the vaccination requirement for Federal employees.

## **Visitors and Onsite Federal Contractors**

## **Labor Relations Related to Vaccination**

## **Safety Protocols Related to Vaccination**



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)





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## SAFER FEDERAL WORKFORCE

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# Vaccinations

## Vaccination Requirement for Federal Employees

## Vaccination Documentation and Information **NEW**

## Limited Exceptions to Vaccination Requirement **UPDATED**

## Enforcement of Vaccination Requirement for Employees

## Visitors and Onsite Federal Contractors

## Labor Relations Related to Vaccination

## Safety Protocols Related to Vaccination

### Q: Who is considered fully vaccinated?

A: People are considered [fully vaccinated](#) for COVID-19  $\geq 2$  weeks after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna), or  $\geq 2$  weeks after they have received a single-dose vaccine (Johnson and Johnson (J&J)/Janssen). There is currently no post-vaccination time limit on fully vaccinated status.

This guidance applies to COVID-19 vaccines currently either approved or authorized for emergency use by the U.S. Food and Drug Administration (Pfizer-BioNTech, Moderna, and Johnson & Johnson [J&J]/Janssen COVID-19 vaccines). This guidance can also be applied to COVID-19 vaccines that have been listed for emergency use by the World Health Organization (e.g., AstraZeneca/Oxford). More information is available at [Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC](#).

### Q: Can an employee who participates in a clinical trial for a COVID-19 vaccine be considered fully vaccinated?

A: Clinical trial participants from a U.S. site who are documented to have received the full series of an “active” (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated 2 weeks after they have completed the vaccine series. Currently, the U.S.-based AstraZeneca and Novavax COVID-19 vaccines meet these criteria. More information is available [here](#).

**Q: Can an employee who has received a heterologous primary vaccine series be considered fully vaccinated?**

A: Individuals can be considered fully vaccinated  $\geq 2$  weeks after receipt of the last dose if they have received any combination of two doses of an FDA approved or authorized or WHO emergency use listed COVID-19 two-dose series. For these purposes, the second dose in a two dose heterologous series must have been received no earlier than 17 days (21 days with a 4-day grace period) after the first dose.

**Q: Are agencies required to establish different safety protocols for fully vaccinated and not fully vaccinated individuals?**

A: Yes. [Fully vaccinated individuals](#) do not need to physically distance or have restrictions on their official travel (although they still must comply with any local requirements and relevant CDC guidance for fully vaccinated individuals while traveling). Fully vaccinated individuals in areas of substantial or high transmission (see the [CDC COVID-19 Data Tracker County View](#)) need to wear a mask in public indoor settings. Fully vaccinated individuals in areas of low or moderate transmission do not need to wear a mask, unless required by state or local regulations or laws.

Fully vaccinated individuals might choose to wear a mask regardless of the level of transmission for a variety of reasons.

Some employees will not be vaccinated because they are legally entitled to a reasonable accommodation. Some onsite contractor employees may not yet be subject to a contractual requirement to be vaccinated. Individuals who are not fully vaccinated or who decline to provide information about their vaccination status must wear masks regardless of community transmission level, physically distance, and comply with travel requirements for not fully vaccinated individuals

Prior to being subject to a contractual requirement to be vaccinated, onsite contractor employees who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building. If a contractor employee is regularly tested pursuant to an agency testing program, then they do not need to provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building unless required to by the agency testing program.

Visitors will be asked to provide information about their vaccination status. Individuals who decline to provide information on their vaccination status will be treated as not fully vaccinated for purposes of agency COVID-19 workplace safety plans and protocols. Visitors who are not fully vaccinated must

provide proof of a negative COVID-19 test that occurred within the previous 3 days prior to entry to a federal building.

Individuals entering a federal building or federal land to obtain a public service or benefit do not need to provide information about their vaccination status or provide proof of a negative COVID-19 test. If they are not fully vaccinated, they must comply with all relevant CDC guidance, including wearing a mask.

**Q: Prior to an employee being fully vaccinated, what protocols should that individual follow?**

A: Federal employees who are not fully vaccinated must comply with all agency requirements for individuals who are not fully vaccinated, including those requirements related to masking, physical distancing, and travel, subject to any legally required reasonable accommodation. In determining safety protocols for employees ahead of the deadline for employee vaccination, agencies can use information from vaccination attestations submitted by employees, or other information that the agency has on the vaccination status of employees (for example, information available to the agency because the agency administered the vaccine to an employee or the agency conducted a survey of its employees regarding vaccination status) consistent with the requirements of the Privacy Act.

Where the agency already has the requisite information regarding vaccination status, it can utilize that information for purposes of determining the proper safety protocols to apply to that individual. When an employee discloses that they are not fully vaccinated, or if an agency does not know the vaccination status of an employee, agencies should follow the protocols for an individual who is not fully vaccinated for purposes of implementing safety measures.

**Q: If a federal employee seeks to enter space under the control of another agency, must they complete a Certification of Vaccination form at that agency?**

A: Yes, federal employees are treated as visitors during their visit to another agency, meaning they would need to complete a [Certification of Vaccination form](#) and, if they are not fully vaccinated, they would need to show proof of a negative COVID-19 test result within the past 3 days. As with other visitors, the employee should keep the form with them during their time onsite at the other agency.



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)



# EXHIBIT 4



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

October 1, 2021

**MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

FROM: Kiran A. Ahuja  
Director

Subject: Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees – Executive Order 14043

On September 9, 2021, President Biden signed Executive Order (EO) 14043, titled, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.” As stated in Section 1 of the EO, the President has determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary for all agencies to require COVID-19 vaccination for Federal employees covered by EO 14043, subject only to such exceptions as required by law.

As directed in the EO, the Safer Federal Workforce Task Force, established by EO 13991 (January 20, 2021) (“Task Force”), has issued [guidance](#) to assist agencies with implementing the vaccination requirement. That guidance specifies that agencies should require all of their employees, with exceptions only as required by law, to be fully vaccinated by November 22, 2021.

People are considered fully vaccinated two weeks after their second shot in a two-dose series, or two weeks after a single-shot series. In order to have covered Federal employees vaccinated by November 22, 2021, agencies should inform employees of the following scheduling considerations, based on the type of vaccine they obtain:

- For Pfizer-BioNTech COVID-19 vaccine, individuals should get their second shot 3 weeks (or 21 days) after the first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination no later than October 18, and their second dose no later than November 8.
- For Moderna COVID-19 vaccine, individuals should get their second shot 4 weeks (or 28 days) after their first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination dose no later than October 11, and their second dose no later than November 8.
- Because the Johnson & Johnson/Janssen vaccine only has one shot, Federal employees must get that dose by November 8, in order to meet a November 22, 2021 deadline to be fully vaccinated.

Of course, it is advisable not to leave vaccinations to the last possible date, as other events often interfere with even well-laid plans.

Employees who refuse to be vaccinated or provide proof of vaccination are subject to disciplinary measures, up to and including removal or termination from Federal service. The

only exception is for individuals who receive a legally required exception pursuant to established agency processes.

Given this timeline, agencies may initiate the enforcement process as soon as November 9, 2021, for employees who have not completed their vaccination dose(s) by November 8. The attached provides additional guidance for Federal agencies and employees on the recommended approach agencies should take regarding enforcement of the Coronavirus Disease 2019 vaccination requirement. Agencies should consult with agency human resources offices and legal counsel to determine application of agency disciplinary policies and collective bargaining agreement requirements on disciplinary matters.

### **Additional Information**

Agency headquarters-level human resources offices may contact OPM at [employeeaccountability@opm.gov](mailto:employeeaccountability@opm.gov) with additional questions. Agency field offices should contact their appropriate headquarters-level agency human resources offices. Guidance from the Task Force is available at: <https://www.saferfederalworkforce.gov/overview/>

cc: Chief Human Capital Officers (CHCOs)  
Deputy CHCOs  
Human Resources Directors

Attachment – Enforcement Guidance (see 508-conformant PDF below)



The Director

## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

October 1, 2021

**MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

**FROM:** Kiran A. Ahuja  
Director

**SUBJECT:** Guidance on Applying Coronavirus Disease 2019 Vaccination Requirements to New Hires – Executive Order 14043

On September 9, 2021, President Biden signed Executive Order (EO) 14043, titled, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.” As stated in Section 1 of the EO, the President has determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary for all agencies to require COVID-19 vaccination for Federal employees covered by EO 14043, subject only to such exceptions as required by law.

As directed in the EO, the Safer Federal Workforce Task Force, established by EO 13991 (January 20, 2021) (“Task Force”), has issued [guidance](#) to assist agencies with implementing the vaccination requirement. That guidance specifies that agencies should require all of their employees, with exceptions only as required by law, to be fully vaccinated by November 22, 2021.

The U.S. Office of Personnel Management (OPM) is issuing this guidance on hiring actions to assist agencies in implementing the Executive Order and Task Force’s guidance.

**Current Federal Employees**

People are considered fully vaccinated two weeks after their second shot in a two-dose series, or two weeks after a single-shot series. In order to have covered Federal employees vaccinated by November 22, 2021, agencies should inform employees of the following scheduling considerations, based on the type of vaccine they obtain:

- For Pfizer-BioNTech COVID-19 vaccine, individuals should get their second shot 3 weeks (or 21 days) after the first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination no later than October 18, and their second dose no later than November 8.
- For Moderna COVID-19 vaccine, individuals should get their second shot 4 weeks (or 28 days) after their first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination dose no later than October 11, and their second dose no later than November 8.

- Because the Johnson & Johnson/Janssen vaccine only has one shot, Federal employees must get that dose by November 8, in order to meet a November 22, 2021 deadline to be fully vaccinated.

Of course, it is advisable not to leave vaccinations to the last possible date, as other events often interfere with even well-laid plans.

## **New Employees**

Agencies are urged to require all new employees to be fully vaccinated prior to entering on duty, subject to such exceptions as required by law. Agencies should address the vaccination requirement in their job opportunity announcements and in tentative and final offers of employment.

### **1. Job Opportunity Announcements**

When advertising vacancies, agencies should clearly describe in their job opportunity announcements the COVID-19 vaccination requirement and, for positions with a duty location having an official government worksite, information about the agency's reentry plan, to the extent that plan has been finalized. Here is sample language agencies may wish to use or revise:

- As required by [Executive Order 14043](#), Federal employees are required to be fully vaccinated against COVID-19 regardless of the employee's duty location or work arrangement (e.g., telework, remote work, etc.), subject to such exceptions as required by law. If selected, you will be required to be vaccinated against COVID-19 and submit documentation of proof of vaccination by November 22, 2021 or before appointment or onboarding with the agency, if after November 22. The agency will provide additional information regarding what information or documentation will be needed and how you can request of the agency a legally required exception from this requirement.
- Due to COVID-19, the agency is currently in an expanded telework posture. If selected, you may be expected to temporarily telework, even if your home is located outside the local commuting area. Once employees are permitted to return to the office, you will be expected to report to the duty station listed on this announcement within [X] days. At that time, you may be eligible to request to continue to telework one or more days a pay period depending upon the terms of the agency's telework policy.

When an individual fails to meet a requirement stated in the job opportunity announcement, the agency may take action up to and including rescinding the offer for an applicant or termination from service of a new employee (or removal for an employee who has accrued adverse action rights). Should an agency identify an urgent, mission-critical hiring need to onboard new staff prior to those new staff becoming fully vaccinated, the agency head may delay the vaccination requirement for selected job applicants, such that they do not need to be fully vaccinated against COVID-19 and submit documentation of proof of vaccination before appointment or onboarding with the agency. In the case of such limited delays, agencies are expected to require new hires to be fully vaccinated within 60 days of their start date and to follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

## 2. Tentative and Final Offer Letters

Agencies should make offers of employment contingent on submission of documentation demonstrating compliance with the vaccination requirement in EO 14043. Agencies should provide information about the vaccination requirement in tentative and final offer letters. Here is sample language you may wish to use or revise in tentative and final offer letters:

- **Tentative Offer** – This is a tentative offer of employment. If you receive a final offer, it will be contingent on you providing appropriate documentation of proof of COVID-19 vaccination by the date set in the final offer letter. You can provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points (type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)). The agency will provide additional information regarding how you can request of the agency a legally required exception from this requirement.
- **Final Offer** – Documentation of proof of COVID-19 vaccination must be received by [insert date -November 22, 2021 or before EOD, if after November 22]. You can provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points (type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)). The agency will provide additional information regarding how you can request of the agency a legally required exception from this requirement.

For hiring actions currently underway, agencies should issue revised tentative and final offer letters to advise candidates of the new vaccination requirement. You may wish to use the above sample language in such revised offer letters.

### Additional Information

Guidance from the Task Force is available at: <https://www.saferfederalworkforce.gov/overview/>.

For more information, agency headquarters-level human resources offices may contact Ms. Roseanna Ciarlante by email at [employ@opm.gov](mailto:employ@opm.gov). Component-level human resources offices must contact their agency headquarters for assistance. Employees must contact their agency human resources for further information on this memorandum.

cc: Chief Human Capital Officers (CHCOs)  
Deputy CHCOs  
Human Resources Directors

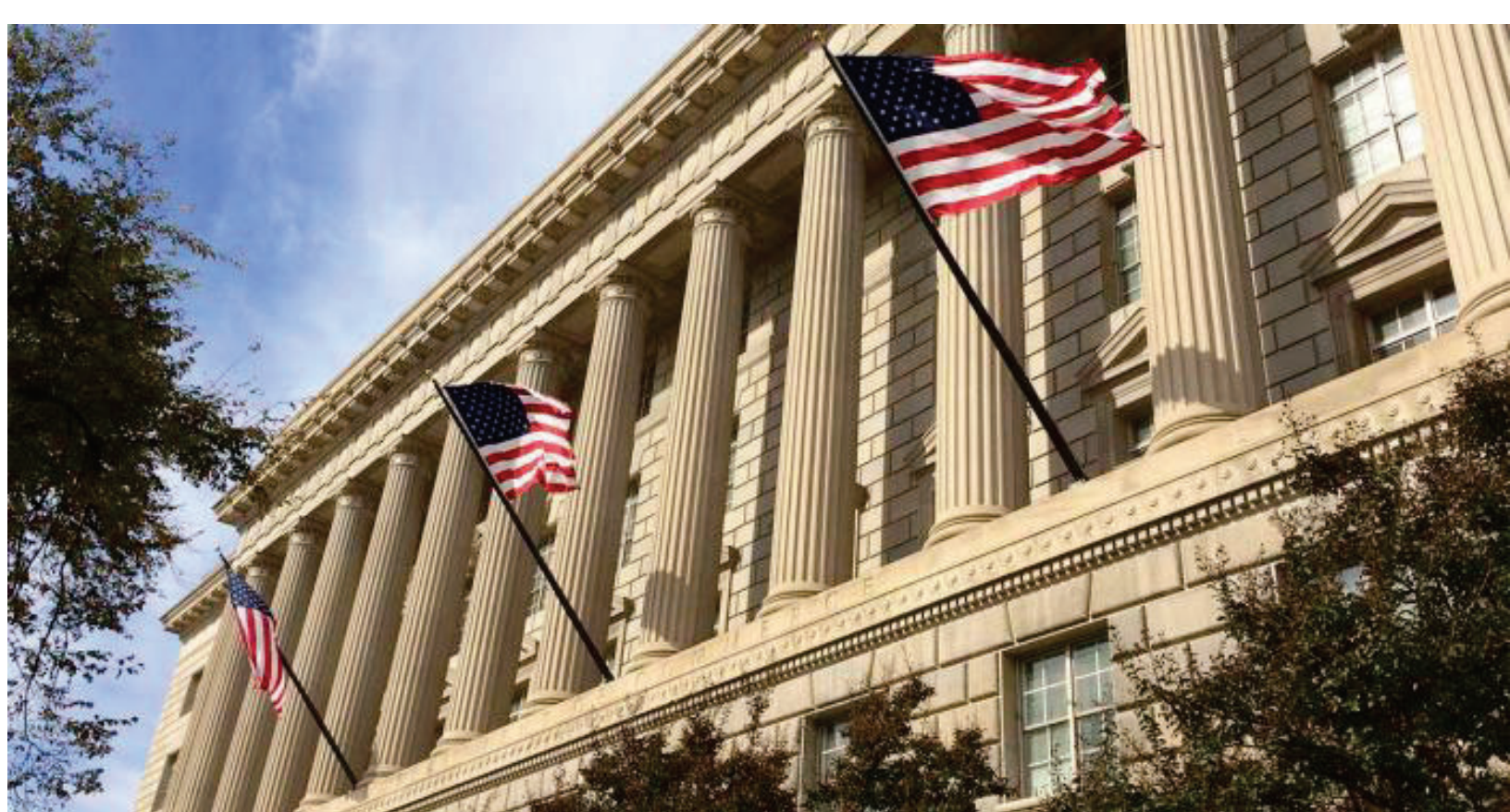
# EXHIBIT 5

# **DEPARTMENT OF COMMERCE**



**UNITED STATES DEPARTMENT OF COMMERCE**

Washington, D.C. 20230



# **COVID-19 WORKPLACE SAFETY PLAN**

December 2021

DOC COVID-19 Coordination Team

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# Introduction

Since the onset of the COVID-19 pandemic in 2020, the Department of Commerce (DOC) has taken a measured and managed approach — focused on employee [health](#), [safety](#), and [well-being](#) — to mitigate the spread of COVID-19 and the impact on our workforce, while ensuring the continuity of Mission Critical work across our 13 Bureaus. We are committed to ensuring your safety and continue to make decisions based on the latest Centers for Disease Control and Prevention (CDC) recommendations, public health best practices, and guidance from the Administration.

On January 20, 2021, President Joseph R. Biden issued [Executive Order \(EO\) 13991: Protecting the Federal Workforce and Requiring Mask-Wearing](#). This EO, which is part of the Administration’s [National Strategy for the COVID-19 Response and Pandemic Preparedness](#), states:

*“It is the policy of the Administration to halt the spread of coronavirus disease 2019 (COVID-19) by relying on the best available data and science-based public health measures. Such measures include wearing masks when around others, physical distancing, and other related precautions recommended by the Centers for Disease Control and Prevention (CDC). Put simply, masks and other public health measures reduce the spread of the disease, particularly when communities make widespread use of such measures, and thus save lives.” – President Joseph R. Biden, 2021*

In accordance with President Biden’s EO, the DOC continues to make significant strides and provide overarching guidance and policies to its Bureaus in all areas of COVID-19 workplace safety. For example, the DOC developed and implemented numerous policies and initiatives including:

- ✓ Successfully transitioned to maximum telework with minimal issues or disruption while continuing to achieve all mission objectives and maintaining 24/7 building operations
- ✓ Implemented a rigorous DOC-level approval process for any critical travel, meetings and conferences, and visitor tracking
- ✓ Established a Federal vaccination site in partnership with more than 10 agencies in the National Capital Region (NCR)
- ✓ Created a COVID-19 Information Hub to educate the public and our employees on key COVID-19 activities occurring at the DOC and to communicate critical policy updates and resources
- ✓ Developed and implemented the DOC COVID-19 Communications Plan, deployed targeted communications on key DOC policy updates and COVID-19 guidance through multiple channels including the Commerce.gov COVID-19 Information Hub
- ✓ Engaged with ~10,000 personnel during DOC COVID-19 Virtual Town Hall Series to answer employees’ pressing concerns about the latest COVID-19 science, medical data, and mental health information
- ✓ Developed the DOC COVID-19 Safety Handbook detailing policies and guidance for phased reentry and post-reentry activities to aid in Bureau and Office leadership decision-making

- ✓ Developed critical data-driven processes for workplace re-entry and post-reentry across all Bureaus
- ✓ Conducted various types of vaccination education to remind personnel about the importance of getting vaccinated, the safety and efficacy of the vaccines, the Federal COVID-19 vaccination requirement, deadlines to become fully vaccinated, and resources on where to get vaccinated
- ✓ Communicated and implemented the Federal COVID-19 vaccination requirement in accordance with EO 14042 and 14043
- ✓ Implemented a Reasonable Accommodations process for limited medical and religious exceptions to vaccination requirements across all DOC offices and Bureaus, ensuring DOC policy and procedures were in line with Federal standards, policy, and requirements
- ✓ Developed a customized solution for tracking employee compliance with vaccination requirements
- ✓ Finalized employee telework and remote work agreements in preparation for employee reentry

The DOC also formally established the [DOC COVID-19 Coordination Team](#) to oversee our efforts and ensure the health and safety of our workforce. In response to Office of Management and Budget (OMB) [Memorandum 21-15](#), [Memorandum 21-25](#), [EO 14042](#), [EO 14043](#), and [Safer Federal Workforce Task Force Agency Model Safety Principles \(updated 9/13/21\)](#), the DOC COVID-19 Coordination Team developed and enhanced its [COVID-19 Workplace Safety Plan](#). In implementing EO 14042, the Department will comply with all relevant court orders, including by following relevant OMB and Safer Federal Workforce Task Force guidance. The purpose of our COVID-19 Workplace Safety Plan, outlined below, is to provide [minimum mandatory safety guidance for all DOC employees, on-site contractors, and any individuals interacting with the DOC workforce](#).

For any questions about the DOC COVID-19 Workplace Safety Plan, please contact the DOC's COVID-19 Coordination Team Lead Zack Schwartz ([Zschwartz@doc.gov](mailto:Zschwartz@doc.gov)).

# Overview

The **goal** of the Department's **COVID-19 Workplace Safety Plan** is to ensure the **health** and **safety** of our Federal workforce.

Our COVID-19 Workplace Safety Plan builds upon the Department's framework for safe workplace operations and includes updated health and safety policies, protocols, and essential COVID-19 work requirements consistent with Federal policies and guidelines, including:

- [Latest guidance](#) from U.S. Centers for Disease Control and Prevention (CDC)
- [Latest guidance](#) from the [Safer](#) Federal Workforce Task Force (Task Force)
- [Latest guidance](#) from Occupational Safety and Health Administration (OSHA) on preparing workplaces for COVID-19
- Latest guidance from [OMB](#), [Office of Personnel Management \(OPM\)](#), and [General Services Administration \(GSA\)](#)

The DOC COVID-19 Workplace Safety Plan includes:

- Current Department-level and Bureau-specific policies
- Future policy enhancements, implementation plans, and timelines
- Communication strategy for employee, contractor, and visitor COVID-19 updates

The DOC COVID-19 Workplace Safety Plan is a **living document**. The DOC COVID-19 Coordination team will continue to assess and refresh this plan over time as conditions warrant, and guidance from the CDC, OMB, and other Federal agencies evolves.

## DOC Bureaus & Offices

The DOC will adhere to all applicable laws and guidelines and will follow a tailored rather than “one-size-fits all” approach to empower its Bureaus & Offices (“Bureaus”) to craft policy and make decisions based on the needs of their workforce, including reentry decisions and phased approaches. The DOC continues to maintain close coordination with its Bureaus for continued implementation of health and safety policies outlined in the COVID-19 Workplace Safety Plan based on the needs of their workforce and environment. In addition to addressing Bureau-specific safety challenges, the DOC ensures all employees, on-site contractors, and visitors are aware of the requirement to comply with CDC guidelines and have access to COVID-19 resources and information, as outlined in our COVID-19 Workplace Safety Plan Socialization Framework. The DOC COVID-19 Coordination Team regularly coordinates with the DOC to discuss and review Bureau-specific plans and policies to ensure they are aligned to all Federal policies and guidelines.

## DOC COVID-19 Coordination Team

The DOC COVID-19 Coordination Team is responsible for championing health protocols established by the CDC and regularly reviewing pandemic-related data, guidelines, and workplace safety needs across Bureaus. The DOC COVID-19 Coordination Team meets regularly to review compliance with agency COVID-19 workplace safety plans and protocols, consider potential revisions to DOC COVID-19 workplace safety plans and protocols pursuant to guidance from the Safer Federal Workforce Task Force and current CDC guidelines, and evaluates any other operational needs related to COVID-19 workplace safety. The Team includes representatives from Human Resources, Occupational Safety & Health, Executive Leadership, the General Counsel Office, and Public Health Experts.

The core members of the DOC COVID-19 Coordination Team include:

- Acting Chief Financial Officer and Assistant Secretary for Administration
- COVID-19 Coordination Team Lead
- Associate Deputy General Counsel of the Office of the General Counsel
- Acting Deputy Assistant Secretary for Administration and Director Office of Facilities and Environmental Quality (OFEQ)
- Associate Director of Office of Space and Building Management
- Manager of Occupational Safety and Health at Herbert C. Hoover Building (HCHB)
- Director of the Office of Human Resources Management (OHRM)
- Director of Occupational Safety and Health
- Health Scientist from the Centers for Disease Control and Prevention (CDC)
- Representative from the Office of Safety, Security, and Asset Management (OSSAM)

The DOC COVID-19 Coordination Team also includes representation from all Bureaus including:

- Bureau of Economic Analysis (BEA)
- Bureau of Industry and Security (BIS)
- U.S. Census Bureau (USCB)
- Economic Development Administration (EDA)
- Office of the Under Secretary for Economic Affairs (OUS/EA)
- International Trade Administration (ITA)
- Minority Business Development Agency (MBDA)
- National Institute of Standards and Technology (NIST)
- National Technical Information Service (NTIS)
- National Oceanic and Atmospheric Administration (NOAA)
- National Telecommunications and Information Administration (NTIA)
- U.S. Patent and Trademark Office (USPTO)
- Office of the Secretary (OS)

## DOC COVID-19 Response

The COVID-19 Workplace Safety Plan is part of the Department's larger COVID-19 response strategy. In addition to creating the COVID-19 Workplace Safety Plan, the Department continues to take action to protect our workforce against COVID-19.

	<ul style="list-style-type: none"> <li>• Coordinate closely with the Task Force to protect the health and safety of the American public and DOC employees.</li> <li>• Update the DOC COVID-19 Workplace Safety Plan and other policy guidance as Federal and CDC guidelines evolve.</li> </ul>
	<ul style="list-style-type: none"> <li>• Coordinate with DOC Bureaus to align their workplace safety plans with the DOC COVID-19 Workplace Safety Plan.</li> <li>• Develop Bureau-specific health and safety protocols to limit disruption to Mission Critical activities.</li> </ul>
	<ul style="list-style-type: none"> <li>• Assist DOC Bureaus in implementing and communicating health and safety protocols across their workforces (e.g., maximum telework, updating contracts for contractors).</li> </ul>
	<ul style="list-style-type: none"> <li>• Identify and source supplies and services necessary to respond to the pandemic in consultation with the Office of Acquisition Management (OAM).</li> </ul>
	<ul style="list-style-type: none"> <li>• Evaluate and implement building reconditioning activities like mechanical and safety system checks (e.g., HVAC) to prepare for increased workforce occupancy.</li> </ul>
	<ul style="list-style-type: none"> <li>• Provide up-to-date COVID-19 resources and information for employees and updates on Departmental and Bureau COVID-19 activities on the <a href="#">DOC COVID-19 Information Hub</a>.</li> </ul>
	<ul style="list-style-type: none"> <li>• Work with DOC Bureaus to obtain and report all COVID-19 data to the Emergency Operations Center and DOC COVID-19 Coordination Team.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure engagement with organized labor to confer and coordinate both with respect to the current operating status and with respect to return-to-office planning.</li> </ul>

# Health & Safety

## Vaccination

### Federal Employees: Vaccination Requirement

The DOC supports public health guidance and recognizes vaccines as the best available resource to combat the pandemic. In line with [EO14043](#), the DOC **requires all Federal employees, regardless of telework or remote work status, to be fully vaccinated against COVID-19 by November 22, 2021**, except in limited circumstances where an accommodation is legally required.

DOC employees must upload proof of vaccination to their Bureau-specific platform (e.g., Census Bureau employees will upload to CHRIS, the Bureau of Industry and Security will upload to Commerce Connection) by the November 22, 2021 deadline. DOC employees should refer to the instructions on how to upload your proof of vaccination shared by the DOC or their Bureau.

Employees **must certify under penalty of perjury** the documentation they are submitting is true and correct.

Acceptable forms of proof of vaccination include:

- A copy the record of immunization from a health care provider or pharmacy
- A copy of the COVID-19 Vaccination Record Card
- A copy of medical records documenting the vaccination
- A copy of immunization records from a public health or state immunization information system
- A copy of any other official documentation containing required data points (type of vaccine administered, date(s) of administration, name of the health care professional(s) or clinic site(s) administering the vaccine(s)) (NOTE: A recent antibody test cannot be used to prove vaccination status)

Federal employees with **medical or religious exceptions may apply for a reasonable accommodation** through their Bureau's established reasonable accommodation process. The DOC makes [medical](#) or [religious](#) exception forms available to all Federal employees on the COVID-19 Information Hub.

Employees may also request medical extensions (delay in compliance with the COVID-19 vaccination requirement) based on certain medical considerations outlined by the [Task Force](#) and the [CDC](#). For more information on applying for a medical extension or a medical or religious exception to the COVID-19 vaccination requirement, please contact your Bureau leadership or Reasonable Accommodations Coordinator (RAC).

Federal employees who do **not comply with vaccination requirements** and **do not obtain an approved reasonable accommodation or extension** will be **subject to progressive discipline, up to and including termination or removal**. For more information on vaccination enforcement, please contact your Bureau leadership.

For purposes of its safety protocols, DOC considers employees, onsite contractor employees, and visitors fully vaccinated for COVID-19 two (2) weeks after they have received the requisite number of doses of a COVID-19 vaccine approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization (WHO). For Pfizer-BioNTech, Moderna, or AstraZeneca/Oxford, that is two (2) weeks after an employee has received the second dose in a two-dose series. For Johnson and Johnson (J&J)/Janssen, that is two (2) weeks after an employee has received a single-dose. Clinical trial participants from a U.S. site who are documented to have received the full series of an “active” (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated two (2) weeks after they have completed the vaccine series. Currently, the U.S.-based AstraZeneca and Novavax COVID-19 vaccines meet these criteria.

#### **Federal Employees: Vaccination on Duty Time**

Because vaccination is a requirement for Federal employees, **time spent obtaining a required COVID-19 vaccine dose (including travel time) is duty time**. DOC employees do not need to take administrative leave while getting vaccinated for COVID-19 during a basic tour of duty, and the DOC will not credit employees with administrative leave for time spent getting a vaccination.

If, due to unforeseen circumstances, an employee is unable to obtain the vaccine during basic tour of duty hours, the normal overtime hours of work rules apply:

- In most circumstances, DOC will **authorize employees to take up to four hours to travel to the vaccination site, complete any vaccination dose, and return to work**—for example, up to eight (8) hours of duty time for employees receiving two doses. If an employee needs to spend less time getting the vaccine, only the needed amount of duty time should be granted.
- DOC requires employees **taking longer than four hours to document the reasons for the additional time** (e.g., they may need to travel long distances to get the vaccine). If, due to unforeseen circumstances, the employee is unable to obtain the vaccine during basic tour of duty hours, the normal overtime hours of work rules apply.

The DOC handles **reasonable transportation costs** incurred as a result of obtaining the vaccine from a site preapproved by DOC in the same manner as local travel or temporary duty cost reimbursement (based on agency policy and the Federal Travel Regulation).

For COVID-19 vaccinations received after July 29, 2021, DOC will grant employees up to four (4) hours of administrative leave per dose to accompany a family member that is receiving a COVID-19 vaccination as defined in OPM’s leave regulations (5 CFR 630.201). If an employee needs to spend less time accompanying a family member who is receiving a COVID-19 vaccination, DOC will grant only the needed amount of administrative leave time. DOC employees should obtain approval from their supervisor before being permitted to use administrative leave for COVID-19 vaccination purposes. DOC employees will not

be credited with administrative leave or overtime work for time spent outside of their tour of duty helping a family member receive their COVID-19 vaccination.

### **Federal Employees: New Hires**

Any individuals who enter Federal service after November 22, 2021 **must be fully vaccinated prior to their start date**, except in limited circumstances where an accommodation is legally required.

However, in case of an urgent, mission-critical hiring need to onboard new staff prior to full vaccination, the DOC may delay the vaccination requirement. In the case of **limited delays**, DOC will **require new hires to be vaccinated within 60 days of their start date** and to follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

The DOC encourages Bureaus to reference [OPM guidance](#) for recommended language related to job opportunity announcements and tentative and final offer letters with respect to vaccination requirements.

### **Contractors and Visitors**

When implementing EO 14042, the Department will comply with all relevant court orders, including by following relevant OMB and Safer Federal Workforce guidance **for those contractors under obligations to be vaccinated by January 18, 2022**. DOC contractors should contact their Contracting Officer's Representative (COR) if they have specific questions regarding this policy.

The DOC and its Bureaus **will not collect or store vaccination status information from contractor employees or visitors**. When visiting or entering a Federal facility or workspace, on-site contractors and visitors should:

- **Complete a [Certification of Vaccination Form](#)** prior to or upon entry to a DOC facility or workspace. Contractors with a PIV card do not need to present the form upon each entry, but must be able to present it while on premise, if necessary.
- Keep a completed Certification of Vaccination Form with them **at all times on premise** and be prepared to **produce it upon request to verify vaccination status**.

At this time, on-site contractors and visitors who **are not fully vaccinated or elect not to provide information** on their vaccination status will be required to:

- Follow all COVID-19 safety protocols for individuals who are not fully vaccinated
- Be able to provide proof of a negative COVID-19 test taken within the past three (3) days when in a Federal building or on Federal lands (unless a member of the public receiving a public service or benefit, see disclaimer above)

Individuals entering a Federal building, a Federally controlled indoor worksite, or Federal land to obtain a public service or benefit do not need to provide information on their vaccination status or show documentation of a negative COVID-19 test result. This includes children receiving childcare services.

For more information on vaccination status and privacy, please refer to the [Confidentiality and Privacy section](#). For more information on COVID-19 Testing, please refer to the [Testing section](#).

## Levels of Community Transmission

The Department will use CDC county-level data in making facility-level determinations consistent with the Task Force guidelines. DOC will assess transmission rates for the appropriate counties on a weekly basis to determine the appropriate COVID-19 safety protocols. The level of transmission must remain at a lower level for at least two (2) weeks before DOC will adjust COVID-19 safety protocols, including mask wearing. All DOC COVID-19 safety protocols, informed by local levels of community transmission, must be followed by all federal employees and onsite contractors in federal buildings, in federally controlled indoor worksites, and on federal lands within the respective locality. DOC will use the [CDC COVID-19 Data Tracker – County View](#) tool to determine local levels of community transmission.

In line with CDC guidance, the DOC continues to consider the levels of community transmission when developing COVID-19 health and safety policy. Please refer to the [Face Masks & Physical Distancing section](#) to learn more about how levels of community transmission impacts DOC's Face Mask Policy.

## Telework & Remote Work

On March 16, 2020, in accordance with policy guidance from OMB, the DOC directed all telework ready DOC employees across the United States to telework until further notice. The DOC transitioned all employees to maximum telework with minimal issues and/or disruption. [Employees/Contractor employees should continue telework until further direction by Department and/or Bureau leadership.](#)

[Until reentry, the DOC continues adherence to maximum telework as an effective workplace safety measure.](#) The DOC developed comprehensive reentry guidelines, phases, timelines, and requirements in accordance with OMB guidance set forth in M-21-25. The DOC, Bureaus, and Offices will provide [employees and labor unions with 30-days' notice prior to reentry and any shifts in telework posture, targeting a return in January 2022.](#) The Department and its Bureaus will also provide managers and supervisors with reentry training, resources, and materials to ensure they are equipped with the right tools and information to support returning employees.

The DOC COVID-19 Coordination Team will continue to work with Bureau Human Resources (HR) personnel to evaluate activities that may require on-site work and regularly assess telework policies. Bureau leaders, managers, and supervisors will also evaluate activities that may require on-site work on an on-going basis and work with their HR and Labor and Employee Relations (LER) teams to confirm on-site work is required. In the near term, managers will enhance coordination with their HR, Office of Equal Employment Opportunity (EEO), and LER team to communicate reentry activities for Bureau employees who are required to return on-site. Please refer to the [Collective Bargaining section](#) to learn more about how the Department is engaging with labor unions.



## Face Masks & Physical Distancing

The Department follows current [CDC Considerations for Wearing Masks](#). All individuals on-site at a DOC facility or workspace must comply with CDC face mask guidance.

Per CDC recommendations, the DOC defines acceptable and unacceptable masks as seen in [Figure 1](#).

All DOC employees, contractors, and visitors are required to wear a face mask in public indoor settings, regardless of vaccination status, in areas of high or substantial transmission.

As confirmed by local Bureau leadership, in areas with **two (2) consecutive weeks or more of moderate transmission**, DOC employees, contractors, and visitors do not need to wear a mask or physically distance in public indoor settings if fully vaccinated. In areas of low transmission, in most settings, DOC employees, contractors, and visitors do not need to wear a mask or physically distance in public indoor settings if fully vaccinated. In the event local requirements exceed Agency or Federal guidance, the more stringent protocols will be observed. Please refer to the [Levels of Community Transmission section](#) for resources to determine the local community's level of transmission. Individuals who are not fully vaccinated must wear masks regardless of the transmission level in a given area.

Personnel may remove face masks when alone in a closed setting (e.g., personal or enclosed office), as needed for identification purposes, or when eating and drinking.

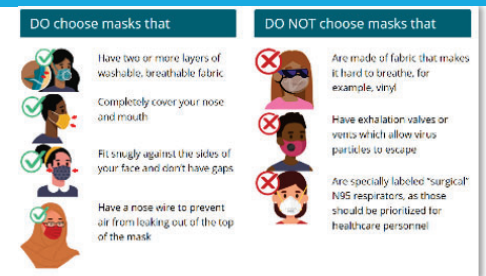
Pursuant to [CDC guidance](#) on mask adaptations and alternatives, **the DOC makes accommodations for individuals on a case-by-case basis, with required documentation**. Possible situations include:

- People of any age with certain disabilities including cognitive, intellectual, developmental, sensory, and behavioral disorders
- People who are deaf or hard of hearing, and those who interact with people who are hearing impaired
- People with certain underlying medical conditions

In terms of resource distribution, **the DOC and its Bureaus, Offices, and facilities will provide face masks to personnel and visitors, as required and/or available**. Where a mask exception is necessary to permit an employee to perform an essential function of their position, supervisors work with their Bureau's Reasonable Accommodation Coordinator to ensure efforts are made to identify alternative protections to combat the spread of COVID-19.

**Masks** do not provide the same level of protection as N95 respirators and **should not replace personal protective equipment** required or recommended at the workplace.

**Figure 1: Types of Masks**



Additionally, the Department follows current CDC guidelines for physical distancing. **Fully vaccinated personnel are not required to practice physical distancing but are required to wear a mask in areas of high or substantial transmission. Personnel who are not fully vaccinated, unvaccinated, or do not disclose their vaccination status are required to practice physical distancing and wear a mask.** Please refer to the [Vaccination section](#) for more information on disclosing your vaccination status.

The DOC reinforces face mask and physical distancing policies with resources, as seen in the sample in [Figure 2](#), and works with Bureaus to ensure they have appropriate and up-to-date resources for employees.

To ensure the DOC is in alignment with the latest health standards, **the DOC will adjust its policy and guidelines related to face masks and physical distancing as necessary based upon guidance from CDC.** Guidelines include strategies for travel within facilities (e.g., designating “up” and “down” stairwells, encouraging stairwell use, floor markings for elevator lobbies, limits to the number of people in an elevator, etc.) and will be communicated across DOC Bureaus via up-to-date signage throughout facilities.

## Testing

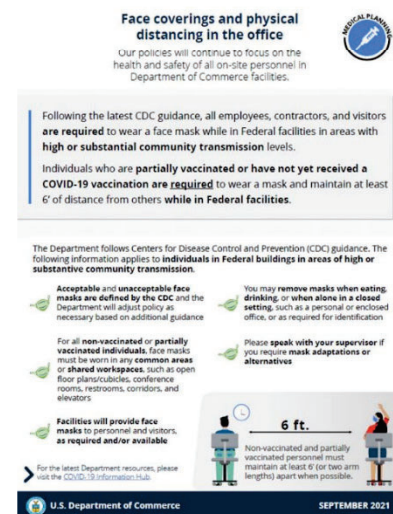
The DOC supports CDC recommendations for COVID-19 testing and is committed to ongoing information-sharing related to these guidelines.

**At this time, and subject to change, Federal employees with approved medical or religious reasonable accommodations** to the COVID-19 Federal vaccination requirement —whose work may require them to enter a Federal facility or interact with the public— may be **required to test up to twice weekly with an FDA-authorized COVID-19 viral test (such as PCR or antigen). Testing expenses should be submitted for agency reimbursement, not to exceed reasonable market rates.**

At this time, **on-site contractors who are not vaccinated, not fully vaccinated, or decline to disclose vaccination status** are required to **present a negative FDA-authorized COVID-19 viral test (such as PCR or antigen) taken within three calendar days of entering the facility and follow all on-site COVID-19 safety protocols regarding mask usage and physical distancing.**

- On-site contractors are responsible for funding and maintaining their own vaccination attestation and testing programs for access to DOC facilities. Compliance shall be enforced by the Contracting Officer’s Representative (COR) at DOC and its Bureaus.
- Contractor employees who refuse to get tested or do not provide proof of a negative test will be prohibited from entering the facility.

**Figure 2: Face Mask and Physical Distancing Resource**



Visitors, international and domestic, are required to [present a negative FDA-authorized COVID-19 viral test \(such as PCR or antigen\) taken within three calendar days of entering the facility and follow all on-site COVID-19 safety protocols regarding mask usage and physical distancing.](#)

- Visitors are responsible for procuring their own COVID-19 tests. Visitors who refuse to get tested or do not provide proof of a negative test will be prohibited from entering the facility.
- This policy does not apply to members of the public entering a Federal building or Federal land to obtain a public service or benefit, including individuals receiving childcare services.

Following CDC guidelines on [COVID-19 testing](#), the DOC recommends any employee or contractor employee with COVID-19 symptoms or with a known or suspected exposure to COVID-19, contact their healthcare provider or visit their [state](#), [Tribal](#), [local](#), or [territorial](#) health department's website to find the latest local information, and obtain their own testing.

For information on testing requirements for individuals with suspected or confirmed cases of COVID-19 as well as individuals identified as a close contact, please reference the [Quarantine & Isolation Section](#).

## Contact Tracing

The Department and its Bureaus implement Contact Tracing to help stop the spread of COVID-19 and protect our workforce and communities. Employees and contractors must report to their supervisors, as soon as possible, if they:

- Received a confirmed COVID-19 diagnosis, are presumed to be COVID-19 positive, or are exhibiting COVID-19 like symptoms **AND**
- Occupied an Agency facility either 48 hours prior to the onset of COVID-19 symptoms or two-days prior to the date of specimen collection for their test if asymptomatic.

Supervisors are then required to notify appropriate DOC or Bureau POCs of the suspected or confirmed COVID-19 infection.

If an employee is suspected or confirmed to have COVID-19 the DOC encourages them to follow CDC guidelines on [What To Do If You Are Sick](#) and [Isolation](#). Refer to the [Quarantine & Isolation section](#) for more information on when an employee may return to DOC facilities or worksites after a suspected or confirmed COVID-19 infection.

In situations of potential or confirmed COVID-19 cases, supervisors [notify the Safety Office, request enhanced cleaning, and identify close contacts from two days prior to onset of symptoms.](#)

*The CDC defines a [close contact](#) as anyone who was within six (6) feet of an infected person for 15 minutes or more. An infected person can spread COVID-19 48 hours prior to the onset of symptoms or a confirmed positive COVID-19 test. A person is still considered a close contact even if they were wearing a mask while in the presence of someone with a confirmed case of COVID-19.*

#### **Impacted individuals identified as a close contact receive communications regarding potential exposure.**

At HCHB, the DOC uses a notification email template to request cleaning, identify travel paths, and address other concerns/questions. The DOC coordinates with its Bureaus to develop similar policies, aligned to CDC guidance on [Case Investigation and Contact Tracing in Non-healthcare Workplaces](#). These policies include best practices for reviewing community contact tracing and highlighting the type of information Bureaus gather including, but not limited to, locations visited and potential employees working in the same workspace.

The DOC also works with Bureaus, Offices, employees, contractors, and visitors to ensure any [new cases are quickly identified and tracked](#). The DOC COVID-19 Coordination Team will also assist Bureaus in adhering to OSHA reporting requirements (e.g., using 29 CFR 1904 to report COVID-19 fatalities and hospitalizations, reporting outbreaks to health department). The DOC COVID-19 Coordination Team supports Bureau COVID-19 case management programs that include workplace close contact identification and notification (i.e., workplace contact tracing).

The DOC [encourages those individuals identified as close contacts to follow CDC guidelines on follow up actions and when they can be around others after exposure](#). For more information on COVID-19 safety guidelines for close contacts, please reference the [Quarantine & Isolation section](#).

Communication of information related to positive COVID-19 cases, when relevant and appropriate, is timely, transparent, and consistent with local and federal privacy and confidentiality regulations and laws.

In accordance with confidentiality policies, an employee/contractor can expect continued protection of their personal privacy information. The DOC adheres to all Federal requirements to protect personal privacy information to the extent possible and consistent with DOC's needs to implement this contact tracing program.

## **Symptom Monitoring**

Employees, on-site contractors, or visitors who are not feeling well must stay home and follow CDC guidelines for [testing](#) and [isolation](#). For information on the DOC's policies and procedures on communicating and escalating suspected or confirmed cases of COVID-19 in the workplace, please reference the [Contact Tracing section](#).

The DOC and its Bureaus also post signage in and around their facilities and offices informing individuals entering Federal workspaces of COVID-19 signs and symptoms (see [Figure 3](#)). In accordance with [CDC recommendations](#) and [OMB policies](#), personnel entering DOC facilities or workspaces are required to regularly complete symptom screening (e.g., a symptom questionnaire) and self-certify absence of COVID-19 symptoms. Bureaus and facilities use this information to assess the individual's risk level and to determine whether they should be allowed entry to the workplace. Visitors must also complete symptom screening before entering a Federal facility or workspace. For more information on visitor policies, please reference the [Visitors section](#).

The DOC supports Bureaus in the development of facility-specific entry guidelines (e.g., barrier/partitional controls, virtual health-checks, staggered arrival) and appropriate signage, where applicable and in line with [OSHA safe work guidance](#). The DOC COVID-19 Coordination Team regularly assesses Bureau facility-specific guidelines to ensure they are in accordance with CDC and OMB policies.

The DOC encourages Bureaus to expand and provide resources such as Standard Operating Procedures (SOPs), Frequently Asked Questions (FAQs), and tools for Bureau supervisors to systematically report employees infected with COVID-19. The DOC also encourages its Bureaus and Offices to implement flexible, nonpunitive sick leave and supportive policies as part of a comprehensive approach to prevent and reduce transmission among employees.

**Figure 3: Self-Certification Signage**



## Quarantine & Isolation

Regardless of vaccination status, individuals who test positive for COVID-19, should:

- Follow [CDC's Isolation](#) guidance
- Alert their supervisor of positive test results (Refer to the [Contact Tracing section](#) for more information)
- Provide information on their last on-site visit (e.g., date, travel paths, interactions)
- Monitor their health closely and seek medical attention per the [CDC's What To Do If You Are Sick](#) guidance

Individuals who have close contact with someone confirmed positive with COVID-19 should follow [CDC's Quarantine](#) guidance.

Per CDC's guidance on [Ending Home Isolation](#), the DOC advises its Bureaus & Offices to use a symptom-based or time-based approach to determine when to discontinue isolation for workers with COVID-19.





Employees **suspected or confirmed to have COVID-19 and exhibit symptoms**, must stay home. Employees can discontinue isolation and return on-site to a DOC facility or workspace if:

- A negative COVID-19 test result is obtained and
- 10 days have passed since symptoms first appeared and
- 24 hours have passed with no fever, without the use of fever-reducing medications and
- Other symptoms of COVID-19 are improving

Employees **suspected or confirmed to have COVID-19 and do not exhibit symptoms**, can discontinue isolation and return on-site to a DOC facility or workspace if:

- A negative COVID-19 test result is obtained and
- 10 days have passed since the positive viral test for COVID-19 and
- Other symptoms of COVID-19 are improving

In the event an individual is identified as a close contact, they should follow the guidelines below.

	Fully Vaccinated Close Contacts	Not Fully Vaccinated Close Contacts
 <b>Get Tested</b>	<b>Stay home</b> and get tested 5 – 7 days after exposure.	<b>Stay home.</b> Get tested immediately after being identified as a close contact <b>and again</b> 5 – 7 days after exposure if the initial test was negative.
 <b>Wear A Mask</b>	Keep your community safe. <b>Wear a mask indoors in public for 14 days</b> following exposure or until test results are negative.	Keep your community safe. <b>Wear a mask at all times.</b>
 <b>Minimize Contact</b>	The DOC requires individuals to <b>telework for a minimum of five days and</b> individuals cannot return on-site until they <b>receive a negative antigen or PCR COVID-19 test.</b>	<b>Quarantine for 14 days</b> from the date of last known exposure <b>and telework until you receive a negative COVID-19 test.</b>
 <b>Monitor Symptoms</b>	<b>Monitor symptoms</b> and seek emergency medical care if displaying any emergency warning signs.	

Official or personal travel may result in a mandatory quarantine before returning to the workplace. If quarantine is required because of official travel or workplace exposure, the agency provides weather and safety leave, or other administrative leave.

If quarantine is required because of personal travel, and the employee is otherwise expected to be present onsite, the employee may take personal leave while quarantining. If an employee refuses to quarantine or refuses to take personal leave while under mandatory quarantine after personal travel, the agency may elect to bar the employee from the workplace for the safety of others. If the agency bars the employee from the workplace, the employee must be placed on administrative leave until the agency determines what status the employee should be placed in while on quarantine. The agency, however, should avoid placing an employee on extended administrative leave in this situation and should act quickly to determine the appropriate status for the employee.

If an employee is subject to isolation due to being infected with COVID-19 and is unable to telework, the employee may request sick leave, as weather and safety leave would be unavailable. Employees may also request accrued annual leave and other forms of paid or unpaid leave in this situation as appropriate.

## Travel

In line with CDC [travel guidance](#) and the latest Task Force guidance on [Official Travel for Federal Employees who are Fully Vaccinated](#), **fully vaccinated employees do not have any restrictions on official travel** while continuing to follow all CDC safety guidelines and protocols, destination policies, specific transportation vendors (airlines, trains, etc.) guidance, and each Bureau's travel protocol. Employees should speak with their Bureau leadership, manager, or supervisor about additional travel protocols, criteria, or exemptions.

Currently, unless contrary to a reasonable accommodation to which an employee is legally entitled, official travel for employees **who are not fully vaccinated or do not disclose their vaccination status is limited to mission-critical trips. Non-vaccinated employees** must adhere to the Department's travel guidance under COVID restriction (travel justification) and should follow CDC guidelines.

All employees should be aware that **restricted travel protocols can be reinstituted at any time** due to government lapse in appropriations, safety, security, and any other precautionary or operational reasons such as Transportation Security Administration (TSA) or Department of State (DOS) travel alerts.

Personnel should adhere strictly to the CDC's latest [Travel During COVID-19](#) guidance (e.g., testing, quarantine) before, during, and after [domestic](#) or [international](#) travel, as applicable for unvaccinated or vaccinated travelers and regardless of whether the travel is personal or for official business.

In the future, the DOC will evaluate the feasibility of leveraging dashboards and other data-driven tools to inform more targeted travel strategies.

## Meetings, Events, and Conferences

In line with Federal guidance, **in-person DOC meetings, conferences, or events with more than 50 participants must be approved by the Secretary, in consultation with the DOC COVID-19 Coordination Team, regardless of whether participants are DOC employees, on-site contractors, or visiting members of the public.**

All in-person DOC meeting, event, or conference attendees must provide information about their vaccination status, regardless of the size of the party.

In-person DOC attendees who are not fully vaccinated or decline to provide information about their vaccination status must provide proof of a negative COVID-19 test **taken within three calendar days of entering the facility and follow all on-site COVID-19 safety protocols regarding mask usage and physical distancing**. In-person DOC attendees who are fully vaccinated must wear a mask indoors in areas of high or substantial COVID-19 transmission. Please refer to the [Levels of Community Transmission section](#) for more information.

The DOC complies with all applicable Federal laws, including the Privacy Act and Paperwork Reduction Act when collecting proof of vaccination information. For more information, please reference the [Confidentiality and Privacy](#) section.

## Confidentiality and Privacy

The DOC remains committed to the **responsible handling of information related to vaccination status and proof of vaccination**. Employee vaccination documentation and information is securely maintained in accordance with all applicable Federal laws and protocols, including the Privacy Act and Rehabilitation Act of 1973 and the Paperwork Reduction Act.

The DOC and its Bureaus coordinate with the Department's Agency Records Officer, Chief Information Officer, and Senior Agency Official for Privacy to determine the best means to collect and maintain required medical information and documentation. As required, the DOC and its Bureaus **present personnel with a Privacy Act statement at the point of documentation and information collection**.

**Personnel medical information**, including reasonable accommodations, test results, information obtained as a result of testing and symptom monitoring, and vaccination status, **is treated as confidential** in accordance with applicable law. The DOC will only disseminate vaccination and/or testing information to the appropriate DOC officials who have a need to know to ensure effective implementation of the safety protocols, which, in many cases, will include the supervisor level.

The DOC consistently evaluates its COVID-19 specific confidentiality policy to identify areas for additional enhancement, as necessary and promotes department-wide privacy and information technology (IT) security compliance. These efforts are an extension of the DOC's adherence to existing laws and policies with respect to the confidentiality and handling of personal medical data generally. Employees should contact the DOC COVID-19 Coordination Team for any questions or issues related to privacy or confidentiality.

# Workplace Operations

## Occupancy

The DOC currently permits **100% occupancy** with **telework flexibility**. Facilities have the ability to limit access based upon local factors, including but not limited to a spike in positive COVID-19 cases, or as a means of ensuring physical distancing between unvaccinated individuals. Facility occupancy rates may be monitored via badging and systems or tracked by facility management personnel.

Federal employees who must work on-site given the needs of their jobs can vary their work schedule within limits set by the Department and its Bureaus through the use of **Flexible Work Schedules (FWS)**. For example, during the flexible hours, employees vary their arrival and departure times, hours worked each day, and days worked each week. The FWS options (including flexitour, gliding, variable day, variable week, and maxi-flex schedules, etc.) have different degrees of flexibility.

## Environmental Cleaning

For information on the DOC's policies and procedures on communicating and escalating suspected or confirmed cases of COVID-19 in the workplace, please reference the [Contact Tracing section](#).

Department-wide, the DOC continues to clean and disinfect its communal spaces, business centers, pantries, stairwells, suite door handles, conference rooms, lobbies, restrooms, and elevators daily. If a COVID-19 case is reported, the DOC adheres to [CDC guidelines](#) on additional cleaning and disinfection protocols within specified windows.

In the event of a suspected or confirmed case of COVID-19 in the workplace (if the individual had been in the building within the last 24 hours), enhanced environmental cleaning is performed for the spaces they occupied in accordance with CDC and GSA guidance. Individuals are asked to vacate the affected space until cleaning or disinfection is completed.

Per CDC guidelines, to allow for the maximum dissipation of any viral presence, custodians should wait at least several hours before disinfecting the space. If more than 24 hours have passed, the Department may choose to disinfect the area based on [CDC recommendations](#) if rates of COVID-19 transmission are high, prevention measures such as mask wearing were not observed in the space, or the space is used by people at increased risk for severe illness from COVID-19.

The DOC COVID-19 Coordination Team determines the appropriate scope of workplace closures—in some cases, it may be a suite, offices, or part of a floor, in other cases, it may include an entire building.

## Hygiene

Individuals should follow [CDC guidelines](#) for washing hands ([Figure 5](#)) frequently, using sanitizer when needed, and wiping down phones and other high-touch surfaces in personal space.

In addition to signage posted in and around its workspaces, the DOC also supplies hand sanitizer dispensers with at least 60% ethanol at building entrances, workspaces, and in common areas, such as but not limited to breakrooms, conference spaces, and business centers.

Figure 5: Wash Your Hands



## Ventilation & Air Filtration

DOC, Bureau, and Office facilities follow the latest CDC guidelines on [building](#), heating, and air conditioning (HVAC) recommendations. To the maximum extent feasible, [indoor ventilation is optimized](#) to increase the proportion of outdoor air, improve filtration, and reduce or eliminate recirculation. The DOC, Bureaus, and Offices also continuously evaluate facilities, monitor mechanical and life safety systems, and check for hazards associated with prolonged facility shutdown or low occupancy (e.g., plumbing system checks, water quality testing).

The DOC uses Ultraviolet Germicidal Irradiation (UVGI) light in Air Handling Units (AHUs) throughout the HCHB in Washington, D.C. This system kills viral, bacterial and fungal organisms and in combination with increased outside air exchanges and appropriate protocols, reduces risk of COVID-19 transmission. Additionally, the HCHB is maximizing ventilation by expanding hours of operating of the AHUs which increases the number of daily air exchanges. Finally, all AHUs are regularly maintained and utilize the highest MERV rating air filters allowable per manufacturer's recommendations, including MERV 13 air filters.

## Visitors

The Department empowers Bureaus to lift all [domestic](#) visitor restrictions based on their reentry approach, public health guidance, and community COVID-19 data. The Department continues to develop Department-wide policies for [international](#) visitors. At this time, approved international visitors to HCHB must adhere to facility COVID-19 protocols and vaccination status. Protocols are subject to change based upon CDC guidance and local public health conditions.

All visitors are required to follow self monitoring protocols and prohibited on-site if exhibiting symptoms of COVID-19. Visitors to DOC Federal workspaces are required to adhere to and follow all COVID-19 policies and on-site signage.

Please reference the [Vaccination](#) and [Testing sections](#) for additional information on visitor safety protocols.

## Work Schedules

The Department supports variations of work schedules (flexible schedules, core days in office requirements, staggered work times) as deemed necessary and appropriate by Bureau leadership and supervisors and approved by senior leadership. Core working hours remain as previously or newly negotiated through collective bargaining agreements. The Department encourages all employees to contact their managers/supervisor to determine work schedules and/or available flexibilities that fit their needs, while adhering to Bureau policies.

In the event of changes to telework policy, in line with CDC and OMB guidance, the DOC advises its Bureaus develop and communicate work schedule plans to minimize contact and the spread of COVID-19. Plans include, but are not limited to, flexibilities for individuals, including those in increased risk groups, and Bureau and facility-specific information like staggered shifts, start times, and break times for returning employees and in accordance with [CDC recommendations](#).

The DOC coordinates with the Office of Personnel Management (OPM) to understand pay and leave implications surrounding work schedules and other flexibilities.

The DOC grants up to two (2) workdays of administrative leave if an employee has an adverse reaction to any COVID-19 vaccination dose that prevents the employee from working (i.e., no more than two (2) workdays for reactions associated with a single dose).

- If an employee requests more than two (2) workdays to recover, the DOC may make a determination to grant emergency paid leave under the American Rescue Plan Act —if available—or the employee may take other appropriate leave (e.g., sick leave) to cover any additional absence.

The DOC grants leave-eligible employees up to four (4) hours of administrative leave per dose to accompany a family member (as defined in OPM's leave regulations, see 5 CFR 630.201) who is receiving any COVID-19 vaccination dose.

- The DOC grants leave-eligible employees up to four hours of administrative leave per dose—for example, up to a total of twelve hours of leave for a family member receiving three doses—for each family member the employee accompanies.
- If an employee needs to spend less time accompanying a family member who is receiving the COVID-19 vaccine, the DOC grants only the needed amount of administrative leave.
- Employees should obtain advance approval from their supervisor before being permitted to use administrative leave for COVID-19 vaccination purposes.
- Employees are not credited with administrative leave or overtime work for time spent outside their tour of duty helping a family member get vaccinated.
- This policy applies to covered vaccinations received after July 29, 2021.

The DOC makes employees aware that official or personal travel may result in a mandatory quarantine before they are allowed to return to the workplace. If quarantine is required because of official travel or workplace exposure, the agency provides weather and safety leave, or other administrative leave.

- If quarantine is required because of personal travel, and the employee is otherwise expected to be present onsite, the employee may take personal leave while quarantining. If an employee refuses to quarantine or refuses to take personal leave while under mandatory quarantine after personal travel, the agency may elect to bar the employee from the workplace for the safety of others.

If an employee is subject to isolation due to being infected with COVID-19 and is unable to telework, the employee may request sick leave, as weather and safety leave would be unavailable. Employees may also request accrued annual leave and other forms of paid or unpaid leave in this situation as appropriate. (See OPM CPM 2020-02, February 7, 2020)

## Shared Spaces

Shared spaces include elevators, hallways, stairwells, cafeterias or kitchens, restrooms, and other facility-specific shared spaces. Dependent on current local transmission and facility masking guidelines, **fully vaccinated personnel may not be required to wear a mask in shared spaces but may opt to do so if desired**. Please refer to the [Face Masks section](#) for more information on appropriate facility mask policies.

Individuals who are not fully vaccinated, unvaccinated, or do not disclose their vaccination status are required to wear a mask and practice physical distancing in shared spaces.

On-site personnel, regardless of vaccination status, should follow hand-washing guidance before utilizing shared tools and equipment and disinfect shared tools and equipment after use (e.g., phones, printers, computers, workstations). Personnel must disinfect tools and equipment anytime they are used by or transferred to a new person. This includes phones, computers, shared printers, and other communication devices, kitchen utensils, and other office equipment. Refrigerators, water coolers, and coffee brewers with disposable cups (or a personal re-usable cup/container) and single serve condiments and creamers may be used with proper hand hygiene.

Subject to the availability of appropriations and necessary expense justification, disinfectant wipes will be provided to the extent possible. Bureau leadership may also utilize the DOC's space planning services at HCHB to minimize employee contact.

## Collective Bargaining Obligations

The DOC continues to satisfy all applicable collective bargaining obligations under [5 U.S.C Chapter 71](#) when implementing the DOC COVID-19 Workplace Safety Plan and corresponding policies, including on a post-implementation basis when necessary. The DOC and its corresponding Bureaus and Offices will continue to communicate regularly with the appropriate employee representatives on workplace safety matters.

# Appendix

## DOC COVID-19 Communications Plan

The COVID-19 crisis is not a single event, but rather a series of circumstances requiring constant communication as new information and policies emerge. To help ensure workplace health and safety, the DOC continues to provide proactive, transparent, timely, and iterative engagement with its employees, Bureaus, Offices, and Federal employee unions on policy enhancement and implementation.

To promote information sharing across its workforce and Bureaus, and effectively communicate changes to the COVID-19 Workplace Safety Plan the DOC COVID-19 Coordination Team provides regular updates to employees through designated communication channels, as outlined in Table 2 below. In addition to established communication channels, moving forward, the DOC will consider multi-media communication channels such as the use of videos and podcasts to share up-to-date information effectively and efficiently to its employees.

Table 2: DOC COVID-19 Coordination Team Communication Channels	
Channel	Stakeholders
<a href="#"><u>DOC COVID-19 Information Hub</u></a>	Employees, contractors, and visitors across DOC and its Bureaus, and the public
Commerce Connection	Employees and contractors across DOC and its Bureaus
Broadcast Email Messages	Employees and contractors across DOC and its Bureaus
Virtual Townhalls	Employees and contractors across DOC and its Bureaus
Monthly Newsletters	Employees and contractors across DOC and its Bureaus

The DOC COVID-19 Coordination Team will continue to explore additional communication channels for continued engagement.

The DOC COVID-19 Workplace Safety Plan Socialization Framework outlined below showcases the communications flow from CDC, OMB, and public health officials to the DOC, who work directly with the DOC COVID-19 Coordination Team on information dissemination to its Bureaus.

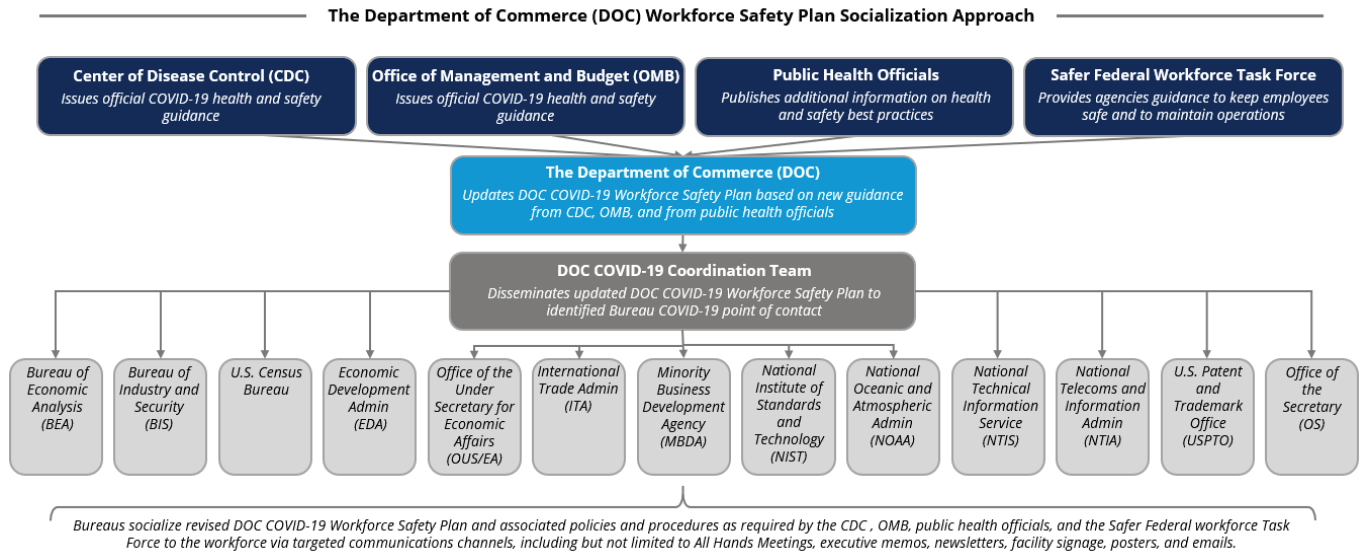


Table 3. DOC COVID-19 Workplace Safety Plan Version Control

Version Number	Modifications Made	Date Modified
2.0	Finalized DOC COVID-19 Workplace Safety Plan for publication based on OMB and GSA feedback and additional requirements	2/19/21
3.0	Updated DOC COVID-19 Workplace Safety Plan to align with CDC Federal Guidelines for Fully Vaccinated Individuals, OMB M-21-25, EO 14042, and EO 14043.	9/10/21
4.0	Updated DOC COVID-19 Workplace Safety Plan to align with Safer Federal Workforce Task Force Updated COVID-19 Workplace Safety Agency Model Safety Principles, Vaccination Guidance, and Guidance for Federal Contractors and Subcontractors	10/8/21
5.0	Updated DOC COVID-19 Workplace Safety Plan to include updated Vaccination and Confidentiality and Privacy Guidance following an assessment using the OMB COVID-19 Workplace Safety Plan Agency Self-Assessment Tool	10/15/21

6.0	Updated DOC COVID-19 Coordination Team Members, included additional progress made to date within the introduction and added a new requirement easing mask requirements after two weeks of moderate community transmission	10/29/21
7.0	Updated formatting, links, and the Vaccination, Levels of Community Transmission, Telework & Remote Work, Face Mask & Physical Distancing, Quarantine & Isolation, Travel, Occupancy, and Appendix sections per OMB feedback and GSA recommended text.	11/30/21
8.0	Updated introduction to include required statement from OMB regarding the implementation of EO 14042.	12/10/21

# **DEPARTMENT OF HOMELAND SECURITY**



Official website of the Department of Homeland Security



U.S. Department of  
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## Employee Resources

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- [My Work-Life](#)
- [My Health](#)
- [My Quick Links](#)
- [Employee Blog](#)

# Employee Resources

## COVID-19 Workforce Information

(<https://www.vaccines.gov>).

On September 9, 2021, President Biden issued [Executive Order 14043](#)

(<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/>)

Requiring Coronavirus Disease 2019 Vaccination for Federal Employees to promote the health and safety of the Federal workforce and the efficiency of the civil service.

As a DHS federal employee, you must be fully vaccinated by November 22, 2021, unless you have received or have requested an exemption for religious or medical reasons. All DHS federal employees, including those who seek an exemption from the vaccination requirement for religious or medical reasons, must provide their vaccination status, upload proof of vaccination and certify the truthfulness of your vaccination status and proof.



Vaccines are the key  
to ending the pandemic.

For more information, visit  
[Vaccines.gov](https://www.vaccines.gov)



Homeland  
Security



Read [Path out of the Pandemic](https://www.whitehouse.gov/covidplan/) (<https://www.whitehouse.gov/covidplan/>) for more information on President Biden's COVID-19 action plan.

View [more information about vaccines](/employee-resources/covid-19-vaccines/) (</employee-resources/covid-19-vaccines/>).

DHS continues to pay close attention to the evolving COVID-19 situation in order to protect our nation, our workforce, and [your families](/employee-resources/vaccine-awareness-protect-your-bubble/) (</employee-resources/vaccine-awareness-protect-your-bubble/>). The Department is working very closely with Centers for Disease Control and Prevention (CDC), other federal agencies, public health officials, and all Components to implement public health control measures related to travelers from the affected regions and to implement appropriate workforce health and safety measures for the DHS workforce. We will provide additional information and resources as it becomes available.

If you have specific questions regarding your personal health conditions and the vaccine, we ask that you speak with your personal healthcare provider for more guidance.

## Mandatory Vaccine Deadlines (#)

To be considered “fully vaccinated” an employee must have their second Moderna or Pfizer vaccination, or the single-dose Johnson & Johnson vaccination, 14 days prior to November 22, 2021. The below table provides the “no later than” dates federal employees must receive their vaccinations in order to meet the mandated deadline. The timing between your first and second shots depends on which vaccine you received.

- Johnson & Johnson: One Shot
- Pfizer: 3 weeks (or 21 days)
- Moderna: 4 weeks (or 28 days)

	Johnson & Johnson	Moderna	Pfizer-BioNTech
<b>First Shot</b>	November 8, 2021	October 11, 2021	October 18, 2021
<b>Second Shot</b>	N/A	November 8, 2021	November 8, 2021
<b>Fully Vaccinated</b>	November 22, 2021	November 22, 2021	November 22, 2021

## If You Are Not Vaccinated and Would Like More Information (#)

- [How to find a COVID-19 vaccine](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/How-Do-I-Get-a-COVID-19-Vaccine.html) (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/How-Do-I-Get-a-COVID-19-Vaccine.html>).

- Benefits of getting vaccinated (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html>).
- Key Things to Know About COVID-19 Vaccines (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html>).
- Different COVID-19 Vaccines (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines.html>).
- Myths and facts about COVID-19 vaccines (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/facts.html>).
- Ensuring COVID-19 Vaccines Work (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness.html>).
- COVID-19 Vaccine Effectiveness (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/how-they-work.html>).
- COVID-19 vaccines for children and teens (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/adolescents.html>).
- Vaccination considerations for people who are pregnant or breastfeeding (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/pregnancy.html>).
- What you can do if you are at higher risk of severe illness from COVID-19 (<https://www.cdc.gov/coronavirus/2019-ncov/downloads/COVID19-What-You-Can-Do-High-Risk.pdf>).
  - Pfizer receives FDA approval (<https://www.fda.gov/news-events/press-announcements/fda-approves-first-covid-19-vaccine>).

## Information about COVID-19 (#)

- About Coronavirus Disease 2019 (COVID-19) (<https://www.cdc.gov/coronavirus/2019-nCoV/index.html>).
  - Your COVID-19 Vaccination (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/your-vaccination.html>).
  - When You've Been Fully Vaccinated (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>).
  - Choosing Safer Activities (<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/participate-in-activities.html>).
  - Your Health (<https://www.cdc.gov/coronavirus/2019-ncov/your-health/index.html>).
  - Prevent Getting Sick (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/index.html>).
  - If You Are Sick or Caring for Someone (<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/index.html>).
  - Travel (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>).
- What DHS is Doing: COVID-19 Response Efforts (<https://www.dhs.gov/publication/department-homeland-security-covid-19-response-efforts>).

- What the US Government is Doing (<https://www.usa.gov/coronavirus>).

## Resources to Help you Stay Healthy at Work and Home (#)

- COVID-19 Quick Reference Guide (</publication/covid-19-quick-reference>).
- Everyday Precautions to Keep COVID-19 Out of Your Home (</publication/everyday-precautions-covid-19>).
- Proper Hand Washing Steps (</employee-resources/hand-washing>).
- How to Disinfect your Workspace (</employee-resources/disinfect-workspace>).
- Facts about COVID-19 Vaccines (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/facts.html>).
  - Pfizer receives FDA approval (<https://www.fda.gov/news-events/press-announcements/fda-approves-first-covid-19-vaccine>).
- COVID-19 Vaccines While Pregnant or Breastfeeding (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/pregnancy.html>) (CDC)
- Guide to Masks (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>) (CDC)
  - How to Select, Wear, and Clean Your Mask (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>) (CDC)
- Actions You Can Take to Prevent the Spread of Illness (<https://www.cdc.gov/nonpharmaceutical-interventions/index.html>) (CDC)
- Travelers' Health (<https://wwwnc.cdc.gov/travel>) (CDC)
- Employee Assistance Programs (EAP) (</employee-resources/employee-assistance-programs>).
- Activity Risk Scale ([/redirect?url=https%3A%2F%2Fwww.texmed.org%2FuploadedFiles%2FCurrent%2F2016 Public Health%2FInfectious Diseases%2FActivity%2FRisk%2FScale.pdf](/redirect?url=https%3A%2F%2Fwww.texmed.org%2FuploadedFiles%2FCurrent%2F2016%20Public%20Health%2FInfectious%20Diseases%2FActivity%2FRisk%2FScale.pdf)) (Texas Medical Association)
- Coping with Stress (<https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/managing-stress-anxiety.html>) (CDC)
- Paid Sick Leave and Family Leave Rights (<https://www.dol.gov/agencies/whd/pandemic>) and PDF ([https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA-Employee Paid Leave Rights.pdf](https://www.dol.gov/sites/dolgov/files/WHDPandemic/FFCRA-EmployeePaidLeaveRights.pdf)) (DOL)
- Workplace Protections and Reasonable Accommodations (<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>) (EEOC)

- [Creating a Safer Federal Workforce: A Response to COVID-19](https://www.usa.gov/safer-federal-workforce) (<https://www.usa.gov/safer-federal-workforce>) (USA.gov)
- [Contact Information for State and Local Public Health Departments](https://www.usa.gov/state-health) (<https://www.usa.gov/state-health>) (USA.gov)
- [COVID-19 Update: FDA Authorizes Additional Vaccine Dose for Certain Immunocompromised Individuals](https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-additional-vaccine-dose-certain-immunocompromised) (<https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-authorizes-additional-vaccine-dose-certain-immunocompromised>) (FDA)
- [COVID-19 Resources for Veterans](https://www.publichealth.va.gov/n-coronavirus/) (<https://www.publichealth.va.gov/n-coronavirus/>) (VA)
  - [Self Care and Grounded Meditation](https://www.blogs.va.gov/VAntage/73363/live-whole-health-self-care-episode-1/) (<https://www.blogs.va.gov/VAntage/73363/live-whole-health-self-care-episode-1/>)
  - [National Resource Directory](https://nrd.gov/) (<https://nrd.gov/>)

## Preventive Measures (#)

Everyday preventive measures that reduce the spread of germs also help reduce the risk of respiratory infections like COVID-19:

- Avoid close contact with people suffering from respiratory infections.
- Wash your hands frequently, especially after direct contact with ill people or their belongings.
- Avoid direct contact and handling of farm or wild animals.
- If you have symptoms of respiratory infection, stay home and practice cough etiquette. Maintain distance from others, cover your coughs and sneezes with disposable tissues, or cough and sneeze into your elbow. Wash your hands after you cough or sneeze.
- Avoid unnecessary travel to known affected areas, if possible.



Marriage



Parenting & Child Care



Retirement



# **DEPARTMENT OF DEFENSE**



DEPUTY SECRETARY OF DEFENSE  
1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

OCT - 1 2021

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP  
COMMANDERS OF THE COMBATANT COMMANDS  
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Mandatory Coronavirus Disease 2019 Vaccination of DoD Civilian Employees

To defend the Nation and protect the American people, we need a healthy and ready Total Force. To accomplish this, the Secretary of Defense directed the mandatory vaccination of Service members against the coronavirus disease 2019 (COVID-19) by signing the memorandum, "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members," on August 24, 2021.

On September 9, 2021, the President of the United States directed Executive Branch agencies to implement a COVID-19 vaccination requirement for Federal employees to ensure the health and safety of the Federal workforce and members of the public with whom they interact by signing Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees."

All DoD civilian employees must be fully vaccinated by November 22, 2021, subject to exemptions as required by law. Employees are considered fully vaccinated 2 weeks after completing the second dose of a two-dose COVID-19 vaccine or 2 weeks after receiving a single dose of a one-dose COVID-19 vaccine.

New DoD civilian employees must be fully vaccinated by their entry on duty (start) date or November 22, 2021, whichever is later.

To meet this requirement, individuals must be vaccinated with vaccines that are either fully licensed or authorized for emergency use by the Food and Drug Administration (FDA) (e.g., Comirnaty/Pfizer-BioNTech, Moderna, Johnson & Johnson/Janssen); listed for emergency use on the World Health Organization Emergency Use Listing (e.g., AstraZeneca/Oxford); or approved for use in a clinical trial vaccine for which vaccine efficacy has been independently confirmed (e.g., Novavax). Those with previous COVID-19 infection(s) or previous serology are not considered fully vaccinated on that basis for the purposes of this mandate.

Those who are not currently fully vaccinated must meet the following deadlines, if using vaccines that are fully licensed or authorized for emergency use by the FDA, in order to be fully vaccinated by November 22, 2021:

- October 11: first dose deadline (if receiving the Moderna vaccine);
- October 18: first dose deadline (if receiving the Comirnaty/Pfizer-BioNTech vaccine);



- November 8: second dose deadline (if receiving the Moderna and Comirnaty/Pfizer-BioNTech vaccines); and
- November 8: first (only) dose deadline (if receiving the Johnson & Johnson/Janssen vaccine).

In accordance with Deputy Secretary of Defense Memorandum, “Coronavirus Disease 2019 Vaccine Guidance,” December 7, 2020, DoD civilian employees are eligible to receive the COVID-19 vaccine at any DoD vaccination site, including military medical treatment facilities. They may also opt to receive the COVID-19 vaccine at locations other than DoD vaccination sites, including retail stores, private medical practices, and/or local and State public health department sites. Employees, including those who have already received COVID-19 vaccines, must be prepared to provide a copy of their COVID-19 vaccine record in order to meet forthcoming procedures for DoD COVID-19 vaccination verification.

Additional guidance, including procedures for processing vaccination exemption requests, will be published by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The USD(P&R) is authorized to rescind this memorandum as necessary for purposes of providing updated guidance.

Vaccinating DoD civilian employees against COVID-19 will save lives and allow for the defense of our Nation. Thank you for your focus on this critical mission.

A handwritten signature in black ink, appearing to read "Karl H. Hick". The signature is fluid and cursive, with the first name "Karl" being more prominent and the last name "Hick" following in a similar style.



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

NOV 30 2021

MEMORANDUM FOR SECRETARIES OF THE MILITARY SERVICES  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND  
READINESS  
CHIEF OF THE NATIONAL GUARD BUREAU

SUBJECT: Coronavirus Disease 2019 Vaccination for Members of the National Guard and the Ready Reserve

In my memorandum of August 24, 2021, "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members," I directed the Secretaries of the Military Departments to immediately begin full vaccination of all members of the Armed Forces under DoD authority on active duty or in the Ready Reserve, including the National Guard, who are not fully vaccinated against coronavirus disease 2019 (COVID-19).


Vaccination is essential to the health and readiness of the Force. Accordingly, the Secretary of the Army and the Secretary of the Air Force, in coordination with the Under Secretary of Defense for Personnel and Readiness and the Chief of the National Guard Bureau, shall establish, as appropriate, policies and implementation guidance to address the failure to maintain this military medical readiness requirement by members of the non-federalized National Guard who remain unvaccinated, including as follows:

- Unless otherwise exempted in accordance with Department policy, all members of the National Guard must be fully vaccinated for COVID-19 by the deadlines established by the Army or Air Force, as appropriate, or must subsequently become vaccinated, in order to participate in drills, training and other duty conducted under title 32, U.S. Code.
- No Department of Defense funding may be allocated for payment of duties performed under title 32 for members of the National Guard who do not comply with Department of Defense COVID-19 vaccination requirements.
- No credit or excused absence shall be afforded to members who do not participate in drills, training, or other duty due to failure to be fully vaccinated against COVID-19.

The Secretaries of the Military Department, in coordination with the Under Secretary of Defense for Personnel and Readiness, shall issue similar guidance and policy for members of the Ready Reserve, in addition to the guidance and policy issued by the Secretaries of the Army and the Air Force, with respect to members of the non-federalized National Guard.

The policies and implementation guidance directed by this memorandum shall be published no later than December 6, 2021. As I've said before, vaccination of the Force will save lives and is essential to our readiness. Thank you for your continued leadership and focus on this critical mission.

A handwritten signature in black ink, likely of Mark A. Taper, is located in the bottom right corner of the page.



From: DLA Human Resources Bulletins <hrbulletins@dla.mil>  
Sent: Friday, December 3, 2021 2:42 PM  
Subject: Message from DLA Human Resources Director: Vaccination Status Reporting/New Guidance on Boosters

DLA Team,

Let me start out by thanking the 98.5% of our civilian employees who have reported their COVID-19 vaccination status in the DLA COVID-19 Vaccination Documentation System. My message to the small number of you who haven't completed this reporting requirement is you must do so immediately to avoid adverse actions such as letters of counseling and reprimand. Further enforcement actions, up to and including suspension and removal, may be initiated on or after Jan. 1, 2022, for employees who fail to comply with the vaccine mandate or submit documentation to show that they have received the required vaccination dose(s) or that they have submitted an exemption request. Individuals who have requested exemptions must still complete the reporting requirements in the DLA COVID-19 Vaccination Documentation System and select the option to indicate they have a request pending.

New Guidance on Vaccine Boosters: The Centers for Disease Control and Prevention (CDC) now recommend that everyone age 18 and older get a booster shot.

If you received the Pfizer-BioNTech or Moderna vaccine, you should get a booster of any of the vaccines authorized in the United States at least six months after completing your primary COVID-19 vaccination series.

If you received Johnson & Johnson's Janssen vaccine, you should get a booster of any of the vaccines authorized in the United States at least two months after completing your primary COVID-19 vaccination.

You may choose which COVID-19 vaccine you receive as a booster shot.

Some people may prefer the vaccine type that they originally received, and others may prefer to get a different booster. CDC's recommendations now allow for this type of mix and match dosing for booster shots.

Employees are authorized up to four hours of administrative leave to receive a COVID-19 vaccine booster shot and up to two days of administrative leave for recovery if they experience adverse effects from a booster. To find a COVID-19 vaccine location near you, search [vaccines.gov](https://www.vaccines.gov), text your ZIP code to 438829, or call 1-800-232-0233. DoD civilian employees are also eligible to receive the COVID-19 vaccine at any DoD vaccination site, including military medical treatment facilities.

Overseas employees and family members should contact their nearest military treatment facility.

Other important reminders:

Vaccinations are the best way to protect our valued employees from this deadly virus and continue to meet our critical mission requirements for America's warfighters.

If your vaccination status changes (e.g., you were partially vaccinated and then subsequently receive a required second dose) you must update your information in the DLA COVID-19 Vaccination Documentation System.

Employees may receive up to four hours of administrative leave per dose to accompany a family member to obtain a COVID-19 vaccination.

Employees should obtain advance approval from their supervisor before using administrative leave for this purpose.

The DLA COVID-19 Vaccination Documentation System allows DLA employees who have provided proof of vaccination to generate a DD Form 3175, DoD Civilian Employee Certification of Vaccination. DoD employees visiting other DoD or federal government installations or facilities may be required to provide this form ahead of time or upon entry.

Instructions for generating this form through the system are available in the Employee User Guide.

Earlier messages, guidance summaries, and an in-depth FAQ are available on the DLA Coronavirus Information Page.

Questions or concerns can be directed to your servicing DLA Human Resources Services office: <https://www.dla.mil/Careers/Contact/>, or you can write to [askhr@dla.mil](mailto:askhr@dla.mil) and your message will be forwarded to your servicing DLA Human Resources Customer Account Manager (CAM).

Warfighter Always!

SHARYN J. SAUNDERS  
Director  
DLA Human Resources

# **DOD: NATIONAL GUARD BUREAU**



# NATIONAL GUARD BUREAU

111 SOUTH GEORGE MASON DRIVE  
ARLINGTON, VA 22204-1373

10 NOV 2021

## MEMORANDUM FOR THE ADJUTANTS GENERAL AND THE COMMANDING GENERAL OF THE DISTRICT OF COLUMBIA

SUBJECT: National Guard Implementation Guidance for Force Health Protection  
(Supplement 23) Revision 2 - Mandatory Coronavirus Disease 2019 Vaccination  
Attestation, Screening Testing and Verification

1. This memorandum rescinds and replaces National Guard Implementation Guidance for Force Health Protection (Supplement 23) Revision 1 - Mandatory Coronavirus Disease 2019 Vaccination Attestation, Screening Testing and Verification for National Guard Title 5 Employees, and provides updated implementation guidance regarding DoD Force Health Protection (FHP) Guidance (Supplement #23), Revision 2. The guidance includes DoD mandatory Coronavirus Disease 2019 (COVID-19) vaccination attestation, vaccination verification requirements, exemption process, and enforcement for Title 5 National Guard employees. Civilian vaccine attestation, verification requirement guidance, exemption process, and enforcement is not applicable to Title 32 dual status military technicians who will follow directives and procedures issued by their respective service components and supplemented by the Army National Guard and the Air National Guard. OUSD(P&R) FHP (Supplement #23) Revision 2 guidance is very broad in its approach and provides amplifying guidance on workplace safety including vaccination requirements, screening testing requirements for purposes of physical access to DoD facilities, and testing supply information. Not all guidance applies to all National Guard personnel.
2. This guidance is not applicable to individuals employed under Title 32 United States Code 709. Those individuals will be subject to vaccination requirements outlined by their respective service components and supplemented by policy implemented under the authority of their respective Adjutant General or Commanding General.
3. Procedures for screening and Testing of T5 NG Employees, Contractors, and visitors can be found in Attachment 7, COVID-19 Screening Testing Requirements (Applicable to Title 5 NG Employees, DoD Contractors, and all visitors to DoD facilities to include Military Service Members (Title 32 Military Technicians, M-Day, and Drill Status Guardsmen).
4. Title 5 National Guard employees are required to be fully vaccinated by 22 November 2021, subject to exemptions as required by law. This mandate also includes Title 5 National Guard employees who are engaged in full-time telework or remote work. Additional information about the requirements for Title 5 National Guard employees can be found in Attachment 1, COVID-19 Vaccination Requirements and Documentation for Title 5 National Guard Employees.

5. Title 5 National Guard employees may request an exemption on the basis of a disability (which includes medical conditions) or a sincerely held religious belief, practice or observance. Exemptions will be granted in limited circumstances and only where legally required. Generally, such requests should be submitted in writing. Employees may use Attachment 5, DD Form 3176- "Request for a Medical Exemption or Delay to the COVID-19 Vaccination Requirement" or Attachment 6, DD Form 3177- "Request for a Religious Exemption or Delay to the COVID-19 Vaccination Requirement" to submit their request.

6. Title 5 National Guard employees who refuse to be vaccinated, or to provide proof of vaccination, are subject to disciplinary measures, up to and including removal from Federal service, unless the employee has received an exemption or an exemption request is pending. Please see Attachment 1 for further guidance.

7. The States will need to ensure they are complying with any required I&I that is laid out in your CBA but are advised to implement as soon as possible. We do acknowledge and understand that compliance with the CSA may result in a short delay in implementation as it relates to exemption requests and enforcement.

8. Reporting Requirement. J1 in coordination with the G1 and A1 will provide all reporting requirements to the State HROs.

9. Frequently asked questions are being collected and answers are being updated on a continual basis at: <https://gko.portal.ng.mil/joint/J1/D06>. Additional Department of Defense COVID-19 guidance is centrally located at: <https://www.defense.gov/Explore/Spotlight/Coronavirus/Latest-DOD-Guidance/>. J1 point of contact for this memorandum is Nancy C. Zbyszinski, NGB-J1-Vice at 703-601-7991 or [nancy.c.zbyszinski.civ@army.mil](mailto:nancy.c.zbyszinski.civ@army.mil).



ERIC K. LITTLE  
Major General, USA  
Director, Manpower and Personnel  
National Guard Bureau

Attachments:

1. Attachment 1: COVID-19 Vaccination Requirements and Documentation for Title 5 National Guard Employees (Applicable to Title 5 National Guard Employees only)
2. Attachment 2: Requirements for DoD Contractor Personnel, Official Onsite Visitors, and Others Seeking Access to Facilities
3. Attachment 3: Draft DD Form 3175 - "Civilian Employee Certification of Vaccination" (Applicable to Title 5 National Guard Employees only)
4. Attachment 4: DD Form 3150 - "Contractor and Visitor Certification of Vaccination" (Applicable to Contractors for vaccine certification and for all visitors to DoD facilities)

5. Attachment 5: DD Form 3176 - "Request for a Medical Exemption or Delay to the COVID-19 Vaccination Requirement"
6. Attachment 6: DD Form 3177 - "Request for a Religious Exemption or Delay to the COVID-19 Vaccination Requirement"
7. Attachment 7: COVID-19 Screening Testing Requirements
8. Attachment 8: Requirements for Obtaining Self-Collection Kits and Self-Tests
9. Attachment 9: Privacy Requirements (Applicable to all personnel who may store and retain DD Form 3175, DD Form 3150, and proof of vaccination)
10. Attachment 10: Timelines to Be Considered Fully Vaccinated (Applicable to Title 5 NG Employees and Informational Purposes Only for T32 Military Technicians, Title 32 **AGR**, and **ANG/ARNG** Drill Status Guardsmen)
11. Attachment 11: Sample Memoranda
  - a. Figure 1: "Sample 5 day counseling memorandum"
  - b. Figure 2: "Sample exemption decision approval memorandum"
  - c. Figure 3: "Sample exemption decision temporary approval memorandum"
  - d. Figure 4: "Sample exemption decision disapproval memorandum"
12. Attachment 12: References

## ATTACHMENT 1

### COVID-19 Vaccination Requirements and Documentation for Title 5 NG Employees

#### 1. Vaccination Requirement

a. T5 NG Employees who are not currently fully vaccinated must meet or have met the following deadlines, if using vaccines that are fully licensed or authorized for emergency use by the FDA, in order to be fully vaccinated by November 22, 2021:

(1) October 11: first dose deadline (if receiving the Moderna vaccine);

(2) October 18: first dose deadline (if receiving the Pfizer-BioNTech/COMIRNATY vaccine);

(5) November 8: second dose deadline (if receiving the Moderna and PfizerBioNTech/COMIRNATY vaccines);

(4) November 8: first (only) dose deadline (if receiving the Johnson & Johnson/Janssen vaccine); and

(5) If T5 NG Employees use an authorized vaccine other than those listed above, they are responsible for being fully vaccinated by November 22, 2021.

b. T5 NG Employees who are not fully vaccinated must comply with all DoD requirements for individuals who are not fully vaccinated, including those requirements related to masking, physical distancing, and travel. Regular COVID-19 testing is not required prior to November 22, 2021. On or after November 22, 2021, weekly COVID-19 testing is required for those T5 NG Employees who are not fully vaccinated, including those who have medical or religious exemptions. T5 NG Employees who telework or work remotely on a full-time basis are not subject to weekly testing, but must provide a negative result from a test performed within the prior 72 hours for entry into a DoD facility.

c. T5 NG Employees are eligible to receive the COVID-19 vaccine at any DoD vaccination site, including military medical treatment facilities. They may also opt to receive the COVID-19 vaccine at locations other than DoD vaccination sites, such as retail stores, private medical practices, and/or local and State public health department sites.

d. New T5 NG Employees must be fully vaccinated by their entry on duty (start) date or November 22, 2021, whichever is later.

(1) The Vice Chief of the National Guard Bureau may approve temporary exemptions in writing for up to 60 days after a T5 NG Employee's start date for urgent, mission-critical hiring needs in circumstances in which a T5 NG Employee could not have been fully vaccinated between the time the job opportunity announcement closes and the T5 NG Employee's start date. States will forward requests for these temporary exemptions through NGB-J1-TCP.

(2) States must address the COVID-19 vaccination requirement in job opportunity announcements and tentative and final offer letters. For hiring actions currently

underway, States must issue revised tentative and final offer letters.

e. T5 NG Employees are authorized official duty time to receive vaccination doses. For T5 NG Employees who are unable to receive a COVID-19 vaccination within their duty hours, regular overtime rules are applicable.

f. T5 NG Employees are authorized administrative leave for purposes of taking a family member to get a vaccination and for themselves to recover from vaccination. T5 NG Employees who experience an adverse reaction to a COVID-19 vaccination should be granted no more than 2 workdays of administrative leave for recovery associated with a single COVID-19 vaccination dose. T5 NG Employees should use the time and attendance code for "physical fitness" to record administrative leave for COVID-19 vaccination recovery time that prevents the employee from working or for taking a family member to be vaccinated for COVID-19. The type hour code is "LN" and the environmental/hazard/other code is "PF". Non-appropriated fund employers should code administrative leave related to COVID-19 in a way that can be easily reported.

## **2. Verification of Vaccination**

a. T5 NG Employees who have received a dose of a one-dose vaccine, or both doses of a two-dose vaccine, must provide proof of vaccination to their supervisors. For purposes of the vaccination data submission and verification requirements, "supervisor" includes authorized human resources officials. Proof of vaccination may be submitted in hard copy or in an electronic format, and the proof may be a photocopy or photograph of the vaccination record, if it legibly displays the data points to be verified by supervisors. T5 NG Employees who are not fully vaccinated must provide proof of vaccination to their supervisors upon receipt of each required dose. Acceptable proof includes:

(1) A copy of the record of immunization from a health care provider or pharmacy;

(2) A copy of the COVID-19 Vaccination Record Card (CDC Form MLS 319813\_r, published on September 3, 2020);

(3) A copy of medical records documenting the vaccination;

(4) A copy of immunization records from a public health or State immunization information system; or

(5) A copy of any other official documentation containing the data points required to be verified by the supervisor.

b. In addition to providing proof of vaccination to their supervisors, T5 NG Employees also will complete Section A of DD Form 3175 (Attachment 3). T5 NG Employees with access to milConnect (<https://milconnect.dmdc.osd.mil/>) will complete the DD Form 3175 via milConnect; otherwise use of a hard copy<sup>2</sup> is acceptable. T5 NG Employees who complete the DD Form 3175 via milConnect do not need to email or otherwise transmit a copy of the form to their supervisors. T5 NG Employees using a hard copy will provide the hard copy to their supervisor. T5 NG

Employees are required to complete the DD Form 3175 even if they already completed the DD Form 3150 (Attachment 4).

c. Upon receiving proof of vaccination, a T5 NG Employee's supervisor will verify that the proof of vaccination provided contains the following data points:

(1) Type of vaccine administered;

(2) Number of doses received;

(3) Date(s) of administration; and

(4) Name of the health care professional(s) or clinic site(s) administering the vaccine(s).

d. In addition to verifying that a T5 NG Employee's proof of vaccination includes the required data points, supervisors also will complete Section B of DD Form 3175 beginning on or about November 7, 2021 (or when activation of the form is completed for supervisor use). Supervisors with access to milConnect (<https://milconnect.dmdc.osd.mil/>) will complete the DD Form 3175 via milConnect using the T5 NG Employee's Employee Identification Number; otherwise use of a hard copy is acceptable.

e. State's medical record keeping practices must ensure all privacy requirements contained in Attachment 9 are followed. States may choose to centrally maintain the proof of vaccination and DD form 3175 in their HRO offices or they may allow supervisors to locally maintain copies. Supervisors will retain T5 NG Employees' proof of vaccination and DD Form 3175 (for those T5 NG Employees not using milConnect) in accordance with their State's recordkeeping requirements for T5 NG Employee medical records and the privacy requirements contained in Attachment 9. Supervisors should not ask for copies of the DD Form 3175 from those employees who used milConnect to complete the form. Supervisors who receive completed copies of the DD Form 3175 from T5 NG Employees who completed the DD Form 3175 using milConnect shall not maintain the copy.

f. T5 NG Employees may not be required to use their own personal equipment for the purpose of submitting proof of vaccination or DD Form 3175. T5 NG Employees who submit proof of vaccination or the DD Form 3175 in an electronic format are encouraged to use encrypted email or password protected files with DoD SAFE file transfer (<https://safe.apps.mil/>).

### **3. Enforcement of TS NG Employee COVID-19 Vaccination Requirement:**

a. T5 NG Employees who refuse to be vaccinated, or to provide proof of vaccination, are subject to disciplinary measures, up to and including removal from Federal service, unless the T5 NG Employee has received an exemption or the T5 NG Employee's timely request for an exemption is pending a decision. The National Guard will generally follow the recommended enforcement procedures, subject to CNGB Instruction 1400.25 Vol 752 and bargaining agreements.

b. Progressive enforcement actions include, but are not limited, to:

(1) A 5 calendar-day period of counseling and education;

(2) A short suspension without pay, generally 14 calendar days or less, with an appropriate notice period. Senior Executive Service members may only be suspended for more than 14 calendar days;

(3) Removal from Federal service for failing to follow a direct order.

c. During the notice periods preceding adverse employment actions, T5 NG Employees generally should not be placed on administrative leave. States should require T5 NG Employees to continue to telework or report to the worksite and follow all mitigation measures applicable to not fully vaccinated T5 NG Employees when reporting to the worksite.

d. States will designate officials, at the appropriate organizational level, to handle the disciplinary process to promote consistent application of disciplinary measures. Such officials will decide each case with due regard to the facts and circumstances of that case. States may begin enforcement action as soon as November 22, 2021, for T5 NG Employees who are not fully vaccinated and who do not have an exemption request approved or a timely request pending decision.

e. Supervisors should contact their servicing human resources and legal offices to discuss options available to address individual situations regarding enforcement of this requirement.

f. States are encouraged to identify an occupational health office, medical office, or other resource with which a T5 NG Employee may consult during the period of counseling and education.

#### **4. Exemptions to TS NG Employee COVID-19 Vaccination Requirement:**

a. T5 NG Employees may request an exemption on the basis of a medical condition or circumstance or a sincerely held religious belief, practice or observance. Because all T5 NG Employees must now be vaccinated against COVID-19 as a condition of employment, exemptions will be granted in limited circumstances and only where legally required. The information collected must be handled in accordance with the privacy requirements in Attachment 9.

b. Decision Authority. It is recommended that TAGs designate, in writing, one original deciding official to adjudicate all exemption requests for T5 employees. States should establish an approval process that preserves the ability for TAGs to consider the final appeal. In establishing exemption processes, States will ensure that the management official designated to make decisions concerning requests for exemption from the COVID-19 vaccination requirement make such decisions in coordination with the organization's servicing legal office and are at an appropriate level within the organization to consider the impact, if any, of the volume of requests and to promote similar cases being handled in a consistent manner. Such officials will decide each case with due regard to the facts and circumstances of that case.

c. Employee Notice. States will inform T5 NG Employees how to make a request for

an exemption and notify them that requests must be submitted no later than November 19, 2021, absent extenuating circumstances, to be considered timely.

d. Employee Requests. To make a request for exemption from vaccination, T5 NG Employees must provide an official statement which describes the medical or religious reason the employee objects to vaccination against COVID-19. Generally, such requests will be submitted in writing. T5 NG Employees may use DD Form 3176 (Attachment 5) or DD Form 3177 (Attachment 6) to submit their request. T5 NG Employees who make oral requests may be provided a sample written request format and/or be interviewed to develop the basis for the request. While the use of the DD Form 3176 and DD Form 3177 is optional for DoD civilian employees, when T5 NG Employees make a request, they must provide the following information in writing to fairly consider the exemption request.

(1) Medical Exemption.

(a) A description of the medical condition or circumstance that is the basis for the request for a medical exemption from the COVID-19 vaccination requirement;

(b) An explanation of why the medical condition or circumstance prevents the employee from being safely vaccinated against COVID-19;

(c) If it is a temporary medical condition or circumstance, a statement concerning when it will no longer be a medical necessity to delay vaccination against COVID-19; and

(d) Any additional information, to include medical documentation that addresses the employee's particular medical condition or circumstance, which may be helpful in resolving the employee's request for a medical exemption from the COVID-19 vaccination requirement.

(e) If the employee is not submitting their exemption request via DD Form 3176, they must provide a copy of a written and endorsed medical statement from a medical provider detailing how the individual's condition and medical circumstances are such that COVID-19 vaccination is not considered safe.

(2) Religious Exemption.

(a) A description of the religious belief, practice, or observance that is the basis for the request for a religious exemption from the COVID-19 vaccination requirement;

(b) A description of when and how the T5 NG Employee came to hold the religious belief or observe the religious practice;

(c) A description of how the T5 NG Employee has demonstrated the religious belief or observed the religious practice in the past;

(d) An explanation of how the COVID-19 vaccine conflicts with the religious belief, practice, or observance;

(e) A statement concerning whether the TS NG Employee has previously raised an objection to a vaccination, medical treatment, or medicine based on a religious belief or practice. If so, a description of the circumstances, timing, and resolution of the matter; and

(f) Any additional information that may be helpful in resolving the TS NG Employee's request for a religious exemption from the COVID-19 vaccination requirement.

(g) Recommended Advisory Team considerations for Religious Exemptions: Is the request based on the expression of a sincerely held religious belief? If it is based on a sincerely held belief, the relevant expression can include any religious practice, whether or not compelled by, or central to, an organized system of religious belief. Does the requirement to receive the vaccine substantially burden the expression of that belief?

e. Minimum Requirements for Exemption Procedures. States will ensure that exemption procedures require the following measures.

(1) Development of a written factual record that includes the following:

(a) The basis for the claim;

(b) The nature of the TS NG Employee's job responsibilities; and

(c) The reasonably foreseeable effects on the agency's operations, including protecting other agency employees and the public from COVID-19, if the civilian employee remains unvaccinated.

(2) Designation of the TS NG Employee's supervisor for completing Section B of the TS NG Employee's DD Form 3175, as the proper recipient for a TS NG Employee's request for exemption. For purposes of exemption request procedures, "supervisor" includes authorized human resources officials. Upon receipt, the supervisor will update the **DD** Form 3175 to indicate a request for exemption determination is pending and forward the request to the office supporting the designated decision maker.

(3) A process for the decision maker to obtain any reasonably necessary additional information (for example, medical documentation, an interview of the DoD civilian employee, or a supervisor statement) and to consult with, as appropriate, subject matter experts within DoD such as occupational health personnel, public health personnel, equal employment opportunity advisors, chaplains, and human resources personnel.

(a) Recommend that States initiate an Advisory Team to assist in exemption determination. Advisory Teams should be a diverse group which may include both military and civilian personnel.

(b) Although states should coordinate developing their exemption process with their Labor Relations Specialist, State Equal Employment Manager, and their Judge Advocate General, utilizing these individuals to run the process or make decisions in the process is discouraged as doing so may create a conflict of interest

when these individuals are called upon to defend the States' actions.

(c) States must seek guidance from qualified religious personnel such as chaplains to review claims for religious exemption for a determination as to whether the claim constitutes a sincerely held religious belief.

(d) States must seek guidance from qualified medical personnel to review claims for medical exemption for a determination as to whether the claimant has a bona fide medical condition.

(4) A written determination, including the reason(s) for that determination, by the decision maker. In cases where the exemption is temporary or denied, the determination must specify a date by which the T5 NG Employee must be fully vaccinated against COVID-19. In specifying that date, T5 NG Employees must be given a minimum period of 14 days to receive their first (or only) dose of a COVID-19 vaccine.

(5) Provision of the written determination to the T5 NG Employee's supervisor, who, in turn, provides the T5 NG Employee with a copy of the written determination, updates the DD Form 3175, and informs the T5 NG Employee of next steps.

(6) Unless exemption decision is appealed to TAG, decision authority's determination is the final agency decision.

f. Appeals.

(1) IAW with reference j, TAG will be the final decision authority on all appeal requests.

(2) Employees who disagree with the decision provided by the designated deciding official may appeal that decision by providing notice directly to TAG through an individual or individuals within the state's Human Resources Office designated for receiving and processing such appeals. If no appeal is received within 7 calendar days of the decision being issued, the decision is considered final.

(3) Appeals must contain the following information.

(a) Employees original request for exemption and all official communication received by the employee from the state regarding that appeal.

(b) An explanation as to why the appellant feels that the state either did not properly follow the established appeals process or why they feel the deciding official did not consider pertinent information included in the exemption request.

(c) Although the employee is free to introduce new information not included in the original exemption request, this new information will only be considered in rare circumstances and normally when it could not have been reasonably known to the appellant when filing the original appeal.

(4) Upon receipt of a TAG appeal, the identified individual receiving appeal will promptly review the contents of the appeal for completeness.

(a) If the appeal contains all the required information, the appeal will be

forwarded to TAG for consideration and decision on the appeal.

(b) If the appeal is missing critical information, the appeal will be returned to the appellant with instructions as to what was missing and allow the appellant an opportunity to resubmit.

(c) In no case will the individual receiving the appeal make personal judgments as to the merits of the appeal. They will only ensure the completeness of the appeal and process it accordingly.

(5) TAG decisions are the final agency decision.

g. Additional Guidance.

(1) Requests for medical exemption will be treated as medical records to be maintained separately from other personnel files. Both medical and religious exemption requests will be maintained in accordance with the privacy requirements at Attachment 9.

(2) A T5 NG Employee's failure to submit a timely request for exemption is not a basis to deny a request but may be relevant in evaluating the request.

(3) Discipline for failure to meet the COVID-19 vaccination requirement will not be initiated against a T5 NG Employee while a timely request for a medical or religious exemption from the COVID-19 vaccination requirement is pending determination. If a T5 NG Employee submits a request after discipline is initiated, disciplinary measures may be held in abeyance where appropriate.

(4) T5 NG Employees who are not fully vaccinated but who have a pending request for exemption from vaccination are required to comply with any mitigation measures that are applicable to all T5 NG Employees in the worksite who are not fully vaccinated (for example, screening testing (Attachment 7), masking, and physical distancing). Requests for reasonable accommodation related to those mitigation measures may be analyzed separately from requests for exemption from vaccination.

(5) A T5 NG Employee who receives an exemption from the vaccination requirement may, because of the exemption, be unable to perform the duties and responsibilities of the position without a change in working conditions. Such matters will be referred to the reasonable accommodation process.

(6) Requests for exemption from candidates for employment will be handled consistent with the provisions in this attachment, except for those in paragraph 4, sub paragraph c.

## ATTACHMENT 2

### Requirements for DoD Contractor Personnel, Official Onsite Visitors, and Others Seeking Access to Facilities

#### **1. DoD Contractor Personnel**

a. For DoD contractor personnel, the DoD civilian vaccination deadline of November 22, 2021, does not apply. Vaccination requirements for DoD contractor personnel will be in accordance with reference (i), as implemented by reference (j), as directed under Executive Order 14042.

b. DoD contractor personnel will complete the DD Form 3150, "Contractor and Visitor Certification of Vaccination" (Attachment 4), maintain a current completed DD Form 3150, and show it to authorized DoD personnel upon request. Failure to complete the DD Form 3150 may result in denying DoD contractor personnel access to the DoD facility to which access is sought.

c. DoD contractor personnel who are not fully vaccinated against COVID-19 because they are not performing under a covered contract that requires COVID-19 vaccination, due to a legally required accommodation, or who decline to attest to their COVID-19 vaccination status will be subject to COVID-19 screening testing at least weekly as set forth in this guidance (Attachment 7). DoD contractor personnel who refuse required screening testing will be denied access to DoD facilities. d. In accordance with applicable contracts, DoD contractor personnel may be offered, but are not required to receive, COVID-19 vaccines at their DoD worksites.

#### **2. Official Onsite Visitors**

a. Official onsite visitors will complete DD Form 3150, "Contractor and Visitor Certification of Vaccination" (Attachment 4); and maintain a current completed DD Form 3150 and show it to authorized DoD personnel, upon request. Failure to complete the DD Form 3150 may result in denial of an official onsite visitor's access to the DoD facility to which access is sought.

b. Official visitors who are not fully vaccinated against COVID-19, or who decline to volunteer their COVID-19 vaccination status, must show an electronic or paper copy of negative results from an FDA-authorized or approved COVID-19 test administered no earlier than 72 hours prior to their visit. If an official visitor is unable to show a negative COVID-19 test result, the visitor may be provided onsite self-testing, if available, or will be denied access to the DoD facilities to which access is sought. Service members who are not on active duty at the time of their official visit are subject to the requirements in this paragraph.

# ATTACHMENT 3

## DD Form 3175 - "Civilian Employee Certification of Vaccination"

CUI (when filled in)

## DoD CIVILIAN EMPLOYEE CERTIFICATION OF VACCINATION

## PRIVACY ACT STATEMENT

**Authority:** Pursuant to 5 USC, chapters 11 and 79, and in discharging the functions directed under Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees (Sept 9, 2021), DoD is authorized to collect this information. Additional authorities for the systems of records associated with this collection of Information also include: E.O. 13991, Protecting the Federal Workforce and Requiring Mask-Wearing; E.O. 12196, Occupational Safety and Health Program for Federal Employees; 10 U.S.C. 113, 10 U.S.C. 136, 10 U.S.C. 7013, 10 U.S.C. 8013, 10 U.S.C. 9013, 10 U.S.C. 2672; DoD Directive 5525.21; and DoD Instruction 6200.03. Providing this information is mandatory, and DoD is authorized to impose penalties for failure to provide the information pursuant to applicable Federal personnel laws and regulations.

**Principal Purpose:** This information is being collected and maintained to implement Coronavirus Disease 2019 (COVID-19) workplace safety plans, and ensure the safety and protection of the DoD workforce, workplace, and other DoD facilities and environments, consistent with the above-referenced authorities, the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration.

**Routine Use(s):** While the information requested on this form is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally, for example to disclose information to: a person, organization or governmental entity as necessary and relevant to notify them of, respond to, or guard against a public health emergency, or other similar crisis, including to comply with laws governing the reporting of communicable disease or other laws concerning health and safety in the work environment: adjudicative bodies (e.g., the Merit System Protection Board), arbitrators, and hearing examiners to the extent necessary to carry out their authorized duties regarding Federal employment contractors, grantees, experts, consultants, students, and others as necessary to perform their duties for the Federal government; or agencies, co-ops, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf.

A complete list of routine uses may be found in the applicable System of Records Notice (SORN) associated with the collection of this information as follows: For most Federal civilian employees: OPM/GOVT-10, Employee Medical File System Records, 75 Fed. Reg. 35099 (Jun. 21, 2010), amended 60 Fed. Reg. 74815 (Nov. 30, 2015). For Federal civilian employees not covered by OPM/GOVT-10: DPR 39 DoD, DoD Personnel Accountability and Assessment System of Records, 65 Fed. Reg. 17047 (Mar. 26, 2020) (also available at <https://dpcld.defense.gov/Ponals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf>).

**Consequences of Failure to Provide Information:** Providing this information is mandatory. Unless granted an exemption, all covered Federal civilian employees are required to be vaccinated against COVID-19. Employees are required to provide documentation concerning their vaccination status to their employing DoD Component. Failure to provide this information may subject you to disciplinary action, including and up to removal from Federal service.

**INSTRUCTIONS:** Section A of this form should be completed by DoD civilian employees only. Service members and employees of DoD contractors should not complete this form. Section B of this form should be completed by the DoD civilian employee's supervisor (or authorized human resources official). This form should be completed by DoD civilian employees only. Service members and employees of DoD contractors should not complete this form.

## SECTION A. To be completed by DoD civilian employees.

1. CIVILIAN EMPLOYEE NAME (Last, First, MI):

2. CIVILIAN EMPLOYEE DoD ID NUMBER:

## 3. PLEASE CHECK ALL THAT COINCIDES WITH YOUR COVID-19 VACCINATION STATUS:

☒ 3.a I am fully vaccinated.

Individuals are considered "fully vaccinated" two weeks after completing the second dose of a two-dose COVID-19 vaccine or two weeks after receiving a single dose of a one-dose vaccine. Accepted COVID-19 vaccines are those which have received a license or emergency use authorization from the US Food and Drug Administration and those COVID-19 vaccines on the World Health Organization Emergency Use Listing. "Fully vaccinated" also includes circumstances in which, or the individual was a participant in a US site clinical trial and has received all recommended doses.

☐ 3.b I have received one or more dose, but I am not yet considered fully vaccinated (in accordance with the definition of fully vaccinated above).

☐ 3.c I have submitted proof of vaccination to my supervisor.  
 Proof of vaccination includes a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation. Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that is clear and legible.

☐ 3.d I have not received any vaccination doses.

☐ 3.e I have submitted a request for an exemption from vaccination and a decision is still pending.

☐ 3.f I have an approved exemption from vaccination.

DD FORM 3175, DRAFT 20210927

CUI (when filled in)

Controlled by: OUSD(P&R)  
 Controlled by: ASD(HA)  
 CUI Category: HLTH: PRVCY: OPSEC  
 LDC: DL(DoD Only)  
 POC: -

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## CUI (when filled in)

<b>4. EMPLOYEE VACCINE INFORMATION</b> (Employees checking block 3.a. should skip block 4 and go to block 5):	
<b>4.a VACCINE MANUFACTURER(S) OR VACCINE PRODUCT NAME(S):</b> <input type="checkbox"/> Pfizer-BioNTech/Cominaly <input type="checkbox"/> Moderna <input type="checkbox"/> AstraZeneca/Oxford <input type="checkbox"/> Johnson and Johnson (J&J)/Janssen <input type="checkbox"/> Novavax <input type="checkbox"/> Other U.S. Food and Drug Administration licensed or authorized, <input type="checkbox"/> World Health Organization Emergency Use listed vaccine or U.S. site clinical trial vaccine (provide name):	<b>4.b. DATE OF FIRST DOSE:</b>  <b>4.c. DATE OF SECOND DOSE (if two-dose vaccine):</b>  <b>4.d. DATE FULLY VACCINATED:</b>
<b>5. CERTIFICATION/KNOWLEDGE OF POSSIBLE ACTIONS FOR FALSE STATEMENTS</b>	
<input type="checkbox"/> I certify that the information I have provided on this form and the proof of vaccination documentation I have submitted is true and correct. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both (18 U.S.C. 1001). I understand that making a false statement on this form could result in additional administrative action including an adverse personnel action up to and including removal from my position.	
<b>6. CIVILIAN EMPLOYEE SIGNATURE:</b>	<b>7. DATE:</b>
SECTION B. To be completed by the supervisor of the DoD civilian employee completing section A (or an authorized human resources official)	
<b>8. SUPERVISOR PROOF OF VACCINATION REVIEW</b> <input checked="" type="checkbox"/> 8.a Proof of vaccination not received. <input type="checkbox"/> 8.b Proof of vaccination received and under review. <input type="checkbox"/> 8.c Proof of vaccination received and reviewed.	<b>9. STATUS OF VACCINATION - EXEMPTION REVIEW</b> <input type="checkbox"/> 9.e Exemption request received and pending disposition. <input type="checkbox"/> 9.b Exemption request received and approved. <input type="checkbox"/> 9.c Exemption request received and denied. <input type="checkbox"/> 9.d Exemption request not received.
<b>10. SUPERVISOR/ AUTHORIZED HR OFFICIAL NAME</b> (Last, First, MI):	<b>11. SUPERVISOR DoD ID NUMBER:</b>
<b>12. SUPERVISOR/ AUTHORIZED HR OFFICIAL SIGNATURE:</b>	<b>13. DATE:</b>

DD FORM 3175, 20210927

CUI (when filled in)

Page 2 OF 2

PREVIOUS EDITION IS OBSOLETE.

## DD Form 3150 - "Contractor Personnel and Visitor Certification of Vaccination"

<div style="display: flex; justify-content: space-between;"> <div>CONTRACTOR PERSONNEL AND VISITOR CERTIFICATION OF VACCINATION</div> <div>OMB No. 0704-0613 E.pira/1011 20220228</div> </div>	
<b>AGENCY DISCLOSURE NOTICE</b>	
<p>The public reporting burden for this collection of information is estimated to average 2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, at <a href="mailto:whs.mc-alex.esd.mbx.dd-iod-informationcollections@mail.mil">whs.mc-alex.esd.mbx.dd-iod-informationcollections@mail.mil</a>. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p>	
<b>PRIVACY ACT STATEMENT</b>	
<p>Authority: DoD is authorized to collect the information on this form pursuant to Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors; E.O. 13991, Protecting the Federal Workforce and Requiring Mask-Wearing; and E.O. 12196, Occupational Safety and Health Program for Federal Employees; as well as 10 U.S.C. 113.10 U.S.C. 136.10 U.S.C. 7013.10 U.S.C. 8013.10 USC 9013, 10 U.S.C. 2672, 5 U.S.C. chapter 79, and DoD Instruction 6200.03.</p> <p>Principal Purpose: This Information is being collected to implement Coronavirus Disease 2019 (COVID-19) workplace safety plans including DoD's COVID-19 testing programs, and to ensure the safety and protection of the DoD workforce, workplace, and other DoD facilities and environments, consistent with the above-referenced authorities, the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration.</p> <p>Routine Use(s): While the information requested on this form is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally, for example to disclose information to: a person, organization, or governmental entity as necessary and relevant to notify them of, respond to, or guard against a public health emergency or other similar crisis, including to comply with laws governing the reporting of communicable disease or other laws concerning health and safety in the work environment; adjudicative or administrative bodies or officials when the records are relevant and necessary to an adjudicative or administrative proceeding; contractors, grantees, experts, consultants, students, and others as necessary to perform their duties for the Federal government; agencies, courts, and persons as necessary and relevant in the course of litigation and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf. A complete list of routine uses may be found in the applicable System of Records Notice (SORN) associated with the collection of this information from contractor personnel and DoD visitors: DPR 39 DoD, OoD Personnel Accountability and Assessment System of Records, 85 Fed. Reg. 17047 (Mar. 26, 2020) (also available at <a href="https://dpcld.defense.gov/Portals/49/Document/Privacy/SORNs/OSDJS/DPR-39_DoD.pdf">https://dpcld.defense.gov/Portals/49/Document/Privacy/SORNs/OSDJS/DPR-39_DoD.pdf</a>).</p> <p>Consequences of Failure to Provide Information: Providing this information is voluntary. However, if you fail to provide this information, you will be treated as not fully vaccinated for purposes of implementing safety measures, including subject to COVID-19 screening testing and/or denied access to DoD facilities. Failure to provide such information may also hinder DoD's ability to implement COVID-19 workplace safety plans, thereby increasing the health or safety risk to DoD-affiliated personnel and DoD facilities.</p>	
<p><b>INSTRUCTIONS:</b> This form should be completed by DoD contractor personnel and official visitors in accordance with current DoD Force Health Protection Guidance. DoD civilian employees should not complete this form.</p>	
<p>1. <b>NAME (Last, First, MI):</b></p>	<p>2. <b>DoD ID NUMBER:</b></p>
<p>3. PLEASE CHECK THE BOX BELOW THAT COINCIDES WITH YOUR COVID-19 VACCINATION STATUS:</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><input type="checkbox"/> I am fully vaccinated.</p> <p>Individuals are considered "fully vaccinated" two weeks after completing the second dose of a two-dose COVID-19 vaccine or two weeks after receiving a single dose of a one-dose vaccine. Accepted COVID-19 vaccines are those which have received a license or emergency use authorization from the U.S. Food and Drug Administration and those COVID-19 vaccines on the World Health Organization Emergency Use Listing. "Fully vaccinated" also includes circumstances in which the individual was a participant in a U.S. site clinical trial and has received all recommended doses.</p> <p><input type="checkbox"/> I am not yet fully vaccinated. I received only one dose of an accepted one-dose COVID-19 vaccine, or I received my final dose of an accepted COVID-19 vaccine less than two weeks ago.</p> </div> <div style="width: 45%;"> <p><input type="checkbox"/> I have not been vaccinated.</p> <p><input type="checkbox"/> I decline to respond.</p> </div> </div> <p>Individuals who choose not to complete the form will be assumed to be not fully vaccinated for purposes of application of the safety protocols. If you are not vaccinated due to medical or religious reasons, please check either "I have not been vaccinated" or "I decline to respond." Note that you have already received one dose of a vaccine, but are not yet fully vaccinated, or if you received your final dose less than two weeks ago, then you will be treated as not fully vaccinated until you are at least two weeks past your final dose and resubmit your vaccination information.</p> <p><input type="checkbox"/> I certify that the information provided in this form is accurate and true to the best of my knowledge.</p> <p>I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both (18 USC, 1001). Checking "I decline to respond" does not constitute a false statement. I understand that making a false statement on this form could result in additional administrative action including an adverse personnel action up to and including removal from my position.</p>	
<p>4. <b>DATE (YYYYMMDD)</b></p>	<p>5. <b>SIGNATURE (Full Name)</b></p>

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## ATTACHMENT 6

## DD Form 3177 - "Request for a Religious Exemption to the COVID-19 Vaccination Requirement"

CUI (when filled in)

REQUEST FOR A RELIGIOUS EXEMPTION TO THE COVID-19 VACCINATION REQUIREMENT	
PRIVACY ACT STATEMENT	
<p>1. Employment History (Last First Middle)</p> <p>2. DoD ID Number</p> <p>3. Office Symbol</p> <p>4. Title of Request (YYYYI, &amp;I, /OO)</p> <p>5. Position</p> <p>6. Supervisor</p> <p>7. Phone Number</p> <p>8. Please describe the religious belief, practice, or observance that is the basis for your request for a religious exemption from the COVID-19 vaccination requirement.</p> <p>9. PINH describe how you have demonstrated the religious belief or observance in the past</p> <p>10. PINH describe how you have demonstrated the religious belief or observance in the past</p> <p>11. PINH explain how the COVID-19 vaccine conflicts with the religious belief, practice, or observance.</p>	

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ATTACHMENT 7  
COVID-19 Screening Testing Requirements

1. COVID-19 screening testing as described below is required for:

a. **Title 5 National Guard employees** who refused to receive, who are pending an exemption, or who are exempted from COVID-19 vaccination and are entering a DoD facility<sup>1</sup>. Those not on a DoD installation or facility will follow State guidelines.

b. **DoD contractor personnel** who attest that they are not fully vaccinated against COVID-19 or decline to attest to their COVID-19 vaccination status, using the DD Form 3150, or who are exempted from COVID-19 vaccination and are entering a DoD facility; those not on a DoD installation or facility will follow State guidelines; and

c. **Official visitors** who attest that they are not fully vaccinated against COVID-19 using the DD Form 3150 and are entering a DoD facility. Those not on a DoD installation or facility will follow State guidelines.

2. To establish COVID-19 screening testing for individuals as described in section 1 of this Attachment 7, States will:

a. Begin COVID-19 screening testing for unvaccinated individuals as described in section 1 above once the individual has surpassed their mandatory vaccination date. See Attachment 10 for National Guard military and civilian mandatory vaccination dates by status.

b. Execute the screening testing requirement with COVID-19 self-collection kits or self-tests at least weekly that can be performed primarily onsite on the installation or facility with proper supervision and documentation of testing results. If onsite COVID-19 screening testing is not feasible, as an alternative the self-testing can be performed at home or in other locations (Note: these COVID-19 self-tests do not require a health care provider's clinical care order and are, therefore, considered an over-the-counter test and do not require medical support to complete);

c. Procure and provide these COVID-19 self-tests and establish guidance for where and how these tests will be distributed and conducted and how results are to be reported.

(1) Civilian employees are responsible for providing documentation of negative

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<sup>1</sup> For the purposes of this guidance, a military installation is a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a Military Department or the Secretary of Defense, including any leased facility, which is located within any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam. In the case of an activity in a foreign country, a military installation is any area under the operational control of the Secretary of a Military Department or the Secretary of Defense, without regard to the duration of operational control.

COVID-19 test results, upon receipt, to the appropriate commander or supervisor. Civilian employees may not be required to use their own personal equipment for the purpose of documenting test results; offsite tests may not be used if there is not a means to document results using government equipment. The commander or supervisor is responsible for maintaining any COVID-19 test results provided by T5 National Guard employees in accordance with applicable law and policy, including appropriate privacy protection measures.

3. After COVID-19 screening testing procedures are established, the personnel listed in paragraph 1 of this attachment are required to have a COVID-19 screening testing with a U.S. Food and Drug Administration (FDA) authorized or approved test is required and a negative COVID-19 screening test result for entry into the DoD facility. If the COVID-19 screening test is administered offsite, the negative result must be from a test performed in the past 72 hours. If the negative result is over 72 hours old, a new test is required.

4. Civilian employees and DoD contractor personnel who have positive COVID-19 screening tests will be required to remain away from the workplace. Civilian employees, and DoD contractor personnel with positive COVID-19 screening tests, will be offered, but not required to take, confirmatory laboratory-based molecular (i.e., polymerase chain reaction) testing paid for by their Unit/ Organization. Contact tracing and mitigation measures will be conducted. If the confirmatory test is negative, the individual is not COVID-19 positive and will be allowed into the workplace.

5. For civilian employees, COVID-19 screening testing is expected to take no more than 1 hour of regular duty time, per test, to complete required testing. This includes time for travel to the testing site, time to complete testing, and time to return to work. Laboratory-based confirmatory COVID-19 testing for initial positive screening test results is expected to take no more than 2 hours of duty time. Commanders and supervisors will monitor duty time usage and keep duty time used for testing within these parameters to the extent possible.

6. Refusal of COVID-19 testing by civilian employees exempted from COVID-19 vaccination:

a. States may bar such employees from their worksites on the installation or facility to protect the safety of others, including while adverse action is pending.

b. While barred from their worksites on the installation or facility, such employees may be required to telework, as appropriate.

ATTACHMENT 8  
Requirements for Obtaining Self-Collection Kits and Self-Tests

1. COVID-19 self-tests must have Instructions for Use and FDA approval, 510(K) premarket clearance or have an FDA Emergency Use Authorization, and will be made available through the Defense Logistics Agency. States are responsible for funding required COVID-19 screening tests.
2. Cost reporting for the purchase of testing materials or reimbursement for member tests should be in accordance with Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer of the Department of Defense, "DoD Response to the Novel Coronavirus - Cost Reporting Guidance," April 13, 2020 (reference U).
3. Funding for COVID-19 testing - If self-collection kits or self-tests are not available:
  - a. Each State will establish procedures to reimburse Service members and Title 5 National Guard employees for COVID-19 screening tests that require payment for purposes of meeting the screening testing requirement (e.g., if the screening test is not available through the State and must be administered by a facility who charges for the test).
  - b. Screening test requirements for DoD contractor personnel will be forthcoming in future Under Secretary of Defense for Personnel and Readiness guidance and through the NGB Directorate of Acquisitions due to applicability of specific criteria for certain contracts only (see reference (i) Principal Director for Defense Pricing and Contracting Memorandum, "Class Deviation 2021-O0009-Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors", October 1, 2021).

ATTACHMENT 9  
Privacy Requirements

1. Medical and other information collected from individuals, including vaccination information, test results, and vaccine exemption requests, will be treated in accordance with applicable laws and policies on privacy, including the Privacy Act of 1974 and DoD Instruction 5400.11, "DoD Privacy and Civil Liberties Programs," January 29, 2019, the Rehabilitation Act of 1973, as amended ("Rehabilitation Act"), and 5 CFR part 293, subpart E. While such information may be sensitive and is to be safeguarded as described above, it is not covered by the Health Insurance Portability and Accountability Act (HIPAA) and the associated HIPAA Rules.
2. Medical information obtained from T5 National Guard (NG) employees, including vaccination status, will be accessible only to those persons who have a need to access the information under the Rehabilitation Act, including immediate supervisors and authorized human resources officials who must access the information to implement the guidance in this memorandum. The Rehabilitation Act's requirements on confidentiality of medical information apply whether or not a T5 NG employee has a disability.
3. States are advised to consult their Privacy Officer and servicing legal office if there is a need to share medical information with personnel other than immediate supervisors and authorized human resources officials or individuals outside of NGB.
4. Personnel will use appropriate safeguards in handling and storing T5 NG employee medical information, including a T5 NG civilian employee's proof of vaccination, the DD Form 3175, and COVID-19 test results. Appropriate safeguards may include encrypting emails and electronic files, and role-based access to electronic storage environments where this information is maintained. In the event the information is maintained in paper form, supervisors and other authorized personnel must ensure T5 NG civilian employee medical information remains confidential and is maintained separately from other personnel files, e.g., stored in a separate, sealed envelope marked as confidential T5 NG employee medical information and maintained in locked file cabinets or a secured room. States are advised to refer to applicable internal guidance on the handling and storage of T5 NG employee medical records, and to consult their Privacy Officer as needed for further guidance.

**ATTACHMENT 10**  
**Timelines to be considered fully vaccinated**

T5 Civilian Emolovees	Date 1st Shot	Date Second Shot	Enforcement date
Phizer-BioNTech COVID-19 vaccine	10/18/2021	11/8/2021	11/23/2021
Moderna COVID-19 vaccine	10/11/2021	11/8/2021	11/23/2021
Johnson & Johnson/Janssen vaccine	11/8/2021	N/A	11/23/2021

Air Active Guard and Reserve (For Informational Purposes Only)	Date 1st Shot	Date Second Shot	Enforcement date
Phizer-BioNTech COVID-19 vaccine	9/28/2021	10/19/2021	11/3/2021
Moderna COVID-19 vaccine	9/21/2021	10/19/2021	11/3/2021
Johnson & Johnson/Janssen vaccine	10/19/2021	N/A	11/3/2021

T32 ANG Drill Status Guardsmen (including T32 Technicians) (For Informational Purooses Only)	Date 1st Shot	Date Second Shot	Enforcement date
Phizer-BioNTech COVID-19 vaccine	10/28/2021	11/18/2021	12/3/2021
Moderna COVID-19 vaccine	10/21/2021	11/18/2021	12/3/2021
Johnson & Johnson/Janssen vaccine	11/18/2021	N/A	12/3/2021

Armv Active Guard and Reserve /For Informational Purnoses Onlv\	Date 1st Shot	Date Second Shot	Enforcement date
Phizer-BioNTech COVID-19 vaccine	11/10/2021	12/1/2021	12/16/2021
Moderna COVID-19 vaccine	11/3/2021	12/1/2021	12/16/2021
Johnson & Johnson/Janssen vaccine	12/1/2021	N/A	12/16/2021

T32 ARNG M-Day Soldiers (including T32 Technicians) (For Informational Purposes Only)	Date 1st Shot	Date Second Shot	Enforcement date
Phizer-BioNTech COVID-19 vaccine	5/26/2022	6/16/2022	7/1/2022
Moderna COVID-19 vaccine	5/19/2022	6/16/2022	7/1/2022
Johnson & Johnson/Janssen vaccine	6/16/2022	N/A	7/1/2022

**NOTE:** Information for service members is for informational purposes only. Service members will follow directives and procedures issued by their respective service components and supplemented by the Army National Guard and the Air National Guard.

ATTACHMENT 11  
Sample Memoranda

1. Regular and ongoing communication with employees is a critical element of success in the implementation of the COVID 19 vaccination requirement.
2. The figures on the following pages are provided as examples for states to use in providing communications to employees who have not received the required vaccination by the required date.
3. The examples are provided for informational purposes only and are not directive in nature. They simply provide an example for states to work from.
4. States are urged to see these examples as a minimum recommendation regarding communication and should take every opportunity to engage with employees regarding this requirement in a meaningful way.
5. Examples of proposals or decision memoranda for disciplinary or adverse actions are not provided. States should follow guidance provided in Chief National Guard Bureau Instruction 1400.25 Vol 752 for processes and procedures regarding discipline. The Office of Personnel Management guidance suggests that an appropriate charge against employees for employees refusing to receive the vaccination and who have not received an exemption or have an exemption request under consideration is the charge of "refusal to obey a lawful order". States retain the right and responsibility to choose the appropriate charge and may consider alternate charges.
4. The examples included in this attachment include:
  - a. Figure 1: "Sample 5 day counseling memorandum"
  - b. Figure 2: "Sample exemption decision approval memorandum"
  - c. Figure 3: "Sample exemption decision temporary approval memorandum"
  - d. Figure 4: "Sample exemption decision disapproval memorandum"

Heading: [Name, Date, etc.]

Subject: Counseling regarding mandatory COVID 19 vaccination

1. On [DATE] you were informed that, as a federal employee, you are required to be vaccinated against the COVID 19 virus. This requirement is in accordance with Executive Order 14043 requiring all federal employees to be vaccinated unless they have received an exemption as required by law.
2. As of the date of this memorandum, you have not submitted a request for exemption to this requirement and you have not provided proof of vaccination. You may request an exemption if you have a medical condition or a sincerely held religious belief that precludes you from receiving the vaccination. If you wish to submit such a request, please do so in writing by providing, through your supervisor, a DD Form 3176, "Request for a Medical Exemption or Delay to the COVID-19 Vaccination Requirement", or a DD Form 3177, "Request for a Religious Exemption to the COVID-19 Vaccination Requirement". Employees have a right to submit such requests and have them seriously considered, however approval of such a request is not guaranteed. If you submit such a request, any disciplinary action for refusing to receive the vaccination will be held in abeyance until a decision has been rendered on the request.
3. Your receipt of this memorandum begins a 5 work-day period in which you may wish to consider complying with the requirement to get vaccinated. If you do not begin the process of vaccination by [DATE] you will be subject to disciplinary action for refusing to obey a lawful order. As noted before, if you submit a request for exemption, the discipline may be held in abeyance until a decision on the request is rendered.
4. [Use this paragraph to provide any state specific information regarding dates and times the state may be providing vaccination clinics etc.]
5. For further information regarding COVID vaccination requirements or the process for requesting an exemption please reach out to [STATE POC designated for this purpose].

\_\_\_\_\_  
[Signature block]

I, [Name\_\_\_\_\_], have received this recommendation letter this [number] day of [Month, year]. My signing below is not agreement with the content, only an acknowledgement that I have received a copy of the action.

\_\_\_\_\_

**Figure 1.** Sample 5 day counseling memorandum

Heading: [Name, Date, etc.]

Subject: Agency decision regarding request for [Medical/Religious] exemption from COVID19 vaccination requirement.

1. On [DATE] you requested a [Medical/Religious] exemption from the requirement for federal employees to be vaccinated against COVID19. Although it is a general requirement for federal employees to receive this vaccination, statutory exemptions are authorized in accordance with the language provided in Executive Order 14043..

2. We are pleased to inform you that your request for exemption, received on [Date] has been approved.

3. Be advised that the provisions outlined in your exemption request are considered required elements of your employment and failure to follow them may result in disciplinary actions up to and including removal.

5. For further information regarding COVID vaccination requirements please reach out to [STATE POC designated for this purpose].

\_\_\_\_\_  
[Signature block]

**Figure 2.** Sample exemption decision approval memorandum

Heading: [Name, Date, etc.]

Subject: Agency decision regarding request for [Medical/Religious] exemption from COVID19 vaccination requirement.

1. On [DATE] you requested a temporary [Medical/Religious] exemption from the requirement for federal employees to be vaccinated against COVID19. Although it is a general requirement for federal employees to receive this vaccination, statutory exemptions are authorized in accordance with the language provided in Executive Order 14043.

2. We are pleased to inform you that your request for temporary exemption, received on [Date] has been approved. You are temporarily approved for an exemption from the vaccination requirement until [DATE]. You will be subject [to the conditions outlined in your temporary exemption request] OR [state alternate exemption requirements]. If you fail to follow these conditions you will be subject to discipline or adverse action up to and including your removal.

3. It is crucial that you understand that this approval is only temporary and, unless an extension is granted, you will be required to begin the vaccination process immediately upon the expiration of this temporary exemption.

4. If your situation changes and you can become vaccinated earlier or if you feel you need to extend the timeline for your temporary request, please contact [State POC] for further instructions.

5. For further information regarding COVID vaccination requirements please reach out to [STATE POC designated for this purpose].

\_\_\_\_\_  
[Signature block]

**Figure 3.** Sample exemption decision temporary approval memorandum

Heading: [Name, Date, etc.]

Subject: Agency decision regarding request for [Medical/Religious] exemption from COVID19 vaccination requirement.

1. On [DATE] you requested a [Medical/Religious] exemption from the requirement for federal employees to be vaccinated against COVID19. Although it is a general requirement for federal employees to receive this vaccination, statutory exemptions are authorized in accordance with the language provided in Executive Order 14043.

[2. In our review of your information we have made the determined that, your claim for an exemption does not meet the standard of being a [sincerely held religious belief] OR [a medical condition precluding you from receiving the vaccination. that precludes you from receiving the vaccination.]

OR

[2. Although you have the right to request an exemption, and we have determined that y9u [do have a sincerely held medical belief] OR [do have a medical condition] that precludes you from receiving the vaccination, neither your requested exemption or an alternate exemption will [allow you to perform the essential functions of your job [specify the essential functions and why exemption won't allow performance]] OR [the exemption requested and any alternate exemption creates an undue hardship on the agency for [outline justification for undue hardship]].

3. As stated, your request for exemption has been disapproved. You are directed to begin receiving the vaccination at your earliest opportunity and receive and provide proof of the first dose of a two dose vaccine or the single dose vaccine not later than [DATE]. If you receive a two-dose vaccine, you are expected to receive the second dose according to the medical recommendations for that vaccine. You will be required to provide proof of each required vaccination. If you fail to promptly follow these instructions you will be subject to disciplinary actions up to and including your removal. The disciplinary process will begin not earlier than the date you are required to provide proof of first dose vaccination.

4. For further information regarding COVID vaccination requirements or the process for requesting an exemption please reach out to [STATE POC designated for this purpose].

\_\_\_\_\_  
[Signature block]

**Figure 4.** Sample exemption decision disapproval memorandum

**ATTACHMENT 12**  
References

- a. National Guard Implementation Guidance for Force Health Protection (Supplement 23) Revision 1 - Mandatory Coronavirus Disease 2019 Vaccination Attestation, Screening Testing and Verification for National Guard Title 5 Employees; 26 October 2021
- b. Deputy Secretary of Defense Memorandum, "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Civilian Employees", 1 October 2021
- c. Secretary of Defense Memorandum, "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members", 24 August 2021
- d. Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees," September 9, 2021
- e. Safer Federal Workforce Task Force COVID-19 Workplace Safety: Agency Model Safety Principles, 13 September 2021
- f. Under Secretary of Defense for Personnel and Readiness Memorandum, "Force Health Protection Guidance (Supplement 23 Revision 2) - Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing and Vaccination Verification, 29 October 2021
- g. National Guard Bureau Memorandum, "Implementation Guidance for Mandatory Coronavirus Disease 2019 Vaccination of National Guard Title 5 Employees, 08 October 2021
- h. Safer Federal Workforce Task Force, *"COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors,"* 24 September 2021
- i. Principal Director for Defense Pricing and Contracting Memorandum, "Class Deviation 2021-O0009-Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, October 1, 2021
- j. Chief National Guard Bureau Memorandum "Designation of the Adjutants General to Appoint, Employ, and Administer National Guard Employees", 16 February 2017

# DEPARTMENT OF ENERGY

**From:** Fisher, Vincent <[vincent.fisher@nnsa.doe.gov](mailto:vincent.fisher@nnsa.doe.gov)>  
**Sent:** Wednesday, September 22, 2021 11:03 AM  
**To:** Fisher, Vincent <[vincent.fisher@nnsa.doe.gov](mailto:vincent.fisher@nnsa.doe.gov)>  
**Subject:** COVID-19 Update - Vaccine Mandate

Good Morning OST,

There is a lot of information still to come on the topic of mandatory vaccinations for the Federal workforce. We expect further guidance very soon, but in the interim here's what we know based on the White House's COVID Task Force Guidance that was published late last week. That guidance can be found at: [Vaccinations | Safer Federal Workforce](#)

1. The Federal workforce **must** be fully vaccinated by **22 November 2021**. This requires that all first and second vaccinations must occur at least 2 weeks prior to 22 November 2021. For instance, the **last day** to receive the Pfizer first shot would be 18 October. This timing allows for the 2 week wait time before receiving the second dose of the vaccine and still be able to meet the deadline for all vaccinations. Remember, the requirement is **all employees must be fully vaccinated** by the **22 November due date**.
2. Requests for exemption from the mandatory vaccination requirement can only be made through the reasonable accommodation process. Details on this process are still being finalized, but the forms for employees to request an accommodation have now been forwarded to supervisors. Employees who wish to submit such a request (whether based on a medical condition or a sincerely held religious belief) should do so prior to the vaccination due date, and **must** have their submission to NNSA Employee Relations documented. Work with your Supervisors to get this done.
3. Federal employees will be required to prove their vaccination status with a COVID vaccination record card (or other medical record) that employees will upload into a system. As of now this system has not been opened for uploads-
4. Disciplinary action will result for Federal employees who are not fully vaccinated by the 22 November, unless they have a reasonable accommodation on file-

Again, I urge you to get vaccinated if you aren't already. The above information is what we currently know at this time and I will continue to update you as more information becomes available.

Respectfully,  
Vince

VINCENT R. FISHER  
Assistant Deputy Administrator, SES

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National Nuclear Security Administration (NNSA)  
U.S. Department of Energy  
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**From:** DOECAST <[doecast@hq.doe.gov](mailto:doecast@hq.doe.gov)>

**Sent:** Tuesday, September 21, 2021 11:00 AM

**Subject:** COVID-19 Update - Vaccine Mandate

Team DOE,

Protecting your health and safety is our top priority. To help ensure this, President Biden issued an [Executive Order](#) requiring **all Federal employees to be fully vaccinated by November 22, 2021**. This applies to all Federal employees regardless of remote, telework, or onsite reporting status, except in limited circumstances in which an employee may be exempt due to a legally required [accommodation](#).

We know most of you recently completed the vaccination attestation through the MyEnergy system. Thank you for completing it—88% of our Federal workforce responded! Based on the responses, 84% of DOE's Federal workforce is fully vaccinated!! This is great news, but we still need to make progress to meet the November 22 deadline.

The best thing you can do to protect yourself, your loved ones, your colleagues, and others is to [get vaccinated](#). Please start planning now! Although the Executive Order gives Federal employees until November 22 to be fully vaccinated, all employees must receive their second dose of the Moderna or Pfizer vaccination, or the single-dose Johnson & Johnson vaccination by [November 8, 2021](#), to be compliant. Additional information on getting vaccinated can be found [here](#) and key dates to be aware of when scheduling your COVID-19 vaccination are found below.

	Moderna	Pfizer-BioNTech	Johnson & Johnson
FIRST SHOT	October 11, 2021	October 18, 2021	November 8, 2021
SECOND SHOT	November 8, 2021	November 8, 2021	n/a
FULLY VACCINATED	November 22, 2021	November 22, 2021	November 22, 2021

Agencies are required to have Federal employees provide proof of vaccination (i.e., a picture of your vaccine card) and certify under penalty of perjury that the documentation being submitting is true and correct. The Department is working to update the MyEnergy system to accommodate this. As soon as the system is ready, we will notify you. For those who haven't completed the attestation, it is still necessary to go into [MyEnergy](#) to complete it. Over the coming days, Heads of Departmental Elements will be reaching out to those who have yet to complete it.

Thank you for your continued support, cooperation, and patience as we rapidly adjust to these requirements.

Tarak Shah  
Chief of Staff

# DEPARTMENT OF INTERIOR

**From:** [Announcement, DOI](#)  
**Subject:** Update on Required COVID Vaccinations  
**Date:** Monday, October 4, 2021 1:02:08 PM  
**Attachments:** [image001.png](#)



Dear Colleagues,

As Secretary Haaland communicated on September 9, President Biden has issued an [Executive Order mandating federal employees be vaccinated](#). This email shares some important information related to the vaccination mandate for DOI employees.

All employees will be required to provide proof of their vaccination status, except for those who receive an approved accommodation as required by law. Employees will no longer have the option to submit to weekly testing in lieu of becoming fully vaccinated. We will soon share information on how to provide your proof of vaccination through the Department's Safety Management Information System as well as information about accommodations.

**All DOI employees must be fully vaccinated by November 22, 2021.** To be considered fully vaccinated, an employee must receive the Johnson & Johnson single-dose vaccine or the *second* dose of the Moderna or Pfizer vaccine by **November 8**, or 14 days before the November 22, 2021, deadline.

This chart illustrates key dates you'll need to plan for to be fully vaccinated by November 22.

	Johnson & Johnson	Moderna	Pfizer-BioNTech
First Shot	Nov. 8, 2021	Oct. 11, 2021	Oct. 18, 2021
<b>Timing Your Second Shot</b> The timing between your first and second shots depends on which vaccine you received. Johnson & Johnson: One Shot Pfizer: 3 weeks (or 21 days) Moderna: 4 weeks or (28 days)			
Second Shot	n/a	Nov. 8, 2021	Nov. 8, 2021
Fully Vaccinated	Nov. 22, 2021	Nov. 22, 2021	Nov. 22, 2021

Visit [Vaccines.gov](https://www.vaccines.gov) to find vaccine distribution locations and schedule an appointment. Supervisors must allow employees to undertake required COVID-19 vaccination doses on duty time. In most

circumstances, employees will be authorized up to 4 hours to travel to the vaccination site, complete a vaccination dose, and return to work—for example, up to 8 hours of duty time for employees receiving two doses. Employees may also use up to 4 hours of administrative leave per dose to accompany a family member who is receiving their vaccination.

Due to the highly transmissible Delta variant and substantial/high COVID-19 rates in most areas of the country, the Department continues to operate in a maximum telework posture. We remain flexible to ensure the health and safety of our employees.

Our employees are our greatest assets—and your wellbeing is our top priority. Fully vaccinated people are at substantially reduced risk of severe illness and death from COVID-19 compared with people who are not fully vaccinated.

Employees who need additional assistance or are encountering difficult challenges during this time are encouraged to engage the services of the Department's [Employee Assistance Program](#).

If you have any questions, please contact your servicing Human Resource Office.

Sincerely,

Rachael S. Taylor

Principal Deputy Assistant Secretary – Policy, Management and Budget

# DEPARTMENT OF JUSTICE

**From:** [The AAG for Administration](#)  
**To:** [The AAG for Administration](#)  
**Subject:** IMPORTANT WORKFORCE MESSAGE - COVID-19 Vaccination Requirements and Upcoming Deadlines  
**Date:** Friday, October 8, 2021 12:48:07 PM

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To the DOJ Federal Workforce:

As we move towards the President's November 22 deadline for all federal employees to be fully vaccinated against COVID-19, **I want to update you on some important and immediately looming interim deadlines.** I also want to provide you with an update on the Department's COVID-19 vaccination attestation plan and related information.

**Vaccination Requirement.** If you are not yet fully vaccinated, please remember that in order to meet the November 22 deadline for full vaccination, **you must hit these target dates for your vaccine doses** (based on the different recommended periods between two-dose vaccines):

- **By October 11:** first dose if you are getting the Moderna COVID-19 vaccine.
- **By October 18:** first dose if you are getting the Pfizer-BioNTech COVID-19 vaccine.
- **By November 8:** second dose of the Moderna or Pfizer-BioNTech COVID-19 vaccines.
- **By November 8:** first and only dose if you are getting the Johnson & Johnson COVID-19 vaccine.

***These dates are fast approaching, please do not let them pass.***

**Attestation and Proof of Vaccination.** As I noted in my September 17, 2021 workforce email, you are required to attest to your vaccination status and upload proof of your vaccination. The Department has an online app known as COVID Check for this purpose, and FBI and BOP have similar apps for their respective employees. Your component has either already begun, or will begin shortly, inviting you to log on and upload your vaccination proof. Easy to follow instructions will come with your invitation. You will have seven calendar days to complete your attestation and upload it. If you are on leave for the duration of the seven days, work with your supervisor regarding a limited extension. The process is fast and easy, and over 48,000 DOJ employees have already submitted their documentation. Thank you!

**Testing Protocol for Unvaccinated Employees Entering the Workplace.** The Department has determined as a matter of policy that employees who attest to not yet being fully vaccinated, prior to entering a Department workplace other than their telework location, will have to provide to their supervisor (or component designee) a negative COVID-19 test result from within the previous three days. This requirement also applies to employees who are under a pending reasonable accommodation exception, as well as approved exceptions that include testing. Testing is also necessary for unvaccinated individuals who travel or participate in an official meeting or function at any location other than a telework location. The testing requirement takes effect upon the employee's submission of the attestation that they are not fully vaccinated. To monitor and enforce this requirement, supervisors will be following up with employees who attest to not being fully vaccinated. The Department will not prohibit an unvaccinated employee from entering the workplace if they follow the testing protocol.

The testing requirement can be satisfied with any COVID-19 test approved by the Food and Drug Administration (FDA). Employees are strongly encouraged to obtain a test that produces a dated report, such as those performed at a pharmacy or doctor's office. If employees use a

home test that does not produce such a report, their supervisor must be able to ascertain the date of the test, and components will establish a process for ensuring this. For example, if permitted by your component, the home test could be performed at the building entrance in the presence of a supervisor or other employee designated by the component. Your management may provide additional guidance on the process for confirming that you have had a recent negative test if you are not fully vaccinated and need to enter the workplace.

At the present time, employees tested under this policy are responsible for arranging their own testing unless their component offers COVID-19 testing to employees. If your component provides testing, please follow your component's requirements. Required testing is considered official duty time, therefore employees and supervisors must work together to avoid unnecessary overtime costs. For any out-of-pocket costs incurred at the testing site or with respect to the purchase of home kits, employees must first submit the cost of the testing to their health insurance company. The Department will reimburse employees for testing costs not covered by insurance, as well as reasonable transportation costs approved in advance.

Employees who are not fully vaccinated and who provide a recent negative test must follow Centers for Disease Control and Prevention (CDC) and Department guidance for unvaccinated employees while they are in a federal facility, including masking and physical distancing requirements.

**Compliance.** While I am confident that all Department employees will comply with these requirements, please understand that compliance with these crucially important health and safety requirements will be enforced. As the interim deadlines and ultimate November 22 deadline approach, it is incumbent on everyone to do their part. **Employees who do not comply with the vaccination requirement by the deadline, or who are not covered by a legal exception, will be subject to counseling, a suspension, and possibly removal from federal service. Those are outcomes that none of us want, and I encourage everyone who is not vaccinated to take advantage of the process outlined above to get vaccinated as quickly as possible.**

**As a final reminder, employees who intend to request a reasonable accommodation should submit their request by October 18.**

If you have not yet done so, please get vaccinated for your health, and that of your family, co-workers, and fellow citizens.

Thank you for your continued cooperation in keeping the Department's workforce healthy and safe.

---

Lee J. Lofthus  
Assistant Attorney General for Administration  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington DC 20530

**From:** [The AAG for Administration](#)  
**To:** [The AAG for Administration](#)  
**Subject:** IMPORTANT: Additional information on COVID-19 Vaccination Requirements and Timeline  
**Date:** Friday, September 17, 2021 12:11:32 PM

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To the DOJ Federal Workforce:

On September 9, President Biden signed Executive Order 14043 mandating COVID-19 vaccinations for all Executive Branch employees, subject to limited exceptions for disabilities or religious objections. **All Department employees (whether teleworking or reporting to a Department worksite) who are not excepted for a religious or qualifying medical reason must be *fully vaccinated* no later than November 22. Unless you are approved for an exception, testing for COVID-19 is not an alternative to the vaccination requirement.** The Centers for Disease Control and Prevention (CDC) considers an individual fully vaccinated two weeks after receiving their final vaccine. If you are already fully vaccinated, thank you! **If not, this email contains important information you will need to ensure you are fully vaccinated by the deadline.**

If you are not yet fully vaccinated (or excepted), you must obtain vaccination doses by the dates below. Please note these dates are based on the approved time lapse between doses, **which differ based on the type of vaccine you receive:**

- By October 11: first dose if you are getting the Moderna COVID-19 vaccine.
- By October 18: first dose if you are getting the Pfizer-BioNTech COVID-19 vaccine.
- By November 8: second dose of the Moderna or Pfizer-BioNTech COVID-19 vaccines.
- By November 8: first and only dose if you are getting the Johnson & Johnson COVID-19 vaccine.

In the near future, you will be required to upload a copy of the documentation of your vaccination status and attest to the accuracy of that information. This will be accomplished via an automated attestation form in the online COVID Check application of iReports (or other system if you work for FBI or BOP) that will be made available shortly. At that time, those of you who have previously attested to your vaccination status will need to return to the application to upload your proof of vaccination. The CDC COVID-19 Vaccination Record Card that you received when you were vaccinated will meet this requirement. Additional forms of documentation will also be accepted,<sup>[1]</sup> as long as it has the required information.<sup>[2]</sup>

Employees may request a reasonable accommodation (RA) from the mandatory vaccination policy due to a qualifying disability or medical condition or based on a sincerely held religious belief, practice, or observance. Employees requesting a reasonable accommodation should contact their first-line supervisor or component [RA coordinator for assistance](#).<sup>[3]</sup>

The CDC has explained that satisfying this vaccination requirement will go a long way to protecting you, your families and your colleagues by significantly reducing the likelihood of hospitalization and death from COVID-19. As a mandatory public health requirement, failure to meet the November 22 deadline for full vaccination, unless you have secured an exception through the RA process, will subject you to possible disciplinary action, up to and including removal from federal service. See additional implementation guidance related to Executive Order 14043 at <https://www.saferfederalworkforce.gov/new/>.

For information about where to obtain a vaccine at no cost to you, please visit

[www.vaccines.gov](http://www.vaccines.gov).

Our contractor workforce will receive separate guidance on their vaccination requirements.

Thank you for your support and attention to this important health initiative.

---

Lee J. Lofthus  
Assistant Attorney General for Administration  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington DC 20530

[1] Acceptable documentation includes a copy of any of the following: the record of immunization from a health care provider or pharmacy; the COVID-19 Vaccination Record Card (CDC Form MLS-319813\_r, published on September 3, 2020); medical records documenting the vaccination; immunization records from a public health or state immunization information system; or any other official documentation containing the required data points (see footnote 2).

[2] Required information includes: type of vaccine received; number of doses received; date of last dose received; and the name of the health care professional or clinic site that administered the vaccine.

[3] Employees seeking a reasonable accommodation based on a qualifying medical condition may find additional information in the [Department's RA Instruction](#).

# **DEPARTMENT OF TRANSPORTATION**



**U.S. Department of Transportation**

## **COVID-19 Workplace Safety Plan**



Revised: November 18, 2021

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## 1 Purpose

This document provides updated implementation guidance for the Department of Transportation's (DOT) COVID-19 Workplace Safety Plan. This implementation guidance applies DOT-wide and puts the health and safety of all Federal employees, on-site contractors, visitors, and their families at the center. This plan is built upon taking a safe, cautious, iterative, data-driven approach, and replaces previously published DOT guidance. This document adheres to and follows guidance from:

- The President's [Path Out of the Pandemic: COVID-19 Action Plan](#) and the [National Strategy for the COVID-19 Response and Pandemic Preparedness](#)
- The President's [Executive Order \(EO\) 14043 on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees](#),
- [EO 14042 on Ensuring Adequate COVID Safety Protocols for Federal Contractors](#),
- [EO 13991 on Protecting the Federal Workforce and Requiring Mask-Wearing](#)
- Office of Management and Budget (OMB) [Memorandum 21-15, COVID-19 Safe Federal Workplace: Agency Model Safety Principles](#);
- OMB Memorandum [M-21-25 on Integrating Planning for A Safe Increased Return of Federal Employees and Contractors to Physical Workplaces with Post-Reentry Personnel Policies and Work Environment](#)
- Safer Federal Workforce Task Force [COVID-19 Workplace Safety: Agency Model Safety Principles](#) (Sep 13, 2021); and
- Includes the [latest guidance](#) from U.S. Centers for Disease Control and Prevention (CDC) and the [Occupational Safety and Health Administration \(OSHA\)](#).

## 2 Background

The DOT shifted to maximum telework on March 16, 2020, in response to the COVID-19 pandemic. On April 20, 2020, the Office of Management and Budget and the Office of Personnel Management (OPM) directed Federal organizations to draft plans to return to normal operations, and to submit weekly telework and facilities reports by geographic locations. In May 2020, DOT published Framework for DOT's Return to Normal Operations. On January 24, 2021, OMB issued updated guidance, [Memorandum 21-15, COVID-19 Safe Federal Workplace: Agency Model Safety Principles](#), to ensure a safer Federal workforce. Pursuant to this guidance and subsequent guidance listed in the Purpose section above, DOT amends previously published guidance and implements the following DOT COVID-19 Workplace Safety Plan and Implementation Guidance.

## 3 COVID-19 Coordination Team

The DOT COVID-19 Coordination Team is responsible for:

- Conducting assessments to establish, implement, and monitor compliance with: (a) safety protocols for vaccinations, physical distancing, testing and masking, and other appropriate COVID-19 mitigation strategies; and (b) determinations of on-site and telework/remote working.

- Meeting monthly to review compliance with DOT COVID-19 workplace safety plans and protocols, consider potential revisions to those plans and protocols, and consider any other operational needs.
- Reviewing draft COVID-19 workplace vaccination protocols, testing protocols, supply distribution, safety plans and more for DOT, making any necessary changes, and submitting plans to the Safer Federal Workforce Task Force for review and comment.
- Where appropriate, consulting with a public health expert from CDC, the General Services Administration (GSA), OPM, and OMB. For privately-owned and federally-leased space, the team will coordinate with GSA and building security and safety committees.
- Coordinate with DOT's Chief Acquisition Officer and Senior Procurement Executive regarding safety protocols for Federal contractors and contractor employees.
- Meeting with the Operating Administrations (OAs) to ensure that consistent guidelines are implemented across the Department.

DOT's COVID-19 Coordination Team consists of:

- Operating Administration: The Associate Administrator for Administration in each Operating Administration
- Human Resources: Director, Departmental Office of Human Resource Management (DOHRM)
- Occupational Safety and Health Officer: Office of Facilities
- Executive leadership: Chief of Staff; Deputy Chief of Staff; Deputy Assistant Secretary for Budget and Programs; Assistant Secretary for Administration and Deputy Chief Acquisition Officer; Deputy Assistant Secretary for Administration; and Special Assistant, Office of Administration
- Office of the General Counsel: Acting General Counsel; Deputy General Counsel

DOT Operating Administrations will:

- a. Ensure the alignment of their workplace safety plans to this plan/implementation guidance.
- b. Send confirmation to the Office of the Assistant Secretary for Administration that they have communicated this guidance to employees (i.e., vaccination requirements, mandating masks and maximum telework) within one week of plan approval.
- c. Support the formulation of the DOT COVID-19 Coordination Team.
- d. Send any updates to their Operating Administration workplace safety plans or reentry plans to the Office of the Assistant Secretary for Administration for clearance.
- e. Continue to report all COVID-19 positive cases within its workforce to the Office of the Assistant Secretary for Administration. If the employee or contractor was on site, report building location, floor, and date to initiate cleaning and contact tracing.
- f. Ensure acquisition workforce complies with and communicates all Federal and Departmental COVID-19 acquisition regulations, policies and procedures for Federal contractors as appropriate.

## 4 Vaccination

This section addresses the requirements of [EO 14043 on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees](#) and [EO 14042 on Ensuring Adequate COVID Safety Protocols for Federal Contractors](#).

### Guidance for Federal Employees

To ensure the safety of the Federal workforce, all DOT Federal employees must be fully vaccinated no later than November 22, 2021, except in limited circumstances where an employee is legally entitled to a reasonable accommodation. DOT will work expeditiously to ensure employees are fully vaccinated. Employees who are on maximum telework or working remotely are not excused from this requirement. Employees who refuse to be vaccinated or provide proof of vaccination will be subject to disciplinary measures, up to and including removal from Federal service described in more detail below.

Employees are considered [fully vaccinated](#) against COVID-19 two weeks after they have received the requisite number of doses of a COVID-19 vaccine approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization.

For Pfizer-BioNTech, Moderna, or AstraZeneca/Oxford, that is two weeks after an employee has received the second dose in a 2-dose series. For Johnson and Johnson (J&J)/Janssen, that is two weeks after an employee has received a single-dose.

More information is available at [Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC](#).

Employees are encouraged to review the [Safer Federal Workplace FAQs for Vaccinations](#), which provides detailed information on key topics including:

- Discussion of the vaccination requirement for Federal employees, including timelines for current employees and new hires (individuals expected to start their government service after November 22, 2021).
- Vaccination documentation and information, including questions about privacy and access to that information.
- Limited circumstances for exceptions to the vaccination requirement, including the right to request an accommodation.
- Enforcement provisions for individuals who fail to get fully vaccinated, or who do not have a pending or granted accommodation.

If employees have any questions surrounding this vaccine requirement, they may reach out to [DOTVaccinationDocumentation@dot.gov](mailto:DOTVaccinationDocumentation@dot.gov).

### Proof of Vaccination for Employees

DOT is required to obtain documentation from employees to prove vaccination, even if an employee has previously attested to their vaccination status.

Employees may provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points (the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)) through the Vaccination Documentation application on Microsoft Teams.

Employees must certify under penalty of perjury that the documentation they are submitting is true and correct.

Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above.

### **Vaccination Exceptions for Employees**

DOT employees must be fully vaccinated other than in limited circumstances where the law requires an exception. Employees may seek an accommodation indicating they are not vaccinated against COVID-19 because of a medical condition or a sincerely held religious belief, practice, or observance. Determining whether an exception is legally required will include consideration of factors such as the basis for the claim; the nature of the employee's job responsibilities; and the reasonably foreseeable effects on DOT's operations, including protecting other DOT employees and the public from COVID-19.

In the Vaccination Documentation application, there is an option to select Reasonable Accommodation. After you make this selection, you will receive a separate communication on how to complete the accommodation process. It is incumbent on you as the employee to follow all steps in requesting an accommodation.

### **Employee Refusal & Enforcement of the Vaccination Requirement for Federal Employees**

Employees covered by Executive Order 14043 who fail to comply with a requirement to be fully vaccinated or provide proof of vaccination and have neither received an exception nor have an exception request under consideration, are in violation of a lawful order. Employees who violate lawful orders are subject to discipline, up to and including termination or removal.

The Department and its Operating Administrations will follow the framework set forth in the OPM memorandum dated October 1, 2021, Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees – Executive Order 14043.

If an employee refuses to be vaccinated, as an initial matter, DOT will provide employees with information regarding [the benefits of vaccination](#) and [ways to obtain the vaccine](#). If the employee continues to refuse to be vaccinated or provide proof of vaccination, DOT will pursue disciplinary measures, up to and including removal from Federal service. In pursuing any

adverse action, DOT will provide the required procedural rights to an employee and follow normal processes, including any policies or collective bargaining agreement requirements concerning disciplinary matters. Generally, employees will not be placed on administrative leave while pursuing an adverse action for refusal to be vaccinated but will be required to follow safety protocols for employees who are not fully vaccinated when reporting to DOT worksites.

DOT will follow a different process if the employee claims a legally required exception as the reason for not being vaccinated or providing proof of vaccination. In that case, DOT will review and consider what, if any, accommodation it must offer to an employee. If the employee's request for an accommodation is denied, and the employee does not comply with the vaccination requirement, DOT will pursue disciplinary action, up to and including removal from Federal service.

### **Denial of Accommodation Request for Employees**

An employee whose request for an accommodation is denied must receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee must receive the second dose within 6 weeks of receiving the first dose.

If the employee received a first dose of a two-dose series prior to seeking an accommodation, DOT will require that the employee receive their second dose within two weeks of the final determination to deny the accommodation or within a week of the earliest day by which they can receive their second dose, whichever is later.

### **Safety Protocols for Employees that are Granted an Exception to the Vaccine Requirement**

DOT employees who are approved for an exception will follow applicable masking, physical distancing, and testing protocols for individuals who are not fully vaccinated, as well as applicable travel guidance. Additional guidance will be forthcoming regarding testing protocols for individuals who are excepted from the vaccination requirement. There may be circumstances in which DOT determines that the nature of an employee's job responsibilities requires heightened safety protocols if they are provided with a legally required exception. In some cases, the nature of the employee's job may be such that DOT determines that no safety protocol other than vaccination is adequate. In such circumstances, DOT may deny the requested accommodation.

### **Time and Attendance for Employees**

When a DOT employee is required to be vaccinated, the time the employee spends obtaining any required COVID-19 vaccination dose (including travel time) is duty time; thus, there is no need for the employee to take administrative leave. DOT employees may not be credited with administrative leave for time spent getting a required vaccination. If, due to unforeseen circumstances, the employee is unable to obtain the vaccine during basic tour of duty hours the normal overtime hours of work rules may apply.

To promote the continued safety of the DOT workforce, leave-eligible employees are granted up to four hours of administrative leave to receive any authorized COVID-19 vaccine booster shot, if they are eligible to receive such a booster shot. Similarly, DOT will grant leave-eligible employees up to four hours of administrative leave to receive any authorized additional dose of COVID-19 vaccine. The administrative leave will cover the time it takes to travel to the vaccination site, receive the vaccination dose, and return to work. Because there is currently no requirement for Federal employees to receive a vaccine booster shot or additional dose, granting duty time is not allowable in these instances.

In most circumstances, DOT authorizes employees to take up to four hours to travel to the vaccination site, complete any vaccination dose, and return to work—for example, up to eight hours of duty time for employees receiving two doses. Reasonable transportation costs that are incurred as a result of obtaining the vaccine from a site preapproved by DOT are handled the same way as local travel or temporary duty cost reimbursement is handled based on agency policy and the Federal Travel Regulation.

Employees will receive paid time off to address any side effects. The agency grants up to 2 workdays of administrative leave if an employee has an adverse reaction to any COVID-19 vaccination dose that prevents the employee from working (i.e., no more than 2 workdays for reactions associated with a single dose).

Employees will also receive paid time off to accompany a family member being vaccinated. The agency grants leave-eligible employees up to 4 hours of administrative leave per dose to accompany a family member (as defined in OPM's leave regulations, see 5 CFR 630.201) who is receiving any COVID-19 vaccination dose.

### **Guidance for New Hires**

The Department and its Operating Administrations will follow the framework set forth in the OPM memorandum dated October 1, 2021, [Guidance on Applying Coronavirus Disease 2019 Vaccination Requirements to New Hires – Executive Order 14043](#).

### **Collection of Employee Vaccination Documentation**

The collection and use of this information is subject to the OPM/GOVT-10 Employee Medical File system of records notice (SORN) and OPM regulations (5 C.F.R. part 293, subpart E). Under those rules, DOT will have written instructions for its EMF system with appropriate safeguards. Employees will be provided with a [Privacy Act statement](#) at the point of collection of this information. Employee vaccination documentation will not be maintained in the Official Personnel Folder.

DOT will maintain the IT security and privacy needs of employees, while also providing the relevant information to those who need to know in order to implement the safety protocols. The Privacy Act permits disclosure within DOT to employees “who have a need for the record in the performance of their duties.” 5 U.S.C. 552a(b)(1). DOT is only disseminating information to the appropriate agency officials who have a need to know to verify the documentation. For

example, your vaccination documentation will be reviewed by an HR specialist to determine that the required documentation has been submitted. Your supervisor will be informed that you have provided proof of vaccination, but your supervisor will not have access to your documentation. DOT will comply with the requirements of the Privacy Act at all times.

### **Guidance for Federal Contractors**

Operating Administrations are required to comply with DOT Federal Acquisition Regulation (FAR) [Class Deviation \(CD\) 2022-01 – Implementation of Executive Order 14042, Ensuring Adequate Safety Protocols for Federal Contractors](#). The Class Deviation (CD) lays out the timeline and instructions for incorporating the FAR clause required by Executive Order 14042 in DOT solicitations, contracts, contract-like instruments and orders. Generally, all DOT contracts above the micro-purchase threshold, as defined in FAR 2.101, regardless of work location, shall include the clause as prescribed in the CD and require compliance with Executive Order 14042 and the [Safer Federal Workforce Task Force’s guidance](#) for (1) vaccination of covered contractor employees, except in limited circumstances where an individual is legally entitled to an accommodation; (2) masking and physical distancing requirements 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.

Those contractor employees not yet subject to DOT FAR CD 2022-01 and a contractual requirement to be vaccinated are required to continue to comply with [DOT Acquisition Directive \(DAD\) No. 2021-02 – COVID-19 Entry Procedures for On-Site Contractors Reporting to DOT Facilities](#) until such time that the FAR clause has been incorporated into the contractor employee’s contract/order. Generally, the DAD requires that on-site contractor staff coordinate with their employer and DOT Contracting Officer Representatives (COR) to ensure they are either vaccinated or testing regularly prior to entering DOT facilities or entering DOT worksites. Individuals must attest to the truthfulness of the response they provide. When an individual discloses that they are not fully vaccinated or declines to provide information on their vaccination status, DOT agencies should treat that individual as not fully vaccinated for purposes of implementing safety measures, including with respect to mask wearing and physical distancing. DOT’s acquisition workforce and contractors should also review the [Frequently Asked Questions](#) (FAQ) developed to answer common questions regarding the DAD.

Contractors must be fully vaccinated or have received an approved exception by January 18, 2022.

### **Vaccination Guidance for Visitors to Federal Facilities**

Visitors (except those seeking a public benefit or service, who do not need to attest to or otherwise document vaccination status) must attest to their vaccination status using the [Certification of Vaccination](#) form. DOT will not ask visitors for documentation to verify their attestation and will not retain Certification of Vaccination forms; visitors must keep the completed form on their person while in DOT facilities. Visitors must comply with the specific rules established by each Federal facility regarding the wearing of face masks, physical distancing, and other health and safety protocols. Should a visitor (except those seeking a public benefit or service) decline to provide their vaccination status and, if unvaccinated, proof of a negative COVID test within the last three days, the visitor will be denied entry to the building.

## 5 Levels of Community Transmission

DOT and its Operating Administrations will use CDC data to determine level of community transmission. When determining levels of community transmission in a given area, DOT and its Operating Administrations will reference the [CDC COVID-19 Data Tracker County View](#). In addition, DOT Operating Administrations will use discretion in determining the counties relevant to the determination of the level of community transmission related to each DOT facility. For example, an Operating Administration may consider the county in which an office facility is located, the transmission levels of surrounding local counties from which employees or visitors travel to the facility, and transmission levels in counties through which employees based at a given facility regularly travel over the course of their work in the field and between various work sites.

Weekly assessment of transmission rates in a given area to determine mask-wearing requirements. Each DOT Operating Administration will assess transmission rates in a given area at least weekly to determine proper mask-wearing requirements.

When the level of transmission related to a given DOT facility increases from low or moderate to substantial or high, DOT Operating Administrations must promptly put in place more protective safety protocols consistent with CDC guidelines and guidance from the Safer Federal Workforce Task Force as soon as operationally feasible.

When the level of transmission related to a given DOT facility is reduced from high or substantial to moderate or low, the level of transmission must remain at that lower level for at least two consecutive weeks before DOT utilizes those protocols recommended for areas of moderate or low transmission by CDC guidelines and guidance from the Safer Federal Workforce Task Force.

Where a locality imposes more protective pandemic-related safety requirements, those requirements are followed by DOT employees and onsite contractor employees, in DOT buildings, in DOT-controlled indoor worksites, and on DOT lands within that locality.

## 6 Telework and Remote Work

Effective November 29, 2021, DOT will lift its maximum telework posture and begin reentry phasing. Based on reentry phasing, DOT employees currently on maximum telework will begin their new work schedules, in accordance with guidance from their Operating Administration and supervisor.

Most employees will not begin their new work schedules until mid-January 2022. From November 29 through January 17, we will be testing our network, begin collaborating in a hybrid environment, and learning best practices on how to make our future of work model successful. Starting Tuesday, January 18 (the day after the Martin Luther King, Jr. federal holiday), we will begin phasing in by Operating Administrations (OA). Each week a new subset of OAs will begin their new work schedules.

Your previous conversations and decisions with your supervisors about your new work schedules – including the number of days per week you may be able to telework – are still applicable in the new timeline below. We have asked the human resources offices in the OAs to engage supervisors and employees on the specifics of those new individual work schedules.

### **Phase 1**

Monday, November 29 through Friday, December 31, the following employees begin their new work schedules:

- Political appointees
- Select employees in the Office of the Secretary, Office of Administration and Office of the Chief Information Officer
- Additional faculty and staff at the US Merchant Marine Academy
- Any volunteers who wish to return to the office

### **Phase 2**

Monday, January 3, 2022, through Friday, February 11, 2022

- January 3-14: Volunteers + All political appointees + All career executives (includes all appointees & executives at the FAA) are on their new work schedules
- Week of January 17: OST, MARAD, GLS begin their new work schedules
- Also beginning the week of January 17, the FAA embarks on a 4-week timetable to have its employees on new work schedules.
- Week of January 24: FTA, FRA, PHMSA begin their new work schedules
- Week of January 31: FHWA, NHTSA begin their new work schedules
- Week of February 7: FMCSA begins its new work schedules

This schedule applies to both employees in the Washington, D.C. region who work out of DOT and FAA headquarters buildings as well as for employees working outside of D.C. in field and regional offices.

### **Monday, February 14, 2022**

All DOT employees are on their new work schedules as agreed upon in discussions with their supervisors.

DOT will utilize telework, flexible work schedules, and remote work consistent with the principles set forth in OMB Memorandum [M-21-25](#) and DOT plans for reentry and post-reentry.

## **7 Face Masks and Physical Distancing**

This section reflects the most recent guidance from the CDC to its [Interim Public Health Recommendations for Fully Vaccinated People](#).

### **Guidance for Employees, Contractors, and Visitors who are Fully Vaccinated**

To reduce their risk of becoming infected with the SAR-CoV-2, the virus that causes COVID-19, and potentially spreading it to others, fully vaccinated individuals in DOT facilities must follow CDC recommendations. That means fully vaccinated people:

- Must properly wear a mask that [covers the nose and mouth](#) in indoor settings if they are in an area of [substantial or high transmission](#), consistent with any limited exceptions provided for in DOT guidance consistent with CDC guidance (as discussed in the next section).
- In areas of low or moderate transmission, in most settings, generally do not need to wear a mask or physically distance in Federal buildings or on Federal land, except where required by Federal, State, local, Tribal, or territorial laws, rules, or regulations.
- Might choose to mask regardless of the level of transmission, particularly if they or someone in their household is immunocompromised or at [increased risk for severe disease](#), or if someone in their household is unvaccinated.
- Must follow any applicable Federal, State, local, Tribal, or territorial laws, rules, and regulations.

### Guidance for Employees, Contractors, and Visitors who [are not Fully Vaccinated](#)

Individuals—including employees, on-site contractor employees, visitors, and members of the public who are seeking a public service or benefit—who are not [fully vaccinated](#), or who have declined to provide their vaccination information when requested, must maintain a distance of at least six feet from others at all times, consistent with CDC guidelines, including in offices, conference rooms, and all other communal and work spaces) **and** properly wear a mask regardless of community transmission level, consistent with CDC guidelines. [Consistent with CDC guidance](#), those who are not fully vaccinated must wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated.

DOT employees, on-site contractors, and visitors who are not fully vaccinated must properly [wear a mask](#) that [covers the nose and mouth](#), and is used in accordance with current CDC and OSHA guidance.

CDC [recommends](#) the following:

- Medical procedure masks (sometimes referred to as surgical masks or disposable face masks)
- Masks must fit properly (snugly around the nose and chin with no large gaps around the sides of the face)
- Masks should have nose wires
- Masks made with breathable fabric (such as cotton)
- Masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source)
- Masks with two or three layers, and masks with inner filter pockets.
- Non-protective masks, masks with ventilation valves, novelty masks, or face shields are not permitted.

Accommodations may be made for individuals unable to wear a mask, upon providing required documentation in accordance with existing Equal Opportunity Employment Commission (EEOC) guidance and/or the DOT Reasonable Accommodation Order.

Masks must be worn consistently, in all common areas and shared workspaces (including open floorplan office space, cubicle embankments and conference rooms). Masks should also be worn in outdoor shared spaces when physical distancing cannot be maintained. Exceptions may be made consistent with CDC guidelines; for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining distancing in accordance with CDC guidelines.

Signage is posted throughout DOT-operated facilities to enforce the mask requirement at building entrances, and in other high traffic areas. DOT leadership, modal leadership, and security personnel will enforce compliance with the mask mandate. In addition, individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

At DOT and FAA headquarters, masks will be available to those that do not have one. Regional offices should procure masks to make available to those that do not have one.

## 8 Testing

### **Testing for unvaccinated employees that have been granted a medical or religious exception**

DOT is awaiting further government-wide guidance on screening testing from the Safer Federal Workforce Task Force. In the interim, employees that have been granted a medical or religious exception will be required to provide proof of a negative COVID-19 test weekly – the test should be from no later than the previous 3 days prior to reporting onsite to a DOT facility. Tests should be authorized by the U.S. Food and Drug Administration (FDA) and produce a dated result. Employees can procure a test at an offsite provider of their choice – this includes local pharmacies, doctor's office, community testing site, public health department, etc.). DOT will reimburse the employee if there is a cost for the test.

This guidance may change based on forthcoming government-wide guidance on this matter.

### **Testing after workplace exposure**

DOT employees who have been exposed to persons with COVID-19 at work should go get a diagnostic test immediately. DOT will reimburse the employee if there is a cost for the test. Testing because of a workplace exposure can be conducted during normal duty hours. Employees can procure a test at an offsite provider of their choice – this includes local pharmacies, doctor's office, community testing site, public health department, etc.). The test must be FDA approved.

Employees who have been fully vaccinated and have had close contact with someone with suspected or confirmed COVID-19 should get tested 5-7 days after exposure, even if they do not have symptoms. They should also wear a mask indoors in public for 14 days following exposure or until their test result is negative. If their test result is positive, they should isolate for 10 days.

### **Testing related to official travel**

The cost of testing for current infection with COVID-19 required for official travel and not available through a Federal dispensary or not covered (or reimbursable) through travel insurance, can be claimed in a travel voucher as a Miscellaneous Expense under the DOT travel policy. Testing related to official travel can be conducted during normal duty hours.

### **Visitors provide proof of negative COVID-19 test**

Visitors (except those seeking a public benefit or service) who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building. Tests should be authorized by the U.S. Food and Drug Administration and produce a dated result.

### **Screening testing for unvaccinated contractor employees reporting to a federal workplace**

Prior to being contractually required to be vaccinated in accordance with DOT Federal Acquisition Regulation (FAR) Class Deviation (CD) 2022-01 or having an approved medical/religious exception, contractor employees reporting for work onsite a federal facility who are not fully vaccinated must provide proof of a negative COVID-19 test to their company's management team. This negative test must be from no earlier than the previous 3 days prior to entry to a Federal facility/workplace. Onsite contractor employees who are not fully vaccinated, may utilize COVID tests that are authorized by the U.S. Food and Drug Administration and produce a dated result. DOT will not retain any contractor test results or vaccination documents for contractor employees, rather the contractor company should manage this effort for their employees.

### **Recordkeeping requirements if an employee tests positive for COVID-19 infection**

Under OSHA's recordkeeping requirements, if an employee tests positive for SARS-CoV-2 infection, the case must be recorded on the OSHA Illness and Injury Log if each of the following conditions are met: (1) the case is a confirmed case of COVID-19; (2) the case is work-related (as defined by 29 CFR 1904.5); and (3) the case involves one or more relevant recording criteria (set forth in 29 CFR 1904.7) (e.g., medical treatment beyond first aid, days away from work). DOT follows state and county reporting requirements and complies with state and county contact tracing efforts.

DOT will ensure that COVID-19 test result complies with all applicable laws and in accordance with DOT's records management policies. Privacy and IT security will be maintained at all times to protect test results. DOT's Chief Information Officer, Senior Privacy Officer, and Office of General Counsel have been consulted to determine appropriate information management protocols.

## 9 Contact Tracing

DOT's COVID-19 Coordination Team will collaborate with and support the contact tracing programs of local health departments to help identify, track, and manage contacts of COVID-19 cases. The Office of the Assistant Secretary for Administration will coordinate with facilities staff to implement infection control and workplace safety efforts once informed of a case of COVID-19 (either due to specific symptoms or a positive test).

The Office of the Assistant Secretary for Administration has the responsibility to make disclosures to local public health officials as required or necessary to provide for the public health and safety of Federal employees and contractors, in accordance with local public health mandates. If COVID-19 cases occur within a specific building or work setting, it will be the responsibility of the COVID-19 Coordination Team (or a field office/OA designee) to determine—in consultation with local public health officials—appropriate next steps.

DOT will be transparent in communicating related information to the workforce, as relevant and appropriate, consistent with local and Federal privacy and confidentiality regulations and laws. In accordance with CDC guidance, if an individual who tests positive for COVID-19 and visits a DOT facility within seven days of the positive test, employees who may have been in [close contact](#) with the individual must be notified of possible exposure. The individual who tests positive must not be identified. If the individual has not been onsite within seven days, no notification is made.

## 10 Travel

The CDC provided [guidance on travel for fully vaccinated people](#). Pursuant to [OMB Memorandum M-21-15](#), Federal employees should adhere strictly to CDC guidance for [domestic](#) and [international](#) travel before, during, and after travel, regardless of whether the travel is personal or for official business. DOT employees who are fully vaccinated have no restrictions on travel.

At this time, official domestic travel for DOT employees who are not fully vaccinated is limited to mission critical trips, unless it is contrary to a reasonable accommodation to which an employee is legally entitled. For DOT employees who are not fully vaccinated, international travel should also be avoided if at all possible, unless it is mission-critical (e.g., military deployments, COVID-19 response deployments/activities, diplomatic travel, or high-level international negotiations that cannot occur remotely). Federal employees who are not fully vaccinated should take [recommended precautions](#) during mission-critical travel. Below is a summary of the CDC guidelines for vaccinated and unvaccinated employees before, during and after travel:

### Domestic Travel Recommendations for Fully Vaccinated People

People who are [fully vaccinated with an FDA-authorized vaccine](#) can travel safely within the United States. If you are fully vaccinated, take the following steps consistent with CDC guidelines to protect others if you travel:

- Before you travel:

- o If you have a condition or are taking medication that weakens your immune system, you MAY NOT be fully protected even if you are fully vaccinated. Talk to your healthcare provider. Even after vaccination, you may need to continue taking all [traveler health and safety precautions](#).
- While you travel:
  - o Wear a mask over your nose and mouth. **Masks are required** on planes, buses, trains, and other forms of public transportation traveling to, within, or out of the United States and in transportation hubs such as airports, transit, and train stations.
  - o Avoid crowds and stay at least 6 feet/2 meters (about 2 arm lengths) from anyone who is not traveling with you.
  - o Wash your hands often or use hand sanitizer (with at least 60% alcohol).
- After traveling:
  - o Self-monitor for COVID-19 symptoms; isolate and get tested if you develop symptoms.
  - o Follow all [state and local](#) recommendations or requirements.

You DO NOT need to get tested or self-quarantine if you are fully vaccinated or have recovered from COVID-19 in the past 3 months. You should still follow all other travel recommendations.

### International Travel for Fully Vaccinated People

- If an employee goes on international travel, all air passengers coming to the United States from abroad, including Federal employees who are fully vaccinated, are required to have a negative COVID-19 viral test result no more than three days before the flight to the United States departs or must show documentation of recovery from COVID-19 within the previous 90 days before they board a flight to the United States.
- Fully vaccinated travelers are advised by the agency that they should also, after traveling abroad, get tested with a viral test 3-5 days after traveling; self-monitor for COVID-19 symptoms; if symptoms develop, isolate and get tested; and follow all recommendations or requirements of their local U.S. destination after travel.

### Domestic Travel Recommendations for Unvaccinated People

Again, at this time, official domestic travel for DOT employees who are not fully vaccinated is limited to mission critical trips, unless it is contrary to a reasonable accommodation to which an employee is legally entitled. For DOT employees who are not fully vaccinated, international travel should also be avoided if at all possible, unless it is mission-critical, as defined above, or contrary to a reasonable accommodation to which an employee is legally entitled. If you are not fully vaccinated and must travel, take the following steps consistent with CDC guidelines to protect yourself and others from COVID-19:

- Before you travel:
  - o **Get tested** with a [viral test](#) 1–3 days before your trip.
- While you travel:
  - o Wear a mask over your nose and mouth. **Masks are required** on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the

United States and in U.S. transportation hubs such as airports, subways, and train stations.

- o Avoid crowds and stay at least 6 feet/2 meters (about 2 arm lengths) from anyone who is not traveling with you.
- o Wash your hands often or use hand sanitizer (with at least 60% alcohol).
- After you travel:
  - o **Get tested** with a **viral test** 3-5 days after travel **AND** stay home and self-quarantine for a full 7 days after travel.
  - o Even if you test negative, stay home and self-quarantine for the full 7 days.
  - o If your test is positive, isolate yourself to protect others from getting infected.
  - o If you don't get tested, stay home and self-quarantine for 10 days after travel.
  - o Avoid being around people who are at increased risk for severe illness for 14 days, whether you get tested or not.
  - o Self-monitor for COVID-19 symptoms; isolate and get tested if you develop symptoms.
  - o Follow all state and local recommendations or requirements.

Visit your state, territorial, Tribal or local health department website to look for the latest information on where to get tested. For the most current guidance on domestic and international travel, see the CDC COVID-19 traveler website.

## 11 Symptom Monitoring

If DOT employees, on-site contractors, or visitors are not feeling well, they should not enter any DOT operated facility. DOT employees and contractors working on site are asked to complete a symptom check questionnaire upon entry to the workplace daily. The sponsor for a visitor should provide the visitor with the symptom monitoring checklist, and visitors should complete symptom screening before entering a DOT facility.

Any individual who develops any symptoms consistent with COVID-19 during the workday must immediately isolate, notify their supervisor, and promptly leave the workplace.

## 12 Quarantine and Isolation

Any individual with a suspected or confirmed COVID-19 will be advised to isolate, pursuant to CDC guidelines, and in compliance with local laws/regulations. Personnel who have had a close contact with someone who has COVID-19 should follow CDC and local guidance for quarantine.

### **Employee Returns to Work After a Confirmed, Suspected, or Presumed Case of COVID-19**

Accumulating evidence supports ending isolation and precautions for persons with COVID-19 using a symptom-based strategy. Specifically, researchers have reported that people with mild to moderate COVID-19 remain infectious no longer than 10 days after their symptoms began, and those with more severe illness or those who are severely immunocompromised remain infectious no longer than 20 days after their symptoms began. Therefore, CDC has updated the recommendations for discontinuing home isolation as follows:

- For most employees with symptomatic COVID-19, infection, isolation, and precautions can be discontinued 10 days after symptom onset and after no longer having a fever for at least 24 hours and improvement of other symptoms.
- For employees who are severely ill (i.e., those requiring hospitalization, intensive care, or ventilation support) or severely immunocompromised, isolation and precautions should be extended up to 20 days after symptom onset and after no longer having a fever for at least 24 hours and improvement of other symptoms may be warranted.
- For employees who are infected but asymptomatic (never develop symptoms), isolation and precautions can be discontinued 10 days after the first positive test.

Additional CDC guidance on ending isolation after infection can be found at:

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html>. Employee questions regarding the duration of home isolation can be directed to their supervisor or HR director.

## 13 Employee Leave

### Leave for vaccination side effects

DOT will grant up to 2 workdays of administrative leave if a DOT employee has an adverse reaction to any COVID-19 vaccination dose that prevents the employee from working (i.e., no more than 2 workdays for reactions associated with a single dose).

If an employee requests more than 2 workdays to recover the employee may take other appropriate leave (e.g. sick leave) to cover any additional absence.

### Leave to accompany a family member being vaccinated

DOT will grant leave-eligible employees up to 4 hours of administrative leave per dose to accompany a family member (as defined in OPM's leave regulations, see 5 CFR 630.201) who is receiving any COVID-19 vaccination dose.

- DOT will grant leave-eligible employees up to four hours of administrative leave per dose—for example, up to a total of twelve hours of leave for a family member receiving three doses—for each family member the employee accompanies.
- If an employee needs to spend less time accompanying a family member who is receiving the COVID-19 vaccine, DOT will grant only the needed amount of administrative leave.
- Employees should obtain advance approval from their supervisor before being permitted to use administrative leave for COVID-19 vaccination purposes.
- Employees are not credited with administrative leave or overtime work for time spent outside their tour of duty helping a family member get vaccinated.
- This policy applies to covered vaccinations received after July 29, 2021.

### Leave related to quarantine

Employees that go on official or personal travel will be informed if a mandatory quarantine will be required before they are allowed to return to the workplace. If quarantine is required because

of official travel or workplace exposure, DOT will provide weather and safety leave, or other administrative leave.

If quarantine is required because of personal travel, and the employee is otherwise expected to be present onsite, the employee may take personal leave while quarantining. If an employee refuses to quarantine or refuses to take personal leave while under mandatory quarantine after personal travel, DOT may elect to bar the employee from the workplace for the safety of others. In this case, the employee must be placed on administrative leave until DOT determines what status the employee should be placed in while on quarantine.

#### **Leave related to isolation due to COVID-19 infection**

If an employee is subject to isolation due to being infected with COVID-19 and is unable to telework, the employee may request sick leave, as weather and safety leave would be unavailable. Employees may also request accrued annual leave and other forms of paid or unpaid leave in this situation as appropriate. (See OPM CPM 2020-02, February 7, 2020)

## **14 Confidentiality and Privacy**

All medical information collected from individuals, including vaccination information, test results, and any other information obtained as a result of testing and symptom monitoring, will be treated confidentially in accordance with applicable laws on confidentiality and privacy, and will be accessible only by those with a need to know. DOT consulted with our Senior Agency Official for Privacy on matters related to the handling of personally identifiable information.

## **15 Occupancy**

There are no longer any occupancy limitations established for DOT-occupied facilities.

## **16 Meetings, Events and Conferences**

Any in-person meeting, conference, or event that will be hosted by DOT or an Operating Administration and attended by more than 50 participants, must be approved by the Secretary, or in his place, only the Deputy Secretary, in consultation with DOT's COVID-19 Coordination Team.

Once in-person meetings resume, attendees at any meetings, conferences, and events hosted by DOT, regardless of event size, will be asked to provide information about vaccination status. In requesting this information, DOT will comply with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act.

In-person attendees must follow the same safety protocols as visitors. Those attendees at agency hosted meetings, events, and conferences (regardless of event size) who are not fully vaccinated or who decline to provide their vaccination information must provide proof of a negative COVID-19 test completed no later than the previous 3 days and comply with masking and physical distancing requirements for individuals who are not fully vaccinated consistent with the

requirements for visitors. In-person attendees in areas of high or substantial transmission must wear a mask in indoor settings regardless of vaccination status.

## 17 Facility Cleaning

Enhanced cleaning protocols are in place in high-touch areas. There are many high-touch areas throughout DOT that will receive enhanced cleaning, such as:

- Public high-traffic spaces: increased frequency (morning, afternoon, and evening) vs. daily cleaning
  - o Lobby turnstiles
  - o Lobby desks, chairs, door handles
  - o Elevator controls in each car and in the elevator lobbies
  - o Restrooms
  - o Handrails leading to the Headquarters concourse areas
- Lower-traffic high-touch public spaces: increased frequency (Monday, Wednesday, and Friday) vs. monthly cleaning
  - o Stairwell handrails and doorknobs
  - o Secure areas

CDC guidance on cleaning protocols can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>.

### Response Plan for Symptomatic or Confirmed Exposure

DOT will clean and disinfect after persons who are diagnosed with, or are symptomatic of, COVID-19 have been in a DOT facility. DOT's response plan is based on the [CDC guidance](#) and enhanced to deal with each building's HVAC systems and layout. OAs with Regional Offices should coordinate with their building points of contacts or lessor to clarify what processes they will or already have in place.

The CDC recommends that areas used by COVID positive or symptomatic persons are immediately closed off. DOT Facilities will wait as long as practical before beginning cleaning and disinfection to minimize potential for exposure to respiratory droplets.

### Cleaning Guidelines

- Office of Facilities will isolate the space by closing doors to private offices, impacted bathrooms and pantries, and relocating people from cubicles or benching areas within 6 feet of the COVID positive or symptomatic individual's workspace.
- GSA contract cleaning staff will clean and disinfect all areas (e.g., offices, bathrooms, and common areas) used by the COVID positive or symptomatic person, focusing especially on frequently touched surfaces including counters, tabletops, doorknobs, bathroom fixtures, toilets, phones, keyboards, and tablets.
- If surfaces appear dirty, they will also be cleaned using a detergent or soap and water prior to disinfection. Disinfection cleaning will utilize products from the [EPA List of Cleaning Chemicals Effective Against Coronavirus](#).

The agency ensures enhanced environmental cleaning of the spaces that the individual occupied or accessed in accordance with CDC and, where applicable, GSA guidance, which provides as follows:

- If fewer than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.
- If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. Agency may choose to also disinfect depending on certain conditions or everyday practices required by its facility.
- If more than 3 days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.

The agency's COVID-19 Coordination Team will determine the appropriate scope of workplace closures—in some cases, it may be a suite of offices or part of a floor, in other cases, it may include an entire building.

## 18 Hygiene

DOT will continue to emphasize personal hygiene and basic infection prevention measures, including:

- Frequent and thorough hand washing with soap and water (for more than 20 seconds), or hand sanitizers that contain 60% alcohol if soap and water are unavailable.
- Having employees stay home if they feel sick.
- Practicing good etiquette when sneezing and coughing, to minimize spread of virus-containing droplets.

DOT headquarters and field locations will ensure hand sanitizer stations are available at entrances and throughout workspaces. For example, touchless hand sanitizer units with sanitizer solution (with at least 60% ethyl alcohol solution) are available throughout the DOT headquarters building.

## 19 Ventilation and Air Filtration

Additional modifications may be considered in accordance with CDC guidance, including as employee density increases. To the maximum extent feasible, indoor ventilation will be optimized to increase the proportion of outdoor ventilation, improve filtration, and reduce or eliminate recirculation.

The CDC [COVID-19 Employer Information for Office Buildings](#) calls for office buildings to have ventilation system filtration that meets the [standards established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers \(ASHRAE\) with a Minimum Efficiency Reporting Value \(MERV\) of MERV 13 or higher](#).

## 20 Collective Bargaining Agreements with DOT Workforce

Communication and collaboration with DOT's many labor unions is important. OA Labor Relations (LR) Officers should maintain strong lines of communication, reach out to their respective unions to share the recent safety guidance/direction, advise that new safety plans or procedures are forthcoming, and to emphasize that the safety of DOT employees is the absolute priority. OAs may have or create collective bargaining obligations in instances where safety directives differ from or affect the conditions of employment outlined in their collective bargaining agreements (CBAs). CBAs that establish safety standards higher than the minimum outlined in the OMB COVID-19 guidance or this safety plan should still be maintained. OAs should coordinate any such communications with their respective labor relations office and counsel office to address compliance questions including agency requirements pursuant to collective bargaining agreements and employee requirements regarding safety directives. OAs should strive for proactive and iterative engagement with unions on draft policies and on policy implementation, per EO 13991 and when appropriate.

## 21 Appendix A: Signage and Other Displays at DOT Headquarters

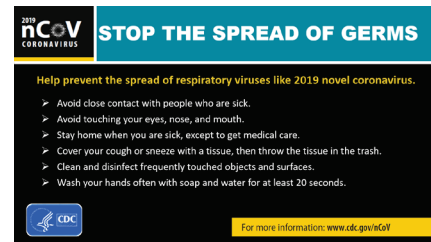
Note: Similar equipment and signage may be found at other DOT-occupied facilities.



Wall mounted hand sanitizer stations in all elevator lobbies above the ground floor



Freestanding sanitizer stations in the shuttle elevators and ground floor elevator lobbies



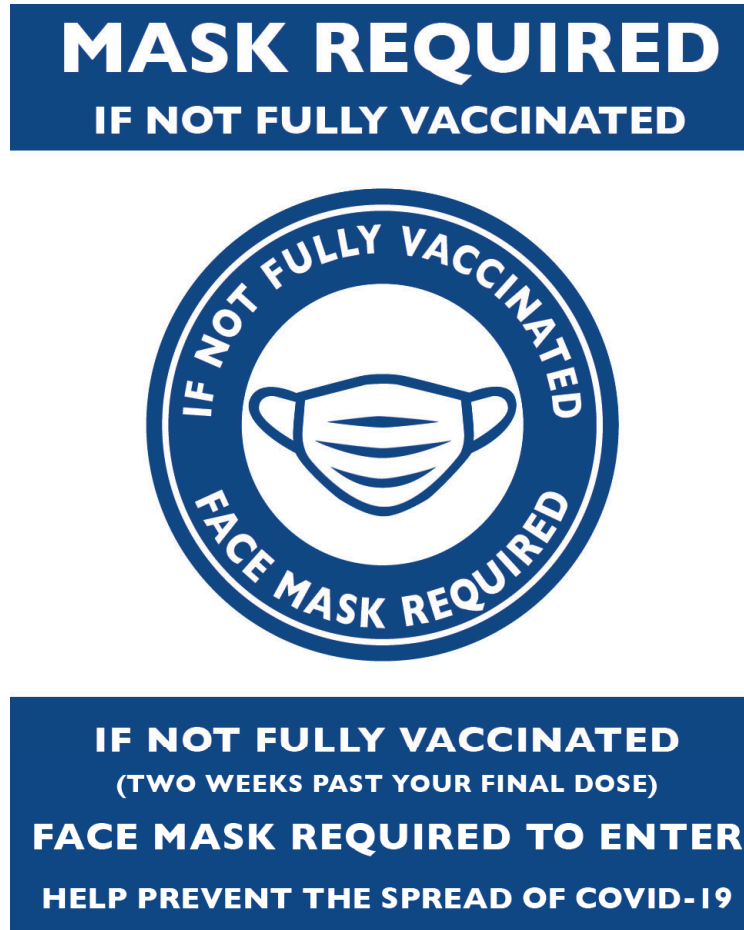
Typical TV display at ground floor elevator entrances



Building notice signs at elevator lobbies on all floors



Sign in restroom and pantry sinks on all floors



Lobby signage

## 22 Appendix B: Additional Resources

The following provides additional resources are available to Operating Administrations and DOT employees, contractors, and contractor employees to inform their return to normal operations:

Cleaning	<a href="https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html">https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html</a> and <a href="https://www.epa.gov/coronavirus/guidance-cleaning-and-disinfecting-public-spaces-workplaces-businesses-schools-and-homes">https://www.epa.gov/coronavirus/guidance-cleaning-and-disinfecting-public-spaces-workplaces-businesses-schools-and-homes</a>
Communications	<a href="https://www.cdc.gov/workplacehealthpromotion/planning/communications.html">https://www.cdc.gov/workplacehealthpromotion/planning/communications.html</a>
Face masks	<a href="https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html">https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html</a>
OPM COVID-19 Policy Library	<a href="https://www.opm.gov/policy-data-oversight/covid-19/">https://www.opm.gov/policy-data-oversight/covid-19/</a>
Telework	<a href="https://www.telework.gov/">Telework Guide - Telework.gov</a>
Travel	<a href="https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html">https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html</a>

# **GENERAL SERVICES ADMINISTRATION**

# COVID-19 and GSA Workplace Safety

## COVID-19 Employee Resources and Updates

On September 9, President Biden signed [Executive Order 14043](#), requiring federal employees to be vaccinated. Please refer to the [vaccinations page on InSite](#) for more information about the requirements for GSA employees.

On July 29, 2021, the Safer Federal Workforce Task Force issued updated [Agency Model Safety Principles](#) for executive agencies including GSA to revise their COVID-19 workplace safety plans. We are in the process of updating our plan and will update these pages accordingly.

This guidance complements our [COVID-19 Workplace Safety Plan](#), developed in response to Executive Order (EO) 13991 on [Protecting the Federal Workforce and Requiring Mask-Wearing](#), and the Office of Management and Budget (OMB)'s [Memorandum M-21-15: COVID-19 Safe Federal Workplace: Agency Model Safety Principles \[PDF\]](#).

- The EO 13991 establishes the Safer Federal Workforce Task Force and requires anyone working in or visiting federal buildings or federal lands to wear masks, maintain physical distance, and adhere to other public health measures, as provided in CDC guidelines.
- OMB Memorandum M21-15 outlines model safety principles for executive departments and agencies as they build tailored COVID-19 workplace safety plans.

Find COVID-19  
Vaccines Near You

Visit [Vaccines.gov](#)

Or Call 1-800-232-0233





This page provides:

1. The latest guidance based on public health best practices as determined by [Centers for Disease Control and Prevention \(CDC\)](#), the [Safer Federal Workforce Task Force](#), and the Occupational Safety and Health Administration (OSHA) to ensure the health and safety of our federal workforce, contractors, and visitors.
2. Information on the GSA ongoing response to the COVID-19 pandemic.

We will update this information as new information becomes available and the pandemic situation changes. For questions or comments, email [safergsaworkforce@gsa.gov](mailto:safergsaworkforce@gsa.gov).

## Guiding principles

1. The federal workforce's health and safety is one of the Administration's highest priorities.
2. GSA supports the recovery of federal government operations and the delivery of workspace that enables the workforce to deliver safely and effectively on their core missions.
3. Work is just one aspect of a person's life. GSA safely and effectively furnishes space and services for millions of government employees to help support families, businesses, and communities.
4. GSA delivers safe workplaces wherever our federal workforce serves, manages responsive acquisitions to facilitate mission success, and provides technology platforms and products to effectively deliver public service.
5. GSA provides federal resources and tools, and uses governmentwide strategies to reduce the spread of COVID-19 and support community recovery.

On GSA.gov, learn more about the [information we are sharing with customers, tenants, lessors, and the public](#) in response to COVID-19, including FAQs.

Find more information for employees in the sections below:

### Employee health and safety


### Workplace operations

### Telework

Reporting a COVID-19 incident

Acquisition resources and access cards

- COVID-19: Employee Health and Safety +
- COVID-19: Workplace Operations +
- COVID-19: Telework +

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### **GSA Guest Wifi**

**SSID:** GSA-Guest **Password:** e5tj@j2h

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## Join the Conversation



U.S. General Services Administration

# Vaccinations

For Accommodation Requests please read the ["Limited Exceptions to the Vaccination Requirement"](#) section below.

On September 9, President Biden signed [Executive Order 14043](#), requiring federal employees to be vaccinated. On September 13, the White House Safer Federal Workforce Task Force updated its guidance to federal agencies, announcing that the deadline for federal employees to be fully vaccinated is November 22, 2021. All covered federal employees are required to be fully vaccinated against COVID-19 and to provide proof of their vaccination status. Unless an employee has been granted a legally required exception, failure to provide vaccination status information may be subject to disciplinary action including removal from federal service.

## Certification of Vaccination Form

In order to comply with Executive Order 14043, please **submit your [Certification of Vaccination Form](#)** as soon as possible (no later than **close of business on Tuesday, October 12, 2021**). Submitting your form should only take a few minutes. You must submit this form regardless of your current vaccination status. Instructions for completing the form and uploading proof of vaccination can be found [HERE \[PDF - 2 MB\]](#).

## Limited Exceptions to the Vaccination Requirement

If you believe you qualify for a medical or religious exception to this requirement, you should first submit the Certification of Vaccination Form by October 12th, and then submit a request to the COVID-19 Vaccination Mandate Accommodation Request Portal (linked below) by October 18th.

**IMPORTANT:** If you are requesting a medical exception, you must have your medical provider complete "Part II" of the ["Request for a Medical Exception to the Covid-19 Vaccination Requirement" form](#) and photograph then upload the completed document to the online [COVID-19 Vaccination Mandate Accommodation Request Portal](#) by October 18, 2021.

For now GSA employees who are fully vaccinated:

- Do not need to wear a mask in their workplace in [areas of moderate or low community transmission](#) but do need to wear a mask in areas of substantial or high community transmission
- Do not need to physically distance
- Do not need to be tested regularly or provide proof of a negative test
- Are not subject to any governmentwide restrictions on travel for work and are required to wear masks on public transportation, including commercial airlines

For now GSA employees who are not fully vaccinated or who decline to provide their vaccination status:

- Must wear masks in their workplace
- Must maintain distance from others
- Must submit to a COVID-19 testing program to enter a federal facility (details have not been finalized)

Travel for all GSA employees whether fully vaccinated or not must be mission critical, time sensitive and required to perform essential duties.

## Frequently Asked Questions

For the most recent FAQs regarding vaccines, please visit the [Reentry at GSA page](#).

## COVID-19 and GSA Workplace Safety



### COVID-19: Employee Health and Safety

Vaccinations

Symptoms Monitoring

Facemasks

Testing

Travel

Quarantine and Isolation

Contact Tracing

Confidentiality

Last updated: Oct 7, 2021  

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**GSA Guest Wifi**

**SSID:** GSA-Guest **Password:** e5tj@j2h

## Join the Conversation



U.S. General Services Administration

**HUD**

00

Office of Administration

Sep 22

## OFFICE OF ADMINISTRATION



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Greetings,

In response to the Executive Order on vaccination requirements, the Task Force issued updated [COVID-19 Workplace Safety Agency Model Principles](#) which requires Agencies to ensure employees are **fully vaccinated by November 22, 2021**. Employees are considered [fully vaccinated](#) for COVID-19 two weeks after they have received the requisite number of doses of a COVID-19 vaccine approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization.

*Note: Clinical trial participants from a U.S. site who are documented to have received the full series of an "active" (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed, are considered fully vaccinated 2 weeks after they complete the vaccine series. Currently the Novavax COVID-19 vaccine meets these criteria*

### **Vaccination Requirement and Timing**

The vaccination requirement applies to all HUD employees and contractors, except in limited circumstances where the law requires an exception. [New employees](#) must be vaccinated by their start date or November 22, 2021, whichever is later.

Given the November 22<sup>nd</sup> deadline, we would like to share the following dates with you if you are not yet vaccinated.

- If receiving the Moderna COVID-19 Vaccine, the deadline to receive the **first dose is October 11, 2021**.
- If receiving the Pfizer-BioNTech COVID-19 Vaccine, the deadline to receive the **first dose is October 18, 2021**.
  - For both Moderna and Pfizer-BioNTech, the deadline to receive the **second dose is November 8, 2021**.
- If receiving the Johnson and Johnson COVID-19 Vaccine, the deadline to receive the **first (only) dose is November 8, 2021**.

### **Vaccination Proof Requirement**

- For both Moderna and Pfizer-BioNTech, the deadline to receive the **second dose is November 8, 2021.**
- If receiving the Johnson and Johnson COVID-19 Vaccine, the deadline to receive the **first (only) dose is November 8, 2021.**

### **Vaccination Proof Requirement**

In order to ensure compliance with the vaccination requirement for federal employees, Agencies must collect **proof** of employee vaccination status. The proof required may be a copy (digital photograph, scanned image, or PDF) of the following:

- Record of immunization from a health care provider or pharmacy
- COVID-19 Vaccination Record Card
- Medical records documenting the vaccination
- Immunization records from a public health or state immunization information system
- Any other official documentation containing required data points

The data that must be on any official documentation are:


- Type of vaccine administered,
- Date(s) of administration, and
- Name of the health care professional(s) or clinic site(s) administering the vaccine(s).

Employees must certify under penalty of perjury that the documentation they are submitting is true and correct. Additional information will be provided on when and where employees will be expected to provide this information.

As a reminder, if an employee/contractor is experiencing [symptoms and/or warning signs for COVID-19, they should not come to work and separate themselves from other people.](#) If an employee/contractor has been in a HUD facility and has been confirmed to have COVID-19, they must **immediately** notify their supervisor to ensure the incident is reported **timely**. Supervisors should follow the [Process for Reporting COVID-19 Cases at HUD](#), which can also be found on HUD@Work under the COVID-19 [Supervisor Resource Page](#).


You can find additional information on the vaccination requirements and other important information by visiting the Safer Federal Workforce Task Force's [Frequently Asked Questions Page](#).

Thank you.




Office of Administration

Oct 7



What to Expect After Receiving the COVID-19 Vaccine  
 PDF - 92 KB



Greetings!

The President's [Executive Order](#) on Requiring Coronavirus Disease 2019 Vaccination requires all federal employees to be [fully vaccinated](#) by **November 22, 2021**. To meet this deadline, it's important for unvaccinated employees to start scheduling appointments to receive the vaccine. As a reminder, to comply with the order, you should adhere to the timeline below, unless in limited circumstances a medical or religious exception is legally required.

**COVID-19 Vaccine Deadlines**

- **October 11<sup>th</sup>** – deadline to receive first dose of Moderna COVID-19 Vaccine
- **October 18<sup>th</sup>** – deadline to receive first dose of Pfizer-BioNTech COVID-19 Vaccine
- **November 8<sup>th</sup>** – deadline to receive first (only) dose of Johnson and Johnson's Janssen COVID-19 Vaccine, and second dose of both Moderna and Pfizer-BioNTech vaccines

All employees must provide proof of vaccination. The Department of Treasury is currently making modifications to HR Connect to allow employees to upload their proof of vaccination in the system. Once finalized, we will share additional information on this process, including

All employees must provide proof of vaccination. The Department of Treasury is currently making modifications to HR Connect to allow employees to upload their proof of vaccination in the system. Once finalized, we will share additional information on this process, including documentation requirements.

If you need help finding a location to receive the COVID-19 Vaccine, please visit CDC's [Vaccine Finder](#) to locate a site near you or call [1-800-232-0233](#) (TTY [888-720-7489](#)). For additional information on the vaccine types, you can visit CDC's [vaccine page](#). Attached is a resource explaining *what to expect after receiving the COVID-19 vaccine*.

### **Benefits of COVID-19 Vaccine**

Since January of 2020, the [CDC has reported](#) a total of over 43 million cases of COVID-19 in the United States, and over 700,000 deaths—this is a staggering and deeply concerning number. We know that members of our HUD family have been affected by this virus and we want to ensure we are doing our part to curb the pandemic. The best way to do this is to encourage all HUD employees to get vaccinated.

We know there are some employees who remain hesitant to get vaccinated. In response, we want to share important information with you surrounding the benefits of receiving the COVID-19 vaccine:

- First and most importantly, experts have determined the COVID-19 vaccines are safe and effective. The vaccines were developed using science that has been around for decades and, although developed rapidly, all steps were taken to ensure their [safety](#) and effectiveness.

- First and most importantly, experts have determined the COVID-19 vaccines are safe and effective. The vaccines were developed using science that has been around for decades and, although developed rapidly, all steps were taken to ensure their safety and effectiveness.
- Vaccines can lessen your risk of getting and spreading the virus that causes COVID-19, including the Delta variant; continue to be highly effective at preventing hospitalization and death; lessen your risk of getting seriously ill in the event of a breakthrough case; and may also protect people around you, particularly people at increased risk for severe illness from COVID-19.
- Getting fully vaccinated is a safer way to help build protection. The CDC reports that people **get better protection by being fully vaccinated** compared with having had COVID-19. One study showed that unvaccinated people who already had COVID-19 are more than 2 times as likely than fully vaccinated people to get COVID-19 again.
- COVID-19 vaccines will be continually monitored for safety by the FDA and CDC.

We know there are still many questions surrounding the vaccine, and CDC's Myths and Facts about COVID-19 Vaccines may help answer some of those questions and direct you to additional resources.

Thank you for your patience and understanding as we continue to adapt to an everchanging environment. Despite the challenges, we will keep moving forward and work together to ensure a safe workplace for all employees.

Vaccine Brand Name	Safe?	Effective?	Reduces your risk of severe illness?	Age group who can get this vaccine	How many shots you will need?	When you are fully vaccinated
 				12 years and older	2 shots given 3 weeks (21 days) apart*	2 weeks after your second shot

are more than 2 times as likely than fully vaccinated people to get COVID-19 again.

- COVID-19 vaccines will be continually [monitored for safety by the](#) FDA and CDC.

We know there are still many questions surrounding the vaccine, and CDC's [Myths and Facts about COVID-19 Vaccines](#) may help answer some of those questions and direct you to additional resources.

Thank you for your patience and understanding as we continue to adapt to an everchanging environment. Despite the challenges, we will keep moving forward and work together to ensure a safe workplace for all employees.

Vaccine Brand Name	Safe?	Effective?	Reduces your risk of severe illness?	Age group who can get this vaccine	How many shots you will need?	When you are fully vaccinated
				12 years and older	2 shots given 3 weeks (21 days) apart*	2 weeks after your second shot
				18 years and older	2 shots given 4 weeks (28 days) apart*	2 weeks after your second shot
				18 years and older	1 Shot	2 weeks after your shot

\*You should get your second shot as close to the recommended 3-week or 4-week interval as possible. However, your second shot may be given up to 6 weeks (42 days) after the first dose, if necessary.



[cdc.gov/coronavirus-es](https://cdc.gov/coronavirus-es)

YF-008-02-01

**From:** [COVIDVaccination@hud.gov](mailto:COVIDVaccination@hud.gov)

**To:** Recipient

**Subject:** Failure to Comply with COVID-19 Vaccination Mandate and/or Documentation Requirements

This Memorandum of Counseling and Education is being issued to serve as a reminder of the requirement to be fully vaccinated for COVID-19 and is not considered a formal disciplinary action.

HUD's records indicate you have either failed to comply with the requirement to be fully vaccinated for COVID-19 in violation of Executive Order (EO) 14043 or failed to provide proof of vaccination by the established deadline of November 22, 2021. The Department has no record that you have requested or been granted an exception to the vaccination requirement. If you have requested an exception, but you have not notated that you have requested the exception in HIHRTS (HR Connect), please ensure you follow the attached instructions and do so immediately.

If you have submitted an exception request, the agency will provide you a written determination. No adverse action based on non-compliance with the vaccine mandate will be taken while your request is pending agency decision. If your exception request is granted, there will be no adverse action based on non-compliance of the vaccine mandate. If your exception request is denied, you will be given sufficient time to comply with the vaccine mandate.

The Department has provided clear instructions to all employees about 1) the vaccination requirement, and 2) the requirement to provide proof of vaccination.

- On September 9, 2021, President Biden issued EO 14043 requiring all Federal Employees to be fully vaccinated against COVID-19 to promote the health and safety of the workforce and efficiency of the civil service. To comply with EO 14043, the Safer Federal Workforce Task Force (Task Force) established a deadline of November 22, 2021, for all Federal employees to be fully vaccinated, unless an exception required by law applies. The Task Force also issued guidance detailing the steps an employee must take to be considered "fully vaccinated" and the requirement that employees must receive their required vaccination dose(s) by November 8, 2021.
- HUD Deputy Secretary Adrienne Todman sent an email on September 10, 2021, notifying all HUD employees of the EO 14043 requirements. Additional HUD notifications were sent to all employees, including you, ten times between September 21 and November 22, 2021, notifying all HUD employees of the November 22, 2021, deadline. Within these notices, the Department informed you of when you would be considered "fully vaccinated." These notices also provided you with a link to the Task Force's detailed Q&A's, and informed you of the available vaccine exceptions for eligible employees and the process to request an exception to the vaccination requirement.
- An email notice on November 5, 2021, provided detailed guidance on the requirement to upload proof of vaccination status in HIHRTS by the deadline of November 22, 2021.
- Finally, an email on November 23, 2021, provided a reminder that, although the November 22<sup>nd</sup> deadline had expired, HUD still did not have the necessary proof of your vaccination status or notation of a request for legal exception in HIHRTS.

Please review the information below and at the links here about [the benefits of vaccination](#) and [ways to obtain the vaccine](#). **You are required to demonstrate that you are "fully vaccinated" by providing proof through documentation of the required doses of the COVID-19 vaccine in HIHRTS (HR Connect). If you fail to demonstrate becoming "fully vaccinated" you**

## Counseling Memo - COVID Vaccination

DOCX - 34 KB

Please review the information below and at the links here about [the benefits of vaccination](#) and [ways to obtain the vaccine](#). You are required to demonstrate that you are “fully vaccinated” by providing proof through documentation of the required doses of the COVID-19 vaccine in HIHRTS (HR Connect). If you fail to demonstrate becoming “fully vaccinated” you could be subject to formal discipline, up to and including removal from your position and the Federal service.

If you have already been vaccinated but have simply failed to upload your documentation in HIHRTS (HR Connect) you must do so by December 7, 2021. Failure to provide documentation could result in formal discipline, up to and including removal from your position and the Federal service.

If you need assistance with uploading your vaccination documentation or updating your vaccination status in HR Connect, please send an email to the Office of Administration at [OfficeofAdministration@hud.gov](mailto:OfficeofAdministration@hud.gov).

### **Benefits of COVID-19 Vaccine**

Since January of 2020, the [Center for Disease Control \(CDC\)](#) has reported a total of over 43 million cases of COVID-19 in the United States, and over 700,000 deaths—this is a staggering and deeply concerning number. We know that members of our HUD family have been affected by this virus and we want to ensure we are doing our part to curb the pandemic. The best way to do our part is to require all HUD employees to be “fully vaccinated”.

We know there are some employees who remain hesitant to get vaccinated. In response, we want to share important information with you surrounding the benefits of receiving the COVID-19 vaccine:

- Experts have determined the COVID-19 vaccines are safe and effective. The vaccines were developed using science that has been around for decades and, although developed rapidly, all steps were taken to ensure their safety and effectiveness. Please review information at the link here: [safety and effectiveness](#)
- Vaccines can lessen your risk of getting and spreading the virus that causes COVID-19, including the Delta variant; continue to be highly effective at preventing hospitalization and death; lessen your risk of getting seriously ill in the event of a breakthrough case; and may also protect people around you, particularly people at increased risk for severe illness from COVID-19. Please review information at the link here: [COVID-19 information for specific groups of people](#)
- Getting “fully vaccinated” is a safer way to help build protection. The CDC reports that people **get better protection by being fully vaccinated** compared with having had COVID-19. [One study](#) showed that unvaccinated people who already had COVID-19 are more than 2 times as likely than fully vaccinated people to get COVID-19 again. Please review information at the link here: [Reduced Risk of Reinfection Study](#)
- COVID-19 vaccines will be continually monitored for safety by the Food and Drug Administration (FDA) and CDC. Please review information at the link here: [Vaccine safety and monitoring](#)

For more information, see the CDC’s [Myths and Facts about COVID-19 Vaccines](#). Please review information at the link here: [Myths and Facts about COVID-19 Vaccines](#)

Thank you for your patience and understanding as we continue to adapt to an everchanging environment. Despite the challenges, we will keep moving forward and working together to ensure a safe workplace for all employees.

If you need assistance with any personal problems or concerns, you may seek assistance through the Department's Employee Assistance Program (EAP). The telephone number of the EAP is 1-800-222-0364. This is a toll-free, 24-hour service. The services of the EAP are strictly confidential.

**NASA**

Requirement, Attestation, and Testing

Attestation, and Testing

From: Deputy Associate Administrator Melanie Saunders <[agency-deputyassociateadministrator@mail.nasa.gov](mailto:agency-deputyassociateadministrator@mail.nasa.gov)>  
Sent: Friday, September 17, 2021 2:12 PM  
Subject: Updates on the COVID-19 Vaccination Requirement, Attestation, and Testing

Message from the Deputy Associate Administrator



### Updates on the COVID-19 Vaccination Requirement, Attestation, and Testing

I'd like to provide more details on the Sept. 9 executive orders signed by President Biden and requiring COVID-19 vaccinations for all federal executive branch employees and contractors who do business with the federal government.

#### CIVIL SERVANTS

1. **ALL** federal employees, including teleworking and remote employees, must be fully vaccinated as quickly as possible and by **no later than Nov. 22**. This means employees must receive their final dose no later than **Nov. 8**.
  - o The limited exception to this requirement is employees who are legally entitled to a reasonable accommodation for a medical condition or

religious objection. Requests for reasonable accommodations should be worked through center Diversity and Equal Opportunity offices.

- NASA employees may get vaccinated during duty hours and use excused leave (XLV) to take family members to get vaccinated.
  - Civil servants will be required to provide proof of vaccination. The method and means for this are being determined and will be communicated to employees as soon as possible.
2. With the government-wide implementation of this vaccination requirement, regular testing will be required only for employees who are granted a reasonable accommodation and are working on site. More details on testing will be forthcoming.
  3. After Nov. 22, NASA will pay only for testing of employees who have been granted a reasonable accommodation.
  4. If an employee refuses to be vaccinated and has not been granted a reasonable accommodation, it will be treated as a disciplinary matter.
  5. Supervisors will be provided the data gathered through the attestation process. This data will be used by supervisors to determine next steps in ensuring compliance with the vaccination requirement.

### **Timeline for Vaccinations**

- Oct. 11: First dose deadline the Moderna vaccine
- Oct. 18: First dose deadline for the Pfizer vaccine
- Nov. 8: Second dose deadline for the Moderna and Pfizer vaccines
- Nov. 8: First (only) dose deadline for the Johnson & Johnson vaccine
- Nov. 22: Federal employees must be fully vaccinated
- By start date: New employees need to be fully vaccinated by their start date or Nov.22, whichever is later.

### **CONTRACTORS**

The president also signed an executive order directing that this requirement be extended to employees of contractors that do business with the federal government.

- Companies that contract with NASA must provide adequate COVID-19 safeguards to their workers performing on or in connection with a NASA contract.
- NASA is working with contractors to determine how this requirement will be implemented. Contractor employees should look for further guidance from their employers.
- Badged contract employees are not required to complete the Certification of Vaccination or provide proof of a negative COVID-19 test prior to entering a NASA facility.

\* Booster shots are not required at this time or factored into current guidance

## **VISITORS**

Visitors to NASA facilities still are required to complete a Certification of Vaccination and, beginning Sept. 20, provide time-stamped proof of a negative COVID-19 test taken within the previous three days.

## **EVENTS WITH MORE THAN 50 PEOPLE**

All NASA employees and contractors who would like to attend a non-NASA event as a representative of the agency must get the approval of the agency COVID-19 Executive Response Team if the event will have more than 50 attendees. NASA organizations seeking to host an event with more than 50 attendees also must request approval. To submit a request for approval, go

to: <https://apps.gov.powerapps.us/play/44968429-9c7c-4588-8cce-d70372c9157c?tenantId=7005d458-45be-48ae-8140-d43da96dd17b>.

More information to come, so please stay tuned and stay healthy!

*Melanie*

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[www.nasa.gov](http://www.nasa.gov)

Revision 11/15/21

**JSC and WSTF COVID-19**  
**Requirements and Procedures**

Revision 11/15/21

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**Record of Changes**

Revision	Summary of Changes
08/17/20	Baseline
12/03/20	Added Record of Changes. Updated stage information for JSC and WSTF. Updated close contact definition. Added Release from Quarantine and associated criteria. Update reporting of symptoms. Other minor editorial edits. Approved by PIRG on 12/3/20.
01/07/21	<ul style="list-style-type: none"> <li>Updated JSC Stage #</li> <li>Add definition for asymptomatic.</li> <li>Updated quarantine scenarios in its entirety.</li> <li>Updated Discontinuation of Home Isolation Scenarios in its entirety.</li> <li>Added section about employees who have been previously infected</li> <li>Added section to Respirators, Masks and Face Coverings about proper wearing.</li> <li>Updated travel section in its entirety.</li> </ul>
01/12/21	<ul style="list-style-type: none"> <li>Added section regarding vaccine side effects and return to work.</li> </ul>
02/04/21	<ul style="list-style-type: none"> <li>Updated mask/face covering requirements and policy.</li> <li>Incorporated updated travel guidance from OCHMO dated 1/19/21</li> <li>Clarified release from quarantine if index case has negative test.</li> </ul>
02/25/21	<ul style="list-style-type: none"> <li>Updated quarantine guidelines for employees who have received COVID-19 vaccine.</li> <li>Editorial change to Quarantine Management (placed it after the scenarios).</li> <li>Update to use of Respirators, Masks and Face Coverings</li> <li>Editorial edit to Domestic Travel for NASA Employees</li> <li>Added wording from OCHMO document to International Partners section.</li> </ul>
03/11/21	<ul style="list-style-type: none"> <li>Updated definition of quarantine deleting the length of quarantine in days.</li> <li>Added paragraphs titled “When to Isolate”, “When to Quarantine” and “When You DO NOT Need to Quarantine”</li> <li>Editorial edit changing the term “FDA approved” to “FDA authorized”.</li> <li>Updated the Table “When to Discontinue Quarantine” by moving the full vaccinated paragraph into the section titled “When You DO NOT Need to Quarantine”</li> <li>Moved the section titled “Person’s with Previous Infections” into the section titled “When You DO NOT Need to Quarantine”</li> <li>Added wording to the Domestic Travel for NASA employees’ section regarding being fully vaccinated.</li> <li>Added wording to the International Travel for NASA employees’ section regarding being fully vaccinated.</li> <li>Added wording to the International Partner section regarding being fully vaccinated.</li> </ul>

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04/22/21	<ul style="list-style-type: none"> <li>Updated the wording regarding pending testing for administrative reasons.</li> <li>Updated “When You Do Not Need to Quarantine” changing the time period following receipt of the last dose in the series from 3 months to 6 months and adding bullet about pending testing for administrative reasons.</li> <li>Updated the table Discontinuation of Isolation, moving negative test into its own line.</li> <li>Updated Domestic Travel section, distinguishing requirements between those who are and are not fully vaccinated.</li> </ul>
05/18/21	<ul style="list-style-type: none"> <li>Added definition for fully vaccinated, moved definitions to the beginning of the document.</li> <li>Updated mask and spatial distancing policy.</li> <li>Editorial changes throughout the document for fully vaccinated.</li> </ul>
5/20/21	<ul style="list-style-type: none"> <li>Added wording regarding authorized vaccines per the World Health Organization.</li> <li>Clarified the face cover policy for fully vaccinated employees.</li> <li>Added wording if employees wish to continue wearing face covers.</li> </ul>
6/17/21	<ul style="list-style-type: none"> <li>Updated “When you DO NOT Need to Quarantine” by removing the 6-month limit since becoming fully vaccinated.</li> </ul>
07/08/21	<ul style="list-style-type: none"> <li>Updated “When you DO NOT Need to Quarantine” to clarify that “current exposure” meant close contact.</li> <li>Updated travel section per guidelines released on 7/6/21.</li> </ul>
07/29/21	<ul style="list-style-type: none"> <li>Updated mask requirements.</li> <li>Updated close contact reporting requirements.</li> <li>Updated the entire International Partners section.</li> </ul>
08/02/21	<ul style="list-style-type: none"> <li>Updated mask requirements for WSTF.</li> </ul>
08/23/21	<ul style="list-style-type: none"> <li>This is a major re-work of the document and should be reviewed in its entirety. Among the most significant changes: <ul style="list-style-type: none"> <li>Re-titled document “JSC and WSTF COVID-19 Requirements and Procedures”</li> <li>Added reference to JW 1040.28, Public Health Emergency (PHE) Plan, the authority document for this document.</li> <li>Added paragraph numbering/lettering throughout, editorial corrections.</li> <li>Re-ordered and consolidated sections.</li> <li>Changed multiple should statements to shall statements.</li> <li>Clarified that even fully vaccinated persons can still catch COVID-19.</li> <li>Defined diagnostic testing and specified specific tests depending on situation.</li> <li>Updated the quarantine policy, regardless of vaccination status for those with household members who are symptomatic and/or tested positive as well as in areas with significant transmission.</li> <li>Clarified the reporting requirements to the Emergency Dispatch Center and to supervisors.</li> <li>Added a requirement stating face coverings with exhalation valves are not allowed on site.</li> <li>Clarified the Respirators, Masks and Cloth Face Coverings requirements throughout the document to make them consistent.</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>○ Deleted the procedure for keeping respirators and masks for up to 40 hours.</li> <li>○ Streamlined certain sections to include links to CDC.</li> <li>○ Deleted the quarantine exemption for those who have recently (3 months) recovered from COVID-19.</li> <li>○ Clarified the term recovery for ill employees and family contacts.</li> <li>○ Added paragraph about traveling to states with quarantine orders.</li> <li>○ Added section about attestation.</li> </ul>
10/12/21	<ul style="list-style-type: none"> <li>● Updates attestation requirements</li> <li>● Adds current vaccination requirements</li> <li>● Updates face covering and distancing requirements</li> <li>● Removed remaining wording about previous infections.</li> <li>● Adds approval process for certain travel.</li> </ul>
11/15/21	<ul style="list-style-type: none"> <li>● 4.2 Clarifies when you shall quarantine wording.</li> </ul>

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## **Preface**

### **P.1 Purpose**

To define JSC/WSTF COVID-19 requirements and procedures regarding the reporting, quarantining, isolation, spatial distancing, travel and return to site in accordance with [Centers for Disease Control and Prevention \(CDC\)](#) guidelines and Agency guidance. This document is to help ensure that we maintain a safe and healthful workforce and applies to Civil Servant and Contractor employees.

### **P.2 Authority**

This document is a continuation of [JWI 1040.28, JSC Public Health Emergency \(PHE\) Plan](#). As noted in that plan:

PHE's are extremely dynamic events. As such specific policies and guidance to mitigate the PHE vary considerably and are time sensitive. Therefore, policy and procedures necessary to mitigate the PHE may not follow the normal document process and shall:

- (1) Be approved by the PHE IC or Pandemic Incident Response Group (PIRG) chair.
- (2) Be posted on a website dedicated to the specific PHE.
- (3) Have the same authority as a JSC directive for the length of the PHE.

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## **1.0 Center Status**

Both JSC and WSTF are at Stage 2 of the [NASA Framework for Return to On-Site Work](#). Please review that framework for an explanation of what is permitted during each stage.

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## **2.0 Symptoms, Self-Health Checks, Attestation, Vaccination and Testing**

### **2.1 Symptoms**

a. People with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Some people never develop symptoms at all (asymptomatic). Symptoms usually appear 2-14 days after exposure to the virus and are listed in Table 2-1. This list does not include all possible symptoms.

Table 2-1 List of COVID-19 Symptoms

Fever > 100.4°F (38 °C) or chills	Cough	Shortness of breath
Difficulty breathing	Fatigue (tiredness)	Headache
Muscle or body aches	New loss of taste or smell	Sore throat
Congestion or runny nose	Nausea or vomiting	Diarrhea

b. Even those persons who are fully vaccinated may still become infected with COVID-19 and develop symptoms. Generally, those symptoms tend to be milder however the person is infected, nonetheless.

### **2.2 Self-Health Checks**

a. Before reporting to onsite work, employees shall perform a self-health check from home. In addition to assessing general symptoms (listed above) employees should check their temperature if they have a thermometer.

b. Employees shall not come onsite and should seek medical attention for **any** of the symptoms listed above. Only **one** symptom is cause to not report on site.

c. Employees that are awaiting the result of a COVID-19 test shall not come on site while the results are pending unless the test was collected for administrative reasons (e.g., travel or mission related activities).

### **2.3 Attestation of Vaccination Status**

a. Civil Servants shall:

(1) Complete the survey at

<https://nasa.test.my.cority.com/#!/questionnaire/medicalpublicqrhstandaloneportal?questionnaireId=84>

(2) Return to the survey and update the information if your vaccination status changes.

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b. Contractors shall follow the requirements found on the NASA Procurement Website, Contractor Related COVID-19 information: <https://www.nasa.gov/office/procurement/covid19-contractor-information>

c. Visitors

Visitors shall follow the process found at <https://centerops.jsc.nasa.gov/jsc-covid-vaccination-protocol-for-visitors/>

## **2.3 Vaccination**

a. Civil Servants

(1) NASA Civil Servants shall refer to the Deputy Associate Administrator email titled “Updates on the COVID-19 Vaccination Requirement, Attestation, and Testing” dated September 17, 2021.

(2) Civil servants who have questions about the reasonable accommodation process (medical or religious) should contact JSC’s Disability Team:

Ms. Tu-Quynh (TQ) Bui [tu-quynh.t.bui@nasa.gov](mailto:tu-quynh.t.bui@nasa.gov)  
Ms. Rachael Myerly [rachael.c.myerly@nasa.gov](mailto:rachael.c.myerly@nasa.gov)

b. Contractors shall follow the requirements found on the NASA Procurement Website, Contractor Related COVID-19 information: <https://www.nasa.gov/office/procurement/covid19-contractor-information>

## **2.4 Testing**

a. There are a variety of tests for SARS-CoV-2, the virus responsible for causing COVID-19. The two general types of tests are viral tests and antibody (serology) tests. Within this document, only viral tests will be discussed. There are two types of viral tests:

(1) Nucleic Acid Amplification Test (NAAT). These are the most sensitive especially in persons without symptoms. These tests include RT-PCR, NEAR, TMA, LAMP, HDA, CRISPR, SDA.

(2) Antigen Test – Are less sensitive than NAAT and perform best with symptomatic people. They shall be used in accordance with the manufacturer’s instructions.

b. The situation or scenario will dictate which test is required and will be specified throughout the document. Please note that the requirements for JSC/WSTF may be more restrictive than those required by other agencies or organizations.

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### **3.0 Face Cover and Distancing Policy**

3.1 The following applies to both JSC and WSTF:

a. All federal employees, onsite contractors, and visitors shall wear the appropriate face cover in all buildings, regardless of vaccination status. See the section titled [Use of Respirators, Masks and Face Coverings](#) for an explanation of the different types and specific requirements.

b. If you are not fully vaccinated, you shall physically (spatially) distance (>6 feet) on NASA property in addition to wearing a face cover unless the close quarters work being conducted is considered mission essential or critical. Then:

(1) The time spent in close contact shall be kept to the minimum needed to complete the task.

(2) The appropriate face covering shall be worn as described in [Use of Respirators, Masks and Face Coverings](#).

(3) Work logs of the activity shall be maintained to include the names of the persons who were working, and the time spent in close contact. These logs will be used in the event one or more employees become symptomatic for and/or test positive for COVID-19 to expedite contact tracing and determination of isolation and quarantine status.

c. If you ARE fully vaccinated you should spatially distance if possible. If spatial distancing is not maintained, persons shall be wearing the appropriate face cover as described in [Use of Respirators, Masks and Face Coverings](#)

d. When outdoors, groups shall wear a face cover if not able to spatially distance.

e. Face coverings may be removed only:

(1) If an employee is alone in an office with floor-to-ceiling walls and a closed door.

(2) When alone in a vehicle.

(3) For brief periods of eating or drinking.

(4) When a face covering creates a real hazard, as determined by center safety and/or occupational health.

(5) Briefly for identification purposes in compliance with safety and security requirements.

3.2 In accordance with a [CDC order](#) issued Jan. 29, face coverings also must be worn on all public transit, in airports, train stations, etc. The Transportation Security Administration provides an extensive FAQ for travelers at [www.tsa.gov/coronavirus/faq](http://www.tsa.gov/coronavirus/faq).

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3.3 If an employee who **IS** fully vaccinated has had a [close contact](#) with a person infected or suspected of being infected with COVID-19, they shall be tested ([NAAT](#)) 3-5 days after their **last** exposure if they wish to avoid 14 days of mandatory mask wearing. If mandatory face cover wearing is not in effect, the employee shall wear the appropriate face cover in public indoor settings for 14 days or until they receive a negative [NAAT](#) result.

3.4 If an organization wishes to host an event with more than 50 attendees, the request shall be approved by the PIRG. Requests should be made through the organizations PIRG representative.

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## **4.0 Isolation and Quarantine**

### **4.1 Isolation**

- a. Isolation means to stay away from other people. See the [definitions](#) for a full description.
- b. You shall isolate if:
  - (1) You have one or more [symptom\(s\)](#) of COVID-19 and can recover at home.
  - (2) You don't have symptom(s) but have tested positive for COVID-19 ([Antigen or NAAT](#)).
- c. These requirements apply to all persons, regardless of vaccination status.
- d. Reporting of isolation is discussed in [Section 5.1, Reporting of COVID-19 cases](#).
- e. Release from isolation is discussed in [Section 6.2 Discontinuation of Home Isolation for Persons with COVID-19](#).

### **4.2 Quarantine**

- a. Quarantine means to stay at home. See the [definitions](#) for a full description.
- b. You shall quarantine if you:
  - (1) Have been in [close contact](#) with someone who has confirmed, or symptoms of COVID-19 and you are not [fully vaccinated](#).
  - (2) Regardless of your vaccination status, are living with a household member who either:
    - (a) Currently has symptoms of COVID-19,
    - (b) Has recently tested positive for COVID-19 ([Antigen or NAAT](#)),
    - (c) Has had symptoms but is now asymptomatic and is awaiting COVID-19 ([NAAT](#)) test results.
  - (3) If you are fully vaccinated and have been identified as a close contact and Occupational Health and Center Management determines that there is an excessive number of breakthrough cases and the occurrence of transmission on site, or the number of onsite cases is deemed an excessive risk to the workforce.
- c. While in quarantine you shall:
  - (1) Stay at home, limit your exposure to other persons and monitor for symptoms.
  - (2) If you develop symptoms of COVID-19, isolate yourself.

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d. Reporting of quarantine is discussed in [Section 5.2, Reporting of Quarantine](#).

e. Release from quarantine is discussed in [Section 6.1 Discontinuation of Quarantine](#).

#### **4.3 When You DO NOT Need to Quarantine**

a. An employee who has been [fully vaccinated](#) with a COVID-19 vaccine is not required to quarantine **IF** they have remained asymptomatic since the last exposure (close contact). This does not include living with a household member described in paragraph 4.2 above.

b. [Fully vaccinated](#) who do not quarantine shall monitor themselves for COVID-19 symptoms for 14 days following an exposure and if symptoms do occur, isolate yourself as described in paragraph 4.0 above and report the case as described below in paragraph 7.0.

c. If you are awaiting the result of a COVID-19 test collected for administrative reasons (e.g., travel or mission related activities).

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## **5.0 Reporting Requirements**

### **5.1 Reporting of COVID-19 cases [Employee has symptom(s) and/or positive test]**

a. If an employee, regardless of vaccination status, develops **one or more** symptoms of COVID-19 and/or tests positive for COVID-19 (Antigen or NAAT), within 48 hours from the last time they were onsite, the employee shall:

- (1) Isolate themselves at home and,
- (2) Notify their supervisor immediately.

b. The supervisor shall notify the Emergency Dispatch Center (EDC) by calling 281-483-3333 and provide the following information:

- (1) The current location of the employee (onsite or offsite).
- (2) The telephone number to contact the supervisor.
- (3) DO NOT report the employee's name to the EDC.

c. The EDC shall report the information to Occupational Health representative on call.

d. The Occupational Health Representative shall contact the supervisor for additional information and determine the appropriate course of action.

e. If an employee develops symptoms and/or tests positive MORE THAN 48 hours since the last time they were onsite, they shall notify their supervisor IF their illness or absence will have a work impact.

f. Employee privacy shall be protected in accordance with the Privacy Act of 1974 (as amended).

### **5.2 Reporting of Quarantine Status**

If an employee must quarantine as described in Section 4.2, Quarantine, they shall notify their supervisor immediately **IF** their quarantine status will have a work impact.

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## **6.0 Discontinuation of Quarantine and Isolation**

### **6.1 Discontinuation of Quarantine**

Quarantine scenarios and return requirements are listed in Table 6-1.

**Table 6-1** Quarantine Scenarios

<b>Scenario</b>	<b>Return Requirements</b>
Employee has been identified as a close/tracing contact or has a known exposure to COVID-19 (not a household member).	<ul style="list-style-type: none"> <li>a. Quarantine for at least 10 days (14 days is optimal) if no testing.</li> <li>b. The employee may be tested (<a href="#">NAAT</a>) between 4 and 5 days after known exposure, and if the test is negative, the employee may return to work after the full 7<sup>th</sup> day, assuming they remain asymptomatic and shall follow strict face cover protocol.</li> <li>c. FOR critical personnel only (Fire, EMS, Medical, Security, safing of critical hardware) personnel may return to work immediately after a negative <a href="#">NAAT</a> assuming the test was performed on days 4-5 after known exposure, they remain asymptomatic, are in appropriate face cover while on-site, and a temperature checks reveal no fever.</li> <li>d. If the initial employee (index case) who was symptomatic receives a negative <a href="#">NAAT</a>, the quarantined employee can return to work assuming they themselves are asymptomatic.</li> </ul>
Employee has a member of their household who has tested positive or has symptoms of COVID-19.	<ul style="list-style-type: none"> <li>a. The household member should isolate, and the employee should quarantine if possible.</li> <li>b. If the household member tests positive (<a href="#">NAAT or Antigen</a>), the quarantine period for the employee <b>starts</b> after the infected household contact recovers (24 hours with no fever without use of fever-reducing medications and other symptoms of COVID-19 are improving). Then: <ul style="list-style-type: none"> <li>(1) Quarantine for 10 days (14 days is optimal) if no testing.</li> <li>(2) The employee may be tested (<a href="#">NAAT</a>) between 4 and 5 days after household member has recovered and if the test is negative, the employee may return to work after the full 7<sup>th</sup> day, assuming they remain asymptomatic and shall follow strict face cover protocol.</li> </ul> </li> <li>c. If the household member has symptoms and receives a negative <a href="#">NAAT</a>, the employee may return to work assuming they themselves are asymptomatic.</li> </ul>

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**6.2 Discontinuation of Home Isolation for Persons with COVID-19**

a. Home isolation scenarios and return to work requirements are listed in Table 6-1.

**Table 6-1** Home Isolation Scenarios

<b>Scenario</b>	<b>Return Requirements</b>
Employee has tested positive for COVID-19 (Antigen or NAAT)	<p>a. At least 3 days have passed since recovery (72 hours with no fever without use of fever-reducing medications and other symptoms of COVID-19 are improving) <u>and</u>,</p> <p>b. At least 10 days have passed since symptoms first appeared <u>and</u>,</p> <p>c. At least 20 days since discharge if hospitalized or if history of immunocompromised state</p> <p><b>OR</b></p> <p>d. For persons who never develop symptoms, isolation and other precautions can be discontinued 10 days after the date of their first positive test for COVID-19.</p>
Employee exhibits symptoms of COVID-19 or the flu but has not taken a COVID-19 test (and has not been hospitalized)	<p>a. At least 3 days have passed since recovery (72 hours with no fever without use of fever-reducing medications and other symptoms of COVID-19 are improving) <u>and</u></p> <p>b. At least 10 days have passed since symptoms first appeared.</p>
Employee exhibits symptoms of COVID-19 or the flu (and has not been hospitalized) but had a negative COVID-19 test (NAAT)	<p>a. At least 3 days have passed since recovery (72 hours with no fever without use of fever-reducing medications and other symptoms of COVID-19 are improving) and;</p> <p>b. At least full 7 days have passed since symptoms first appeared.</p>

b. Once the above conditions are satisfied employees shall contact their supervisor before returning onsite.

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## **7.0 Side Effects of COVID-19 Vaccination and Returning to Work**

7.1 The COVID-19 vaccination helps protect people from getting sick or severely ill with COVID-19 and might also help protect people around them. You may have some side effects, which are normal signs that your body is building protection. These side effects usually start within three days after the vaccination and may feel like the flu and may even affect your ability to do daily activities, but they should go away in a few days. Follow the directions provided to you if you develop side effects or reactions. Common side effects include:

- a. On the arm where you got the shot: Pain and swelling.
- b. Throughout the rest of your body (Systemic): Fever, Chills, Tiredness and Headache, Muscle ache, Joint ache.

7.2 If you develop symptoms such as cough, shortness of breath, runny nose, sore throat, loss of taste/smell, or any other symptoms NOT listed as a side effect of the vaccine, you shall isolate immediately and follow JSC policy for COVID-19 symptoms.

7.3 If you develop severe systemic side effects, isolate, and follow the JSC guidelines for COVID-19.

7.4 If you do develop mild/moderate systemic side effects (fever, chills, tiredness and headache, muscle ache, joint ache) within three days, you should stay home if possible. If the symptoms resolve within a couple of days, you can return to work.

7.5 If you can't stay home, you can return to work if you feel well enough and are willing to work and are NOT running a fever. While at work you shall maintain spatial distancing and wear a KN-95 or surgical mask.

7.6 If symptoms do not improve or persist for more than two days, you shall isolate and follow JSC guidelines for COVID-19.

7.7 If you have any questions about the symptoms you are experiencing, please contact your healthcare provider.

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## **8.0 Use of Respirators, Masks and Cloth Face Coverings**

8.1 Regardless of type of respirator, mask or cloth face covering being worn, they must be worn properly covering both the nose and mouth. Please review the latest from the CDC on [Your Guide to Masks](#).

NOTE: The terms “mask” and “face covering” are often used interchangeably. At JSC/WSTF, the terms have specific meanings and prescribed circumstances to use.

8.2 Face covers with exhalation valves shall not be worn on site.

8.3 The following paragraphs describe the specific respirators, masks, and face coverings and under what circumstances they should be used. A selection guide is summarized in Table 8-1.




**a. N95 Respirators** –N95 respirators protect the wearer from the hazard and shall be used for specific employee groups identified by Occupational Health (including health care providers, other certain first responders and astronauts). CDC recommends that N95 respirators should be prioritized for protection against COVID-19 in healthcare settings. Essential workers and workers who routinely wore respirators before the pandemic should continue wearing N95 respirators.

**b. Masks (KN95 or Surgical)** – Surgical or KN95 masks (not N95 respirators) shall be used in situations where employees who need to wear a face cover are performing mission essential onsite work and are required by their job duties to be within 6 feet of each other for a sustained period. These types of masks help to protect others in case the wearer is infected and does not realize it. If performing a task involves removal of a mask to mitigate another hazard, it may be determined via the risk assessment process that the mask can be removed while performing the task.

**c. Cloth Face Coverings** – CDC recommends that people wear masks/cloth face coverings in public settings, at events and gatherings, and anywhere they will be around other people and spatial distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission. Cloth face coverings help to protect others in case the wearer is infected and does not realize it. Face Coverings are NOT to be used when working within 6 feet of others on site. In these cases, the KN95 mask or surgical mask is required. Cloth face coverings must be at least two layers thick.

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Table 8-1 Face Cover Selection Guide

	Example	When to wear	Notes
<b>N95 Respirator</b>		Directed by requirement (healthcare worker, astronauts, etc.)	Wearer must be enrolled in a respiratory protection program and must be fit tested. Issued by Occupational Health.
<b>KN95 or Surgical Mask</b>		When working within 6 feet of others for any length of time	Order through organizational contact representative, issued by logistics.
<b>Cloth Face Cover</b>		Walking through JSC Buildings; public areas	Should be multiple (at least 2) layers. Includes gaiters but does not include bandanas. Not suitable when performing work within 6 feet of others. Provided by the wearer.

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## **9.0 Cleaning and Hygiene Reminders**

9.1 Don't forget to wash your hands frequently!

9.2 Clean and disinfect commonly touched surfaces with appropriate disinfectant wipes or sprays, following the manufacturer's directions. CDC disinfection guidelines are available [here](#).

9.3 Ensure that shared equipment is cleaned at the beginning and end of every shift. Use hand sanitizer with > 60% alcohol as needed.

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## **10.0 Travel**

### **10.1 Approval and Limitations**

- a. Civil servant and Contractor travel requires Directorate approval.
- b. Federal Employee Travelers who are fully vaccinated may go on non-mission critical travel and shall follow the standard, pre-pandemic process to submit a travel request to their center travel office.
- c. By requesting non-mission critical travel, you are certifying that you are fully vaccinated, as required by federal guidelines. Making a false claim or statement (using NASA's official travel system for non-mission essential travel without meeting the vaccination requirement) can result in disciplinary action and – more importantly – can place you, others, and the agency at increased risk.
- d. Employees who are **not fully vaccinated** are limited to mission-critical travel only, domestic and international.
- e. All NASA employees and contractors who would like to attend a non-NASA event as a representative of the agency shall get the approval of the JSC PIRG if the event will have more than 50 attendees. Request should be made through the organizations PIRG representative and should include:
  - (1) The name of the individual(s),
  - (2) The event title, start and stop date,
  - (3) The Country, City, State,
  - (4) The event host and/or website,
  - (5) The event setting (indoor, outdoor, mixture),
  - (6) The Event Host Precautions (face coverings required/encouraged/available, proof of vaccination required, negative test required, social distancing required/encouraged, temperature checks, etc.),
  - (7) Safety/Health precautions the individual will practice,
  - (8) Purpose of Attendance and Additional information,
  - (9) Understanding a COVID-19 test 3-4 days after the event is recommended.

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## 10.2 Domestic Travel for NASA employees

### a. Fully Vaccinated

(1) Fully vaccinated travelers do not need to get a SARS-CoV-2 viral test before or after domestic travel, unless testing is required by local, state, or territorial health authorities.

(2) Fully vaccinated travelers do not need to self-quarantine following domestic travel.

### b. Not Fully Vaccinated

(1) Follow the recommendations of the CDC for domestic travel at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html>. The CDC does recommend a viral test (antigen or NAAT). The NAAT is the more sensitive of the two.

(2) For Civil Servants, NASA has contracted with Quest Labs for COVID-19 tests for approved NASA travel. Once you are placed on travel orders, a document will be sent with instructions on how to have the test delivered to your home both before travel (for those areas that require a negative test within 72 hours) and after travel. NASA will cover the cost of these tests associated with official government travel directly. You may also obtain a COVID test locally and include the cost of the test for travel reimbursement if it is for official NASA travel.

(3). It is imperative to check state and local conditions and restrictions before traveling within the U.S, as many states and municipalities have further restricted or placed enhanced testing guidelines due to escalating cases in their area. Follow local restrictions and guidelines where possible.

### c. Travel to States with Quarantine Orders

For mission critical travel to states that currently have their own quarantine orders: federal employees and contractors doing *mission critical work* are not bound by the state quarantine orders. A letter from the COTR/Center Contracting Office is required for contractors and a letter from the Center Director is required for civil servants that explains the nature of the critical work. Please take those letters with you when you travel. It is advisable to check with the hotel to see what documentation they may require in those states that have enacted their own quarantine orders.

## 10.3 International Travel for NASA employees

### a. Travelling to another country

(1) In addition to compliance with Centers for Disease Control and Prevention guidelines, international travelers shall comply with travel guidelines issued by the State Department and their destination country(ies). Requests for international travel must be submitted to your center foreign travel coordinator at least 30 business days prior to departure.

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(2) Countries have varying entry requirements regarding vaccines and testing.

(3) Country specific information can be found at

<https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>.

b. Returning to the United States

(1) Beginning January 26<sup>th</sup>, the Centers for Disease Control and Prevention (CDC) is now requiring travelers inbound to the United States to have a negative COVID test within 3 days prior to boarding the aircraft. Review <https://www.cdc.gov/coronavirus/2019-ncov/travelers/international-travel-during-covid19.html> for complete details and requirements.

(2) After international travel, follow the recommendations of the CDC. Visit <https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html> for more details. Receipts for testing secondary to travel can be turned in with your other travel receipts, or you may obtain testing using the direct billing NASA contract.

**10.4 International Partners traveling from outside the United States to a NASA Center**

a. Travel from countries which currently have quarantine or specific restrictions posted by the CDC or State Department must abide by those restrictions.

b. If you are [fully vaccinated](#), you do not have to quarantine after travel. You shall be asymptomatic (no fever, cough, sore throat, etc.).

c. If you are not fully vaccinated, travelers not subject to more restrictive requirements based on their country of origin:

(1) Shall not come on site and;

(2) Shall isolate in their billeted quarters for 10 days.

(3) The traveler may elect to get a NAAT test 3-5 days after travel and if the test is negative, you may report on site after the 7<sup>th</sup> day.

d. All travelers should maintain vigilance with self-observation for any signs or symptoms in the week following their arrival and maintain PPE and social distancing while on site.

e. Visitors to JSC and WSTF shall complete a form to attest their vaccination status, and to keep the form on their person while onsite.

f. Should visitors not be fully vaccinated, they shall provide a negative COVID-19 test result (NAAT) that is less than 72 hours old.

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g. For international partners traveling to the US- The State Department currently is restricting travel or entry from areas with high cases of COVID-19. However, there is an exemption under the President's Executive order (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/25/proclamation-on-the-suspension-of-entry-as-immigrants-and-non-immigrants-of-certain-additional-persons-who-pose-a-risk-of-transmitting-coronavirus-disease/>) for critical work at the behest of the U.S. government, which would apply for those traveling to work on NASA missions. Please contact the Office of International and Interagency Relations (OIIR) for a letter that would be required to gain this exemption. Although the exception allows for entry into the United States, the expectations from the CDC regarding testing and isolation prior to coming on site are to be adhered to.

<https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>

<https://www.flyhealthy.gov>

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## **11.0 Employee Reporting of Concerns**

- a. Employees with concerns regarding onsite conditions causing health risks should utilize the standard processes for reporting unsafe worksite acts/conditions and elevating (if necessary).
- b. See the STOP IT! Chart on the [COVID-19 Center Guidance webpage](#) for details, but the general elevation path is:

Make a Request → Supervisor or JSC Safety Action Hotline →  
JSC Ombuds or HQ OCHMO → NSRS or OSHA

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**Appendix A. Acronyms, Terms, and Definitions**

Acronym	Term	Definition
	Asymptomatic	Symptom free, symptomless, without symptoms.
CDC	Centers for Disease Control and Prevention	
	Close Contact	<p>a. Someone who was within 6 feet of a person infected with or has symptoms of COVID-19 for a cumulative total of 15 minutes or more over a 24-hour period starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to test specimen collection) until the time the patient is isolated.</p> <p>b. You provided care at home to a person with or has symptoms of COVID-19.</p> <p>c. You had direct physical contact with a person with or has symptoms of COVID-19 (hugged or kissed them).</p> <p>d. You shared eating or drinking utensils with a person with or has symptoms of COVID-19.</p> <p>e. A person with or has symptoms of COVID-19 sneezed, coughed, or somehow got respiratory droplets on you.</p>
	Fully Vaccinated	$\geq 2$ weeks after the second dose for 2-dose series or $\geq 2$ weeks following receipt of one dose of a single-dose vaccine authorized for emergency use by the U.S. Food and Drug Administration or World Health Organization.
	Isolation	Used to separate ill persons who have a communicable disease from those who are healthy. The goal of isolation is to restrict the movement of ill persons to help stop the spread of certain diseases.

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NAAT	Nucleic Acid Amplification Test	A type of viral test which looks for current infection. Includes RT-PCR, NEAR, TMA, LAMP, HDA, CRISPR, SDA.
PHE	Public Health Emergency	An occurrence or imminent threat of an illness or health condition that may be caused by a biological incident, manmade or naturally occurring; the appearance of a novel, previously controlled, or eradicated infectious agent or biological toxin; natural disaster; chemical attack or accidental release; radiological or nuclear attack or accident; high-yield explosive detonation; and/or zoonotic disease. An occurrence or imminent threat of an illness or health condition that may pose a high probability of a significant number of deaths in the affected population considering the severity and probability of the event; a significant number of serious or long-term disabilities in the affected population considering the severity and probability of the event; widespread exposure to an infectious or toxic agent, including those of zoonotic origin, that poses a significant risk of substantial future harm to a large number of people in the affected population; and/or health care needs that exceed available resources.
PIRG	Pandemic Incident Response Group	
	Quarantine	Used to help limit the spread of communicable disease by separating and restricting the movement of well persons who may have been exposed to a communicable disease to see if they become ill. These people may have been exposed to a disease and do not know it or they may have the disease but do not show symptoms. This is done to protect coworkers from the virus and to help prevent rapid spread of the virus in the workforce.

**OPM**



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

October 1, 2021

**MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

FROM: Kiran A. Ahuja  
Director

Subject: Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees – Executive Order 14043

On September 9, 2021, President Biden signed Executive Order (EO) 14043, titled, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.” As stated in Section 1 of the EO, the President has determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary for all agencies to require COVID-19 vaccination for Federal employees covered by EO 14043, subject only to such exceptions as required by law.

As directed in the EO, the Safer Federal Workforce Task Force, established by EO 13991 (January 20, 2021) (“Task Force”), has issued [guidance](#) to assist agencies with implementing the vaccination requirement. That guidance specifies that agencies should require all of their employees, with exceptions only as required by law, to be fully vaccinated by November 22, 2021.

People are considered fully vaccinated two weeks after their second shot in a two-dose series, or two weeks after a single-shot series. In order to have covered Federal employees vaccinated by November 22, 2021, agencies should inform employees of the following scheduling considerations, based on the type of vaccine they obtain:

- For Pfizer-BioNTech COVID-19 vaccine, individuals should get their second shot 3 weeks (or 21 days) after the first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination no later than October 18, and their second dose no later than November 8.
- For Moderna COVID-19 vaccine, individuals should get their second shot 4 weeks (or 28 days) after their first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination dose no later than October 11, and their second dose no later than November 8.
- Because the Johnson & Johnson/Janssen vaccine only has one shot, Federal employees must get that dose by November 8, in order to meet a November 22, 2021 deadline to be fully vaccinated.

Of course, it is advisable not to leave vaccinations to the last possible date, as other events often interfere with even well-laid plans.

Employees who refuse to be vaccinated or provide proof of vaccination are subject to disciplinary measures, up to and including removal or termination from Federal service. The

only exception is for individuals who receive a legally required exception pursuant to established agency processes.

Given this timeline, agencies may initiate the enforcement process as soon as November 9, 2021, for employees who have not completed their vaccination dose(s) by November 8. The attached provides additional guidance for Federal agencies and employees on the recommended approach agencies should take regarding enforcement of the Coronavirus Disease 2019 vaccination requirement. Agencies should consult with agency human resources offices and legal counsel to determine application of agency disciplinary policies and collective bargaining agreement requirements on disciplinary matters.

### **Additional Information**

Agency headquarters-level human resources offices may contact OPM at [employeeaccountability@opm.gov](mailto:employeeaccountability@opm.gov) with additional questions. Agency field offices should contact their appropriate headquarters-level agency human resources offices. Guidance from the Task Force is available at: <https://www.saferfederalworkforce.gov/overview/>

cc: Chief Human Capital Officers (CHCOs)  
Deputy CHCOs  
Human Resources Directors

Attachment – Enforcement Guidance (see 508-conformant PDF below)



The Director

## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

October 1, 2021

**MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

**FROM:** Kiran A. Ahuja  
Director

**SUBJECT:** Guidance on Applying Coronavirus Disease 2019 Vaccination Requirements to New Hires – Executive Order 14043

On September 9, 2021, President Biden signed Executive Order (EO) 14043, titled, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.” As stated in Section 1 of the EO, the President has determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary for all agencies to require COVID-19 vaccination for Federal employees covered by EO 14043, subject only to such exceptions as required by law.

As directed in the EO, the Safer Federal Workforce Task Force, established by EO 13991 (January 20, 2021) (“Task Force”), has issued [guidance](#) to assist agencies with implementing the vaccination requirement. That guidance specifies that agencies should require all of their employees, with exceptions only as required by law, to be fully vaccinated by November 22, 2021.

The U.S. Office of Personnel Management (OPM) is issuing this guidance on hiring actions to assist agencies in implementing the Executive Order and Task Force’s guidance.

**Current Federal Employees**

People are considered fully vaccinated two weeks after their second shot in a two-dose series, or two weeks after a single-shot series. In order to have covered Federal employees vaccinated by November 22, 2021, agencies should inform employees of the following scheduling considerations, based on the type of vaccine they obtain:

- For Pfizer-BioNTech COVID-19 vaccine, individuals should get their second shot 3 weeks (or 21 days) after the first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination no later than October 18, and their second dose no later than November 8.
- For Moderna COVID-19 vaccine, individuals should get their second shot 4 weeks (or 28 days) after their first. This means that in order for Federal employees to meet a November 22 deadline, they should receive their first vaccination dose no later than October 11, and their second dose no later than November 8.

- Because the Johnson & Johnson/Janssen vaccine only has one shot, Federal employees must get that dose by November 8, in order to meet a November 22, 2021 deadline to be fully vaccinated.

Of course, it is advisable not to leave vaccinations to the last possible date, as other events often interfere with even well-laid plans.

## **New Employees**

Agencies are urged to require all new employees to be fully vaccinated prior to entering on duty, subject to such exceptions as required by law. Agencies should address the vaccination requirement in their job opportunity announcements and in tentative and final offers of employment.

### **1. Job Opportunity Announcements**

When advertising vacancies, agencies should clearly describe in their job opportunity announcements the COVID-19 vaccination requirement and, for positions with a duty location having an official government worksite, information about the agency's reentry plan, to the extent that plan has been finalized. Here is sample language agencies may wish to use or revise:

- As required by [Executive Order 14043](#), Federal employees are required to be fully vaccinated against COVID-19 regardless of the employee's duty location or work arrangement (e.g., telework, remote work, etc.), subject to such exceptions as required by law. If selected, you will be required to be vaccinated against COVID-19 and submit documentation of proof of vaccination by November 22, 2021 or before appointment or onboarding with the agency, if after November 22. The agency will provide additional information regarding what information or documentation will be needed and how you can request of the agency a legally required exception from this requirement.
- Due to COVID-19, the agency is currently in an expanded telework posture. If selected, you may be expected to temporarily telework, even if your home is located outside the local commuting area. Once employees are permitted to return to the office, you will be expected to report to the duty station listed on this announcement within [X] days. At that time, you may be eligible to request to continue to telework one or more days a pay period depending upon the terms of the agency's telework policy.

When an individual fails to meet a requirement stated in the job opportunity announcement, the agency may take action up to and including rescinding the offer for an applicant or termination from service of a new employee (or removal for an employee who has accrued adverse action rights). Should an agency identify an urgent, mission-critical hiring need to onboard new staff prior to those new staff becoming fully vaccinated, the agency head may delay the vaccination requirement for selected job applicants, such that they do not need to be fully vaccinated against COVID-19 and submit documentation of proof of vaccination before appointment or onboarding with the agency. In the case of such limited delays, agencies are expected to require new hires to be fully vaccinated within 60 days of their start date and to follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

## 2. Tentative and Final Offer Letters

Agencies should make offers of employment contingent on submission of documentation demonstrating compliance with the vaccination requirement in EO 14043. Agencies should provide information about the vaccination requirement in tentative and final offer letters. Here is sample language you may wish to use or revise in tentative and final offer letters:

- **Tentative Offer** – This is a tentative offer of employment. If you receive a final offer, it will be contingent on you providing appropriate documentation of proof of COVID-19 vaccination by the date set in the final offer letter. You can provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points (type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)). The agency will provide additional information regarding how you can request of the agency a legally required exception from this requirement.
- **Final Offer** – Documentation of proof of COVID-19 vaccination must be received by [insert date -November 22, 2021 or before EOD, if after November 22]. You can provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points (type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)). The agency will provide additional information regarding how you can request of the agency a legally required exception from this requirement.

For hiring actions currently underway, agencies should issue revised tentative and final offer letters to advise candidates of the new vaccination requirement. You may wish to use the above sample language in such revised offer letters.

### Additional Information

Guidance from the Task Force is available at: <https://www.saferfederalworkforce.gov/overview/>.

For more information, agency headquarters-level human resources offices may contact Ms. Roseanna Ciarlante by email at [employ@opm.gov](mailto:employ@opm.gov). Component-level human resources offices must contact their agency headquarters for assistance. Employees must contact their agency human resources for further information on this memorandum.

cc: Chief Human Capital Officers (CHCOs)  
Deputy CHCOs  
Human Resources Directors

# **SOCIAL SECURITY ADMINISTRATION**



# **Social Security Administration (SSA)**

COVID-19 Workplace Safety Plan

October 26, 2021

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In accordance with the [Office of Management and Budget's \(OMB\) Safer Federal Workplace: Agency Model Safety Principles memorandum \(M-21-15\)](#) on the [President's Executive Order on Protecting the Federal Workforce and Requiring Mask-Wearing](#), we have created a Workplace Safety Plan. The safety protocols we put in place in July 2020 and outlined in this plan address the model safety principles in OMB Memorandum M-21-15. This plan is a living document. We will update it to incorporate guidance from the Centers for Disease Control and Prevention (CDC) and OMB.

We manage a network of about 1,500 offices nationwide. About 1,200 of these offices provide a wide-range of direct services to local communities. Prior to the pandemic, these offices served over 800,000 visitors a week, many of whom arrived at our offices without an appointment.

Since March 2020, most employees have worked remotely to serve the public primarily through our online services or over the phone. Currently, we welcome over 10,000 visitors a week to our offices by appointment only for a critical issue that we are unable to address over the phone. We took this step to protect our employees and the public we serve, many of whom—given the nature of our programs—are aged or have disabilities placing them at increased risk for serious COVID-19 outcomes. In addition to serving a limited number of customers onsite, a minimum number of staff report onsite when necessary to handle non-portable work including opening and scanning mail, which provides work for our remote employees.

For additional details on our COVID-19 pandemic policies, employees and managers may visit our [internal COVID-19 website](#). The public can find detailed information about how we are operating during the pandemic by [visiting our COVID-19 webpage](#). We encourage the public to subscribe to this page to receive updates.

## **Health and Safety**

### *Telework and Remote Work*

We have maximized telework and are performing all portable work remotely. Our information technology solutions support secure remote work. We have a small number of employees and managers working in offices to handle workloads that must be done in the offices, such as managing facilities and security, information technology, limited appointments for critical issues or if SSA needs to review original documents, handling mail, and scanning paper documents into our systems for remote workers. Portable and non-portable work will be completed onsite. While evacuated pursuant to 5 CFR § 550.409, AFGE employees will not be called back into the office to do "portable" workloads but AFGE employees who were called back to do "non-portable" work may be asked to work on "portable" workloads in situations where all "non-portable" workloads have been completed and the time frames are such that sending the employee(s) home to complete their day would not be an efficient use of time. We continue to identify electronic solutions, where possible, for non-portable work.

### *COVID-19 Coordination Teams*

The Office of the Commissioner will continue to provide oversight and coordination and will hold weekly meetings with a multidiscipline cross-agency team of human resources, medical, legal, program operations, facilities, and health and safety experts in accordance with OMB memo M-21-15 guidance. We will continue to consult with experts in other agencies including the CDC and General Services Administration (GSA). We will make operating decisions consistent with OMB memo M-21-15.

### *Face Masks*

We will continue to follow CDC guidance at [Your Guide to Masks | CDC](#) and [Use Masks to Help Slow Spread | CDC](#). We require anyone entering our offices to wear a face mask compliant with CDC guidance. We do not allow non-compliant/novelty/non-protective masks or face shields absent a mask. We provide our employees who return to our offices with an initial supply of cloth face masks obtained through the Department of Health and Human Services and the Department of Homeland Security's Federal Emergency Management Agency. We provide face masks to members of the public if they arrive without one. We require face masks even in areas where barriers are in place, in addition to requiring physical distancing. Face masks may only be removed when away from other people in order to eat or drink.

We communicated all safety policies to employees via email in July 2020 and managers remind employees of these policies when employees are in the office. We maintain a COVID-19 intranet site with management and employee Frequently Asked Questions (FAQ). We have signage about our safety measures in all offices. Members of the public may currently come into our offices by appointment only, and we explain our safety policies when we arrange the appointment. Upon arrival, the public will see signage reminding them of our safety measures. Security guards will ensure the visitor is wearing a mask and reviews the posted self-health check. We emailed contractor COVID-19 FAQs, which explain our safety policies, to Contracting Officer Representatives in July 2020.

Note: Exceptions to the face mask policy include visitors under 2 years old. Visits to our offices are by appointment only. When scheduling the appointment, we will confirm that the visitor is able to wear a face mask. If the visitor reports being unable to wear a face mask, management will make alternative service plans (e.g., telephone service, contactless document drop off etc.) and consult with the Medical Office (MO) for guidance, as necessary. If an employee reports being unable to wear a face mask due to a medical reason, the manager will review the management COVID-19 FAQ and engage the reasonable accommodation process. If an employee reports being unable to wear a face mask for a religious reason, the manager will engage the religious accommodation process and consult the Office of General Counsel (OGC).

### *Testing*

Currently, we do not require testing for our employees, contractors, or visitors. We await guidance on testing for federal employees.

### *Contact Tracing*

Our MO receives reports of possible in-office exposures and directs management about next steps including enhanced cleaning and notifications, when applicable. The MO will continue to work with public health departments concerning contact tracing and will work with management to issue notifications, when appropriate. With any notification, we protect the confidentiality of personal medical information.

*Travel***Personal Travel**

The CDC has extensive guidelines for both domestic and international travel, and employees should consult these resources carefully before deciding to undertake personal travel. We encourage employees who have on-site work requirements and responsibilities and will be taking leave to travel for personal reasons to contact their supervisors prior to traveling to discuss leave and telework, as they will need to self-quarantine prior to coming on-site. Employees engaging in personal travel should carefully assess travel risk prior to travel, wear a mask during all portions of a trip, maintain physical distance from non-household members, maintain good hand hygiene by regularly washing hands with soap and water, or using alcohol-based hand sanitizer if soap and water are not available, and stay home after higher-risk travel before returning to the workplace. Employees and managers may refer to our COVID-19 FAQs.

**Official Government Travel**

We have paused all international travel and most domestic travel. In accordance with OMB and CDC guidance, domestic travel is limited to mission critical work that cannot be handled remotely, generally urgent health and safety actions. Employees must get supervisory approval for mission-critical travel. Employees returning from mission critical travel who have on-site work requirements and responsibilities should discuss appropriate quarantine/isolation requirements and timeframes, as well as telework and other leave options as they will need to self-quarantine prior to coming onsite.

Employees who wish to travel should consult the following resources:

- <https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html>
- [https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Ftravelers%2Ftravel-in-the-us.html](https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Ftravelers%2Ftravel-in-the-us.html)
- <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/>

**Travel by Visitors**

In our appointment screening process, we ask visitors if they have traveled internationally within the 14 days prior to the appointment, and we reschedule the appointment or make alternate service arrangements if the answer is yes. Land travel (e.g., between the United States and Canada or Mexico via car, bus, ferry, or train) is exempt from the 14-day screening requirement.

*Symptom Monitoring*

We require self-health checks for anyone entering our offices. We share the screening criteria in advance with visitors, employees, and contractors and we post the information at all entrances to SSA facilities:

The self-health check includes the following questions:

Do you have any symptoms of COVID-19, including:

- Cough or sore throat
- Fever (100.4 degrees or higher)
- Chills
- Shortness of breath or difficulty breathing
- Muscle pain or body aches
- Headache
- New loss of taste or smell
- Gastrointestinal symptoms like nausea, vomiting, or diarrhea

Within the last 14 days, have you:

- Been diagnosed with COVID-19,
- Received instructions from a public health authority (local health authority, medical professional, etc.) to self-monitor for symptoms or self-quarantine,
- Traveled outside the country, or
- To your knowledge, been in close physical contact (within six feet) with a person who was diagnosed with COVID-19 within 14 days of your contact with them?

Prior to reporting to the worksite daily, employees, contractors, and security guards must assess their health status using the checklist above. Employees who meet any of the self-screening criteria must contact their supervisor for instructions including whether remote work is possible. Additionally, when an employee who is already in the office presents with COVID-19 symptoms, managers must report the case to our MO and direct the employee to return home.

For customers with appointments at SSA, at the time we schedule the appointment, we explain the self-screening and face mask requirements. If a customer answers yes to any of the screening criteria, we will decline the appointment and work with the customer to provide service via phone, online, or schedule a future in-person visit. When visitors with appointments arrive, the security guard will confirm verbally that visitors performed the self-screening, do not meet any of the criteria, and are wearing a face mask. If necessary, guards will direct visitors to wear a face mask provided by SSA. If a visitor is unable or unwilling to comply, the guard will not allow entry and will refer the person to call the phone number posted on the entrance signage and a manager will assist the customer.

### *Quarantine and Isolation*

Employees who have been diagnosed with or are suspected to have COVID-19 may not report onsite until they have met the CDC guidelines for ending isolation. When possible, these employees may work remotely.

Employees who have had close contact with someone who is diagnosed with COVID-19, or ordered by a doctor to self-quarantine due to suspected COVID-19 will not report to the office. Their managers will consult with the MO for guidance in accordance with CDC recommendations.

### *Confidentiality*

We do not collect or store information from self-health checks. We instruct our managers to keep any necessary medical information secure and separate from employee personnel files. Our policies are consistent with [EEOC guidance](#). Managers may send any questions concerning medical information to our MO for guidance. Our MO consults with our OGC as necessary on privacy and disclosure questions.

We will continue to monitor and implement CDC recommendations.

## **Workplace Operations**

### *Occupancy*

No SSA workplace should operate above 25% of normal occupancy standards at any time during periods of high community prevalence or transmission. Exceptions to this policy will be cleared by the Commissioner, through the SSA COVID-19 Coordination Team and in consultation with the Safer Federal Workforce Task Force. Exceptions may only be submitted by a Deputy Commissioner and should consider measures like cohorts and staggered work schedules as appropriate.

Occupancy is currently controlled by management and approved onsite workload plans. SSA offices remain closed to all individuals except those approved by management including both employees and a limited number of visitors with scheduled appointments. SSA will continue to monitor access reports.

Safety protocols must be in place in offices. Consistent with CDC guidance and OMB Memorandum M-21-15 and as of July 20, 2020, these safety protocols continue to include:

- Offices must have soap, sanitizer, and cleaning supplies.
- Protective barriers installed in public interviewing areas.
- All employees, contractors, and visitors must wear masks and do a health self-screening before entering SSA facilities.
- All employees, contractors, and visitors must practice physical distancing of at least 6 feet when in the office.
- While not required, gloves are available.

- Offices have placed signage on entrances and around the office on safety protocols.
- All employees working in an office must take training on hand washing and proper usage of masks.

### *Physical Distancing*

We require physical distancing of at least six feet in our offices in line with CDC guidance: [Social Distancing \(cdc.gov\)](https://www.cdc.gov/social-distancing/). We have removed or blocked seating, reconfigured space, and placed signage on elevators to enforce this policy. We have also installed plastic barriers in areas where we are interviewing the public and required managers to measure the seating between visitors and interviewers to ensure the 6-foot distance wherever possible. We have implemented contactless handoffs for work processes (e.g., exchanging work at drop-off tables) to eliminate employee-to-employee contact. We have also reduced the duration of face-to-face interaction (e.g., begun an appointment by phone and completed it in-person) between employees and visitors when possible.

### *Environmental Cleaning*

SSA employees returning to agency worksites must complete the agency training on cleaning and disinfection awareness. We direct our managers to the CDC publication entitled [Cleaning and Disinfecting your Facility](#).

In general:

- If no exposures have been identified in the facility, normal cleaning protocols, enhanced to include high-touch areas, apply.
- If a suspected or confirmed exposure has occurred, we follow an enhanced cleaning protocol in accordance with CDC guidance, airing out the space for 24 hours first, whenever possible.

SSA will continue coordination with CDC for policy review and onsite observation. We will continue to communicate any updates including the release of this plan to our employees via Commissioner broadcast and to the public on our website. We will consult with our stakeholders including Congress, unions, and advocates, as appropriate.

### *Hygiene*

We issued guidance to our employees to remind them of the importance of hand washing in protecting themselves from COVID-19. We provided instruction and signage on the proper way to wash including washing for at least 20 seconds. We included instructions on using an alcohol-based [hand sanitizer](#) with at least 60 percent alcohol if washing with soap and water is not an option. To open, an office must have an adequate supply of hand sanitizer, including for public use.

### *Ventilation and Air Filtration*

We have over 1,500 offices in a variety of space configurations, including leased from private landlords, which complicates our ventilation and air filtration options. Our facilities staff examined guidance on ventilation in alignment with CDC, GSA, and American Society of Heating, Refrigerating and Air-Conditioning Engineers publications to determine possible ventilation and filtration enhancements. We are working with GSA regarding recommendations and appropriate and feasible enhancements.

### *Visitors*

Our offices are currently restricting access and are available to the public by appointment only for certain critical services that we cannot handle remotely. We advise visitors of our safety policies including the self-health symptom check and face mask requirement when we schedule an appointment, and we ask the visitor about symptoms upon arrival for an appointment. While we do not require visitors to complete a questionnaire, we do require verbal confirmation upon arrival to our office that the visitor does not answer yes to any of the screening criteria. The public may perform an automated health check by using the [CDC screening tool](#).

### *Staggered Work Times and Cohort Based Scheduling*

To date, generally, we have not returned enough staff to our offices to require staggered work shifts in most locations. We will consider this approach, as needed. Our managers regularly use cohort scheduling when rotating employees between in-office and at-home work and consult our MO, as needed.

### *Elevators*

We have posted signage in SSA controlled spaces to remind everyone to employ physical distancing in elevators. For most elevators, physical distancing limits capacity to one person unless the occupants are already in close contact (e.g., a visitor and the visitor's helper who live together). In locations where SSA cannot control signage, we ask everyone to employ physical distancing. We encourage anyone who is able to use stairs.

### *Shared Spaces*

Signage is posted at entrances to and within SSA offices reminding everyone of our safety policies including masks, hygiene, and physical distancing. We have reconfigured space including common areas, blocked or removed seating and furniture, rerouted walkways, enforced physical distancing and placed sanitizer and cleaning materials near shared equipment. This equipment will be cleaned more frequently and when transferred between different people. SSA will follow [CDC's](#) and [GSA's](#) guidance.

# DEPARTMENT OF STATE

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# Department of State COVID-19 Workplace Safety Plan

NOVEMBER 12, 2021

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## Introduction

The Department of State is committed to addressing essential work requirements consistent with the best public health practices. As the United States' lead foreign affairs agency with personnel and facilities in nearly every country in the world, we recognize the unique challenges of protecting our global workforce while ensuring their continued ability to provide services to U.S. citizens, promote U.S. interests, protect national security, and advance the President's foreign policy agenda. Our paramount concern is the health and safety of the entire Department workforce – throughout the United States and overseas – including other agency personnel at post, the career workforce, contractors, and locally employed staff. We are committed to taking a safe, cautious, iterative, data-driven approach as we consider bringing people into shared workspaces and as we continue to protect our employees who must come into the workplace. Our COVID-19 response efforts align with Executive Orders (E.O.) 14042 and 14043, the Safer Federal Workforce Task Force (SFWTF) **Model Safety Principles**, which are the requirements for ensuring a safe workplace and are based on expert guidance from public health and infectious disease experts, and OMB Memorandum **M-21-25**. Further information can be found in the **Frequently Asked Questions section of the Safer Federal Workforce Taskforce website**.

Where a domestic locality has imposed additional pandemic-related requirements more protective, than those set forth in this plan, those requirements should be followed in federal buildings and on federal land in that locality.

# Goal

Personnel health and safety is our highest priority. The goal of the State Department's COVID-19 Workplace Safety Plan (WSP) is to minimize risk, reduce transmission, keep the federal workplace safe, and accomplish the critical work of the federal government. This applies to the Department workforce in the broadest sense (Department employees, contractors, and any other individuals, including visitors), both domestically and overseas in all Department facilities owned, rented, or leased, to include communal spaces in residential compounds.

## Background

The Workplace Safety Plan is the Department's overarching guidance to ensure a safe workplace. The principles in this plan align with the latest guidance from the **Centers for Disease Control and Prevention (CDC)** for employers and for **fully vaccinated people** and with guidance from the Occupational Safety and Health Administration (OSHA) on protecting workers based on the evolving understanding of the pandemic. This plan will be updated as new CDC, Safer Federal Workforce Task Force, and Department guidance is received.

Complementing the WSP is the Department's decision-making framework that incorporates key COVID-19 risk indicators with the safety principles outlined in the WSP. The framework provides a process for determining appropriate workforce posture changes and risk mitigation specific to a facility's location.

## Health and Safety

### *Vaccination Requirement*

To meet Executive Orders **14042** and **14043** in requesting vaccination status information from employees, onsite contractor employees, and visitors, the Department complies with any applicable Federal laws, including requirements under the Rehabilitation Act, the Privacy Act, the Paperwork Reduction Act, IT security requirements, and any applicable collective bargaining obligations. For federal employees and personal services contractors (PSCs), vaccination information held by the Department is maintained by the Bureau of Medical Services (MED) and only shared as permitted.

### State Department Employees\*:

As required by the President's Executive Order 14043 *Requiring Coronavirus Disease 2019 Vaccination for*

*Federal Employees*, to ensure the safety of the federal workforce, domestic and overseas, all (including those working remotely or teleworking) State Department direct hire Foreign Service and Civil Service, Eligible Family Members employed by the Department on a Family Member Appointment, and Re-employed Annuitants, serving overseas or domestically, whether working onsite, or via telework or remote work, must be fully vaccinated no later than November 22, 2021. To be considered **fully vaccinated employees** must have received the requisite number of doses of a COVID-19 vaccine approved or with emergency use authorized by the U.S. Food and Drug Administration, or that has been listed for emergency use by the World Health Organization, at least two weeks prior to November 22, 2021. Employees can obtain a vaccination through the Department's health units overseas, at the Bureau of Medical Services exam clinic in Washington DC, or visit **[www.vaccines.gov](https://www.vaccines.gov)** to find the closest vaccination location in the United States.

Employees must complete an electronic Certification and Proof of Vaccination ("Certification") Form. When completing the Certification form, employees will be required to provide acceptable documentation ("proof") of vaccination or proof that the employee received an approved disability or religious accommodation. Acceptable proof of vaccinations includes copies of the record of immunization from a health care provider or pharmacy; the COVID-19 Vaccination Record Card; medical records documenting the vaccination; or immunization records from a public health or state immunization information system. The official document provided as proof must include: the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above. Employees must certify under penalty of perjury that the documentation they are submitting is true and correct by November 22, 2021, other than in limited circumstances where the employee is entitled to a legally required exception. Employees who fail to complete the Certification form and/or comply with the COVID-19 vaccination requirements may be subject to disciplinary action, up to and including separation.

Federal employees must be fully vaccinated other than in limited circumstances where the law requires an exception. In particular, the agency may be required to provide an accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a disability or because of a sincerely held religious belief, practice, or observance. Determining whether an exception is legally required will include consideration of factors such as the basis for the request; the nature of the employee's job responsibilities; and the reasonably foreseeable effects on Department operations, including protecting other Department employees and the public from COVID-19. To request a reasonable accommodation because of a disability or a medical condition that specifically relates to the COVID-19 vaccination requirement, employees will utilize the Department's established

Disability and Reasonable Accommodation Division (DRAD) electronic reasonable accommodation request process. Requests for a reasonable accommodation from the COVID-19 vaccination requirement due to sincerely held religious beliefs, practices, or observances will be reviewed centrally in the Office of the Director General (DGTM). Detailed instructions for both processes can be found on the Department's Reentry SharePoint Site, accessible from the Knowledge Portal homepage. Employees were strongly encouraged to submit their request for an accommodation on or before October 18, 2021.

While a request for exception to the vaccine mandate is pending, employees must adhere to enhanced COVID-19 mitigation protocols, to include masking, physical distancing, travel restrictions, and any testing protocols that may be implemented. Employees whose accommodation requests are denied must comply with the vaccine requirement. The notice of denial of the accommodation request will confirm the deadline for the employee to comply with the vaccination requirement. The process for reconsideration and appeal of a denial of reasonable accommodation for a disability is outlined in 3 FAM 3674.2. If a request for a religious accommodation is denied, employees may file an EEO complaint through the Office of Civil Rights' website, or a grievance in accordance with the procedures outlined on the website of the Grievance Staff; however, employees must still comply with the requirement to be fully vaccinated while any such action is pending.

State Department employees covered by Executive Order 14043 who fail to comply with a requirement to be fully vaccinated or provide proof of vaccination and have neither received an exception nor have an exception request under consideration, are in violation of an order. Employees who violate orders may be subject to discipline, up to and including termination or removal. Consistent with the Administration's policy, the Department will initiate an enforcement process to work with employees to achieve compliance.

\*Requirements for Locally Employed (LE) Staff at overseas posts may vary in accordance with host country law. LE Staff will be advised of their obligations by post leadership.

## Federal Employees of Non-State Agencies Visiting a State Department Facility:

**Domestic:** All employees from other federal agencies seeking to enter a domestic State Department facility will be asked to provide information about their vaccination status by completing the **Safer Federal Workforce Task Force provided Certification of Vaccination Form** . The form must be kept on their person for the duration of time on the Department premises. Forms will not be collected or stored by the Department. If a non-State federal employee is not fully vaccinated or declines to provide their vaccination status, they will be required to show a negative COVID-19 test result from

within the previous three days, and must follow enhanced safety protocols, including mask wearing regardless of community transmission levels, and physical distancing at least six feet from others at all times, including in offices, conference rooms, and all other communal and workspaces. The Department office hosting the non-State government employee is responsible for ensuring compliance with these requirements.

**Overseas:** Employees of non-State federal agencies, including those at post on temporary duty (TDY), under Chief of Mission (COM) authority overseas must comply with their home agency's vaccination and certification requirements under Executive Order 14043. Their agency may share with the COM or their designee, information about their employees necessary to ensure that appropriate safety protocols applicable to their agency employees can be implemented. Non-State federal employees under COM authority will not be treated as "visitors" required to complete the **Safer Federal Workforce Task Force** provided **Certification of Vaccination form** , nor must they present vaccination documentation to enter Department facilities under their COM's authority.

**Contractors Subject to Vaccination Requirement:** (See the Safer Federal Workforce Task Force website for information on covered contracts subject to the requirement.) As required by the President's Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*, federal contractor employees on contracts awarded on or after November 14, 2021, including domestic Personal Services Contractors (PSCs) must be fully vaccinated no later than January 18, 2021, unless exempted because of a disability or a sincerely held religious belief, practice, or observance. (For details, see **Safer Workforce Taskforce Guidance for Federal Contractors and Subcontractors** , issued September 24, 2021.)

**Contractors Not Subject to Vaccination Requirement:** Contractors not yet subject to vaccination requirements will be asked to provide information about their vaccination status by completing a **Safer Federal Workforce Task Force** provided **Certification of Vaccination form** and carry a copy with them when physically present at any domestic Department facility. Individuals who disclose that they are not fully vaccinated or decline to provide their status must follow enhanced safety protocols, including mask wearing, regardless of community transmission levels, and physical distancing at least six feet from others at all times, including in offices, conference rooms, and all other communal and workspaces. Additionally, they must carry proof of a negative COVID-19 test administered within three days prior to entry into Department facilities. Forms will not be collected or stored by the Department, nor will they be reviewed by Department staff at building entrances. The Contracting Officer Representative (COR) is responsible for ensuring that contract vendors set up methods for collecting, completing, and tracking compliance of forms within their company. A/OPR/RPM will work with GSA CORs to ensure that forms are completed for GSA contractors working in multi-tenant facilities that

include Department elements.

Individuals on PSCs and Eligible Family Members (EFMs) employed on Personal Services Agreements (PSAs) who perform their work on-site at **overseas** posts are excluded from the vaccination requirements of **Executive Order 14042** *COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors*. Since they are not currently required to be vaccinated, there is not an accommodation process for them at this time. However, contractors, including PSCs and EFMs employed on PSAs, must attest to their vaccination status using the **Safer Federal Workforce Task Force provided Certification of Vaccination form**. If they are not fully vaccinated or decline to provide their vaccination status, contractors must demonstrate proof of a negative COVID-19 test completed within three days prior to entry into a Department facility.

## Visitors:

**Domestic:** All visitors to domestic State Department facilities must complete a **Safer Federal Workforce Task Force provided Certification of Vaccination form** before entering a federal building or federally controlled indoor worksite. The form must be kept on their person for the duration of time on the federal premises. Forms will not be collected or stored by the Department. If a visitor is not fully vaccinated or declines to provide their vaccination status, they will be required to carry proof of a negative COVID-19 test result from within the previous three days, and must follow enhanced safety protocols, including mask wearing regardless of community transmission levels, and physical distancing at least six feet from others at all times including, in offices, conference rooms, and all other communal and workspaces. The Department host is responsible for ensuring compliance with these requirements.

**Overseas:** Visitors, should attest to their vaccination status using the **Safer Federal Workforce Task Force provided Certification of Vaccination** form and, if they are not fully vaccinated or decline to provide their vaccination status, they must demonstrate proof of a negative COVID-19 test completed within three days prior to entry. These items should be hand-carried when in the mission's facility.

Visitors entering a federal building or federal land to obtain a public service or benefit, including obtaining a U.S. passport, visa, or in-person public service, do not need to provide information on their vaccination status or provide proof of a negative COVID-19 test. If a visitor seeking a public service or benefit is not fully vaccinated, the individual must comply with all relevant CDC and Department guidance, including wearing a mask and physically distancing.

**New Hires:** All State Department direct hire Foreign Service and Civil Service, Eligible Family Members employed by the Department on a Family Member Appointment, and Re-employed Annuitants who

start their government service after November 22, 2021, must be fully vaccinated prior to their start date, except in limited circumstances where an accommodation is legally required. However, the Department may have an urgent, mission-critical hiring need to onboard new staff prior to those new staff becoming fully vaccinated. In such cases, the agency head may delay the vaccination requirement. In the case of such limited delays, new hires will be required to be fully vaccinated within 60 days of their start date and to follow enhanced COVID-19 mitigation protocols for not fully vaccinated individuals until they are fully vaccinated.

Individuals with tentative and final employment offers are being notified of the vaccine requirement. For those who will not be fully vaccinated prior to their planned onboarding date, that date will be delayed until the individual is fully vaccinated. All new recruitment announcements include information about the vaccine requirement.

### *Vaccination on Duty Time*

When a federal employee is required to be vaccinated, the time the employee spends obtaining a required COVID-19 vaccination dose (including travel time) is duty time. Employees may not be credited with administrative leave for time spent getting a required vaccination dose. If, due to unforeseen circumstances, the employee is unable to obtain the required vaccine during basic tour of duty hours, the normal overtime hours of work rules apply, which includes requesting approval for overtime in advance. Vaccination on duty time is authorized as follows:

- ◆ Up to four hours, per dose, to travel to the vaccination site, complete a required vaccination dose, and return to work.
- ◆ Employees taking longer than four hours must document the reasons for the additional time. Reasonable transportation costs that are incurred as a result of obtaining the vaccine from a site preapproved by the State Department are handled the same way as local travel or temporary duty cost reimbursement is handled based on Department policy and the Federal Travel Regulation.

Employees who choose to receive an additional, non-required vaccine dose (e.g., a booster dose), or an additional dose for immunocompromised individuals, can be given up to four hours of administrative leave to travel to the vaccination site, complete the additional vaccine dose, and return to the workplace. Regular duty time is not available for additional, non-required vaccine doses.

For more information on booster shots, go to the CDC webpage on **COVID-19 vaccine booster shots**

For more information on additional doses, go the CDC webpage on **immunocompromised patients and COVID-19 vaccine** .

### *Level of Community Transmission*

In accordance with guidance from the Office of Management and Budget (OMB) and the CDC, areas experiencing substantial or high community transmission rates must apply enhanced COVID-19 workplace safety protocols, as applicable. Community transmission is tracked by the CDC and found on their website: <https://covid.cdc.gov/covid-data-tracker/#county-view>.

In reviewing the Department's framework to determine domestic facility workforce posture and mitigation actions, the Department uses its discretion in determining the counties relevant to each Department facility to track community transmission levels. For example, surrounding local counties from which employees or visitors travel to the facility, and transmission levels in counties through which employees based at a given facility regularly travel over the course of their work in the field, and between various work sites.

The Department conducts assessment of community transmission rates in the National Capital Region (NCR) and domestic Department facility locations on a bi-weekly basis as part of its COVID-19 mitigation process to determine onsite staffing (such as Mission Critical only or less restrictive postures). This framework includes assessment of masking requirements to align with community transmission rates and as a COVID-19 mitigation action based on health risk indicators such as vaccination rates, and additional local COVID-19 conditions.

When the level of transmission related to a given Department facility increases from low or moderate to substantial or high, the Department will promptly put in place more protective safety protocols consistent with CDC guidelines and guidance from the Safer Federal Workforce Task Force as soon as operationally feasible. The Department does not wait, for example, for a multi-day or multi-week trend to be established.

When the level of transmission related to a given agency facility is reduced from high or substantial to moderate or low, the level of transmission must remain at that lower level for at least two consecutive weeks before the Department will utilize protocols recommended for areas of moderate or low transmission by CDC guidelines and guidance from the Safer Federal Workforce Task Force.

Where a locality in which a Department facility is located imposes more protective pandemic-related

safety requirements, those requirements are followed by Department employees and onsite contractor employees, in agency buildings, in agency-controlled indoor worksites, and on agency lands within that locality.

## *Telework and Remote Work*

Domestic personnel were notified first on September 14 and again on September 29 that beginning November 1, 2021, they may be required to perform functions onsite in accordance with Department guidance. The Department has and will continue to evaluate functions that may require onsite work (such as access to classified systems, security of facilities, or infrastructure). The Department is currently utilizing telework, flexible work schedules, and remote work to align with OMB Memo M-21-25. As community transmission metrics and other factors like mission priorities change, and/or the Department receives further government-wide guidance, the Department will transition to an operating posture where management has full flexibility for onsite presence optimized with telework to achieve mission objectives. The Department prioritizes workforce safety and density to consistently implement conditions for a safe workplace while continuing to meet the Department's needs.

## *COVID-19 Coordination Team (CCT)*

Per the Executive Order, the Department established a COVID-19 Coordination Team (CCT) of cross-bureau representatives and expertise to implement its COVID-19 Workplace Safety Plan. The CCT sets, implements, and monitors a) safety protocols for physical space and b) conditions and guidance for onsite and remote working determinations. Additionally, the team meets regularly to review compliance with protocols, potential revisions to protocols, and any other operational needs. These protocols follow the Workforce Safety Plan principles.

The CCT coordinates all decisions with Facility Security Committees, as appropriate. For privately owned facilities leased by the Federal Government, the team coordinates with the General Services Administration (GSA), where appropriate, and the lessor's designated representative.

Given application of safety protocols to onsite contractor employees, the CCT coordinates with the Department's Chief Acquisition Officer, Senior Procurement Executive, staff, and the Contracting Officer's Representatives.

## *Face Masks and Physical Distancing*

**Domestic:** In areas of substantial or high community transmission (CT), and when required by Department policy, all U.S. government employees, onsite contractors, and visitors, regardless of vaccination status, are required to wear a mask in accordance with current **CDC guidance** when inside all domestic Department facilities. In areas of low or moderate transmission, in most settings, fully vaccinated people generally do not need to wear a mask or physically distance when indoors, except where required by Federal, State, local, Tribal, or territorial laws, rules, or regulations. Guidance on how to select and properly wear a mask can be found on the **CDC website**. Novelty or non-protective masks, masks with ventilation valves, or face shields are not allowed as a substitute for masks. Consistent with CDC guidance, U.S. government employees, onsite contractors, and visitors who are not fully vaccinated must wear a mask that covers their nose and mouth and also need to physically distance, to the extent possible, a distance of at least six feet from others at all times, including in offices, conference rooms, and all other communal workspaces. Additionally, consistent with CDC guidance, those who are not fully vaccinated are advised to wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated.

The Department reinforces CDC guidance through the posting of Department-approved signage that notes requirements for mask-wearing and encourages physical distancing in work and common areas. Exceptions will be consistent with CDC guidelines. Additionally, accommodations will be made for individuals consistent with **Equal Employment Opportunity Commission (EEOC)** requirements under the Rehabilitation Act.

If members of the public entering a Federal building or Federal land to obtain a public service or benefit are not **fully vaccinated**, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people. The Department has signage to this effect, information about this on its website, and otherwise communicates this information to its visitors seeking public services or benefits. Domestic community transmission data can be found on the **CDC website**. Community transmission levels are assessed on a weekly basis to determine masking requirements.

**Overseas:** Chiefs of Mission should make decisions regarding mask mandates based upon Department guidance and an assessment of local conditions and requirements in consultation with MED bureau. Exceptions will be consistent with CDC guidelines. Additionally, accommodations will be made for individuals consistent with Equal Employment Opportunity Commission (EEOC) requirements under the Rehabilitation Act. For LE staff, accommodations will be made consistent with applicable local law and,

for U.S. citizen LE staff, the Rehabilitation Act as well. Data and local conditions are to be reviewed on a regular basis by post Emergency Action committees (EACs).

## *Testing*

Department employees and onsite contractor employees are not currently required to participate in a regular monitoring testing protocol if fully vaccinated. Any such protocol would be established in accordance with OMB guidance and requirements. If any employee including direct hire employees, civil service employees, contractors including third party contractors has a confirmed, presumed, or suspected positive case of COVID-19, they should first notify MED via email or phone the 24/7 Health Alert Response Team hotline (contact information can be found in the Global Address List) for further discussion. MED would then recommend the appropriate testing per current CDC guidance and perform contact tracing for any potential workplace exposure.

When documenting COVID test results, the Department complies with all applicable laws and in accordance with the Department records management policies. The Department takes steps to promote privacy and IT security, while also providing the relevant information to agency officials who need to know in order to implement the safety protocols. The Department consults, as appropriate, with its Records Officer, Chief Information Officer, Chief Medical Officer, Senior Agency Official for Privacy, and Department legal counsel to determine appropriate information management protocols.

**Travel-Related Testing:** Individuals should adhere strictly to CDC guidelines before, during, and after travel, regardless of whether the travel is personal or for official business. Air passengers coming to the United States from abroad, including U.S. government employees who are fully vaccinated, should follow **federal travel requirements** for entry.

Pre-travel testing is available through MED for individuals in the District of Columbia (D.C.) metro area on official travel that require host nation documentation of a negative COVID test before arrival at their overseas assignment. This testing is available to all direct hire employees and their family members who are on travel orders for Department employees and other agencies working under Chief of Mission. Appointments will only be confirmed for times that fall within host-nation entry requirements.

Post-travel testing is available through MED for those in the D.C. metro area returning from official, USG-funded international travel, and for residents of D.C. in accordance with local guidelines. Post-travel testing **MUST** be scheduled a minimum of 5-7 days after arrival in the U.S.

MED is unable to recommend laboratory facilities for individuals outside the D.C. metro area who require testing for official travel. In this instance, MED recommends that individuals look for a local lab that can perform the required test in the timeframe required by the host nation of travel, AND return results directly to the employee or onsite contractor employee. If an employee or onsite contractor employee is unable to schedule without a REQUIRED order, the employee or onsite contractor employee should send an email to MED Telehealth with name, date of birth, and phone number for each traveler.

Under OSHA's recordkeeping requirements, if an employee tests positive for SARS-CoV-2 infection, the case must be recorded on the OSHA Illness and Injury Log if each of the following conditions are met: (1) the case is a confirmed case of COVID-19; (2) the case is work-related (as defined by 29 CFR 1904.5); and (3) the case involves one or more relevant recording criteria (set forth in 29 CFR 1904.7) (e.g., medical treatment beyond first aid, days away from work). The Department follows state and county reporting requirements and complies with state and county contact tracing efforts. The Department's Bureau of Medical Services collaborates with Bureau of Administration, domestically, and Overseas Buildings Operations/Safety Health & Environmental Management (OBO/SHEM), overseas, for recording of incidents that involve workplace contacts to maintain workplace OSHA safety standards.

## Contact Tracing

**Overseas and Domestic:** MED currently conducts contact tracing globally, the results of which inform the Department's COVID-19 risk indicators and decision making for workforce posture. In line with the Executive Order and OMB guidance, medical personnel work closely with leadership to coordinate any infection control and workplace safety efforts once informed of a COVID-19 case (either due to symptoms or a positive test). This coordination also includes consultation with state and local public health officials, as appropriate. The workforce is informed of positive cases in the workplace, following Federal, State, and local privacy and confidentiality laws and regulations.

If any domestic employee, including those who work remotely or telework, has a confirmed, presumed, or suspected positive case of COVID-19, they should notify their supervisor, and the MEDHART nCOV Team or MED's 24/7 Health Alert Response Team hotline (contact information can be found in the Global Address List). Overseas, U.S. government employees, contractors, locally employed staff and employee family members (EFMs) at post should report to their health unit. Any individual, regardless of vaccination status, who develops any **symptoms** consistent with COVID-19 during the workday must immediately isolate, wear a mask (if not already doing so and one is available), notify their

supervisor, and the MEDHART nCOV Team or MED's 24/7 Health Alert Response Team hotline, and promptly leave the workplace.

The MEDHART nCOV Team performs contact tracing for domestic employees for any potential workplace exposure. The employee or supervisor should also notify their Executive Office, which should contact "A/OPR COVID-19 Reports" in the Global Address List for assistance. The A Bureau will work with the Executive Office and GSA (where necessary) to arrange for any needed cleaning/disinfection of domestic space, per CDC guidance. The A Bureau will also provide updates to EX Directors and other agencies with equities in the domestic building on whether the area needs to be cordoned off and the timeline for reoccupying the space. Employees and onsite contractor employees who have been fully vaccinated and have had close contact with someone with suspected or confirmed COVID-19 should get tested 5-7 days after exposure, even if they do not have symptoms. These individuals should also wear a mask indoors in public for 14 days following exposure or until their test result is negative. If their test result is positive, they should isolate for 10 days.

Under OSHA's recordkeeping requirements, if an employee tests positive for SARS-CoV-2 infection, the case must be recorded on the OSHA Illness and Injury Log if each of the following conditions are met: (1) the case is a confirmed case of COVID-19; (2) the case is work-related (as defined by 29 CFR 1904.5); and (3) the case involves one or more relevant recording criteria (set forth in 29 CFR 1904.7) (e.g., medical treatment beyond first aid, days away from work). The Department follows state and county reporting requirements and complies with state and county contact tracing efforts.

The Department's process to document COVID-19 test results complies with all applicable laws and in accordance with Department records management policies. The Department takes steps to promote privacy and IT security, while also providing the relevant information to Department officials who need to know in order to implement the safety protocols. The Department consults, as appropriate, with its Records Officer, Chief Information Officer, Chief Medical Officer, Senior Agency Official for Privacy, and Department legal counsel to determine appropriate information management protocols.

## *Official Travel*

Fully vaccinated personnel may conduct official domestic travel in connection with their official duties. Other than internal bureau travel policy and supervisor approval, these employees are not subject to official COVID-19-related domestic travel restrictions. Vaccinated personnel should self-monitor, wear a mask over nose and mouth on public transportation (including air travel) and while indoors in U.S. transportation hubs, and take other precautions during travel. Official domestic travel for the

Department employees who are not fully vaccinated is limited to mission critical trips and must be approved in advance by the respective bureau Assistant Secretary or equivalent. Personnel who are not **fully vaccinated** must follow **CDC travel guidance for unvaccinated people**.

See **Testing** section for travel-related COVID-19 testing information.

**Overseas:** Per current Department of State policy, international travel, regardless of vaccination status, is limited to mission critical trips only, and requires advance approval from an employee's respective Assistant Secretary.

## *Meetings, Events, and Conferences*

**Domestic:** Conference and large meeting rooms controlled by A Bureau in the National Capital Region are open for reservation consistent with physical distancing guidelines; occupancy limits are listed in Reservelt. The exception is the Diplomatic Reception Rooms, which are only open for events for Under Secretaries and above, on a case-by-case basis.

In-person meetings, conferences, or events hosted by the Department that will be attended by more than 50 participants—regardless of whether participants include members of the public— must first seek the approval of the Under Secretary for Management (M) before contacting A/OPR for scheduling. In-person visitors attending any meetings, conferences, and events hosted by the Department, regardless of size, will be required to complete a Safer Federal Workforce Task Force-provided **Certification of Vaccination form** to document information about their vaccination status. Those who are not fully vaccinated or decline to provide their status must provide proof of a negative COVID-19 test completed no later than the previous three days and comply with masking and physical distancing requirements for individuals who are not fully vaccinated (see Face **Masks and Physical Distancing** section). In-person attendees in areas of high or substantial transmission, or in accordance with Department policy, must wear a mask in public indoor settings regardless of vaccination status.

**Overseas:** Posts are encouraged to follow guidance similar to domestic requirements, consult with MED bureau and review local risk indicators when determining and planning in-person events. On a case-by-case basis, OBO advises posts on facility-related safety aspects of event hosting.

## *Symptom Monitoring*

**Overseas and Domestic:** When U.S. government employees, onsite contractors, or visitors do not feel well, they should stay home and not enter any Department facility. All onsite personnel are required to

complete a self-screening for **symptoms** daily.

Any individual, regardless of vaccination status, who develops any symptoms consistent with COVID-19 during the workday must immediately isolate, wear a mask (if not already doing so and one is available), notify their supervisor, and promptly leave the workplace. If any domestic employee, including those who work remotely or telework, has a confirmed, presumed, or suspected positive case of COVID-19, they should notify MEDHART nCOV Team or MED's 24/7 Health Alert Response Team hotline (contact information can be found in the Global Address List). Additionally, the employee or supervisor, if notified, should then notify their Executive Office. Overseas, U.S. government employees, contractors, locally employed staff and employee family members (EFMs) at post should report to their health unit.

## *Quarantine, Isolation, and Steps for Individuals Following Exposure to Someone with Suspected or Confirmed COVID-19*

**Overseas and Domestic:** individual with a suspected or confirmed case of COVID-19 will be advised to isolate, pursuant to **CDC guidelines**, and State, local, and Tribal laws and regulations. Personnel who are not fully vaccinated and who have had a close contact with someone who has tested positive for COVID-19 should follow **CDC** and State, local, and Tribal guidance for quarantine. Individuals who have been fully vaccinated and have had close contact with someone with suspected or confirmed COVID-19 should get tested 5-7 days after exposure, even if they do not have symptoms. They should also wear a mask indoors in public for 14 days following exposure or until their test result is negative. Fully vaccinated people need not quarantine after a close contact but should get tested as described and wear a face mask as described.

For Anyone Who Has Been Around a Person with COVID-19: For Anyone who has had **close contact** with someone with COVID-19 should quarantine for 14 days **after their last exposure** to that person, except if they meet the following conditions:

Someone who has been fully vaccinated and shows no symptoms of COVID-19: does not need to **quarantine**. However, fully vaccinated close contacts should:

- ♦ Wear a mask indoors in public for 14 days following exposure or until a negative test result.
- ♦ Get tested 5-7 days after close contact with someone with suspected or confirmed COVID-19.

♦ Get tested and isolate immediately if experiencing COVID-19 symptoms

- ◆ Get tested and isolate immediately if experiencing COVID-19 symptoms.

**Someone who tested positive for COVID-19 with a viral test within the previous 90 days and has subsequently recovered and remains without COVID-19 symptoms:** does not need to quarantine. However, close contacts with prior COVID-19 infection in the previous 90 days should:

- ◆ **Wear a mask** indoors in public for 14 days after exposure.
- ◆ Monitor for **COVID-19 symptoms** and **isolate** immediately if symptoms develop.
- ◆ Consult with a healthcare professional for testing recommendations if new symptoms develop.

**For individuals without symptoms who have a positive test result:** If you continue to have no symptoms, you can be with others after 10 days have passed since you had a positive viral test for COVID-19. If you develop symptoms after testing positive, follow the guidance below for those with symptoms.

**For those with a positive test and symptoms:** individuals can be around others after:

- ◆ 10 days since symptoms first appeared **and:**
- ◆ 24 hours with no fever without the use of fever-reducing medications **and**
- ◆ Other symptoms of COVID-19 are improving\*

\*Loss of taste and smell may persist for weeks or months after recovery and need not delay the end of isolation.

If an individual has a confirmed, presumed, or suspected positive case of COVID-19, they should notify their supervisor and local health unit or MED's 24/7 Health Alert Response Team hotline and their supervisor. Additionally, the employee/contractor or supervisor should then notify their Executive Office.

**Travel:** U.S. government employees and contractors should adhere strictly to **CDC guidelines** before, during, and after travel, regardless of whether the travel is personal or for official business.

## *Confidentiality*

**Overseas and Domestic:** All medical information collected from personnel, including test results and any other information obtained as a result of testing and symptom monitoring, will continue to be treated confidentially in accordance with applicable laws and regulations (e.g., the Privacy Act and

Rehabilitation Act). The Department's Director of Occupational Health and Wellness establishes the basis of, and direction for, maintaining the privacy of PII, guided by Bureau of Medical Services legal counsel.

## *Reasonable Accommodation*

An employee with a disability may request a reasonable accommodation, when necessary, to facilitate the employee performing the essential functions of the job. Removal of an essential function of the employee's position is not a reasonable accommodation. Global Talent Management Office of Accessibility and Accommodations, Disability and Reasonable Accommodation Division (GTM/OAA/DRAD) is the Department's designated decision-maker on all disability reasonable accommodation requests for U.S. citizen staff, including U.S. citizen LE staff. The Department's policy and procedures regarding reasonable accommodations for employees with disabilities are set forth in 3 FAM 3670. For more information about reasonable accommodations, please visit GTM's Reasonable Accommodations site via the Knowledge Portal. For LE staff, post should ensure that its response to any requests for reasonable accommodations is consistent with local law, and as needed, should consult with local counsel.

Employees may also request accommodations from the vaccination requirement due to a sincerely held religious belief, practice, or observance. Requests for religious accommodations are reviewed centrally in the Office of the Director General (DGTM). Employees should submit a religious accommodation request using the form provided on the Department's Reentry SharePoint site on the Knowledge Portal homepage, and can find further information about religious accommodations in Department guidance.

## *Wellness Resources*

The Department recognizes that employees may be experiencing loss, increased anxiety, and stress because of the ongoing COVID-19 pandemic. The Department provides resources to help with work/life balance, coping, grief, resiliency, and other topics. The Office of Employee Consultation Services (ECS) provides free and confidential support services to assist Foreign Service personnel, Civil Service employees and eligible family members who may be experiencing professional or personal life challenges. Many resources such as ECS, WorkLife4You, and others, can be found on the Department's internal TalentCare SharePoint site, accessible from the Knowledge Portal homepage.

## Workplace Operations

### *Occupancy*

**Overseas and Domestic:** The Department follows guidance as outlined in OMB Memo M-21-25. Occupancy limits take into account community transmission metrics, (as recommended by the CDC), and the physical infrastructure to keep workers safe, consistent with federal guidelines.

### *Facility Cleaning*

**Overseas and Domestic:** EPA approved products, the Department regularly cleans common use, high-touch, and high-density spaces, such as lobbies, restrooms, elevators, and stairwells. Office space that is in regular use is cleaned regularly, and in accordance with **CDC guidelines**. The agency makes wipes and other EPA-approved disinfectants available for individuals to wipe down their workstation and related personal property. Department guidelines follow **CDC** and **EPA** guidance for cleaning and post-exposure disinfection or closure of facilities, along with ensuring an effective and confidential way for personnel and/or their bureaus to communicate confirmed and suspected cases of COVID-19 exposure in the workplace to the Department designated POC for potential disinfection.

In order to abide by and exceed the CDC's guidelines, the Department works domestically with a specialized service contractor or GSA to arrange for a thorough, professional disinfection after a confirmed case in the domestic workplace or closes the space for an appropriate amount of time. The Department's Bureau of Administration domestically, or Chiefs of Mission overseas, determine the appropriate scope of workplace closures, as needed, such as offices, floors, or buildings.

In the event of a suspected or confirmed case of COVID-19, the Department ensures enhanced cleaning of the spaces that the individual has occupied or accessed in accordance with CDC and, where applicable, GSA guidance, as follows:

- ♦ If fewer than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.
- ♦ If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. Agency may choose to also disinfect depending on **certain conditions** or everyday practices required by its facility.
- ♦ If more than three days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.

The Department's current domestic stance exceeds CDC guidelines, providing disinfection with EPA-approved products or isolation of the space for up to three days after the person diagnosed with COVID-19 has been in the space.

If enhanced cleaning is required, the Department will wait as long as possible (at least several hours) before cleaning and disinfecting. Extended wait periods allow increased opportunity for viral deactivation to occur naturally, while also allowing time for aerosols to settle, prior to surface disinfection. The A Bureau domestically, and posts overseas, will determine the appropriate scope of workplace closures needed—in some cases, it may be a suite or individual offices or part of a floor, in other cases, it may include an entire building.

Hand sanitizer stations are installed at the building entrance and throughout workspaces, containing FDA-approved hand sanitizer, with at least 60% ethanol and manufactured in accordance with the requirements of the U.S. Food and Drug Administration (FDA). Ingredients should be listed on a "Drug Facts" label. The Department ensures the hand sanitizer is not on the FDA's **do not use** list.

## Hygiene

**Overseas and Domestic:** All personnel and visitors are encouraged to self-monitor for COVID-19 **symptoms**. The Department recommends frequent handwashing in the workplace, which is reinforced through posters throughout all facilities. Hand sanitizer stations manufactured in accordance with FDA requirements are available at all facility entrances and in workspaces where hand washing is not available, manufactured in accordance with FDA requirements.

## *Ventilation and Air Filtration*

**Overseas:** Building constructed by the Department after 2001 with mechanical ventilation were designed to standards set by the American Society of Heating, Refrigeration, and Air-Condition Engineers (ASHRAE). Where possible, ventilation in older buildings has been enhanced by increasing exhaust in accordance with **CDC guidance**. Additionally, the Department has funded the upgrade of air handlers to improve positive outward airflow at posts in such buildings. Older facilities, in which ventilation has not been enhanced and there is an increased risk of COVID-19 spread, due to high community transmission rates or an inability to physically distance, may benefit from supplemental air filtration in discussion with OBO.

**Domestic:** The Department has increased the exchange of outside air within delegated domestic facilities by adjusting the fresh air dampers to allow an increased percentage of fresh outdoor air, and/or starting the ventilation system earlier or running it later than normal. Recently, the Department reviewed the applicability of measures the ASHRAE has proposed for consideration. Generally, the existing domestic ventilation systems are sufficient when operated and maintained normally. Buildings constructed by the Department after 2001 with mechanical ventilation were designed to standards set by the American Society of Heating, Refrigeration, and Air-Condition Engineers (ASHRAE). The Department regularly evaluates the ventilation systems to make sure they are working properly. Filters are inspected to ensure they are tight-fitting and in good condition, and the filters are changed according to preventative maintenance schedules.

## *Local Visitors*

**Domestic:** For domestic locations, unofficial visitors are not currently permitted. For official visitors, policy requires a **Safer Federal Workforce Task Force provided Certification of Vaccination Form** and proof of a negative COVID-19 test, if not fully-vaccinated. Hosting bureaus are responsible for ensuring their visitors follow current public health measures related to travel and comply with the Department's masking and vaccine attestation and testing requirements. (See **Vaccination Requirement section**). The Department maintains signage at entrances specifying entry requirements for visitors to the facility.

**Overseas:** U.S. missions overseas are encouraged to follow guidelines similar to those set out for domestic facilities for visitor approval, in conjunction with post Health Unit policies, and local health guidelines.

## *Leave*

Employees should request use of COVID-related leave and obtain approval from their supervisor in advance via a DS-7100 leave request form, indicating the reason in the remarks section of the form. If unable to submit a request in advance, employees must contact their supervisor as soon as possible, and document the purpose and the hours of COVID-related leave used.

**Leave to Acquire a COVID-19 Vaccination:** Employees can receive a COVID-19 vaccination dose on regular duty time to acquire a primary dose series (first and second dose of Pfizer-BioNTech COVID -19 vaccine or Moderna COVID-19 vaccine, or a single dose of Johnson & Johnson/Janssen (J&J) COVID-19 vaccine). Employees are granted up to four hours of administrative leave to receive any authorized

vaccine). Employees are granted up to four hours of administrative leave to receive any authorized

COVID-19 vaccine booster shot, if an individual is eligible to receive such a booster shot. See Department Notice #88847 for MED's booster guidance.

**Leave for COVID-19 Vaccination Side Effects:** The Department grants up to 2 workdays of administrative leave if an employee has an adverse reaction to any required COVID-19 vaccination dose, including a booster, that prevents the employee from working (i.e., no more than 2 workdays for reactions associated with a single dose). If an employee requests more than 2 workdays to recover, the agency may make a determination to grant emergency paid leave under the American Rescue Plan Act—if available—or the employee may take other appropriate leave (e.g., sick leave) to cover any additional absence.

**Leave for COVID Testing:** When a federal employee is required to be tested by the Department or in relation to official travel, the employee does not need to use their leave for the time required to be tested. It is considered regular duty time.

When an employee is not required to be tested, but decides to obtain a COVID-19 test during duty hours at their initiative, the employee may request sick leave or other available paid time off.

**Leave to Accompany a Family Member Being Vaccinated:** For vaccinations received after July 29, 2021, the Department grants leave-eligible employees up to four hours of administrative leave per dose to accompany a family member (as defined in OPM's leave regulations, see 5 CFR 630.201) who is receiving any COVID-19 vaccination dose. Up to a total of twelve hours of leave can be granted for a family member receiving three doses—for each family member the employee accompanies. If less time is needed to accompany a family member who is receiving the COVID-19 vaccine, only the needed amount of administrative leave should be granted. Employees should obtain advance approval from their supervisor before being permitted to use administrative leave for COVID-19 vaccination purposes. Employees are not credited with administrative leave or overtime work for time spent outside their tour of duty helping a family member get vaccinated.

**Leave Related to Quarantine:** The Department makes employees aware that official or personal travel may result in a mandatory quarantine before they are allowed to return to the workplace. If quarantine is required because of official travel or workplace exposure, the Department provides weather and safety leave, or other administrative leave.

If quarantine is required because of personal travel, and the employee is otherwise expected to be present onsite, the employee may take personal leave while quarantining. If an employee refuses to quarantine or refuses to take personal leave while under mandatory quarantine after personal travel.

the Department may elect to bar the employee from the workplace for the safety of others. If the Department bars the employee from the workplace, the employee must be placed on administrative leave until the Department determines what status the employee should be placed in while on quarantine, and whether to pursue disciplinary action. The Department, however, should avoid placing an employee on extended administrative leave in this situation and should act quickly to determine the appropriate status for the employee.

**Leave Related to Isolation Due to SARS-CoV-2 Infection:** If an employee is subject to isolation due to being infected with COVID-19 and is unable to telework, the employee may request sick leave, as weather and safety leave would be unavailable. Employees may also request accrued annual leave and other forms of paid or unpaid leave in this situation as appropriate. (See OPM CPM 2020-02, February 7, 2020).

## Engagement with Unions

The Department of State COVID-19 Workforce Safety Plan has been shared with all three of the Department's unions (AFSA, AFGE, and NFFE) for comment, and the unions provided comments that the Department took under consideration in finalizing this Workforce Safety Plan. The unions will continue to be given the opportunity to review updates to the safety plan and negotiate impact and implementation, if and as appropriate. The unions' feedback will be considered when the Department develops policy and implementation plans.

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### TAGS

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# DEPARTMENT OF TREASURY



INSPECTOR GENERAL  
FOR TAX  
ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20005

November 23, 2021

MEMORANDUM FOR [REDACTED]

FROM:

DAMON PLUMMER

Director of IRS Data Strategy, Office of Management Planning  
and Workforce Development, Office of Deputy Inspector General  
for Audit

SUBJECT:

COVID-19 Vaccine Mandate Counseling Notice

As required by [Executive Order 14043](#), Federal employees are required to be fully vaccinated against Coronavirus Disease 2019 (COVID-19) by **November 22, 2021** (Vaccine Mandate), regardless of the employee's duty location or work arrangement (e.g., telework, remote work, etc.), unless the employee has a [legally required exception pending or granted](#). Employees also are obligated to report their vaccination status. As of the date of this notification, you failed to provide proof of vaccination in [HRConnect](#), failed to establish entitlement to an exception, and/or failed to establish that you have an exception request pending. As a result, I am issuing you this Counseling memorandum.

Treasury Inspector General for Tax Administration (TIGTA) employees were notified of the requirements to report their vaccine status and to be fully vaccinated by November 22, 2021 on multiple occasions since September 20, 2021. You have received TIGTA all employee e-mail notifications and status specific e-mails from the Office of Mission Support's (OMS) Human Capital and Personnel Security for Health and Wellness. TIGTA also has provided intranet guidance and resource articles on COVID-19 Reminders and Updates, and posted facility fliers.

This memorandum is to remind you of your responsibility to comply with the Vaccine Mandate. You have until **December 1, 2021**, to receive a first dose in a two-dose series (e.g., Pfizer-BioNTech or Moderna) or a single-dose in the case of Johnson and Johnson (J&J)/Janssen vaccine. If you intended to get vaccinated but are unable to obtain an appointment before December 1, 2021, please contact OMS at [\\*TIGTA OMS Health and Wellness](#) immediately. You may use up to four hours of duty time to receive

each dose of your chosen vaccine. If you intend to be vaccinated during duty hours, please coordinate the timing of your vaccination(s) with your supervisor.

Please keep in mind that vaccines are [safe, effective, and free](#). To learn more about vaccines and find a convenient location to get vaccinated, go to [vaccines.gov](#) (or for information in Spanish, [Vacunas.gov](#)). You may also text your ZIP code to 438829, or call 1-800-232-0233 to find locations to receive a vaccine near you.

You also must provide proof of receipt of one-dose of your desired COVID-19 vaccine in [HRConnect](#), by **December 1, 2021**.

- If you choose the J&J/Janssen vaccine, only one dose is required; after uploading the required documentation to [HRConnect](#), no further action is needed on your part.
- If you choose to receive a two-dose series, you are further directed to plan to receive the second dose of your selected vaccine within a reasonable time period after the Centers for Disease Control and Prevention (CDC) recommended interval of 21 (Pfizer-BioNTech) or 28 (Moderna) days, depending on the vaccine, and under no circumstances later than **42 days** after the date you receive the first dose.

Per the [CDC](#), you will be considered [fully vaccinated](#) for COVID-19, two weeks after receiving the requisite number of doses of a COVID-19 vaccine approved or authorized for emergency use by the United States (U.S.) Food and Drug Administration or that has been listed for emergency use by the World Health Organization.

- For Pfizer-BioNTech or Moderna, full vaccination is two weeks after receiving the second dose in a two-dose series.
- For J&J/Janssen, full vaccination is two weeks after an employee has received a single dose.

Vaccine	First Dose	Second Dose	Fully Vaccinated
Moderna	October 11, 2021	November 8, 2021	November 22, 2021
Pfizer-BioNTech	October 18, 2021	November 8, 2021	November 22, 2021
Johnson & Johnson	November 8, 2021	Not Applicable	November 22, 2021
<i>The timing between your first and second shots depends on which vaccine you received.</i>			

Some employees may have a disability/medical condition or sincerely held religious belief, practice, or observance that may be incompatible with vaccination. Such individuals should follow the process for requesting an exemption based on a reasonable accommodation. If you are interested in submitting a reasonable accommodation in reference to the Vaccine Mandate, please contact Angelia McCoy at [Angelia.McCoy@tiqta.treas.gov](mailto:Angelia.McCoy@tiqta.treas.gov). Approved reasonable accommodations will be the only exceptions permitted.

Employees with medical questions about any of the vaccines have several resources available to answer them:

- Talk with your doctor or medical provider.
- Contact the CDC at (800) 232-0233 or visit [www.vaccines.gov](http://www.vaccines.gov) to get answers to questions and help finding a vaccine near you. Help is available in English, Spanish, and many other languages.

Employees are encouraged to contact the Employee Assistance Program (EAP), offered through Federal Occupational Health (FOH). An EAP counselor may be contacted at any time by calling the following toll free telephone number: 1-800-977-7631 or by visiting [www.Guidanceresources.com](http://www.Guidanceresources.com). First-time users can register by entering Organization Web ID: IRS112 when prompted.

Please note that TIGTA will follow a process of **progressive discipline if you fail to comply with the Vaccine Mandate**. Misconduct may lead to disciplinary action up to and including removal from your position with the Federal service.

This counseling memorandum is not disciplinary action. It will not be placed in your Electronic Official Personnel Folder. Please let me know if you have any questions or do not understand the contents of this memorandum. You may contact me at [Damon.Plummer@tigta.treas.gov](mailto:Damon.Plummer@tigta.treas.gov); you may also contact TIGTA's Employee Relations Specialist, David Frank at [David.Frank@tigta.treas.gov](mailto:David.Frank@tigta.treas.gov).



INSPECTOR GENERAL  
FOR TAX  
ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20005

November 12, 2021

TIGTA #22-06  
MEMORANDUM FOR ALL TIGTA EMPLOYEES

A handwritten signature in dark ink, appearing to be "M. H.", written over a horizontal line.

Deputy Inspector General for Mission Support/Chief Financial  
Officer

SUBJECT: Interim Guidance for Requesting a Reasonable Accommodation  
Exception to the COVID-19 Vaccine Mandate

The purpose of this Interim Guidance is to update the Treasury Inspector General for Tax Administration's (TIGTA) Reasonable Accommodation Policy to reflect changes in the administration of the program. Specifically, on September 9, 2021, President Biden issued Executive Order 14043 (EO) mandating that all Federal employees need to be fully vaccinated to prevent COVID-19 (Vaccine Mandate) by November 22, 2021. The EO provided that Federal employees could seek a medical or religious exception to the Vaccine Mandate by submitting a reasonable accommodation request. Due to the novel nature of the Vaccine Mandate, TIGTA is issuing this guidance to provide procedures and definitions to assist TIGTA employees in requesting an exception to the Vaccine Mandate as a religious and/or medical accommodation.

This Interim Guidance applies only to medical or religious accommodation requests for exceptions to the Vaccine Mandate. This Interim Guidance does not alter the definitions or any other procedures contained in TIGTA's Operations Manual, [Chapter \(200\)-70](#), *Equal Employment Opportunity (EEO), Diversity, Special Emphasis*, except as noted below. ***This Interim Guidance prevails regarding accommodation requests concerning the Vaccine Mandate if there is a conflict with TIGTA Operations Manual Chapter (200)-70.***

For all reasonable accommodation requests not related to the Vaccine Mandate, TIGTA's Operations Manual (200)-70 will be utilized.

TIGTA Manual Chapter (200), Section 70.1.1, *Purpose*, will be updated with the following text:

Title VII requires an employer, once on notice, to reasonably accommodate an employee whose sincerely held religious belief, practice, or observance conflicts with a work requirement, unless providing the

accommodation would create an undue hardship. A religious accommodation is an adjustment to the work environment that will allow the employee to comply with their religious beliefs.

TIGTA Manual Chapter (200), Section 70.1.2, *Sources for Reference*, will be updated with the following text:

- Executive Order 14043, Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.
- Title VII of the Civil Rights Act of 1964.
- The Safer Federal Workforce Task Force FAQs.
- Office of Personnel Management (OPM) Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees—Executive Order 14043.
- Equal Employment Opportunity Commission (EEOC) Compliance Manual on Religious Discrimination.

TIGTA Manual Chapter (200), Section 70.1.3, *Definition of Key Terms*, will be updated with the following text:

- Religion: All aspects of religious observance and practice as well as belief, not just practices that are mandated or prohibited by a tenet of the individual's faith. Religion includes not only traditional, organized religions, but also religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.
- Decision Maker: For all requests to be exempt from the Vaccine Mandate, the decision maker is the Deputy Inspector General for Inspections and Evaluations. Should the decision maker be unable to carry out this role, the decision maker will be the Deputy Inspector General for Mission Support/Chief Financial Officer. In addition, the following may be consulted regarding essential job functions to aid the decision maker in rendering a decision under this interim guidance:
  - Special Agent in Charge, Fraud and Schemes Division, for the Office of Investigations;
  - Director, Strategic Workforce Planning and Development for the Office of Audit;
  - Deputy Chief Counsel for the Office of Chief Counsel;
  - Classification/Position Management Specialist for the Office of Mission Support;
  - Director for the Office of Inspections and Evaluations; and
  - Management Analyst for the Office of Information Technology.

- Undue Hardship:
  - Religious Accommodation: Imposing more than a *de minimis* cost on the operation of the employer's business. Whether or not a proposed accommodation imposes more than a *de minimis* cost must be determined on a case-by-case basis. Relevant factors may include the type of workplace, the nature of the employee's duties, the identifiable cost of the accommodation in relation to the size and operating costs of the employer, whether the accommodation would infringe on coworkers' rights or cause disruption of work, and the number of employees who will in fact need a particular accommodation. An employer cannot rely on hypothetical hardship when faced with an employee's religious obligation that conflicts with scheduled work, but rather should rely on objective information.

TIGTA Manual Chapter (200), Section 70.1.5, *Reasonable Accommodation Procedures*, will be updated with the following text:

Employees requesting a reasonable accommodation to be exempt from the Vaccine Mandate should submit their request to the EEO Program Office at [angelia.mccoy@tigta.treas.gov](mailto:angelia.mccoy@tigta.treas.gov). TIGTA encourages all employees making requests to use one of the Request Forms provided at the end of this Interim Guidance. **Note: The e-mail address contained on the Medical Request Form is no longer in use.**

Once the EEO Program Office receives the request for accommodation, they will redact the requestor's name and any other identifying information before forwarding the request to the decision maker. At any time during the process the requestor may waive their right to confidentiality and identify themselves to the decision maker. At no point will TIGTA require that the requestor self-identify during the reasonable accommodation process when seeking an exception to the Vaccine Mandate.

TIGTA Manual Chapter (200), Section 70.1.5.3, *Time Frames for Processing Requests/Providing Reasonable Accommodation*, will be updated with the following text:

The request shall be processed and a decision issued as soon as possible but no later than **20 business days** from the date the decision maker receives the request.

Certain "extenuating circumstances" may require longer time frames for providing reasonable accommodations (*e.g.*, the decision maker has an objective basis for questioning either the religious nature or the sincerity of a particular religious belief and requests additional information). Should

additional documentation be requested the time will be extended until sufficient documentation is provided.

The EEO Program Office and/or the decision maker may ask that additional information, pertaining to either a medical or religious request, be provided by a date certain. The decision maker shall resume the processing of the request immediately upon receipt of adequate documentation.

TIGTA Manual Chapter (200), Section 70.1.5.5, *The Interactive Process*, will be updated with the following text:

Communications pursuant to the interactive process must go through the EEO Program Office unless the employee agrees to self-identify.

The EEO Program Office will provide assistance to help both the decision maker and the individual requesting the accommodation to identify possible accommodations, as well as to facilitate communication.

For employees seeking a religious accommodation, TIGTA should consider reassignment when no accommodation which would keep the employee in their position is possible absent undue hardship.

TIGTA Manual Chapter (200), Section 70.1.5.6, *Request for Medical Information*, will be updated with the following text:

All requests will be routed through the EEO Program Office.

TIGTA Manual Chapter (200), Section 70.1.5.6.1, *Request for Religious Information*, will be added with the following text:

TIGTA should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief, practice, or observance. However, if an employee requests a religious accommodation, and the decision maker is aware of facts that provide an objective basis for questioning either the religious nature or the sincerity of a particular belief, practice, or observance, the decision maker would be justified in requesting additional supporting information. The decision maker may need an explanation of the religious nature of the belief, observance, or practice at issue, and how it conflicts with the Vaccine Mandate. If the decision maker reasonably needs more information, the decision maker will notify the EEO Program Office to request the required information.

***NOTE: The failure to timely provide necessary documentation or to cooperate in TIGTA's efforts to obtain such documentation can result in a denial of the reasonable accommodation.***

TIGTA Manual Chapter (200), Section 70.1.5.7.1, *Maintaining Medical Documentation*, will be renamed *Maintaining Medical and Other Documentation*, and updated with the following text:

All medical documentation will be maintained in accordance with the Privacy Act, the Rehabilitation Act, Treasury Reasonable Accommodations SORN .016, OPM/GOVT-10 Employee Medical File system of records notice (SORN), and OPM regulations (5 C.F.R. part 293, subpart E). All non-medical information will be maintained pursuant to the Privacy Act and Treasury Reasonable Accommodations SORN .016.

TIGTA Manual Chapter (200), Section 70.1.5.9, *Granting a Reasonable Accommodation Request*, will be updated with the following text:

A decision granting a request will be provided in writing to the requestor. If the requestor submitted a request via the Request Form, that form will be used by the decision maker in granting the request. Otherwise, the decision maker will grant the request via a written memorandum.

The Office of Chief Counsel will review the decision to grant the request before it is issued to the employee. Once the Office of Chief Counsel has reviewed the decision and it is finalized, the EEO Program Office will insert the employee's name and issue the decision.

TIGTA Manual Chapter (200), Section 70.1.5.10, *Denial of a Reasonable Accommodation Request*, will be updated with the following text:

A decision modifying or denying a request for a reasonable accommodation to be exempt from the Vaccine Mandate, must be in writing, in a memorandum signed by the decision maker, attached to the Request Form, if that form was used to make the initial request. If a decision modifies or denies a requested accommodation, the decision memorandum will explain the reasons for the denial or modification, the individual's right to ask for reconsideration from the decision maker within five business days of receiving the decision, and other potential appeal rights. The decision will further note that if no reconsideration request is received by the fifth business day the decision is final. A reconsideration

decision will be issued within five business days of receiving the reconsideration request. The reconsideration decision is the final decision concerning the reasonable accommodation request. The final, written decision will contain any applicable appeal rights.

A decision modifying or denying a reasonable accommodation to be exempt from the Vaccine Mandate, will be reviewed by the Office of Chief Counsel prior to being issued to the employee. Once a decision has been finalized, it will be forwarded to the EEO Program Office who will insert the employee's name and issue the decision.

TIGTA Manual Chapter (200), Section 70.1.5.12, *Requests for Delay*, will be added with the following text:

There may be circumstances when an employee requests a delay in complying with the Vaccine Mandate. These circumstances include, but are not limited to, having an active COVID-19 infection; having received monoclonal antibodies or convalescent plasma for COVID-19 treatment within the past 90 days; a diagnosis of multisystem inflammatory syndrome in adults (MIS-A) within the past 90 days; or those undergoing immunosuppressive therapies. Employees may use the form, *Request for a Medical Exception to the COVID-19 Vaccination Requirement*, below, to do this. If the decision maker grants the delay, TIGTA will require the employee to receive their first (or if a one-dose series, only) dose no later than two weeks after clinical considerations no longer recommend delay. If receiving a two-dose series, the employee is required to receive the second dose within six weeks of receiving the first dose. If the employee already received a first dose of a two-dose series, they are required to receive their second dose no later than two weeks after clinical considerations no longer recommend delay.

TIGTA Manual Chapter (200), Section 70.1.5.13, *Vaccination After Denial of Accommodation*, will be added with the following text:

If an accommodation request is denied and the decision is final, the employee should receive their first (or, if a one-dose series, only) dose within two weeks of the final decision to deny the accommodation. If receiving a two-dose series, the employee should receive the second dose within 6 weeks of receiving the first dose.

If the employee received a first dose of a two-dose series prior to seeking an accommodation, and their request for an accommodation is denied, they should receive their second dose within two weeks of the final

determination to deny the accommodation or within a week of the earliest day by which they can receive their second dose, whichever is later.

TIGTA Manual Chapter (200), Section 70.1.5.14, *Failure to Comply with Vaccine Mandate*, will be added with the following text:

If the employee does not comply with the requirement to become fully vaccinated after a final denial of an accommodation request, TIGTA may pursue disciplinary action, up to and including removal or termination from Federal service.

The following categories of employees are exempt from complying with the Vaccine Mandate and will not be subject to discipline for non-compliance:

- employees on extended leave of absence (e.g., due to a serious health condition of themselves or a family member, or due to utilizing paid parental leave);
- employees receiving workers' compensation;
- seasonal employees, student volunteers, and interns who are not returning to duty (Note: these individuals must be vaccinated before returning to duty); and
- employees who are running down their leave in advance of departing Federal service and do not intend to return to duty before leaving.
- employees who have notified TIGTA that they are planning to retire or separate from Federal service on or before January 31, 2022, and do in fact retire or separate by that date.



Request for Religious  
Exception to Vaccine M



Request for Disability  
Exception to Vaccine M

**USAID**

# USAID NOTICES

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## COVID-19 Vaccination Requirement for All USAID Employees

### What You Need To Know:

- In accordance with President Biden's [Executive Order on Requiring COVID-19 Vaccination for all Federal Employees](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/) (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/>), all U.S. Direct-Hire (USDH) employees are required to be fully vaccinated by November 22, 2021, other than in limited circumstances where the law requires an accommodation. The requirement applies to all USDH employees, both domestic and overseas, and regardless of physical location or telework status.
- The requirement supersedes the [Agency Notice](https://notices.usaid.gov/notice/59431) (<https://notices.usaid.gov/notice/59431>) of August 25, 2021, requiring USDH employees to complete the Certification of Vaccination form in LaunchPad.
- In accordance with President Biden's [Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/) (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/>), contractors (including institutional support contractors and personal service contractors) will also be required to be vaccinated. Additional information regarding contractors is forthcoming. In the interim, on-site contractors and visitors are still required to carry their completed [Certification of Vaccination Form](https://drive.google.com/file/d/1fuR2DP4vVI4508Z1EEf62pfEvEp1RJPr/view) (<https://drive.google.com/file/d/1fuR2DP4vVI4508Z1EEf62pfEvEp1RJPr/view>) with them in USAID facilities in accordance with the [Agency Notice](https://notices.usaid.gov/notice/59431) (<https://notices.usaid.gov/notice/59431>) of August 25, 2021. Those who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building.

### What Does This Mean For You?

#### If you are **not yet fully vaccinated**:

- You need to act quickly. To meet the deadline of November 22, 2021, to be fully vaccinated, you will need to meet the deadline dates outlined below:
  - October 11, 2021: First dose deadline (if you receive the Moderna COVID-19 vaccine)
  - October 18, 2021: First dose deadline (if you receive the Pfizer-BioNTech vaccine)
  - November 8, 2021: Second dose deadline (for Moderna and Pfizer-BioNTech)

- November 8, 2021: First dose deadline (if you receive the one-dose Johnson & Johnson vaccine)
- Vaccines are safe and effective ([https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html?s\\_cid=11565:benefits%20of%20covid%2019%20vaccine:sem.ga:p:RG:GM:gen:PTN.Grants:FY21](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html?s_cid=11565:benefits%20of%20covid%2019%20vaccine:sem.ga:p:RG:GM:gen:PTN.Grants:FY21)). Visit [vaccines.gov](https://www.vaccines.gov/) (<https://www.vaccines.gov/>) or the CDC website (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/How-Do-I-Get-a-COVID-19-Vaccine.html>) now to find vaccines near you and to schedule your appointment. For more information, visit the Safer Federal Workforce Task Force (SFWTF) FAQ (<https://www.saferfederalworkforce.gov/faq/vaccinations/>) page.
- USAID's goal is to work with our employees who have not yet been vaccinated—to provide them with education and resources regarding the efficacy and safety of vaccines. However, please note that this requirement is a direct order. USDH employees who are not fully vaccinated against COVID-19 by November 22, 2021, and who do not have an approved accommodation, may be subject to disciplinary measures, up to and including their removal from service.
- You may use up to four hours of regular duty time to obtain vaccination doses. You **do not** need to request leave of any kind to obtain the vaccine for yourself; however, you are expected to notify your supervisor of your activity and expected return time.
- If you are not able to get vaccinated because you have a qualifying disability, you should contact [ReasonableAccommodations@usaid.gov](mailto:ReasonableAccommodations@usaid.gov) (<http://mailto:ReasonableAccommodations@usaid.gov>) to request a reasonable accommodation.
- If you are not able to get vaccinated because you have a sincerely held religious belief, practice, or observance, you should contact OCRD's Diversity, Equity, and Inclusion Division at [OCRD-Diversity-Inclusion@usaid.gov](mailto:OCRD-Diversity-Inclusion@usaid.gov) (<http://mailto:OCRD-Diversity-Inclusion@usaid.gov>) to request a religious accommodation. Additional guidance related to religious accommodations will be forthcoming.
- Any applicable accommodation(s) must be in place by November 22, 2021.

If you are **fully vaccinated**:

- You will be required to provide proof of vaccination. Instructions for submitting your proof of vaccination are forthcoming. **Do not email or send your proof of vaccination now—we will send further instructions shortly.**
- At this time, you should make sure you can access your proof of vaccination (e.g., copies of a record of immunization from a health care provider or pharmacy, COVID-19 Vaccination Record Card, medical records documenting the vaccination, immunization records from a public health or state immunization information system, or any other official documentation containing the required information).
- If you obtained vaccination through the USAID Vaccine Clinic and need to obtain proof of vaccination, log onto [VAMS](https://vams.cdc.gov/vaccineportal/s/login/?language=en_US&startURL=%2Fvaccineportal%2Fs%2F&ec=302) ([https://vams.cdc.gov/vaccineportal/s/login/?language=en\\_US&startURL=%2Fvaccineportal%2Fs%2F&ec=302](https://vams.cdc.gov/vaccineportal/s/login/?language=en_US&startURL=%2Fvaccineportal%2Fs%2F&ec=302)) to obtain your vaccination record.

Any questions concerning this notice may be directed to:

-- Critical Coordination Structure, M/CCS, [Readiness@usaid.gov](mailto:Readiness@usaid.gov) (<mailto:Readiness@usaid.gov>)

Notice 09195



**USAID**  
FROM THE AMERICAN PEOPLE

## Proof of Vaccination Frequently Asked Questions

*Updated: November 3, 2021*

The questions and answers that follow address the USAID-specific requirements for U.S. Direct Hire (USDH) employees and U.S. Personal Services Contractors (USPSCs) performing in the United States to provide proof of their vaccination status in accordance with President Biden's [Executive Order on Requiring COVID-19 Vaccination for all Federal Employees](#) and [Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors](#). For government-wide FAQs on this subject, please refer to the [Safer Federal Workforce Task Force website](#).

Additional information is forthcoming regarding other hiring mechanisms.

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**Q1. Why are USDH employees and USPSCs required to provide proof of their vaccination status?**

- A. On September 9, 2021, President Biden issued [Executive Order on Requiring COVID-19 Vaccination for all Federal Employees](#) and [Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors](#), which requires all federal employees to be fully vaccinated by November 22, 2021 and federal contractors (including personal services contractors) working in the United States or its outlying areas to be fully vaccinated by December 8, 2021. This is part of the Administration's continued efforts to get more Americans

vaccinated. In order to comply with this executive mandate, all USDH employees and USPSCs must provide proof of their full vaccination against COVID-19. Individuals who are not fully vaccinated by the specified deadlines, may be subject to disciplinary measures, up to and including removal from service. USPSCs whose contracts require them to be fully vaccinated and who fail to comply with the COVID-19 vaccination requirements may be subject to contractual action, up to and including termination. In this context, fully vaccinated means at least fourteen days have passed since receipt of a single-dose vaccine or since the second dose of a two-dose vaccine.

**Q2. When must employees receive their COVID-19 vaccinations in order to meet the vaccine deadlines?**

- A. In order for USDH employees to comply with the November 22, 2021 vaccination deadline, they must meet the deadlines below for 2-dose and 1-dose vaccines):
- October 11: First dose deadline (if you receive the Moderna COVID-19 vaccine)
  - October 18: First dose deadline (if you receive the Pfizer-BioNTech vaccine)
  - November 8: Second dose deadline (for Moderna and Pfizer-BioNTech)
  - November 8: First dose deadline (if you receive the one-dose Johnson & Johnson vaccine)

For USPSCs whose contracts require them to be fully vaccinated to comply with the December 8, 2021 vaccination deadline, they must meet the following deadline dates:

- October 27: First dose deadline (if you receive the Moderna COVID-19 vaccine)
- November 3: First dose deadline (if you receive the Pfizer-BioNTech vaccine)
- November 24: Second dose deadline (for Moderna and Pfizer-BioNTech)
- November 24: First dose deadline (if you receive the one-dose Johnson & Johnson vaccine)

**Q3. How is USAID collecting proof of vaccination from USDH employees and USPSCs?**

- A. USAID is collecting proof of vaccination from USDH employees and USPSCs through a form [in LaunchPad](#). This applies only to USDH employees and USPSCs at this time and does not include other hiring mechanisms or visitors. USDH employees and USPSCs can access the [LaunchPad submission platform](#) beginning October 14, 2021.

**Q4. What constitutes proof of vaccination for LaunchPad?**

- A. In order to prove vaccination status, USDH employees and USPSCs must provide all of the following vaccine information:
1. Type of vaccine administered;
  2. Number of doses received;
  3. Date(s) of administration; AND
  4. Name of the healthcare professional(s) or clinic site(s) administering the vaccine(s).

*Please note, all of the above vaccine information can be found on an official CDC vaccination record card.*

Additionally, USDH employees and USPSCs must upload official documentation of this information to [LaunchPad](#) through one of the following means:

1. A copy of the record of immunization from a health care provider or pharmacy;
2. A copy of the COVID-19 Vaccination Record Card (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccination-card.html>);
3. A copy of medical records documenting the vaccination;
4. A copy of vaccination record from the CDC VAMS database;
5. A copy of immunization records from a public health or state immunization information system; OR
6. A copy of any other official documentation containing required data points.

**Q5. How do I use my Government Furnished Equipment (GFE) or other approved work device(s) to upload my vaccination documentation?**

- A. You can use your GFE (computer or mobile device) or other approved work device(s) to capture an image of your immunization record and upload it to [LaunchPad](#) accordingly. When using a mobile device, you will need to use your security token to access LaunchPad. Once in LaunchPad, you can directly upload your vaccination document(s) from the device. In the alternative, you can capture an image of your immunization record and email that to your usaid.gov email address. You would then download the image from your usaid.gov account onto your computer and upload the image to LaunchPad accordingly. Once you upload your information, delete the file from the source equipment.

Do not email, or otherwise share or distribute, your immunization record with anyone, including your direct supervisor or Contracting Officer. A limited number of individuals who have a need to know for specific job responsibilities will have access to your uploaded record, and will not share your information beyond those specific needs.

**Q6. Is vaccination required for USAID USDH employees overseas?**

- A. All USDH employees, domestic or overseas, and regardless of telework status, are required to be fully vaccinated by no later than November 22, 2021, and are required to provide proof of their vaccination status via [LaunchPad](#).

**Q7. How do visitors attest to their vaccination status?**

- A. Approved visitors are asked to attest to their vaccination status by completing [OMB Form No. 3206-0277](#) prior to arriving at, or filling out the form in, the lobby of USAID facilities, but will not be asked and should not provide documentation to verify their attestation. Visitors must carry the completed form with them at all times while in a USAID facility. Those who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous three days in order to be permitted entry to USAID's federal facilities.

**Q8. Who is considered fully vaccinated?**

- A. People are considered [fully vaccinated](#) for COVID-19 14 days after they have received the second dose in a two-dose series (Pfizer-BioNTech or Moderna), or 14 days after they have received a single-dose vaccine (Johnson and Johnson (J&J)/Janssen).

This guidance applies to COVID-19 vaccines currently either approved or authorized for emergency use by the U.S. Food and Drug Administration (Pfizer-BioNTech, Moderna, and Johnson & Johnson [J&J]/Janssen COVID-19 vaccines). This guidance can also be applied to COVID-19 vaccines that have been listed for emergency use by the World Health Organization (e.g., AstraZeneca/Oxford). More information is available at [Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC](#).

**Q9. Are USDH and USPSCs whose contracts require them to be fully vaccinated required to comply with COVID-19 vaccination requirements if they are teleworking full time?**

- A. Yes.

**Q10. Am I required to have proof of vaccination on me at ALL times in USAID's federal facilities?**

- A. USDH employees and USPSCs are not required to carry their forms or proof of vaccination, as it is collected through [LaunchPad](#) and no hard-copy is needed.

Approved visitors must carry their completed vaccination attestation or proof of negative COVID-19 test when in USAID's domestic federal facilities.

**Q11. Will my proof of vaccination status in LaunchPad be protected from unauthorized disclosure?**

- A. Yes. All Personal Identifiable Information (PII) certified through and uploaded to [LaunchPad](#) will be protected as described in [ADS 508: Privacy Program](#), and consistent with applicable law.

**Q12. By what date are new USAID employees required to be fully vaccinated?**

- A. USDH employees who start their government service after November 22, 2021, need to be fully vaccinated prior to their start date, except in limited circumstances where an accommodation is legally required. New USPSCs are required to be fully vaccinated by December 8, 2021 or prior to their start date, whichever comes later, except in limited circumstances where an accommodation is legally required.

However, should there be an urgent, mission-critical hiring need to onboard new staff prior to those new staff becoming fully vaccinated, the Administrator may approve an exception—in the case of such limited hiring exceptions, new hires need to be vaccinated within 60 days of their start date and follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

**Q13. What if I cannot get vaccinated for COVID-19?**

- A. Vaccines are [safe and effective](#). There are limited circumstances in which an exception to the federal workforce vaccination requirement may be obtained. If you are not able to get vaccinated due to a medical condition, you should contact [ReasonableAccommodations@usaid.gov](mailto:ReasonableAccommodations@usaid.gov) to request an exception from this requirement. If you are not able to get vaccinated because you have a sincerely held religious belief, practice, or observance, you should contact OCRD's Diversity, Equity, and Inclusion Division at [OCRD-Diversity-Inclusion@usaid.gov](mailto:OCRD-Diversity-Inclusion@usaid.gov) to request a religious exception.

Individuals who are not fully vaccinated but have an approved religious or medical accommodation will be required to follow safety measures for non-vaccinated individuals, including with respect to mask wearing, physical distancing, travel, and quarantine. Additionally, these individuals who are not fully vaccinated must carry with them documentation of a negative COVID-19 test from no later than the previous three days at all times when accessing a USAID facility.

**Q14. Do I need to fill out LaunchPad if I submitted a request to be exempt from the COVID-19 vaccine requirement?**

- A. If you have requested a religious or medical exemption from the COVID-19 vaccine requirement through either [ReasonableAccommodation@usaid.gov](mailto:ReasonableAccommodation@usaid.gov) or [OCD-Diversity-Inclusion@usaid.gov](mailto:OCD-Diversity-Inclusion@usaid.gov), as applicable, you may, but are not required to complete the vaccination certification form in [LaunchPad](#) at that time. However, if your request is denied, you will be required to comply with the vaccine mandate and complete the form in [LaunchPad](#).

Please note that the requirement to be vaccinated is contained in an Executive Order issued by the President of the United States. In accordance with its terms, should a USDH employee fail to get vaccinated, absent an exception or a pending application for exception, USAID will proceed with progressive discipline to address this misconduct. In the case of USPSCs whose contracts require them to be fully vaccinated and who fail to comply with the COVID-19 vaccination requirements, the USPSC may be subject to contractual action, up to and including termination.

**Q15. Where can I get a COVID-19 vaccine?**

- A. Vaccines are [safe and effective](#) and USAID strongly encourages all staff to get vaccinated. If you have any questions about vaccinations or need to find a facility near you that is able to provide you with a vaccine, please go to [www.vaccines.gov](http://www.vaccines.gov) or the [CDC website](#) for more information.

**Q16. If it is prior to the mandatory vaccination deadlines for USDH employees and USPSCs whose contracts require them to be vaccinated, and I am not yet fully vaccinated, what procedure is required to access a USAID facility?**

- A. If you're a USDH employee the deadline is November 22, 2021. If you're a federal contractor, the deadline is December 8, 2021. USDH and USPSCs who are not fully vaccinated prior to the deadline that applies to their workforce category, are required to have documentation of a negative COVID-19 test from no later than the previous 3 days prior to entry to USAID's domestic federal facilities. Individuals must carry the proof with them at all times while in a USAID facility and may be asked to show the documentation to authorized Agency officials who have a need to know.

**Q17. Are employees able to update their Proof of Vaccination submission in LaunchPad after initial submission?**

- A. Yes. If your status changes, you can update your Proof of Vaccination at any time from [LaunchPad](#). USDH employees are required to upload proof of their full vaccination by November 22, 2021. USPSCs are required to upload proof of their full vaccination by December 8, 2021.

**Q18. What should I do if I cannot access the form in LaunchPad?**

- A. If you are unable to access the form through the [link](#) provided in the instructions email, go directly to the [USAID LaunchPad](#) and find the form by typing "Report Vaccination" in the search bar. Reminder, only USAID Direct Hire and Personal Services Contractor employees are able to access the form. If you are a new USDH employee or USPSC, it may take up to three weeks from your Entry on Duty Date for your LaunchPad account to be active. If you believe you should have access to this form and cannot access it, within LaunchPad, please open a new HCTM Request with the subject "HR System Support." Should you need access to the facilities before the ticket is resolved, send an email marked "Urgent" to M/CCS at [readiness@usaid.gov](mailto:readiness@usaid.gov). **DO NOT INCLUDE YOUR PROOF OF VACCINATION STATUS IN THE EMAIL.**

**Q19. Will I need to provide proof of vaccination each time I visit another federal agency's facilities?**

- A. Under the Executive Order, all USAID personnel will be treated as visitors for purposes of the vaccination attestation when entering the facilities of another Federal agency and will need to certify their vaccination status to gain entry. The requirement similarly applies to personnel from other U.S. Government agencies who visit USAID's federal facilities. When invited, we encourage USAID staff to request clarification from the meeting host about how the visitor attestation process works for the location of the hosted meeting.

**Q20. What will the Agency do if I am not fully vaccinated and do not have an exception, or a pending application for an exception, by the vaccination deadline?**

- A. Beginning October 28, 2021, USAID will reach out to those who have not submitted documentation of their vaccination status to provide them with additional education and resources, as part of our effort to protect the health and safety of all our workers. Please note, however, that the requirement to be vaccinated is contained in an Executive Order (E.O.) issued by the President of the United States. Should an employee still fail to get vaccinated after our efforts to provide additional education and resources, and absent an exception or a pending application for exception, USAID will proceed with progressive discipline to address this misconduct.

**Q21. I have had more than two vaccination doses (e.g. received a third dose as a booster or required a third dose to be considered fully vaccinated) but LaunchPad only allows me to record two doses. How do I report additional vaccination doses?**

- A. You should not report a third dose in LaunchPad. LaunchPad only allows you to record vaccination proof that meets the federal requirement (1 dose of a 1-dose vaccine, 2 doses of a 2-dose vaccine). Attempting to report a third dose can override previous information that you provided about the required doses.

**Q22. I have been told I am uploading my proof of vaccination into LaunchPad in an unreadable format (e.g. HEIC). How do I fix this?**

- A. It is likely you are trying to submit a live action photo from your iphone or other live photo taking device. For iphones, use the following fix:
- a. Go to your iphone's Settings and select Camera
  - b. Go to Formats and choose "Most Compatible."
- This fix will save your subsequent iphone photos in a format that Launchpad will tolerate.

# USAID NOTICES

**Office of Origin:** M/CCS  
**Notice Category:** Information  
**Date of Announcement:** October 15, 2021  
**Distribution:** USAID/General Notice

## Immediate Action Required for U.S. Direct-Hire (USDH) Employees and U.S. Personal Services Contractors (USPSCs): Providing Proof of COVID-19 Vaccination

### What You Need to Know:

- All USAID U.S. Direct-Hire (USDH) employees are required (<https://notices.usaid.gov/notice/59706>) to be fully vaccinated for COVID-19 by November 22, 2021, unless an employee receives approval for a limited legally required exception. This requirement applies to all USDH domestic and overseas employees, regardless of telework status.
- U.S. Personal Services Contractors (USPSCs) working in the United States or its outlying areas will be required to be fully vaccinated by December 8, 2021, unless they receive approval for a limited legally required exception. This requirement will be communicated to USPSCs by the cognizant Contracting Officers.
- **For immediate action: All USDH employees and USPSCs who are fully vaccinated must submit their Proof of Vaccination through LaunchPad** ([https://usaiditsm.servicenowservices.com/launchpad?id=vaccine\\_cat\\_item&sys\\_id=f10472aa45f02010fa9b98d6bca7b156](https://usaiditsm.servicenowservices.com/launchpad?id=vaccine_cat_item&sys_id=f10472aa45f02010fa9b98d6bca7b156)) **by October 28, 2021.**
- Additional information will be forthcoming regarding other hiring mechanisms.

For USAID to comply with the [Executive Orders on Requiring Vaccination for Federal Employees](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/) (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/>) and [Federal Contractors](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/) (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/>), and guidance from the [Safer Federal Workforce Task Force](https://www.saferfederalworkforce.gov/) (<https://www.saferfederalworkforce.gov/>), on vaccination requirements, **all USDH employees and USPSCs** must use the [LaunchPad link](https://usaiditsm.servicenowservices.com/launchpad?id=vaccine_cat_item&sys_id=f10472aa45f02010fa9b98d6bca7b156) ([https://usaiditsm.servicenowservices.com/launchpad?id=vaccine\\_cat\\_item&sys\\_id=f10472aa45f02010fa9b98d6bca7b156](https://usaiditsm.servicenowservices.com/launchpad?id=vaccine_cat_item&sys_id=f10472aa45f02010fa9b98d6bca7b156)) to complete the Proof of Vaccination form by **October 28, 2021**. If you obtain your Proof of Vaccination after that date, you must submit the documentation through [LaunchPad](https://usaiditsm.servicenowservices.com/launchpad?id=vaccine_cat_item&sys_id=f10472aa45f02010fa9b98d6bca7b156) ([https://usaiditsm.servicenowservices.com/launchpad?id=vaccine\\_cat\\_item&sys\\_id=f10472aa45f02010fa9b98d6bca7b156](https://usaiditsm.servicenowservices.com/launchpad?id=vaccine_cat_item&sys_id=f10472aa45f02010fa9b98d6bca7b156)) as soon as possible

but no later than November 22, 2021, for USDH employees and December 8, 2021, for USPSCs. Please consult the [FAQs](#) (<https://docs.google.com/document/d/1vGrgku4yISfNmCjzeyof7bhrAxfM69GNEUAQg56wb4Q/edit?usp=sharing>) for a list of acceptable forms of proof of vaccination. **Please do not otherwise send, or share or distribute, your proof of vaccination with anyone, including your direct supervisor.**

Additional guidance for **other contractor employees** is forthcoming. Prior to being subject to a contractual requirement to be vaccinated, onsite contractors are still required to complete a [Certification of Vaccination form](#) (<https://drive.google.com/file/d/1fuR2DP4vVI4508Z1EEf62pfEvEp1RJPr/view?usp=sharing>) and carry their form with them at all times while in USAID's Federal domestic facilities. Similarly, until there is a contractual requirement, those who are not fully vaccinated or who decline to provide information about their vaccination status must carry documentation of a negative COVID-19 test from no later than the previous three days with them while in USAID facilities.

If you are not yet fully vaccinated, you need to act quickly. Vaccines are [safe and effective](#) ([https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html?s\\_cid=11565:benefits%20of%20covid%2019%20vaccine:sem.ga:p:RG:GM:gen:PTN.Grants:FY21](https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html?s_cid=11565:benefits%20of%20covid%2019%20vaccine:sem.ga:p:RG:GM:gen:PTN.Grants:FY21)). Visit [vaccines.gov](#) (<https://www.vaccines.gov/>) or the [CDC website](#) (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/How-Do-I-Get-a-COVID-19-Vaccine.html>) now to find vaccines near you and to schedule your appointment. USDH employees and USPSCs may use up to four hours of regular duty time to obtain vaccination doses. You do not need to request leave of any kind to obtain the vaccine for yourself; however, you are expected to notify your supervisor of your activity and expected return time.

Individuals who are unable to get vaccinated due to a medical condition or sincerely held religious belief, practice, or observance must contact the appropriate office outlined in this [table](#) (<https://docs.google.com/document/d/1TcWYZ0O9QCdrvoltTZYdpECW4T5oOxeUyrXfqwkiZyg/edit?usp=sharing>) in accordance with your hiring status to request a reasonable accommodation or religious exception.

USDH employees who fail to comply with the COVID-19 vaccination requirements may be subject to disciplinary action, up to and including removal. As a reminder, it is a federal crime (18 U.S.C. § 1001) for anyone to provide false information on their vaccination status. Falsification could result in an adverse personnel action, up to and including removal from their position, and affect continuing eligibility for access to classified information or for employment in a national security position. USPSCs whose contracts require them to be fully vaccinated and who fail to comply with the COVID-19 vaccination requirements may be subject to contractual action, up to and including termination.

You can find additional information regarding the vaccination requirement at the [Safer Federal Workforce website](#) (<https://www.saferfederalworkforce.gov/faq/vaccinations/>). For questions specific to how USAID is implementing the requirement, please refer to these [Frequently Asked Questions](#) (<https://docs.google.com/document/d/1vGrgku4yISfNmCjzeyof7bhrAxfM69GNEUAQg56wb4Q/edit?usp=sharing>).

Any questions concerning this notice may be directed to:

-- Critical Coordination Structure, M/CCS, [Readiness@usaid.gov](mailto:Readiness@usaid.gov) (<mailto:Readiness@usaid.gov>).

Notice 10130



# **DEPARTMENT OF AGRICULTURE**

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## USDA COVID-19 Workplace Safety Plan

USDA's mission is to provide critical services for curbing poverty and hunger, make credit available for rural development (where approximately 20% of Americans live), stabilize or improve domestic farm income, manage the integrity of critical natural resources, ensure the quality of food supplies, develop markets for agricultural products and services, and sustain the productivity of the Nation's forests, grasslands, and natural resources. Accordingly, this USDA Workplace Safety Plan was created in response to:

- Office of Management and Budget (OMB) Memorandum [M-21-15](#), COVID-19 Safe Federal Workplace: [Agency Model Safety Principles](#) (September 13, 2021),
- Executive Order [13991](#), Protecting the Federal Workforce and Requiring Mask-Wearing (January 20, 2021), a part of the National Strategy for the COVID-19 Response and Pandemic Preparedness, and

Executive Order [14043](#), Requiring Coronavirus Disease 2019 Vaccination for Federal Employees (September 9, 2021).

It continues to be updated based on evolving guidance from the Centers for Disease Control and Prevention (CDC), guidance from other agencies, such as the General Services Administration (GSA) and the Office of Personnel Management (OPM), and the [Safer Federal Workforce Taskforce](#).

USDA created this workplace safety plan to guide how Mission Areas, Agencies, and Staff Offices can implement public health best practices as determined by the CDC. As we have done since the start of the pandemic, USDA is working to balance delivery of our critical missions with adapting to the everyday challenges that COVID-19 presents to the workforce. The health and safety of the USDA workforce, contractors, and the public is paramount.

State, local, commonwealth, territorial, or Tribal governments, may provide guidance that differs from this plan, but this is the Federal requirement minimum, regardless of such guidance. However, where a locality has imposed additional pandemic-related requirements more protective than those set forth in these model safety principles, those requirements should be followed in USDA facilities and on USDA land in that locality. USDA aims to be a partner in our communities to stop the spread of COVID-19.

In response to the OMB memorandum we have:

- issued USDA-wide guidance that is consistent with current CDC and other relevant guidance,
- reviewed the safety principles provided by the Safer Federal Workforce Task Force and adapted them to meet the needs of USDA, and
- designated a COVID-19 coordination team within USDA, including a Senior Advisor for COVID in the Office of the Secretary who coordinates the work of this team (see Appendix).

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The USDA COVID-19 workplace safety plan is as follows:

## **Health and Safety**

### **Telework and Remote Work**

USDA utilizes telework, flexible work schedules, and remote work consistent with the principles set forth in OMB Memorandum [M-21-25](#) and USDA plans for reentry and post-reentry. Employees currently working on maximum telework because of the pandemic on a frequent or regular basis will be given at least 45 days' notice and guidance before returning to the physical workplace. In some cases, mission critical work may require a shorter notification period. This information should be included in tailored agency plans (please see below on page 4 for how tailored plans are reviewed). In determining the advance notice provided to employees, USDA agencies will ensure labor management agreements are followed. USDA's agency leaders, with support from human resources (HR), evaluate activities, on an ongoing basis, that may require onsite work. As a general principle, every effort is being made to maximize the use of telework work during widespread community transmission unless it is physically impossible.

Levels of community transmission are established by consulting [CDC's COVID Data Tracker County View](#). Essential employees whose duties cannot be performed remotely are advised to follow best health practices identified by the CDC as discussed throughout the plan.

The agency uses its discretion in determining the counties relevant to the determination of the level of community transmission related to each agency facility. For example, the agency may consider the county in which an agency facility is located, the transmission levels of surrounding local counties from which employees or visitors travel to the facility, and transmission levels in counties through which employees based at a given facility regularly travel over the course of their work in the field and between various work sites.

### **COVID-19 Coordination Team**

USDA has established a COVID-19 Coordination Team which includes a representative from each Mission Area, Office of Human Resources Management, Office of the General Counsel, and two public health experts (see Appendix). The team works in collaboration with USDA unions. The Office of Operations provides occupational safety and health expertise for the National Capital Region. Mission areas leverage their mission area capacity and have been called on to support the COVID-19 Coordination Team. The team is responsible for conducting assessments to establish, implement, and monitor compliance with: (a) safety protocols for physical space including occupancy limits, cleaning, ventilation and social distancing protocols; (b) masking; and (c) determinations of onsite and telework/remote working. The USDA COVID-19 Coordination Team meets weekly to review compliance with USDA COVID-19 workplace safety plans and protocols, consider potential revisions to USDA's COVID-19 workplace safety plans and protocols, and any other operational needs. The USDA COVID-19 Coordination Team reviews draft COVID-19 workplace safety plans and protocols for USDA, makes any necessary changes, and submits plans to the Safer Federal Workforce Task Force for review and comment. As appropriate, the USDA COVID-19 Coordination Team may consult with the Safer Federal Workforce Task Force, GSA, OPM, OMB, and CDC. For privately owned and Federally leased space, the USDA COVID-19 Coordination Team coordinates with GSA, building security and

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safety committees, and facility pandemic coordinators. We have proactive and iterative engagement with Federal employee unions on draft policies and on policy implementation, per the EO. To the extent USDA agency Collective Bargaining Agreement(s) provide stronger protections to employees than those outlined in this plan, the CBA(s) is followed. Given application of safety protocols to onsite contractor employees, the COVID-19 Coordination Team coordinates with the Chief Acquisition Officers/staff.

With respect to training and notification of the workforce, because USDA encompasses such a diverse workforce, we solicit Mission Area and Agency input on how they would propose training be conducted and completed for their employees. For example, some may want to leverage town halls, while others may decide to include a mandatory training in AgLearn curriculum where the USDA workplace safety plan could be posted and employees could certify that they reviewed it. Supporting our employees, including front-line supervisors and employees is a priority for USDA. Agencies and Staff Offices are strongly encouraged to identify and implement trainings that effectively guide employees on how to work and navigate working in a hybrid, and at times fully virtual, environment.

### **Face Masks and other PPE**

Federal employees must be fully vaccinated by November 22, 2021, except in limited circumstances where an employee is legally entitled to a reasonable or religious accommodation that provides for an exception to this vaccine mandate. In addition, some contractor employees may not yet be subject to a contractual requirement to be vaccinated, and some visitors may not be fully vaccinated or decline to provide information on their vaccination status. USDA employees, onsite contractors, partners, volunteers, customers, and visitors who are fully vaccinated and working in parts of the country characterized as having “high” or “substantial” [COVID-19 transmission](#), are required to wear a mask in Federal buildings and in government owned or leased vehicles, except for the limited exceptions outlined below. Managers and employees should utilize the [CDC COVID Data Tracker](#) website to determine whether they are located in one of these areas.

The agency assesses transmission rates in a given area at least weekly to determine proper mask-wearing requirements.

When the level of transmission related to a given agency facility increases from low or moderate to substantial or high, the agency has a process to promptly put in place more protective safety protocols consistent with CDC guidelines and guidance from the Safer Federal Workforce Task Force as soon as operationally feasible.

When the level of transmission related to a given agency facility is reduced from high or substantial to moderate or low, the level of transmission must remain at that lower level for at least two consecutive weeks before the agency utilizes those protocols recommended for areas of moderate or low transmission by CDC guidelines and guidance from the Safer Federal Workforce Task Force.

Regardless of locality, all individuals who are *not* fully vaccinated (at least 2 weeks past the final dose) are required to properly wear a mask and practice physical distancing in USDA buildings,

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USDA-owned or -leased vehicles, and on USDA property and adhere to applicable CDC quarantine requirements.

In areas of low or moderate community transmission, [CDC guidance](#) indicates that, in most settings, fully vaccinated people can safely participate in most activities, indoor or outdoor, without wearing a mask or social distancing. Individuals in this scenario may voluntarily decide to wear a mask or practice physical distancing but are not required to do so. **Current USDA policy is that all employees, contractors, and visitors must wear masks in all USDA buildings and government owned or leased vehicles, regardless of vaccination status.** This is because USDA facilities are currently: in areas of “substantial” or “high” community COVID-19 [transmission \(as defined by the CDC\)](#), have employees or visitors traveling from counties of “substantial” or “high” community COVID-19 [transmission](#), or are located in close proximity to counties of “substantial” or “high” community COVID-19 [transmission](#) through which employees or visitors may regularly travel.

These Federal masking requirements are the minimum that are required, regardless of State, local, Tribal, commonwealth, or territorial and regulations regarding masking. However, federal employees that work in areas that have more protective State, local, Tribal, commonwealth, or territorial requirements as it relates to masking should follow those masking requirements.

To the extent funds are available, USDA provides masks when requested for staff and visitors. The degree to which agencies provide PPE is negotiated with labor partners at the agency level. If any employee is unable to wear a mask properly, [CDC guidance](#) should be considered. Accommodations are made for individuals with required documentation and should be in accordance with existing USDA and Equal Opportunity Employment Commission (EEOC) guidance.

Appropriate masks must be worn consistently and properly. When required, masks must be worn while inside all Federal buildings, while inside any private office spaces leased by USDA or the Federal government, and while riding in USDA vehicles. Masks must be worn in common areas or shared workspaces (including open floorplan office space, cubicle embankments, conference rooms, and USDA vehicles).

For all unvaccinated individuals, masks must also be worn in outdoor shared spaces when physical distancing cannot be maintained as indicated by signage at USDA facilities and on USDA lands throughout the country. USDA considers that to include an array of outdoor areas, ranging from areas where people can sit outside to eat or socialize (e.g., the patio in Wing 3 of the South Building) to outdoor recreation areas (e.g. the National Arboretum).

USDA’s agencies may provide for masking exceptions consistent with [CDC guidelines](#), for example when an individual is alone in an office with floor to ceiling walls and a closed door, when an individual is alone in a vehicle, or for a limited time when eating or drinking and maintaining distancing in accordance with CDC guidelines. Exceptions to the masking requirement must be cleared by the head of the respective agency as advised by the agency’s COVID-19 Coordination Team as well as the Office of the General Counsel and in consultation with the Safer Federal Workforce Task Force. Agency employees, onsite contractors, and visitors—as well as the Safer Federal Workforce Task Force—are made aware of any approved exceptions and related science-based risk/hazard mitigation protocols consistent with CDC guidance via USDA

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communications (detailed below). This document is meant to govern workforce safety practices at USDA, but mission areas may submit tailored COVID-19 workplace safety plans for outdoor shared spaces to the USDA COVID-19 Coordination Team for approval.

Masks must cover the nose and mouth in accordance with current CDC and OSHA guidance. CDC recommends the following: Non-medical disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, and masks with inner filter pockets. USDA does not permit novelty masks, non-protective masks, masks with ventilation valves, or face shields as a substitute for masks.

Failure to comply with these requirements may lead to appropriate administrative action. This policy is to protect the health and safety of our workforce by limiting the exposure to COVID-19.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Masks do not provide the same level of protection as respirators and should not replace personal protective equipment required or recommended at the workplace.

Please note that, in addition to the circumstances outlined above, masking is required for fully vaccinated people in settings such as while flying or taking public transit.

Process for tailored plans: The development, updating, and review of tailored facility level plans is be delegated to the agency level. All plans are reviewed by the USDA COVID-19 Coordination Team and the Office of the General Counsel for final approval. Agencies are expected to post final plans on the Department's SharePoint site.

## **Vaccination Status for Employees, Contractors, and Visitors**

### **- Vaccination Status for Employees**

To ensure the safety of the USDA workforce, all USDA employees must be fully vaccinated by November 22, 2021, except in limited circumstances when an employee is legally entitled to an accommodation that provides an exception to this requirement. Employees are considered "fully vaccinated" two weeks after receiving the requisite number of doses of a COVID-19 vaccine approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization. For Pfizer-BioNTech, Moderna, or AstraZeneca/Oxford, that is 2 weeks after an employee has received the second dose in a 2-dose series. For Johnson and Johnson (J&J)/Janssen, that is 2 weeks after an employee has received a single-dose. Clinical trial participants from a U.S. site who are documented to have received the full series of an "active" (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated 2 weeks after they have completed the vaccine series. Currently, the U.S.-based AstraZeneca and Novavax COVID-19 vaccines meet these criteria. A recent antibody test cannot be used to prove vaccination status.

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Employees who are on maximum telework or working remotely are not excused from this requirement because employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely.

For employees in the National Capitol Region, USDA recently re-established its Health Unit, which has vaccinations and boosters available. The location is 1411 South Building and employees should call (202) 720-9522 to make an appointment. Two satellite clinics are being stood up in the Whitten Building and the George Washington Carver Center. Details for those satellite clinics will be shared when it is available.

When a Federal employee is required to be vaccinated, the time the employee spends obtaining any required COVID-19 vaccination dose (including travel time) is duty time; thus, there is no need for the employee to take administrative leave for such time during the employee's basic tour of duty. If, due to unforeseen circumstances, the employee is unable to obtain the vaccine during basic tour of duty hours the normal overtime hours of work rules apply.

In most circumstances, the agency authorizes employees to take up to four hours to travel to the vaccination site, complete any vaccination dose, and return to work—for example, up to eight hours of duty time for employees receiving two doses. (If an employee needs to spend less time getting the vaccine, only the needed amount of duty time should be granted.)

The agency requires employees taking longer than four hours to document the reasons for the additional time (e.g., they may need to travel long distances to get the vaccine). If, due to unforeseen circumstances, the employee is unable to obtain the vaccine during basic tour of duty hours, the normal overtime hours of work rules apply.

Reasonable transportation costs that are incurred as a result of obtaining the vaccine from a site preapproved by the agency are handled the same way as local travel or temporary duty cost reimbursement is handled based on agency policy and the Federal Travel Regulation.

Supervisors should, based on Government-wide guidance grant leave-eligible employees up to 4 hours of administrative leave to employees who choose to receive a COVID booster shot. If an employee needs to spend less time getting the booster shot, only the needed amount of administrative leave should be granted. Additional time may be granted for extenuating circumstances such as the distance to the vaccination site. Employees may only receive administrative leave during their normal work hours and may not receive administrative leave or overtime work for time spent getting a booster shot outside their tour of duty.

Employees receive paid time off to address any side effects for the vaccination or booster. Administrative leave of up to two days is authorized if any employee has an adverse reaction to a COVID-19 vaccination dose that prevents the employee from working (i.e., no more than 2 workdays for reactions associated with a single dose). Employees should work with their supervisor and HR organization to change timesheets in accordance with this guidance and answer any specific questions the employee might have. If an employee requests more than 2 workdays to recover, the agency (e.g., supervisor) may make a determination to grant emergency paid leave under the American Rescue Plan Act—if available—or the employee may take other appropriate leave (e.g. sick leave) to cover any additional absence.

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Employees impacted by this mandate who receive required COVID-19 vaccinations on or after the date of the Executive Order (September 9, 2021) may be afforded coverage under the Federal Employees' Compensation Act (FECA) for any adverse reactions to the vaccine itself, and for any injuries sustained while obtaining the vaccination.

Employees also receive up to four hours of administrative leave per dose to accompany a family member being vaccinated. For this purpose, a "family member" is an individual who meets the definition of that term in OPM's leave regulations (see 5 CFR 630.201). If an employee needs to spend less time accompanying a family member who is receiving the COVID-19 vaccine, the agency grants only the needed amount of administrative leave. Employees should obtain advance approval from their supervisor before being permitted to use administrative leave to accompany a family member who is receiving a COVID-19 vaccination. Employees are not credited with administrative leave or overtime work for time spent outside their tour of duty helping a family member get vaccinated. This policy applies to covered vaccinations received after July 29, 2021.

All employees, even if they have previously attested to their vaccination status, must provide proof of vaccination, except in limited circumstances where an accommodation is legally required. Proof of vaccination means a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation or verification containing required data points (the document submitted must identify the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s)). Employees must certify under penalty of perjury that the documentation they are submitting is true and correct.

Employees may provide a digital copy including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above.

Employees must submit proof of vaccination by clicking [here \(restricted USDA employees\)](#). Employees should contact their supervisor with questions about submitting proof of vaccination.

Only persons with a need to know have access to an employee's vaccine verification information. The documentation is held in accordance with all applicable laws, including the Privacy Act and Rehabilitation Act of 1973. If an employee signs and submits a paper form, then this form, like all medical information, must be kept confidential and stored separately from the employee's personnel files.

In requesting this vaccination information from employees, onsite contractor employees, and visitors, the agency: (1) complies with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act, and any applicable collective bargaining obligations; (2) takes steps to promote privacy and IT security, while also providing the relevant information to those who need to know in order to implement the safety protocols; (3) consults with its Agency Records Officer, Chief Information Officer, and Senior Agency Official for Privacy to determine the best means to maintain this information to meet the agency's needs; and (4) only disseminates this vaccination information to the appropriate agency officials who have a need to

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know to ensure effective implementation of the safety protocols, which, in many cases, includes the supervisor level.

USDA will not disclose, except in limited circumstances when authorized, the vaccination status of its employees consistent with applicable laws that require the Agency to maintain the confidentiality of Federal employee medical information, including the confirmation of COVID-19 vaccination. While USDA cannot divulge vaccination status, USDA has implemented a robust workplace safety program to limit the spread of COVID-19. Employees are expected to comply with USDA's established safety protocols for vaccinated and unvaccinated employees.

If a Federal employee refuses to be vaccinated or provide proof of vaccination and does not have an approved religious or reasonable accommodation for a vaccine exception, USDA will pursue disciplinary measures, up to and including removal from Federal service.

When an employee discloses that they are not fully vaccinated or declines to provide their vaccination status to USDA, or until USDA knows the vaccination status of an employee, the employee must follow the protocols for an individual who is not fully vaccinated, pending any appropriate disciplinary action if the employee has not requested an exception and does not have an exception request under consideration by the deadline for vaccination.

Individuals who start their government service prior to November 22, 2021 must be fully vaccinated by November 22, 2021, except in limited circumstances where an accommodation is legally required. Individuals who start their government service after November 22, 2021, need to be fully vaccinated prior to their start date, except in limited circumstances where a reasonable or religious accommodation is legally required. If an agency has an urgent, mission-critical hiring need to onboard new staff who cannot be fully vaccinated by November 22, 2021, such new hires must be fully vaccinated within 60 days of their start date (except in limited circumstances where a religious or reasonable accommodation is legally required), and they must follow safety protocols for not fully vaccinated individuals until they are fully vaccinated. OPM has issued [further](#) guidance to agencies, including suggested language for job opportunity announcements and tentative and final offer letters. USDA has incorporated OPM's further guidance.

Employees on extended leave of absence (e.g., utilizing annual leave, sick leave, donated annual leave, military leave, leave without pay, paid parental leave, unpaid leave under Family and Medical Leave, or due to receiving workers compensation) must submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to the employee returning to duty. Such employees are not required to be vaccinated by the November 22, 2021 deadline, as long as they are on extended leave of absence and will not return to work until a later date.

Seasonal employees must submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to returning to duty. Such employees are not required to be vaccinated by the November 22, 2021 deadline, as long as they will not return to duty until a later date.

Employees who are on detail to another executive branch agency must be fully vaccinated by November 22, 2021. Detailed employees should follow the procedures of their home agency for submitting documentation to demonstrate their compliance with the vaccination requirement.

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Employees who are detailed to positions outside of an executive branch agency must submit documentation establishing that they are fully vaccinated (or request a legally required exception) prior to the employee returning to duty at their home agency. Employees who are overseas should follow their Chief of Mission.

Employees covered by Executive Order 14043 who fail to comply with a requirement to be fully vaccinated or provide proof of vaccination and have neither received an exception nor have an exception request under consideration, are in violation of a lawful order. Employees who violate lawful orders are subject to discipline, up to and including termination or removal. Consistent with the Administration's policy, USDA will initiate an enforcement process to work with employees to ensure their compliance.

If an employee has provided notice that they are leaving federal employment and are on leave until the date they depart, USDA will not enforce the vaccine requirement of Executive Order 14043.

**- Exceptions to the Vaccine Requirement for Employees**

Federal employees must be fully vaccinated other than in limited circumstances where the law requires USDA to provide an accommodation to an employee who cannot be vaccinated against COVID-19 because of a medical condition or because of a sincerely held religious belief, practice, or observance. Employees may request a medical or religious accommodation.

Employees who wish to request an exception to this requirement for medical reasons should submit a request for a reasonable accommodation to their Reasonable Accommodation Coordinator. [Here](#) is a link to the Reasonable Accommodation Coordinators.

Employees who wish to request an exception to this requirement due to a sincerely held religious belief or practice should submit their request for a religious accommodation to their Religious Accommodation Coordinator. [Here](#) is a link to the Religious Accommodation Coordinators, which includes a religious accommodation request form. Requests must be in writing but there is no requirement to use a particular form or format. Employees who do not answer all the questions on the provided form are not disqualified from requesting a religious accommodation. However, employees should provide sufficient information to support their requested accommodation. Failure to provide sufficient information may lead to a decision-maker denying the request.

USDA will not pursue disciplinary measures for failure to comply with the vaccination requirement against an employee who has a pending request for an accommodation related to the vaccine requirement.

Determining whether an exception is legally required will include consideration of factors such as the basis for the claim; the nature of the employee's job responsibilities; and the reasonably foreseeable effects on the agency's operations, including protecting other agency employees and the public from COVID-19.

If an employee's request for accommodation is denied, following the agency's established process for consideration and appeal, the agency will require that employee to receive their first

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(or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee must receive the second dose within 6 weeks of receiving the first dose. Departmental Regulation 4300-008 permits employees to request reconsideration within 10 business days. A request for reconsideration does not extend the time limits for initiating administrative, statutory, or collective bargaining claims. However, employees are not required to receive their COVID vaccination until after the timeframe for reconsideration has passed.

Generally, employees who are approved for accommodation would need to follow applicable masking, physical distancing, and testing protocols (if required) for individuals who are not fully vaccinated, as well as applicable travel guidance.

#### **- Vaccination Status and Other Safety Protocols for Contractor Employees**

Pursuant to [Executive Order 14042](#) on Ensuring Adequate COVID Safety Protocols for Federal Contractors, as well as the Safer Federal Workforce Task Force's guidance and Frequently Asked Questions for Federal contractors and subcontractors, and in addition to any requirements or workplace safety protocols that are applicable because a covered contractor or subcontractor employee is present at a Federal workplace, Federal contractors and subcontractors with a covered contract for construction or services above the simplified acquisition threshold are required to comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force at <https://www.saferfederalworkforce.gov/contractors/>. That guidance includes details regarding the following workplace safety protocols:

- Covered Contractor Employees must be fully vaccinated for COVID-19 by January 18, 2022, except in limited circumstances where an employee is legally entitled to an accommodation.
- All individuals, including covered contractor employees and visitors, must comply with the Guidance related to [Masking and Physical Distancing](#) while in covered contractor workplaces.
- Designation of a Point Person or Persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

Covered contractors are also required to include the substance of this [contract clause](#) in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

This new clause applies to contracts and contract-like instruments, as defined under Executive Order 14042, under the following timelines:

- New contracts awarded on or after November 14, 2021 from solicitations issued before October 15, 2021 (this includes new orders awarded on or after November 14, 2021 from solicitations issued before October 15 under existing indefinite-delivery contracts).
- New solicitations issued on or after October 15, 2021 and contracts awarded pursuant to those solicitations (this includes new solicitations issued on or after October 15, 2021 for

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orders awarded pursuant to those solicitations under existing indefinite-delivery contracts).

- Extensions or renewals of existing contracts and orders awarded on or after October 15, 2021.
- Options on existing contracts and orders exercised on or after October 15, 2021.

Pursuant to the Guidance, the [Executive Order](#) 14042 applies to all procurement contracts and contract-like instruments for services or construction, services covered by the Service Contract Act (including concession contracts), and contracts in connection with Federal property or lands and related to offering services to Federal employees, their dependents, or the general public. The term contract or contract-like instrument also includes lease agreements, cooperative agreements, licenses, and permits. The [Executive Order](#) 14042 also applies to solicitations, extensions or renewals, and exercises of options for these types of contracts and contract-like instruments.

The [Executive Order 14042](#), however, exempts (1) grants; (2) contracts, contract-like instruments, and agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act; (3) contracts or subcontracts below the simplified acquisition threshold; (4) employees who perform work outside the United States or its outlying areas; and (5) contracts or subcontracts solely for the provision of products (including commodity purchases).

To the extent allowable under agency authorities, USDA strongly encourages agencies and higher-tier contractors to incorporate these requirements into contracts excluded by the [Executive Order 14042](#), such as contracts under the simplified acquisition threshold and contracts and subcontracts for products.

#### **- Vaccination Status for Onsite Contractor Employees**

A “contractor”, for purposes of this section, is defined as a contractor employee performing a procurement contract providing goods or services for the direct use of the Federal government that is governed by the Federal Acquisition Regulation or performing work under a contract-like instrument, on-site.

“Onsite” contractors may include contractor personnel who share USDA facilities (which includes vehicles and aircraft) or work at an outdoor site together with Federal employees on a regular basis on activities that make social distancing impractical or is contraindicated by operational needs to complete work to be performed (e.g., FS firefighting crews; county committee meetings and executive sessions).

#### **A. Onsite Contractor Employees Not Subject to a Contractual Requirement to be Vaccinated**

Prior to a contractor’s employees being subject to a contractual requirement to be vaccinated, USDA will ask about the vaccination status of those onsite contractor employees. Onsite contractor employees must attest to the truthfulness of the responses they provide by completing the [Certification of Vaccination form](#) and present it upon entry to a Federal Building or Federal worksite. A paper copy of the form can also be completed upon arrival. Onsite contractors are expected to keep the completed Certification of Vaccination form on their person while they are inside a Federal building.

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Onsite contractor employees who are not yet contractually required to be vaccinated and who are not fully vaccinated or who decline to provide information on their vaccination status must provide proof of a negative COVID-19 test from no earlier than 3 days prior when in a Federal building. Of note, it is 3 days from when the test was taken (not 3 days from when the results became available). If a contractor employee is regularly tested pursuant to an agency screening testing program, they do not need to provide proof of a negative COVID-19 test from no later than 3 days when in a Federal building unless required by the agency testing program.

USDA may email the form to contractor employees in advance of their time onsite or utilize a unique tool or application to share the form with contractor employees and enable them to easily complete it. For those onsite contractor employees who do not have access to email or applications, USDA has determined the best method of distribution, including by having printed copies of the form at the entry point to the worksite.

#### **B. Onsite Contractor Employees Subject to a Contractual Requirement to be Vaccinated**

For contractor employees who do have a contractual requirement to be vaccinated, it is the responsibility of the COR (Contracting Officer Representative) or agency-authorized official for a contract-like agreement to work with the covered contractor entity Designated Point of Contact to determine the vaccination status of covered contractors and ensure they follow the appropriate COVID safety protocols. For example, agencies with employees and a covered contractor on the same floor with shared facilities could ask the contractor to submit a weekly vaccination status list for its employees to be onsite that week to the COR and then the agency can make such adjustments as needed for physical distancing, etc., without need for the covered contractor employee to present a Certification of Vaccination at the agency location.

Unless separate arrangements are made with a contractor entity by the contracting officer representative (COR) or agency-authorized official for a contract-like agreement (see below), onsite contractor employees subject to a contractual requirement to be vaccinated still must complete the Certification of Vaccination form, provide it to the agency, and keep a copy with them during their time on Federal premises—they may be asked to show the form upon entry to a Federal building or Federally controlled indoor worksite and to a Federal employee who oversees their work. If collected at the onsite USDA agency, Certification of Vaccination forms from contractor employees may be collected and maintained in accordance with the Privacy Act under system of records, USDA/OSEC-02 Contractor and Visitor Public Health Emergency Records 86 Fed. Reg. 62,142 (November 9, 2021). Forms will be distributed to contractor employees in the same manner as indicated above.

For delivery services in a large building (such as the South Building in DC), where a delivery driver may spend more than 30 minutes delivering packages to various offices, the non-employee contractor/visitor vaccine certification form should be completed. For one off short drop-offs in small buildings (approximately 30 minutes or less), the vaccine certification form is not required but these individuals do need to follow the masking requirements.

#### **- Vaccination Status for Visitors and Customers**

A visitor is defined as anyone who is not a USDA employee or a contractor and includes categories such as: volunteers, retirees, people with appointments with the agency, and

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stakeholders. Visitors should complete the Certification of Vaccination [form](#) in advance or complete in paper copy upon arrival. USDA facilities are be instructed to make paper copies of the blank certification of vaccination form available at building entrances, as appropriate.

Visitors are expected to show the completed form upon entry into a Federal building or Federally controlled indoor worksite and then keep the form on their person while they are inside a Federal building or Federal worksite. It is the responsibility of the host agency (including in multi-tenant buildings) to ensure that a visitor has completed the vaccine certification form and is following the appropriate COVID safety protocols. Agencies should do this in a way that makes the most sense for them. In co-located facilities, agencies are required to harmonize on how they are checking the information and ensure compliance with appropriate COVID safety protocols. Agencies should not collect or maintain visitors' certification of vaccination forms at this time.

Visitors who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a Federal building.

Of note, members of the public entering a USDA building or USDA land to obtain a public service or benefit are not required to provide their vaccination status or proof of a recent negative COVID-19 test. USDA defines a public benefit or service as applying to all visitors at services centers or field offices, recreation areas, food and nutrition direct service centers, and grain offices. If they are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people.

If a customer refuses to comply with USDA's safety protocols, USDA employees can considerately make customers aware of the masking requirement. Customers who do not honor USDA's requirement should be asked, politely, to do so. If the customer refuses, that is the individual's right, but they must be directed to conduct business off-site (over the phone or online) and to please depart the premises. USDA employees should remain respectful yet safe and call for assistance from local authorities if the situation cannot be resolved.

## **Testing**

At this time, USDA is not establishing a Department-wide COVID screening testing program. In limited situations, agencies may establish a screening programing as part of their agency tailored plans. Should an employee with an exception to the vaccination requirement have an accommodation that includes regular testing, USDA will provide more information to the employee on those testing requirements consistent with forthcoming Safer Federal Task Force guidance.

USDA is establishing a process for employee diagnostic testing after a workplace exposure. As of right now, diagnostic testing is available at the Health Unit in the South building which is located at Headquarters. More information on that process is forthcoming. Federal employees who have been exposed to persons with COVID-19 at work will receive diagnostic testing at no cost to the employee.

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## Contact Tracing

USDA's COVID-19 Coordination Team collaborates with and supports the contact tracing programs of mission areas to assist local health departments to identify, track, and manage contacts of COVID-19 cases. Facility pandemic coordinators implement infection control and workplace safety efforts once informed of a known or suspected case of COVID-19 (either due to specific symptoms or positive test).

Facility pandemic coordinators have the responsibility to make disclosures to local public health officials as required or necessary to provide for the public health and safety of Federal employees and contractors, in accordance with local public health mandates. Within the National Capital Region (NCR), the Director of the Office of Safety, Security and Protection is USDA's NCR pandemic coordinator and has responsibility for notification. Employees who have returned to the office must report if they subsequently receive a positive COVID-19 result. Employees who remain on maximized telework and have not come into a USDA workspace may report a COVID-19 positive result. All positive COVID-19 cases reported (for employees and contractors) must be entered into the Department's COVID Positive Test Dashboard which is accessible by the Pandemic Coordinators. In the Nation Capital Region, employees can access the SharePoint Tracker tool (which feeds the dashboard) to see test positive cases in the buildings.

If 3 or more COVID-19 cases occur in a month within a specific building or work setting, it is the responsibility of USDA's COVID-19 Coordination Team (or a field office/USDA component designee) to determine—in consultation with local public health officials—appropriate next steps. This may include potential redesign of safety practices in the building/work setting and/or reevaluation of work scheduling. USDA is transparent in communicating related information to the workforce, as relevant and appropriate, consistent with local and Federal privacy and confidentiality regulations and laws.

The agency is transparent in communicating related information to the workforce, as relevant and appropriate. Disclosures by the agency regarding COVID-19 cases are consistent with Federal, State, and local privacy and confidentiality laws and regulations.

## Travel for Official Business

To protect employee health and safety, all employees, regardless of vaccination status, should continue to limit official travel to mission critical activities, through January 3, 2022 when most USDA employees will begin their phased return to the physical workplace. Until January 3, 2022, any work-related travel must be assessed by managers to determine whether it meets the mission critical requirements and managers should consider transmission rates in the community to which the employee travels. Mission critical refers to activities necessary for the ongoing operation of the Department and its programs which cannot be performed remotely. Until January 3, 2022, employees should continue to limit official travel to mission critical activities, as determined by each Agency, and follow CDC guidance, as appropriate. This decision to limit official travel to mission critical activities is made with the health and safety of our employees in mind. In limited circumstances where official travel is involved, agencies may assign work based on an employee's vaccination status where the quarantine requirements for unvaccinated individuals in the destination locale would negatively impact the unvaccinated employee's ability to perform the assignment.

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Official international travel should be limited to mission critical (e.g., military deployments, COVID-19 response deployments/activities, diplomats traveling, high-level international negotiations that cannot occur remotely), through January 3, 2022. Private transportation for official travel is preferred to use in lieu of public or other communal transportation, in combination with other safety/security guidance. USDA follows guidance from the Department of State with regard to USDA employees at overseas duty stations.

**All travelers, including fully vaccinated Federal employees, should continue to take health and safety precautions.** CDC COVID-19 [prevention measures](#) continue to apply to all travelers, including those who are vaccinated. All travelers are required to [wear a mask](#) over nose and mouth on all planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in U.S. transportation hubs such as airports and stations.

USDA employees traveling for official business should adhere to [CDC guidelines on travel](#). Supervisors must comply with any tailored agency plan before approving official travel and employees must follow any tailored agency plan before, during, and after official travel. At this time, CDC guidance includes the following precautions: carefully assessing travel risk prior to travel, wearing a mask during all portions of a trip, maintaining physical distance from non-household members, maintaining good hand hygiene by regularly washing hands with soap and water, or using alcohol-based hand sanitizer if soap and water are not available, and getting tested and staying home after higher-risk travel (as defined by the CDC) before returning to the workplace. The CDC has extensive guidelines for both domestic and international travel, and federal workers should consult these resources carefully before deciding to travel.

Federal employees who are fully vaccinated do not need to get tested before or after domestic travel or self-quarantine after travel, unless required by their destination.

However, all air passengers coming to the United States from abroad, including Federal employees who are fully vaccinated, are [required](#) to have a negative SARS-CoV-2 viral test result no more than three days before the flight to the United States departs or must show documentation of recovery from COVID-19 within the previous 90 days before they board a flight to the United States.

Fully vaccinated travelers are advised by the agency that they should also, after traveling abroad, get tested with a viral test 5-7 days after traveling; self-monitor for COVID-19 symptoms; if symptoms develop, isolate and get tested; and follow all recommendations or requirements of their local U.S. destination after travel.

The cost of testing for current infection with SARS-CoV-2, required for official travel and not available through a Federal dispensary or not covered (or reimbursable) through travel insurance, can be claimed in a travel voucher as a Miscellaneous Expense under agency travel policies.

For employees who need to quarantine after work-related travel, administrative leave or weather/safety leave may be provided.

### **Off Duty Activities**

If an employee needs to quarantine based on CDC guidance due to exposure that is not related to their employment at USDA, they should telework during that period if possible. If the employee is not eligible for telework, they should follow CDC guidance on getting a COVID test and

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quarantine until they either receive negative test results or CDC guidance indicates that the quarantine period is sufficient.

If quarantine is required because of personal travel, and the employee is otherwise expected to be present onsite, the employee may take annual or sick leave while quarantining. If an employee refuses to quarantine or refuses to take annual or sick leave while under mandatory quarantine after personal travel, the agency may elect to bar the employee from the workplace for the safety of others. If the agency bars the employee from the workplace, the employee must be placed on administrative leave until the agency determines what status the employee should be placed in while on quarantine. The agency, however, should avoid placing an employee on extended administrative leave in this situation and should act quickly to determine the appropriate status for the employee.

### **Symptom Monitoring**

If USDA employees, onsite contractors, or visitors who have symptoms consistent with COVID-19, they should not enter the USDA workplace. Federal employees and contractors working on site are regularly asked to complete virtual or in-person health checks (such as a symptom questionnaire). This information is used to assess the individual's risk level and to determine whether they should be allowed entry to the workplace. Visitors are also asked to complete symptom screening before entering a USDA facility. USDA will consider using mobile/web application tools to help facilitate this process. Any individual who develops any [symptoms consistent with COVID-19](#) during the workday must immediately isolate, wear a mask, notify their supervisor, and promptly leave the workplace. USDA has processes in place to provide advice and support to supervisors on any related reporting or HR requirements.

### **Quarantine and Isolation**

Any individual (employees or contractors) with a suspected or confirmed case of COVID-19 is advised to isolate by their supervisor, pursuant to CDC guidelines, and in compliance with local laws/regulations and Tribal guidance. Personnel who have had a close contact ([as defined by the CDC](#)) with someone who has COVID-19 should follow CDC and local and Tribal guidance for quarantine. As mentioned above, employees who have physically returned to their duty station must report a subsequent positive test result to their supervisor or agency point of contact. All positive COVID-19 cases reported must be entered into the Department's Test Positive Tracking Tool, which is accessible by the Pandemic Coordinators. No personal identifiable information (PII) is collected in this tool.

Unvaccinated individuals should quarantine for 14 days following exposure if they have been in [close contact](#) (within 6 feet of someone for a cumulative total of 15 minutes or more over a 24-hour period) with someone who has COVID-19.

Fully vaccinated employees, who have come into [close contact](#) with someone with suspected or confirmed COVID-19, need to be tested 5-7 days after exposure, and to wear a mask in public

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indoor settings for 14 days or until they receive a negative test result. If their test result is positive, they should isolate for 10 days assuming they have no symptoms.

Under OSHA's recordkeeping requirements, if an employee tests positive for SARS-CoV-2 infection, the case must be recorded on the OSHA Illness and Injury Log if each of the following conditions are met: (1) the case is a confirmed case of COVID-19; (2) the case is work-related (as defined by 29 CFR 1904.5); and (3) the case involves one or more relevant recording criteria (set forth in 29 CFR 1904.7) (e.g., medical treatment beyond first aid, days away from work). USDA agency follows state and county reporting requirements and complies with state and county contact tracing efforts.

If an employee is subject to isolation due to being infected with COVID-19 and is unable to telework, the employee may request sick leave, as weather and safety leave would be unavailable. Employees may also request accrued annual leave and other forms of paid or unpaid leave in this situation as appropriate. (See OPM CPM 2020-05, March 7, 2020)

### **Confidentiality**

All medical information collected from personnel, including vaccine status, test results and any other information obtained as a result of testing and symptom monitoring, is treated confidentially in accordance with applicable law, and accessible only by those with a need to know in order to protect the health and safety of personnel. The point of contact for all questions relating to personal medical data is the agency Reasonable Accommodation Coordinators since they are experienced in managing personal medical data. [Here](#) is a link to the Reasonable Accommodation Coordinators. Employees are asked to refer questions related to reasonable accommodation to the coordinators in their mission area, who are familiar with protecting medical data.

USDA takes steps to promote privacy and IT security, while also providing the relevant information to agency officials who need to know in order to implement the safety protocols. USDA consults, as appropriate, with its Agency Records Officer, Chief Information Officer, Chief Medical Officer, Senior Agency Official for Privacy, and agency legal counsel to determine appropriate information management protocols.

### **Workplace Operations**

USDA expects all employees, onsite contractors, and all persons in USDA buildings or on USDA lands who have not received a vaccine to properly wear face masks, maintain physical distance, and take other public health measures as appropriate, which may also include wearing a face shield or other personal protective equipment (PPE).

### **Occupancy**

After January 3, 2022, the 25% occupancy limit will no longer be in effect. However, implementation of agency reentry plans is at the discretion of each agency to manage, and USDA considers the level of community transmission in implementing each phase of its phased reentry plan.

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## Meeting, Conference, and Events

Any meeting, conference or event that is attended by more than 50 in-person participants requires approval by the agency head, in consultation with USDA's public health experts, Drs. Bleich and Parham. This approval process only applies for agency hosted events and includes both indoor and outdoor events.

In person attendees at any meeting, conferences, and events hosted by USDA, regardless of size, must be asked to provide information about vaccination status. In requesting this information, USDA complies with any applicable Federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act. In person attendees who are not fully vaccinated or decline to provide information about their vaccination status must provide proof of a negative COVID-19 test completed no later than the previous 3 days and comply with masking and physical distancing requirements for individuals who are not fully vaccinated consistent with the requirements for visitors. In person attendees in areas of high or substantial transmission must wear a mask in public indoor settings regardless of vaccination status.

## Physical Distancing

To the extent practicable, individuals who have not been vaccinated are asked to maintain distance of at least six feet from others at all times, consistent with CDC guidelines, including in offices, conference rooms, and all other communal areas and workspaces. Distance and testing are not substitutes for wearing masks. Individuals must maintain distance AND properly wear masks (see guidance above). Reconfiguration of workspaces or office assignments, and other mitigation strategies have been implemented to minimize interactions. As noted above, masks should also be worn in outdoor shared spaces when physical distancing cannot be maintained. Please see communications section below detailing how information is shared with various USDA stakeholders.

## Environmental Cleaning and Disinfection

Enhanced cleaning and disinfection in common use/high touch/high density spaces, such as lobbies, restrooms, elevators, and stairwells are provided. Office space that is in regular use are cleaned and disinfected regularly, and in accordance with CDC guidelines. Wipes, gloves, and EPA-approved disinfectants are made available for individuals to wipe down their workstation and related personal property. Physical barriers such as plexiglass shields will be installed where appropriate as determined by the COVID Coordination Team. Signage and cleaning supplies are provided where shared tools and equipment are located to ensure that users disinfect and clean before and after usage.

In the event of a suspected or confirmed case of COVID-19 in the workplace (if the individual had been in the building up to seven days prior), enhanced environmental cleaning and disinfection are performed in accordance with CDC and GSA guidance, which provides as follows:

- If fewer than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, clean and disinfect the space.

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- If more than 24 hours have passed since the person who is sick or diagnosed with COVID-19 has been in the space, cleaning is enough. The space may be disinfected depending on certain conditions or everyday practices required by the facility
- If more than 3 days have passed since the person who is sick or diagnosed with COVID-19 has been in the space, no additional cleaning (beyond regular cleaning practices) is needed.

A person has suspected COVID-19 if they show symptoms of COVID-19 but either have not been tested via a viral test or are awaiting test results. If such enhanced cleaning is required, we wait 24 hours before cleaning or disinfecting. If 24 hours is not feasible, we wait as long as possible, ideally at least several hours. Personnel and visitors may be asked to vacate the affected space until cleaning and disinfection is completed. As mentioned above, all positive COVID-19 cases reported must be entered into the Department's SharePoint Tracker tool which is accessible by the Pandemic Coordinators and employees in the NCR.

USDA's COVID-19 Coordination Team or local offices, as appropriate, will determine the suitable scope of workplace closures—in some cases, it may be a suite of offices or part of a floor, in other cases, it may include an entire building.

## Hygiene

Hand sanitizer stations are available at the building entrance and throughout workspaces, and contain FDA-approved hand sanitizer, with at least 60% ethanol. Ingredients should be listed on a "Drug Facts" label. USDA will ensure the hand sanitizer is not on the FDA's [do not use](#) list. Personnel are encouraged to wash their hands with soap and water for at least 20 seconds or use hand sanitizer or alcohol-based hand rubs frequently. They are also encouraged to follow [CDC guidance](#) on hand hygiene before eating, drinking or smoking, and after using the restroom.

## Ventilation and Air Filtration

To the maximum extent feasible, indoor ventilation has been optimized to increase the proportion of outdoor ventilation, improve filtration, and reduce or eliminate recirculation. This has been completed and continues to be monitored for space occupied at the Headquarters Complex (Whitten and South Building) and the George Washington Carver Center. GSA and other private landlords handle the other leased facilities in the NCR including the Yates Building, Braddock Road, Riverdale, Thomas Circle, and Patriots Plaza. Agencies with field offices are responsible for these changes. Additional modifications may be considered in accordance with [CDC guidance](#), including as percent occupancy increases.

## Visitors

At this time, the number of visitors to the USDA workplaces is minimized, and efforts should be made to conduct visits virtually where possible. Specifically, we restrict visitors to essential, time-sensitive, scheduled visits only, require visitors to be escorted at all times and limit visitor access to non-essential areas of the USDA. Any visitor may be screened, tested if appropriate, and asked to fill out a symptom questionnaire form before entering the workplace. Visitors are expected to

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follow [CDC guidance](#) for mask wearing and physical distancing in USDA or USDA leased facilities. Please see the guidance, above.

### **Staggered Work Times and Cohort-Based Scheduling**

Personnel are encouraged to stagger work times to reduce density, minimize traffic volume in elevators, and avoid crowds during commuting. USDA is also able to implement team or cohort-based scheduling, to help reduce exposure. USDA HR teams consult with OPM as needed to understand the pay and leave implications surrounding staggered work schedules and other flexibilities.

### **Elevators**

Occupational health professionals in USDA have assessed elevators to determine safe occupancy. Individuals must wear masks in elevators and in elevator lobbies. The use of stairs by those who are physically able is strongly encouraged. Signage is posted to explain current procedures. Occupational health professionals have assessed shared space occupancy to determine safe occupancy levels. USDA facilities are responsible for developing controls to enforce elevator occupancy limits.

### **Shared spaces**

Shared tools and equipment must be disinfected by users anytime the equipment is used by or transferred to a new person, and disinfectant wipes are provided by USDA or the agencies. This includes phones, computers and other communication devices, kitchen implements, and other office equipment. Refrigerators, water coolers, and coffee brewers with disposable cups (or a personal re-usable cup/container) and single serve condiments and creamers may be used with proper hand hygiene. Visual markers may be installed to promote physical distancing within common spaces, and furniture may be removed. Steps may be taken to limit the number of people who can use common spaces at any one time, and signage outlining these limits should be prominently displayed.

### **Agency communication plan to inform Federal employees, onsite contractors, and visitors of current and upcoming policy changes**

USDA educates and informs employees, contractors, and visitors to USDA facilities and federal lands in a variety of ways.

### **Employees and Onsite Contractors**

The USDA Intranet is a primary tool for communicating internal messages to staff working remotely as well as onsite. All USDA employees have access to the Intranet; guidance documents, memos, and letters from the leadership are posted regularly. Separately, the Office of the Secretary regularly distributes guidance (talking points) to Subcabinet officials, Agency Heads, and senior staff to help communicate directly to their teams; these leaders provide guidance to supervisors and line managers. The Office of the Secretary also uses email marketing techniques to reach staff and contractors with important news and information. Using email, USDA issues Department-wide guidance about evolving [CDC guidance](#) on masking and physical

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distancing. Finally, USDA posts signage and key messages at gateways of entry, doors, reception desks, commons areas such as restrooms and hallways, conference rooms, and Ranger District stations that provide information about policies and procedures related to COVID-19 for staff and contractors alike. For example, these messages communicate the current indoor masking requirement.

### **Visitors and the Public**

USDA websites—USDA.gov as well as hundreds of agency, state office, and National Forest websites—are the primary means of communicating with the public. USDA and USDA Agencies also share key messages with the public via social media (Twitter, Facebook, Instagram, YouTube). USDA posts signage and key messages at gateways of entry, doors, reception desks, commons areas such as restrooms and hallways, conference rooms, and Ranger District stations that provide information about policies and procedures related to COVID-19 (e.g., wearing a mask indoors). USDA also utilizes radio via the USDA Radio services to distribute prepackaged radio stories and PSAs to radio stations across the country.

### **Engagement with USDA Unions**

USDA's COVID-19 safety plan is shared with the unions that have National Consultation Rights in draft form for feedback and input on implementation. Similarly, each USDA agency shares the safety plan with their respective union(s). This feedback guides policy development and implementation plans.

There may be collective bargaining obligations over the impact and implementation of the Agency Model Safety Principles and CDC guidelines. Section 2(c) of the EO requires agencies to promptly consult, as appropriate, with employee unions. The agency should promptly notify its unions of the actions it intends to take to require compliance with CDC guidelines to provide a meaningful opportunity for the unions to consult as provided in Section 2(c) of EO 13991.

Implementation of Task Force principles and guidelines is essential to protect the health and safety of all Federal employees, onsite contractor employees, and individuals interacting with the Federal workforce in Federal buildings, in federally controlled worksites, and on Federal lands. They constitute Government-wide policy that is in effect for employees subject to the requirements of Executive Order 13991 and Executive Order 14043.

Since agencies need to act quickly due to the COVID-19 emergency and to protect the health and safety of employees, contractor employees, and visitors, USDA communicates with the appropriate union representatives as soon as possible and otherwise satisfies any applicable collective bargaining obligations under the law at the earliest opportunity, including on a post-implementation basis where appropriate.

The agency should consult with its office of human resources and agency legal counsel to determine appropriate labor relations obligations.

If USDA determines that these matters are already covered by an existing collective bargaining agreement and collective bargaining is not required, USDA will satisfy its consultation obligations, as appropriate, under Section 2(c) of EO 13991. To the extent that collective bargaining

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agreements (CBAs) have codified safety plans with more stringent safety standards than provided in CDC guidance, USDA will honor the CBAs. The agency should acknowledge any CBA safety plans in its COVID-19 Workplace Safety Plan.

**Timeline for any updates to existing agency policies**

As mentioned above, this document is established as the governing Workplace Safety Plan for USDA's COVID-19 Response and Pandemic Preparedness, and supersedes previously issued USDA guidance documents and re-opening playbooks (for the country and for the National Capital Region). By doing so, this brings existing policies into compliance with USDA's overall COVID-19 Workplace Safety Plan. Any subsequent policy updates or building/facility-specific policy updates are done in accordance with changes to CDC guidelines and guidance from the [Safer Federal Workforce Task Force](#).

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**Appendix: COVID-19 Coordination Team**

<b>Areas of expertise</b>	<b>Title</b>
<b>Executive Leadership</b>	Assistant Secretary for Administration
<b>Public Health</b>	Senior Advisors, COVID-19, Office of the Secretary
<b>Occupational Safety and Health</b>	Safety and Occupational Health Manager
<b>Human Resources</b>	Acting Chief Human Capital Officer
<b>Office of the General Counsel</b>	Assistant General Counsel

# **VETERANS AFFAIRS**



VA Central Office  
Washington, DC

October 26, 2021

**OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER (OCHCO) BULLETIN**

**SUBJECT: Mandatory COVID-19 Vaccination Frequently Asked Questions – Version 2**

This updated OCHCO Bulletin notifies Human Resources (HR) offices about updated information in the frequently asked questions (FAQ) developed to support the [VA Handbook 5019 Policy Notice](#), Mandatory Coronavirus Disease 2019 (COVID-19) Vaccination Program for VA Employees and OCHCO Bulletin, [Mandatory COVID-19 Vaccination Program for all VA Employees](#).

The intent of the FAQs is to assist HR offices in answering the most common questions employees may have regarding Executive Order 14043 and the mandate for all Federal employees to be vaccinated against COVID-19, other than in limited circumstances where the law requires an exception.

Employees should contact their HR office with questions. HR offices with questions regarding this bulletin may be referred to Worklife and Benefits Service at [vaco058worklife@va.gov](mailto:vaco058worklife@va.gov).

**Issued by: VA/OCHCO/Worklife and Benefits Service**

Attached:

COVID-19 Vaccination Frequently Asked Questions – Version 2

## COVID-19 Vaccination Frequently Asked Questions

The information below is based on guidance from the Office of Management and Budget (OMB), Safer Federal Workforce Task Force (Task Force), and Office of Personnel Management (OPM). In implementing the guidance received, the Department of Veterans Affairs (VA) must comply with all collective bargaining agreements, local supplemental agreements, and memoranda of understanding.

### **General Information**

#### **Q: Am I required to comply with the requirements in the VA Handbook 5019 Notice, published October 4, 2021?**

**A:** Yes. All VA employees are required to comply with the requirements in 5019. These requirements include being fully vaccinated for COVID-19 (and submitting proof of vaccination) or requesting an exception by the deadlines outlined in 5019.

#### **Q: What is the authority that allows the agency to require I comply with the 5019 requirements?**

**A:** On September 9, 2021, President Biden signed Executive Order (EO) 14043. The EO requires Federal agencies to establish a program requiring COVID-19 vaccination for all employees, with exceptions as required under law. Additionally, the Task Force issued guidance that requires agencies to collect documentation to prove vaccination.

#### **Q: What if I decide not to comply with the requirements in 5019?**

**A:** If you do not comply with the requirements in 5019, you will be subject to disciplinary action up to and including removal for failing to follow lawful orders.

#### **Q: Will Contract employees have to be vaccinated?**

**A:** Yes, in accordance with the terms and conditions of particular contracts when modified to include this requirement. The Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors [webpage](#) states that, pursuant to Executive Order 14042, [Ensuring Adequate COVID Safety Protocols for Federal Contractors](#).

#### **Q: The Texas Governor issued an [executive order](#) indicating that “no governmental entity can compel any individual to receive a COVID-19 vaccine.” If I live in Texas, does this mean I don’t have to get the COVID-19 vaccine?**

**A:** No. Federal employees who live in Texas are still required to follow Federal mandates. The Supremacy Clause of the U.S. Constitution, Article VI, Paragraph 2, which provides that federal law generally preempts or takes precedence over state laws, including any state executive orders prohibits states from interfering with the federal government's exercise of its constitutional powers. Thus, no state laws or executive orders can prevent VA from requiring its employees to get the COVID-19 vaccination.

**Veterans' Health Administration Healthcare Personnel**

**Q: I meet the definition of VHA Healthcare Personnel (VHA HCP). What is the date by which I need to be fully vaccinated or request an exception?**

**A:** VHA Directive 1193 was issued on August 13, 2021 and required all covered VHA HCP to receive the vaccine series within eight weeks of publication of the Directive (i.e., by October 8, 2021). VA Handbook 5019 maintains the October 8, 2021, deadline for VHA HCP to receive a full series of vaccine shots (i.e., two shots for Pfizer or Moderna and one shot for Johnson & Johnson (J&J)). You are considered fully vaccinated two (2) weeks after your last shot. If not fully vaccinated, VHA HCP must submit a request for an exception by October 18, 2021.

If you do not meet the definition of VHA HCP in VHA Directive 1193, you will be required to meet the deadline for all other VA employees of being fully vaccinated or you must request an exception by November 22, 2021. To be fully vaccinated by November 22, 2021, you must receive the full series of vaccine shots by November 8, 2021.

Note: If you have not been successful in updating your vaccination status in LEAF, please update your information as soon as possible at the [VA LEAF Vaccination Portal](#). If helpful, more instructions can be found [here](#). If you are still not able to update your vaccination status, please let your supervisor know as soon as possible. Your supervisor needs to know you are trying but have not been successful in entering your vaccine data. Although LEAF is preferred and should be the means by which employees submit this information, there is an option for employees who have difficulty accessing LEAF to use VA Form 10230.

**Q: How do I know if I am considered a VHA HCP covered under the October 8<sup>th</sup> deadline from VA Handbook 5019 Notice?**

**A:** The definition of VHA HCP is listed below. If you are in a position covered by the definition you must receive your vaccination series by October 8, 2021.

VHA HCP refers to all paid and unpaid persons who work in or travel to VHA locations who have the potential for direct or indirect exposure to patients or infectious materials, including body substances (e.g., blood, tissue, and specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air. These HCP may include, but are not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, health professions trainees (HPTs), and persons (e.g., clerical, dietary, environmental services, laundry, security, maintenance, engineering and facilities management, administrative, billing, and volunteer personnel) not directly involved in patient care but potentially exposed to infectious agents that can be transmitted from HCP and patients. HCP include all VA licensed and unlicensed, clinical and administrative, paid and without compensation, full- and

part-time, intermittent, fee basis employees who are expected to perform any or all their work at these locations. HCP also includes VHA personnel and contractor personnel providing home-based care to Veterans and drivers and other personnel whose duties put them in contact with patients outside VA medical facilities.

**Q: What does “fully vaccinated” mean?**

**A:** Individuals are considered fully vaccinated two (2) weeks after receipt of the second dose in a two-dose series, or two (2) weeks after receipt of a one-dose series.

**Q: Why are there two deadlines for VA employees to be fully vaccinated?**

**A:** To protect the health and safety of our employees and Veterans, the Secretary of Veterans Affairs initially required the COVID-19 vaccine for only VHA HCP. VHA Directive 1193 was issued on August 13, 2021 and a deadline of eight weeks from publication established October 8, 2021, for compliance. This deadline is maintained in VA Handbook 5019.

On September 9, 2021, Executive Order (EO) 14043 was issued mandating the COVID-19 vaccine for all Federal employees and established November 22, 2021 as the date by which all Federal employees must be fully vaccinated. When the EO was issued, VA and other Federal agencies who had already mandated vaccines were allowed to complete implementation of their previously announced vaccination requirements.

**Q: How do I know if I have complied with requirements for VHA HCP from VA Directive 5019?**

**A:** If you completed VA Form 10-263 confirming you received all vaccine doses by October 8, 2021 or were seeking an exception and submitted it to VHA Employee Occupational Health (EOH) with all required documentation and signatures, you were compliant with the requirements of VHA Directive 1193. With the publication of VA Handbook 5019, VHA HCP must complete a vaccination series by October 8 and submit the documentation outlined in VA Handbook 5019 or request an exception within 14 days of publication (October 18, 2021) in order to be compliant with the new Handbook, dated October 4, 2021, which superseded VHA Directive 1193, dated August 13, 2021.

**Q: If I fully complied with VHA Directive 1193, why do I now have to fill out more paperwork?**

**A:** To implement the requirements in EO 14043, all VA employees (including VHA HCP) are required to comply with VA Handbook 5019. VHA Directive 1193 has been superseded by the new process in VA Handbook 5019. Therefore, documentation is required from all employees, even those VHA HCP who already submitted the required documentation under VHA Directive 1193.

If you are a VHA HCP and do not complete a Release of Information (ROI) form in LEAF or submit a completed VA Form 10230 with attached documentation showing

proof of vaccination to your supervisor by October 18, 2021, you may be subject to disciplinary action up to and including removal.

Note: If you have not been successful in updating your vaccination status in LEAF, please update your information as soon as possible at the [VA LEAF Vaccination Portal](#). If helpful, more instructions can be found [here](#). If you are still not able to update your vaccination status, please let your supervisor know as soon as possible. Your supervisor needs to know you are trying but have not been successful in entering your vaccine data. Although LEAF is preferred and should be the means by which employees submit this information, there is an option for employees who have difficult accessing LEAF to use VA Form 10230.

**Q: Now that the President has required all Federal employees to be fully vaccinated will VA continue to have two COVID-19 vaccine policies?**

**A:** No. VHA Directive 1193 is [replaced](#) by VA Handbook 5019, which was published on October 4, 2021. VA Handbook 5019 maintains the October 8, 2021 deadline for VHA HCP to complete a vaccination series which is listed in VHA Directive 1193.

**Executive Order 14043**

**Q: What if I am a VA employee but not a VHA HCP as defined in VA Handbook 5019?**

**A:** As noted above, EO 14043 mandates all Federal employees be fully vaccinated for COVID-19. The SFWTF issued implementation guidance requiring all Federal employees to be fully vaccinated or request a medical or religious accommodation by November 22, 2021, to comply with the EO 14043 requirement. All VA employees (except VHA HCP with earlier deadlines) must receive their last dose of their COVID-19 vaccine no later than November 8, 2021 to meet the November 22, 2021, deadline to be fully vaccinated against COVID-19.

**Q: I am a remote worker. Does this apply to me?**

**A:** Yes. Every Federal employee, to include remote employees, virtual employees, and employees on maximum telework, are required to receive the COVID-19 vaccine or request a medical or religious exception by October 18, 2021 but no later than November 22, 2021.

Section 3 of [Executive Order 14043](#), Requiring Coronavirus Disease 2019 Vaccination for Federal Employees defines “employee” based on the definition in [5 U.S.C. 2105](#), which is to say it covers all VA employees regardless of whether an individual is working from home or an approved alternate worksite.

In addition, implementing guidance from the Safer Federal Work Force Task Force [frequently asked questions](#) specifies that maximum telework employees and those working remotely were not excused from the requirement because such employees may

interact with members of the public as part of their duties and employees may be recalled back to the office. In addition to the circumstances mentioned in the guidance, an employee may need to be onsite for required training, to repair computer equipment, or renew PIV badges, etc.

**Q: What are the timeframes for me to become fully vaccinated?**

**A:** The timeframes for non-VHA HCP are dependent upon which vaccine you receive:

- Pfizer-BioNTech COVID-19 vaccine: requires two shots three (3) weeks (or 21 days) apart.
  - First dose: No later than October 18.
  - Second dose: 21 days after first dose but no later than November 8.
- Moderna COVID-19 vaccine: requires the shots four (4) weeks (or 28 days) apart.
  - First dose: No later than October 11.
  - Second dose: 28 days after first dose but no later than November 8.
- Johnson & Johnson vaccine: requires only one shot
  - First (and only) dose: No later than November 8.

For VHA HCP, they must receive a complete COVID-19 vaccine series by October 8, 2021, as previously outlined in VHA Directive 1193, now reflected in VA Handbook 5019.

**Q: Where can I get the vaccine?**

**A:** Employees can find information on locations where they can receive the COVID-19 vaccine at [www.vaccines.gov](https://www.vaccines.gov). Employees interested in receiving the vaccine through VA can find their local [COVID-19 Vaccination Coordinator](#) to schedule an appointment.

**Q: How does EO 14043 impact new hires?**

**A:** Human Resources will notify prospective employees of the mandatory COVID-19 vaccination program in job opportunity announcements and tentative and final offer letters. All individuals who start their government service after November 22, 2021, need to be fully vaccinated prior to their start date, except in limited circumstances where a reasonable accommodation is legally required. Prospective employees will be asked to provide proof they are fully vaccinated or will be advised to request a medical or religious exception after receipt of a tentative offer. If a prospective employee does not provide the required proof of vaccination status or request an exception, the prospective employee may not be extended a final offer of employment or onboarded.

**Q: What about urgent hiring needs after November 22, 2021?**

**A:** Should VA have an urgent, mission-critical hiring need to onboard new staff prior to those new staff becoming fully vaccinated, the agency head may approve an exception. This authority has been delegated in VA Handbook 5019 Notice 22-01, dated October 4, 2021, from the VA Secretary to Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries, and field facility heads. In the case of such limited hiring exceptions, new hires need to be vaccinated within 60 days of their start

date and follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

### **Vaccination Status Documentation**

#### **Q: How is VA tracking vaccination status of employees?**

**A:** VA has developed an electronic system to collect employee vaccination status and vaccination proof information: [VA LEAF](#) Vaccination Portal. Employees who do not have regular, routine access to a VA computer and network can complete a paper copy of the form ([VA Form 10230](#)) and submit the form and appropriate documentation to their supervisor.

#### **Q: How do I submit proof of vaccination?**

**A:** Employees may submit proof in the [VA LEAF](#) Vaccination Portal or through submission of a paper form (VA Form 10230) to their supervisor. Employees must certify under penalty of perjury that the documentation they are submitting is true and correct.

- To submit the required documentation, go to:  
[https://leaf.va.gov/NATIONAL/101/vaccination\\_data\\_reporting/](https://leaf.va.gov/NATIONAL/101/vaccination_data_reporting/).
- Employees may request a paper copy of [VA Form 10230](#) from their supervisor, if they do not have regular, routine access to a VA computer or network.

#### **Q: When should employees use the paper VA Form 10230?**

**A:** Employees are highly encouraged to use LEAF when submitting their vaccination response. VA Form 10230 should only be used when employees do not have regular or routine access to a VA computer and network may use the paper form to submit proof of vaccination. Additionally, employees who have (or who are subsequently granted) a reasonable accommodation because they are unable to use a computer should complete the paper VA Form 10230.

Employees who submit a paper VA Form 10230 and select option 2 (authorizing VHA to disclose their vaccination record) must also complete and sign a [VA Form 10-5345](#), authorization to release information form, to accompany the VA Form 10230.

#### **Q: What is considered acceptable proof of vaccination?**

**A:** Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined below. Employees may provide a copy of:

- the record of immunization from a health care provider or pharmacy,
- the COVID-19 Vaccination Record Card,
- medical records documenting the vaccination,
- immunization records from a public health or state immunization information system, or
- any other official documentation containing required data points.

The data that must be on any official documentation are: the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Employees must certify under penalty of perjury that the documentation they are submitting is true and correct.

**Q. If an employee was vaccinated by VA but has lost their vaccine card and doesn't have a record of it, what does the employee use as "proof" of vaccination?**

**A:** The employee can obtain a copy of their vaccination records from EOH (or primary care if vaccinated as a veteran) with a release of information to themselves. To obtain the record, the employee must complete and sign a VA Form 10-5345a, Individual's Request for a Copy of Their Own Health Information, then provide it to EOH.

Note: The VA Form 10230 is not a substitute for providing proof of vaccination. Employees who choose to complete the form in lieu of submitting their response in LEAF will be required to attach the proof of vaccination record when the VA Form 10230 is submitted.

**Q: If an employee was vaccinated outside VA but has lost their vaccine card and doesn't have a record of it, what does the employee use as "proof" of vaccination.**

**A:** Employees who have lost their vaccine card can obtain a replacement vaccination card or at least obtain a digital copy of their record. Most vaccine providers and state health departments have already put in place measures to help individuals obtain a copy of their COVID-19 vaccination record. Employees should contact the place where they were vaccinated first to see if they may access their vaccine records online. Most retail pharmacies allow customers to look up their vaccine records on their website or through a smartphone application. Employees may also contact their state's health department for a copy of the vaccination record. Some states have registries (Immunization Information Systems) that include adult vaccines. Once the employee has gotten a new card or a digital record of the vaccination, they should store it safely. Among the easiest ways is to take a picture of the vaccination card with a smartphone.

Note: The VA Form 10230 is not a substitute for providing proof of vaccination. Employees who choose to complete the form in lieu of submitting their response in LEAF will be required to attach the proof of vaccination record when the VA Form 10230 is submitted.

**Q: My vaccination card shows the last four digits of my social security number. Can I redact or otherwise mark this out before submitting it in LEAF?**

**A:** Yes. Employees do not need to provide any part of their social security number with their vaccination card.

**Q: Who will have access to the information I provide?**

**A:** Each VA Administration and Staff Office will designate an official to monitor and track compliance with the COVID-19 vaccine mandate. Supervisors will otherwise ensure information is entered in the [VA LEAF](#) Vaccination Portal or receive paper copies of [VA Form 10230](#) with appropriate documentation. The information is protected by the Privacy Act and will be shared only with those VA employees who have a need to know for the information to perform their duties. The information is maintained separate and apart from the employee's personnel record.

**Q: Why am I receiving a reminder message if I completed my submission in LEAF?**

**A:** Employees initially received reminder emails until the system was able to verify the information submitted. However, due to latency issues experienced in the system, the reminder messages are no longer being sent to employees.

**Q: What should the supervisor do with the paper copies of the VA10230 (and VA 10-5345) forms received from employees?**

**A:** Supervisors should follow the [LEAF Job Aid](#) for uploading the employee's documents into LEAF. Prior to entering information in LEAF, the supervisor should use the [Authorization Requirements Checklist](#) to ensure the employee has completed all required information on the VA Form 10-5345.

**Hours of Duty**

**Q: Do I have to take leave to get vaccinated?**

**A:** No. Employees who receive the COVID-19 vaccine during duty time remain in a duty status for the time it takes to receive the vaccine (including travel and wait time), not to exceed four hours, per dose.

In the rare circumstance that an employee is unable to receive the vaccine during duty time, they are authorized overtime for the time it takes to receive the vaccine (including travel and wait time), not to exceed four hours, per dose. Employees must receive supervisory approval prior to requesting overtime to receive the vaccination outside of duty hours.

Additional information on leave availability can be found in the OCHCO Bulletin, [Authorized Absence for Individuals and Family Members who Receive the COVID-19 Vaccine](#), dated September 21, 2021.

**Q: What if I experience side effects from the vaccine? Am I required to use my accrued leave?**

**A:** Employees who experience severe, adverse reactions to the vaccine are eligible for up to two days of authorized absence (AA) to recover from any side effects experienced after each dose of the vaccine. Employees may also use sick leave if incapacitated for duty.

Additional information on leave availability following a severe, adverse reaction can be found in the OCHCO Bulletin, [Authorized Absence for Individuals and Family Members who Receive the COVID-19 Vaccine](#), dated September 21, 2021.

Employees who elect workers' compensation benefits for injury or illness, may be entitled to leave under the Federal Employees' Compensation Act (FECA), if FECA requirements are met. Contact your local workers' compensation specialist for assistance.

**Q: May I file a Workers' Compensation claim related to receiving the COVID-19 vaccine?**

**A:** The Federal Employees' Compensation Act (FECA) covers injuries that occur in the performance of duty. The FECA does not generally authorize provision of preventive measures such as vaccines and inoculations, however, care can be authorized by the Office of Workers Compensation Programs (OWCP) for complications of preventive measures which are provided or sponsored by the agency, such as adverse reaction to prophylactic immunization. Given that COVID-19 vaccination is now a requirement for Federal employees under EO 14043, employees who receive COVID-19 vaccinations after September 9, 2021 (the date the EO was signed) may be afforded coverage under FECA for adverse reactions to the vaccine or injuries sustained while obtaining vaccination (see [FECA Bulletin 22-01 for full coverage requirements](#)). Employees who received COVID-19 vaccinations prior to September 9, 2021, and sustained adverse reactions, are eligible to file a FECA claim only if the inoculation was furnished or sponsored by the Employing Establishment. Workers' compensation claims for vaccinations should be filed on a form CA-1, *Notice of Traumatic Injury and Claim for Continuation of Pay*. Employees should contact their supervisor or local workers' compensation specialist for assistance with submitting a workers' compensation claim.

**Q: I have heard about Authorized Absence (AA) upon becoming fully vaccinated, am I eligible?**

**A:** If an employee who accrues leave has been fully vaccinated or received an approved exception, they may receive up to four (4) hours of AA (also known as administrative leave) subject to normal leave approving procedures. For additional information see the OCHCO Bulletin, [Paid Time Off for VA Employees Fully Vaccinated Against COVID-19](#), dated August 31, 2021.

**Discipline**

**Q: I do not intend to get the COVID-19 vaccine by November 22, 2021, and I do not have an approved exception, will I be fired?**

**A:** You may be subject to disciplinary action, up to and including removal, for failure to follow a lawful order.

**Q: Is discipline different for employees covered under VHA Directive 1193 and VA Handbook 5019?**

**A:** All employees are now covered by VA Handbook 5019. The procedures for addressing misconduct related to non-compliance for VHA HCP and all other VA employees in VA Handbook 5019 are the same. However, the date for initiating such actions may be different because of the different requirements outlined in the two documents. Under VA Handbook 5019, an action may be initiated after October 18, 2021 for VHA HCP, when a supervisor confirms an employee has not submitted a request for an exception or submitted an ROI or VA Form 10230. For all other VA employees, counseling and education actions may be initiated after November 22, 2021, which is the deadline to be fully vaccinated or have an exception request submitted.

**Q: What steps will be taken to address non-compliance for an employee who is not serving a probationary period and has no prior discipline?**

**A:** VA will follow the relevant regulations and policies related to misconduct. It will consider the relevant Douglas Factors for title 5 and hybrid title 38 employees and aggravating and mitigating factors for title 38 employees in determining the appropriate penalty for non-compliance with the COVID-19 vaccine mandate. As reflected in OPM's guidance, the first step should be counseling. Employees should receive education and information about the vaccine's benefits and be encouraged to get vaccinated. If an employee does not make a good faith effort to get vaccinated or request an exception and they are not taking steps to comply with the requirement to get vaccinated after counseling, VA may engage in progressive discipline, which could include a 14-calendar-day or less suspension without pay. The employee would continue to work as scheduled during the notice period while continuing to take necessary safety precautions such as wearing a mask and social distancing, if appropriate. If the employee takes steps to comply with the requirement to be vaccinated during the notice period, the disciplinary action may be held in abeyance in order to demonstrate compliance. If, after counseling and after any discipline for the initial non-compliance with the policy, the employee does not take steps to comply with the requirement, further progressive discipline will be taken, which could include removal from Federal service. Each case will be assessed independently, based on the facts and circumstances surrounding that case and any extenuating and mitigating circumstances.

**Q: What if an employee has prior discipline and now fails to comply with the requirement to get vaccinated?**

**A:** As reflected in OPM's guidance, the first step should be counseling. Employees should receive education and information about the vaccine's benefits and be encouraged to get vaccinated. If an employee does not make a good faith effort to get vaccinated or request an exception and they are not taking steps to comply with the requirement to get vaccinated after counseling, VA will follow the relevant regulations

and policies related to misconduct. It will consider the relevant Douglas Factors for title 5 and hybrid title 38 employees and aggravating and mitigating factors for title 38 employees in determining the appropriate penalty for non-compliance with the COVID-19 vaccine mandate.

**Q: What if I decide to resign or retire instead of getting vaccinated or requesting an exception?**

**A:** VA employees are permitted to voluntarily resign or retire at any time for any reason. If an employee remains employed by VA after the prescribed date for providing evidence of vaccination or being denied a request for an exception, and they continue to be non-compliant with the COVID-19 vaccine mandate, then they may be subject to discipline up to removal.

**Exceptions**

**Q: May I request an exception to the requirement to be fully vaccinated?**

**A:** Yes. Employees may request a medical or religious exception to the requirement to be fully vaccinated. Initial requests should be submitted via [VA LEAF](#) Vaccination Portal or through submission of a paper copy of [VA Form 10230](#) to the employee's supervisor. Once the exception request is received, supervisors will initiate the appropriate reasonable accommodation process for addressing the employee's request depending on whether the exception is for medical or religious reasons.

**Q: What is the timeframe for submitting exceptions under VA Handbook 5019?**

**A:** VHA HCP should submit requests for medical or religious exception by October 18, 2021. Non-VHA HCP and all other employees are strongly encouraged to submit requests for a medical or religious exception by October 18, 2021, but no later than November 22, 2021.

Note: If you have not been successful in updating your vaccination status in LEAF, please update your information as soon as possible at the [VA LEAF Vaccination Portal](#). If helpful, more instructions can be found [here](#). If you are still not able to update your vaccination status, please let your supervisor know as soon as possible. Your supervisor needs to know you are trying but have not been successful in entering your vaccine data. Although LEAF is preferred and should be the means by which employees submit this information, there is an option for employees who have difficulty accessing LEAF to use VA Form 10230.

**Q: What do I do while my request for an exception is pending approval?**

**A:** While a request for medical or religious exception is being reviewed, the employee will remain in a duty status and will wear a face mask, physically distance, be subject to Government-wide travel restrictions, and comply with any additional mitigation measures such as COVID-19 testing.

**Q: Who will have access to my documentation?**

**A:** Personally Identifiable Information (PII) in such documentation is protected by the Privacy Act. VA may not share the information except with VA employees with a legitimate need to know for the information in the performance of their duties or as otherwise permitted by law.

**Q: What if my exception is denied?**

**A:** Upon denial, you must receive your first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, you should receive the second dose within six (6) weeks of receiving the first dose.

If you received a first dose of a two-dose series prior to seeking an accommodation, and the request for accommodation is denied, you must receive the second dose within two weeks of the final determination to deny the accommodation (or within a week of the earliest day by which you can receive the second dose), whichever is later.

**Q: For what reason(s) might my request for an exception be denied?**

**A:** Requests will be reviewed, and the relevant criteria considered based on the law when issuing a written determination on the exception request. Determining whether an exception is legally required will include consideration of relevant factors such as the basis for the claim, nature of the employee's job responsibilities, and the reasonably foreseeable effects on the agency's operations, including protecting other agency employees and the public, including our Veterans, from COVID-19.

**Q: What are my rights if my exception request is denied?**

**A:** Employees have several avenues of redress if a request is denied. Information regarding filing a complaint, grievance, or appeal will be included in any written denial decision given to the employee.

**Q: What if I have a contraindication covered under the Centers for Disease Control and Prevention (CDC) guidance?**

**A:** A contraindication may delay but not prevent your ability to be fully vaccinated. You may receive an extension of time to be fully vaccinated if you have a documented contraindication. The designated management official, in consultation with the reasonable accommodation coordinator, will determine if a time limited accommodation is appropriate in these circumstances.

**Q: What am I required to do if I receive an approved exception?**

**A:** You are required to adhere to the following safety protocols for other than fully vaccinated employees which include wearing a face mask, physical distancing, restrictions on travel, regular testing, and also implement any other measure agreed upon during the reasonable accommodation process.

## **Privacy**

### **Q: Will my COVID vaccination information in LEAF be in my employee health record?**

**A:** Yes. Employee health records in the Employee Medical Folder are in different places and the location of the record determines which laws are applicable.

The COVID vaccination information in LEAF will be part of Privacy Act system of records notices (SORN) for “Employee Medical Folders”, OPM/GOVT-10 (Title 5) and “Title 38 – Employee Medical Folders”, 08VA05 maintained at the Department. While some portions of the Employee Medical Folder for employees is maintained by VHA, such as in OHRS 2.0, other information, such as the COVID vaccination information in LEAF, is maintained by the Department and is not under the purview of VHA.

### **Q: Why is my COVID vaccination information in LEAF part of my employee health record?**

**A:** The Task Force and OMB have indicated all COVID vaccination information on Federal employees are to be part of the appropriate Privacy Act SOR for the Employee Medical File System Records. VA is required to follow this mandate on placement and location of the COVID vaccination information in the Employee Medical File System Records on federal employees. Therefore, the COVID vaccination information being collected through the LEAF tool must be maintained in OPM/GOVT-10 or 08VA05. The Privacy Act Statement, which is required for this data collection and provided in the LEAF tool, references these Privacy Act SORs.

### **Q: Is my COVID vaccination information in LEAF protected by the HIPAA Privacy Rule?**

**A:** No. However, the information is protected by the Privacy Act as it is covered under the Privacy Act SORs for “Employee Medical File System Records” (OPM/GOVT-10) for title 5 employees and “Employee Medical File System Records” (08VA05) for title 38 employees.

### **Q: Why is my COVID vaccination information in LEAF not protected by the HIPAA Privacy Rule?**

**A:** Protected health information (PHI) is individually identifiable health information created, received, or maintained by a HIPAA covered entity, as a health care provider or health plan. At VA, only health information that is maintained by or on behalf of VHA – whether in OPM/GOVT-10, 08VA05, or another Privacy Act SOR – is considered PHI and protected by the HIPAA Privacy Rule.

The COVID vaccination information in LEAF is individually identifiable health information but is not PHI because it is created, received, or maintained by VA as an employer, not by VHA as a HIPAA covered entity. This is true even when VHA employees provide the information in LEAF. Therefore, the COVID vaccination information in LEAF is not

protected by the HIPAA Privacy Rule as it is not PHI in the possession of a HIPAA covered entity.

**Q: Will VHA Employee Occupational Health (EOH) have access to my COVID vaccination information in LEAF?**

**A:** Employee Occupational Health in VHA has access to COVID-19 vaccination in occupational health records, such as OHRS 2.0, but does not currently have access to COVID-19 vaccination information in LEAF, unless explicitly designated by the facility. Future enhancements may include communicating the information in LEAF to Employee Occupational Health to update vaccination records or to aid with ordering required COVID-19 testing, as applicable. Since the COVID-19 vaccination information in LEAF is under the purview of the Department, any policy around access will be governed by the Department, subject to the Privacy Act, which authorizes the sharing of the information where there is legal authority for VA employees who have a need for the LEAF COVID vaccination information in the performance of their official VA duties (5 U.S.C. 552a(b)(1)). **The Department will determine who has access based on “need to know” and official VA duties.**

**Release of Information**

**Q: When is an Authorization for ROI required to share my COVID vaccination information?**

**A:** An Authorization for ROI is required from an individual when an agency maintaining individually-identifiable information on the individual needs to release the information to another organization and no other legal authority under privacy laws for the disclosure exists. In order for VHA to release COVID vaccination information on individuals in health records in OHRS 2.0 or VistA/CPRS to VA for the Mandatory COVID Vaccination Program for Federal Employees, an Authorization for ROI from the individuals is required.

The authorization must be in writing and contain certain required content including the following information:

A statement that individually-identifiable health information disclosed pursuant to the authorization may no longer be protected by the same Federal laws or regulations and may be subject to re-disclosure by the recipient.

**Q: Why does the ROI state, “I acknowledge the potential for information disclosed pursuant to this authorization to be redisclosed and no longer protected by Federal confidentiality provisions”?**

**A:** The HIPAA Privacy Rule requires a statement be included on the authorization to release information that the information once disclosed by the HIPAA covered entity may no longer be protected from re-disclosure. If the release form does not contain this information, it will be considered invalid.

Note: In accordance with the Privacy Act and guidance from the Task Force, information obtained from VHA Employee Occupational Health and placed in the Department's Employee Medical File System Records continues to be protected by the Privacy Act and may only be disclosed to VA employees with a need to know in the performance of their official VA duties (5 U.S.C. 552a(b)(1)).

Disclosures of records outside the agency are prohibited unless authorized by the employee pursuant to their prior written consent or a specific statutory exception.

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## **MANDATORY CORONAVIRUS DISEASE 2019 (COVID-19) VACCINATION PROGRAM FOR VA EMPLOYEES**

- 1. PURPOSE.** The purpose of this notice is to inform employees of the recent requirement to certify COVID-19 vaccination status and provide proof of vaccination or request an exception within the established timeframes or face disciplinary action, up to and including removal from the Department. The process for requesting an exception is outlined below. The notice establishes a Department-wide policy and provides guidance for mandatory Coronavirus disease 2019 (COVID-19) vaccination among employees in the Department of Veterans Affairs (VA). This policy is in accordance with Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees, signed by the President on September 9, 2021, which requires all agencies to implement a program to require COVID-19 vaccination for all of its Federal employees. This notice revises VA Directive and Handbook 5019, Employee Occupational Health Service, Part IV, Paragraph 2, Vaccinations, along with the authority and responsibilities in VA Directive and Handbook 5019. The procedures for implementation are listed in Appendix A of the notice. This notice is applicable to all VA employees, including employees of the Veterans Health Administration (VHA) previously covered by VHA Directive 1193, Coronavirus Disease 2019 Vaccination Program for Veterans Health Administration Health Care Personnel (VHA HCP). This notice does not apply to employees of the Office of Inspector General (OIG), which administers a separate vaccination program for OIG employees.

Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries and field facility heads are authorized to administer the provisions of this notice for employees under their respective jurisdictions, including the approval of temporary exceptions on a limited basis in emergency situations to onboard new employees prior to individuals becoming fully vaccinated when there is a mission-critical hiring need.

Except as otherwise specifically set out in this notice, this authority may be redelegated in writing to subordinate officials with whatever limitations deemed necessary to ensure proper exercise of authority.

## **2. AUTHORITIES.**

- a. Executive (EO) 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.
- b. EO 13991, Protecting the Federal Workforce and Requiring Mask-Wearing.
- c. 38 U.S.C. § 7421, Personnel Administration: in general.
- d. 5 C.F.R. § 339.205, Medical Evaluation Programs.

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### 3. BACKGROUND.

- a. The emergence of SARS-CoV-2, the virus that causes COVID-19, has led to a continuing global pandemic with dramatic societal and economic impact on individuals and communities since late 2019. To combat this ongoing global health threat, and to reduce the risk of symptomatic laboratory-confirmed COVID-19, hospitalization due to COVID-19, and associated deaths, the Centers for Disease Control and Prevention (CDC) and its Advisory Committee on Immunization Practices (ACIP) recommends everyone 12 years of age and older receive a COVID-19 vaccination. **NOTE:** Current CDC COVID-19 vaccination recommendations by vaccine product can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/different-vaccines.html>.
- b. The Occupational Safety and Health Administration's (OSHA) Emergency Temporary Standard for workplace safety against COVID-19 embraces vaccination by facilitating access to vaccination and requiring employers to provide reasonable time and paid leave for employee vaccinations and any side effects. However, if all employees are fully vaccinated in some well-defined areas of health care workplaces, they are exempt from some requirements of OSHA's temporary standard. **NOTE:** OSHA's Emergency Temporary Standard is available at: <https://www.osha.gov/coronavirus/ets>.
- c. As of September 24, 2021, there have been 336,032 Veteran and employee cases of COVID-19 in VA, and 14,658 known deaths. Greater than 25,800 of these COVID-19 cases have occurred among VA staff. During the same period, over 316,000 employees and other health care personnel in VHA have been vaccinated against COVID-19. **NOTE:** VA COVID-19 National Summary is available at: <https://www.accesstocare.va.gov/Healthcare/COVID19NationalSummary>.
- d. The advent of vaccines does not eliminate the grave danger from exposure to SARS-CoV-2 in workplaces where some members of the workforce are not fully vaccinated. In fact, VHA community living centers (CLCs), without fully vaccinated staff introduce a potentially significant source of SARS-CoV-2 infections leading to ongoing viral transmission among vulnerable populations in the CLCs. In addition, transmission of circulating viral variants raises public health concerns that hospitalization rates will rise, along with serious or fatal outcomes for those who contract COVID-19.
- e. Employees at VA serve Veterans and their families. They have a duty to protect their colleagues with whom they may interact and to promote the efficiency of the civil service. Accordingly, employees must take every reasonable step to prevent serious illness and death for themselves, their coworkers, and the public. Further, employees must help stop the transmission of COVID-19 and its variants. In addition to other prevention efforts, which may include masking, physical distancing, respiratory etiquette, and hand hygiene, vaccination against COVID-19 is fundamental to the prevention of COVID-19 for both Veterans and

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employees, and to the mitigation of transmission of this virus among susceptible populations in the workplace.

- f. Employees who are on maximum telework, virtual, or working remotely are not excused from this requirement. Their absence from duty due to serious illness or death would seriously impair the VA's important mission to serve Veterans. Further, employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely.
- g. Millions of doses of vaccines have been administered since emergency use authorization by the Food and Drug Administration (FDA), with rigorous and intensive safety monitoring, and rare serious health problems reported after vaccination. Additionally, the Pfizer-BioNTech COVID-19 vaccination was granted FDA approval on August 23, 2021. All FDA-authorized or approved COVID-19 vaccines prevent nearly all hospitalizations and deaths due to COVID-19.
- h. Federal Equal Employment Opportunity (EEO) laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, so long as employers comply with the reasonable accommodation provisions of the Rehabilitation Act and Title VII of the Civil Rights Act of 1964, any amendments to those laws, and other EEO considerations. For employees requesting an exception to being fully vaccinated based on a medical condition or a sincerely held religious belief in the designated VA electronic system (or VA Form 10230), the submission will be used to notify the employee's supervisor to initiate the reasonable accommodation process.
- i. Current scientific evidence suggests that among persons with previous SARS-CoV-2 infection, full vaccination provides additional protection against reinfection. Accordingly, CDC recommends that all eligible persons should be offered vaccination, including those with previous SARS-CoV-2 infection, to reduce their risk for future infection.
- j. In addition to CDC and ACIP, other preeminent health care organizations, such as the American Medical Association, American Nurses Association, and the American Hospital Association, urge the public to get vaccinated against COVID-19. Moreover, the American College of Physicians strongly encourages vaccination of physicians, other health care professionals, and patients when available. On July 13, 2021, a Multisociety Statement from the leading Infectious Diseases Societies was issued in the Infection Control & Hospital Epidemiology journal recommending that the COVID-19 vaccination should be a condition of employment for all health care personnel.

**4. POLICY.**

- a. All VA Administrations and Staff Offices must implement a mandatory COVID-19 vaccination program by requiring all employees, including VHA HCP, to receive

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a complete COVID-19 vaccination series or obtain an exception for medical or religious reasons. This is required by Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees. Compliance with this policy is a requirement and the procedures are documented in Appendix A of this notice. Employees in violation of this policy may face disciplinary action up to and including removal from Federal service.

- b. Employees are required to provide acceptable proof of vaccination status (as defined in this notice) and certify under penalty of perjury that the documentation submitted is true and correct, even if an employee has previously attested to their vaccination status or provided information under VHA Directive 1193.
- c. Information provided by the employee will be protected as required by the Privacy Act, and any other relevant statute, regulation, or VA policy.
- d. When there is an urgent mission-critical hiring need in limited emergency situations to onboard new employees prior to those individuals being fully vaccinated, an exception to the vaccination requirement may be approved by the agency head or designee. When such exceptions are approved, the newly hired employee(s) must be fully vaccinated within 60 calendar days of their start date and follow safety protocols for not fully vaccinated individuals until they are fully vaccinated. The authority to approve exceptions has been delegated to Under Secretaries, Assistant Secretaries, Other Key Officials, and field facility heads.
- e. Under Secretaries, Assistant Secretaries, Other Key Officials and field facility heads are authorized to administer the provisions of this notice for employees under their respective jurisdictions, including the approval of temporary exceptions on a limited basis in emergency situations to onboard new employees prior to individuals becoming fully vaccinated when there is a mission-critical hiring need. Except as otherwise specifically set out in this notice, this authority may be redelegated in writing to subordinate officials with whatever limitations deemed necessary to ensure proper exercise of authority.

## **5. DEFINITIONS.**

- a. **COVID-19 Vaccine.** According to the CDC, the COVID-19 vaccine is defined as an FDA-approved or authorized commercially available product recommended by the CDC for the prevention of COVID-19. Employees who have already been vaccinated with or, in the event there is limited supply, elect to be vaccinated with any CDC recommended vaccine series under emergency use authorization by the FDA or listed for emergency use by the World Health Organization (WHO), will be considered as meeting the requirements under this notice and EO 14043. CDC guidelines should be followed to determine whether individuals who received COVID-19 vaccines that are not approved or authorized by FDA may be considered fully vaccinated. Additional information is available on the CDC website: [When You've Been Fully Vaccinated | CDC](#).

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- b. **Designated Agency Official(s) (DAO).** The employees who are designated by the appropriate Under Secretary, Assistant Secretary, Other Key Official, Deputy Assistant Secretary (or equivalent), or their designees, to provide oversight to administer the provisions of this policy and monitor compliance. These officials are equivalent to Program Managers and are not making decisions on individual submissions or exception requests.
- c. **Employee.** EO 14043 defines the term “employee” to mean any employee as defined in 5 U.S.C. 2105 (including an employee paid from non-appropriated funds as referenced in 5 U.S.C. 2105(c)). The term includes any individual employed by the VA in a paid or unpaid position, including those appointed to full-time and part-time positions under title 5 or title 38, title 38 hybrid employees, individuals assigned to perform work for the VA under Intergovernmental Personnel Act agreements, temporary and intermittent employees, students, trainees, interns, volunteers, and persons employed on a fee basis. The term also includes telework, remote, and virtual employees.
- d. **Face Mask.** The Department of Labor, Occupational Safety and Health Administration (OSHA) and CDC define face mask as a disposable surgical, medical procedure dental or isolation mask that covers the nose and mouth and fits snugly against the sides of face without gaps.
- e. **Fully Vaccinated.** The CDC considers an individual “fully vaccinated” for COVID-19 two weeks after receipt of the requisite number of doses of a COVID-19 vaccine either approved or authorized for emergency use by the FDA or that has been listed for emergency use by the WHO. For Pfizer-BioNTech, Moderna, or AstraZeneca/Oxford, that is two weeks after an employee has received the second dose of a two-dose series. For Johnson and Johnson (J&J)/Janssen, that is two weeks after receipt of a single-dose. Clinical trial participants from a United States site who are documented to have received the full series of an “active” (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed, are considered fully vaccinated two weeks after they complete the vaccine series. Currently, the Novavax COVID-19 vaccine meets these criteria. There is currently no post-vaccination time limit on fully vaccinated status. VHA HCP covered under VHA Directive 1193 were required to receive a complete COVID-19 vaccine series by October 8, 2021. That deadline still remains in effect. All other VA employees are required to receive a complete COVID-19 vaccine series by November 8, 2021 in order to be considered fully vaccinated by November 22, 2021.
- f. **Government-wide travel restrictions.** Restrictions on official government travel as established by the Safer Federal Workforce Task Force COVID-19 Workplace Safety: Agency Model Safety Principles. Restrictions on official government travel are outlined in VA travel policy and communicated in the Office of Human Resources and Administration/Operations, Security and Preparedness (HRA/OSP), Office of the Chief Human Capital Officer (OCHCO) Bulletins and VA Administration-specific policies.

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- g. **Physical distancing.** OSHA defines physical distancing as maintaining a sufficient distance between two people such that the risk of disease transmission through inhalation of virus-containing particles from an infected individual is significantly reduced. Adequate physical distancing to prevent droplet transmission of infectious diseases is generally considered to be at least six (6) feet when indoors. This term is also referred to as social distancing.
- h. **Remote employee.** An employee approved for a special type of arrangement as defined in VA Handbook 5011, Part II, Chapter 4 under which an employee is scheduled to perform work within or outside the local commuting area of an agency worksite and is not expected to report to the agency worksite on a regular and recurring basis. Employees on approved full-time telework that are not expected to report to the office due to a temporary exception granted during the COVID-19 pandemic are not considered remote employees. Remote employees are covered by this notice.
- i. **Telework employee.** An employee that is approved for a flexible work arrangement as defined in VA Handbook 5011, Part II, Chapter 4 under which an employee performs the duties and responsibilities of their position and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work. Teleworking employees are required to report to the agency worksite at least twice each pay period on a regular, recurring basis unless a temporary exception applies. Telework employees are covered by this notice.
- j. **VHA HCP.** VHA HCP refers to all paid and unpaid persons who work in or travel to VHA locations who have the potential for direct or indirect exposure to patients or infectious materials, including body substances (e.g., blood, tissue, and specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air. These VHA HCP may include, but are not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, health professions trainees (HPTs), and persons (e.g., clerical, dietary, environmental services, laundry, security, maintenance, engineering and facilities management, administrative, billing, and volunteer personnel) not directly involved in patient care but potentially exposed to infectious agents that can be transmitted from VHA HCP and patients. VHA HCP include all VA licensed and unlicensed, clinical and administrative, paid and without compensation, full- and part-time, intermittent, fee basis employees who are expected to perform any or all of their work at these locations. VHA HCP also includes VHA personnel and contractor personnel providing home-based care to Veterans and drivers and other personnel whose duties put them in contact with patients outside VA medical facilities. **NOTE:** VA employees who work in VHA locations but are not part of VHA are not subject to the requirements and deadlines for VHA HCP. Instead, they must follow all requirements and deadlines for all other VA Employees.

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- k. **VHA Locations.** VHA locations include, but are not limited to, VA medical facilities (hospitals) and associated clinics, CLCs, community-based outpatient clinics (CBOCs), domiciliary units, Vet centers and VA-leased medical facilities.
- l. **Virtual employee.** An employee who performs “virtual work” as defined in VA Handbook 5011, Part II, Chapter 4. Virtual work is defined as work performed on a full-time basis using a VA-leased space or at a VA facility other than the facility that hired the employee. Virtual employees must adhere to all local safety measures in place for COVID-19 at the VA-leased space or VA facility where they perform work. Virtual employees are covered by this notice.

## 6. RESPONSIBILITIES.

- a. **The Assistant Secretary for HRA/OSP** shall be responsible for serving as liaison to the Office of Management and Budget (OMB) to establish the criteria, frequency, and reporting method for the collection of Government-wide COVID-19 vaccination data.
- b. **Under Secretaries, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries (or equivalent), or their designees,** shall:
  - (1) Administer, monitor, and comply with the COVID-19 vaccination program for employees under their jurisdiction.
  - (2) Identify DAOs in writing to provide program oversight for provisions of this policy and monitor compliance.
  - (3) Respond to any reporting requirements needed to evaluate the COVID-19 vaccination program as identified by the Assistant Secretary for HRA/OSP in coordination with the VHA Office of Occupational Safety and Health (19HEFB).
- c. **The Director of VHA Analytics, Performance and Integration** shall aggregate, analyze, and report to the facility leadership all metrics prescribed by HRA/OSP in coordination with the COVID-19 Coordination Team and the VHA Office of Occupational Safety and Health (19HEFB) for the purposes of evaluating the COVID-19 vaccination program. Personally Identifiable Information (PII) and Personal Health Information (PHI) are subject to the Privacy Act, and within VHA, the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA Rules). The information may not be used or disclosed unless an individual has a legitimate need to know the information in the performance of their duties or as otherwise permitted by law.
- d. **The Assistant Secretary for HRA/OSP in coordination with the VHA Office of Occupational Safety and Health (19HEFB)** shall:
  - (1) Share the reporting requirements set forth by OMB with DAOs, collate and aggregate the vaccination data to submit to OMB.

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- (2) Determine the need for development of any internal reporting criteria and the requirements needed to evaluate COVID-19 vaccination rates within VA, including the determination of all aggregate metrics for which Under Secretaries, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries (or equivalent) will evaluate the COVID-19 vaccination program.
- (3) Coordinate information sharing and actions with VA Administrations, Staff Offices, and Interagency partners. This includes collaborating with the OCHCO to evaluate program compliance and requests for employee vaccination data.

**e. The Chief Human Capital Officer shall:**

- (1) Advise management and operating officials on the policies and procedures in this notice.
- (2) Communicate guidance to the human resources field facilities on the vaccination program requirements.

**f. Field facility directors, field facility heads, and installation heads shall:**

- (1) Ensure that all aspects of this policy are implemented at their facility.
- (2) Ensure that employees have access to training or education pertaining to proper use of face masks and other mitigation strategies that reduce the spread of SARS-CoV-2, the virus that causes COVID-19, including how to access face masks, when to wear a mask, the appropriate type of mask to wear, when to replace a mask, and proper disposal of masks, according to local conditions.
- (3) Address non-compliant employees, in conjunction with the supervisor, human resources officer, and District Counsel as necessary.
- (4) Create a VA facility ad hoc workgroup of subject matter experts regarding matters of local implementation and application of procedures and guidelines of this notice.

**g. Human Resources Officers (HRO)/Human Capital Management (HCM) shall:**

- (1) Provide notification to all employees and prospective employees of the requirement to participate in the COVID-19 vaccination program and comply with the procedures outlined in this notice.
- (2) Provide no less than two such notifications within two weeks after publication of this notice, including that employees in violation of this requirement may face disciplinary action up to and including removal from Federal service.
- (3) Notify prospective employees, of the mandatory COVID-19 vaccination program in job opportunity announcements and tentative and final offers.

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- (4) Provide advice and guidance on addressing non-compliant employees, in conjunction with the supervisor and the Office of General Counsel as necessary.
  - (5) Use the Automated Labor and Employee Relations Tracker (ALERT-HR) to process and track all written counselings, disciplinary actions and (major) adverse actions, including appeals, resulting from the failure to comply with EO 14043 and this notice.
- h. The **DAO(s)** for implementing the COVID-19 vaccination program for a VA location(s) shall provide program oversight to administer the provisions of this policy and monitor COVID-19 vaccination compliance of all employees.
- i. **VHA HCPs** are required to comply with the requirements in this notice as described below. VHA HCPs must:
  - (1) Receive a complete COVID-19 vaccine series no later than October 8, 2021, or, if an exception applies, wear a face mask, physically distance, be subject to Government-wide travel restrictions, and comply with additional mitigation requirements such as COVID-19 testing.
  - (2) Submit the required information in the designated VA system for electronic submission (or a completed COVID-19 Vaccination Form, VA Form 10230) and attach proof of vaccination or complete a voluntary release of information form (VA 10-5345) to disclose the VA vaccination record (if vaccinated through Employee Occupational Health) no later than 14 calendar days after publication of this notice. The documentation must include information about the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Acceptable forms of documentation include a copy of the signed 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, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing the required information.
  - (3) If a VHA HCP is seeking an exception to being fully vaccinated for medical or religious reasons, the VHA HCP must complete the required information using the designated VA system for electronic submission, or submit a completed COVID-19 Vaccination Form, VA Form 10230, requesting an exception, acknowledging the requirement to wear a face mask, physically distance, be subject to Government-wide travel restrictions, and required COVID-19 testing and any other mitigation requirements.
    - (a) Requesting an exception for a medical condition requires the VHA HCP to indicate they are requesting an exception using the designated system for electronic submission, on a VA Form 10230, or by providing other

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documentation as identified in national collective bargaining agreement(s), as required. If a VHA HCP requests a medical exception, the supervisor is required to engage in the reasonable accommodation process in accordance with VA Handbook 5975.1, Processing Requests for Reasonable Accommodation from Employees and Applicants with Disabilities.

- (b) Requesting a religious exception must be indicated by the VHA HCP using the designated system for electronic submission, on a VA Form 10230, or by providing documentation identified in national collective bargaining agreement(s). If the VHA HCP declares a religious exception, the supervisor is required to engage in the reasonable accommodation process. The supervisor may consult with religious accommodation advisors for guidance on the request. VA policy on religious accommodations is found in VA Directive 5975, Diversity and Inclusion.
- (c) While a request for medical or religious exception is being reviewed, the employee will wear a face mask, physically distance, and submit to COVID-19 testing (and any other mitigation requirements) as prescribed in VA policy and any other approved interim accommodation. Official travel will also be restricted in accordance with applicable VA travel guidance.
- (d) Face masks must be worn as outlined in local and national VA policies and in accordance with collective bargaining agreements and memoranda of understanding with labor unions.
- (4) VHA HCPs will be in violation of the COVID-19 mandatory vaccination policy if they have not submitted the required information in the designated VA system for electronic submission or on a completed VA Form 10230 within 14 calendar days of publication of this notice.
- (5) VHA HCPs covered under VHA Directive 1193 are still required to receive a complete COVID-19 vaccine series by October 8, 2021.
- j. **All other VA employees**, including VHA non-HCPs, are required to comply with the requirements in this notice by November 22, 2021. Employees must:
  - (1) Receive a complete COVID-19 vaccine series no later than November 8, 2021, to meet the November 22, 2021, deadline, or, if an exception applies, wear a face mask, physically distance, be subject to Government-wide travel restrictions, and comply with additional mitigation requirements such as COVID-19 testing.
  - (2) Submit required documentation in the designated VA system for electronic submission (or a completed COVID-19 Vaccination Form, VA Form 10230) and attach proof of vaccination or complete a voluntary release of information form (VA 10-5345) to disclose the VA vaccination record (if vaccinated through Employee Occupational Health) by November 22, 2021. The documentation

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must include information about the type of vaccine, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Acceptable forms of documentation include a copy of the signed 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, a copy of immunization records from a public health or state immunization information system; or a copy of any other official documentation containing the required information.

- (3) If an employee is seeking an exception to being fully vaccinated for medical or religious reasons, they must complete the required information using the designated VA system for electronic submission, or submit a completed COVID-19 Vaccination Form, VA Form 10230, requesting an exception, acknowledging the requirement to wear a face mask, physically distance, be subject to Government-wide travel restrictions, required COVID-19 testing and any other mitigation requirements. The request for an exception should be submitted by October 18, 2021, but no later than November 22, 2021.
  - (a) Requesting an exception for a medical condition requires the employee to indicate they are requesting an exception using the designated system for electronic submission, on a VA Form 10230, or by providing other documentation as identified in national collective bargaining agreement(s), as required. If an employee requests a medical exception, the supervisor is required to engage in the reasonable accommodation process in accordance with VA Handbook 5975.1, Processing Requests for Reasonable Accommodation from Employees and Applicants with Disabilities.
  - (b) Requesting a religious exception must be indicated by the employee using the designated system for electronic submission, on a VA Form 10230, or by providing documentation identified in national collective bargaining agreement(s) as required. If an employee requests a religious exception, the supervisor is required to engage in the reasonable accommodation process. The supervisor may consult with religious accommodation advisor(s) for guidance on the request. VA policy on religious accommodations is found in VA Directive 5975, Diversity and Inclusion.
  - (c) While a request for medical or religious exception is being reviewed, the employee will wear a face mask, physically distance, and submit to COVID-19 testing (and any other mitigation requirements) as prescribed in VA policy and any other approved interim accommodation. Official travel will also be restricted in accordance with applicable VA travel guidance.
  - (d) Face masks must be worn as outlined in local and national VA policies and in accordance with collective bargaining agreements and memoranda of understanding with labor unions.

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- (4) VA employees will be in violation of the COVID-19 mandatory vaccination policy if they have not submitted the required information in the designated VA system for electronic submission or on a completed VA Form 10230 no later than November 22, 2021.

**NOTE:** Employees with a medical or religious exception to being fully vaccinated must submit the request for an exception electronically in the designated VA system or on a completed VA Form 10230 to the supervisor. The request for exception should be submitted by October 18, 2021, but no later than November 22, 2021.

- (5) VA employees are required to receive a complete COVID-19 vaccine series by November 8, 2021 or submit a request for medical or religious exception by November 22, 2021. A completed form must include:

- (a) Documentation of receipt of a complete COVID-19 vaccine series by November 8, 2021; or
- (b) Documentation requesting an exception to being fully vaccinated.

- k. **Applicants** who begin VA employment prior to November 22, 2021, must be fully vaccinated by November 22, 2021. Applicants who begin VA employment after November 22, 2021, must be fully vaccinated prior to entrance on duty. Exceptions to the vaccination requirement for VA applicants are applicable only in limited circumstances where:

- (1) A reasonable accommodation is legally required, or
- (2) When there is an emergent mission-critical hiring need allowing a 60-day extension to being fully vaccinated prior to beginning VA employment.

**I. Supervisors shall:**

- (1) Document and track issues of non-compliance with the COVID-19 vaccination policy, including adherence to masking and testing requirements.
- (2) Consult with HROs, LRACs, DAOs, and the Office of General Counsel to address employees that are non-compliant with this notice.
- (3) Engage in the reasonable accommodation process in accordance with VA policy. In assessing a request for accommodation, the supervisor will consider the impact to the agency's mission in determining whether to grant the employee's request along with any other factors relevant to the facts and circumstances specific to the employee and VA policy. Supervisors may consult with the religious accommodation advisor(s) for guidance on such religious accommodation requests.
- (4) Ensure that the information entered through electronic submission or submission of a physical copy of VA Form 10230, and the documentation of

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proof of vaccination is kept secure and confidential under the system of records Notice OPM/GOVT-10 or 08VA05, as applicable.

- m. **Local Reasonable Accommodation Coordinators (LRAC)** shall process requests for reasonable accommodations based on medical conditions in accordance with VA Handbook 5975.1, Processing Requests for Reasonable Accommodations for Applicants and Employees.

## 5. REFERENCES.

- a. [38 U.S.C. § 7301\(b\), Functions of Veterans Health Administration: in general.](#)
- b. [38 U.S.C. § 7318\(b\) – National Center for Preventative Health.](#)
- c. [38 U.S.C. § 7421 – Personnel administration: in general.](#)
- d. [Executive Order 13991, Protecting the Federal Workforce and Requiring Mask-Wearing](#)
- e. [Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees.](#)
- f. [5 C.F.R. Part 339 - Medical Qualification Determinations .](#)
- g. [29 C.F.R. § 1910, Occupational Safety and Health Standards.](#)
- h. [VHA Directive 1193, Coronavirus Disease 2019 Vaccination Program for Veterans Health Administration Health Care Personnel.](#)
- i. [VA Handbook 5975.1, Processing Requests for Reasonable Accommodation From Employees And Applicants With Disabilities.](#)
- j. [VA Handbook 5975, Diversity and Inclusion.](#)
- k. VA Form 10230, COVID-19 Vaccination (VA): <https://vaww.va.gov/vaforms/> and <https://www.va.gov/find-forms/>. **NOTE:** The first link is an internal VA website that is not available to the public. To access the form, type VA Form 10230 into the search bar.
- l. VA. Department of Veterans Affairs. [VA COVID-19 National Summary.](#)
- m. CDC. [Guidance for Wearing Masks.](#)
- n. CDC. [Post-vaccination considerations for workplaces.](#)
- o. United States COVID-19 Cases and Deaths by State: [https://covid.cdc.gov/covid-data-tracker/#cases\\_casesper100klast7days](https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days). CDC. Updated Healthcare Infection Prevention and Control Recommendations in Response to COVID-19

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Vaccination: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-after-vaccination.html>.

- p. Equal Employment Opportunity Commission (EEOC). [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#).
  - q. Occupational Safety and Health Administration (OSHA). [Emergency Temporary Standard](#).
  - r. FDA. [Information on COVID-19 Vaccines](#).
  - s. Safer Federal Workforce Task Force. [Protecting the Federal Workforce During the COVID-19 Pandemic](#).
  - t. Safer Federal Workforce Task Force. [Frequently Asked Questions](#).
- 8. RESPONSIBLE OFFICE.** Office of the Chief Human Capital Officer, Worklife and Benefits Service.
- 9. RELATED HANDBOOKS AND DIRECTIVES.** VA Directive and Handbook 5019, Employee Occupational Health Service, VHA Directive 1193, Coronavirus Disease 2019 Vaccination Program for Veterans Health Administration Health Care Personnel.
- 10. RESCISSION.** This notice will be rescinded when revised VA Handbook 5019 is published to include COVID-19 vaccination requirement, within one year.

**CERTIFIED BY:**

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

/s/  
Dat P. Tran  
Acting Assistant Secretary for  
Enterprise Integration

/s/  
Gina M. Grosso  
Assistant Secretary for Human  
Resources and Administration/  
Operations, Security, and Preparedness

**DISTRIBUTION:** Electronic Only

**PROCEDURES FOR IMPLEMENTING THE COVID-19 VACCINATION PROGRAM****1. NOTIFICATION OF MANDATORY COVID-19 VACCINATION.**

- a. Human Resources Officers (HRO)/Human Capital Management (HCM) will notify all VA employees that they are required to participate in the COVID-19 vaccination program. Employees will be notified through their respective programs. In VA Central Office, Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries (or equivalent) and their designees will fulfill this role.
- b. Each VA facility and Staff Office, for VA Central Office, shall provide no less than two such notifications within two weeks after publication of this notice, including that employees in violation of this notice may face disciplinary action up to and including removal from Federal service. VHA HCP covered under VHA Directive 1193 were required to receive a complete COVID-19 vaccine series by October 8, 2021. That deadline still remains in effect.
- c. Human Resources will notify prospective employees who begin work after publication of the mandatory COVID-19 vaccination program in job opportunity announcements and tentative and final offer letters. New employees who are scheduled to begin VA employment on or after November 22, 2021, will be asked to provide proof they are fully vaccinated or will be advised to request a medical or religious exception prior to the individual's entrance on duty. If a new employee does not provide the required proof of vaccination status or have an approved exception, the new employee may not be extended a final offer of employment or onboarded.
- d. Employees can contact the VA medical facility ad hoc workgroup of subject matter experts regarding matters of local implementation and application of procedures and guidelines of this notice. Employees of the National Cemetery Administration may contact the [Employee and Labor Relations Team](#). Other VA employees may contact their servicing HR office for information.

**2. VACCINE PROGRAM COMPLIANCE.**

- a. **VHA HCP.** All VHA HCP must comply by submitting the required information in the identified VA electronic system (or a completed VA Form 10230) to the supervisor no later than 14 calendar days after publication of this notice. The completed information submitted electronically (or on VA Form 10230) must include:
  - (1) Documentation showing receipt of a complete COVID-19 vaccine series by October 8, 2021; or
  - (2) Documentation requesting an exception to being fully vaccinated.

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- b. **Other VA Employees and VHA non-HCP.** All other VA employees, including VHA non-HCP, must comply by submitting the required information in the identified VA electronic system (or a completed VA Form 10230) to the supervisor no later than November 22, 2021. The completed information submitted electronically (or on VA Form 10230) must include:
- (1) Documentation showing receipt of a complete COVID-19 vaccine series by November 8, 2021, submitted no later than November 22, 2021; or
  - (2) A request for a medical or religious exception to being fully vaccinated. The request for exception should be submitted by October 18, 2021, but no later than November 22, 2021.
- c. **Proof of Vaccination.**
- (1) If a VA employee is vaccinated by VA, in lieu of submitting proof of vaccination, an employee may voluntarily elect to sign a release of information form (VA Form 10-5345) for the VA to release the information to the supervisor. The information released to the supervisor is limited to the information required to verify receipt of the required COVID-19 vaccine doses (type of vaccine administered, date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine(s)).
  - (2) If a VA employee is vaccinated outside of VA, the employee must complete the required information in the designated VA electronic system (or VA Form 10230). The employee must attach acceptable documentation verifying vaccination in the designated electronic system or with the accompanying VA Form 10230 delivered to the supervisor.
- NOTE:** Acceptable documentation includes a signed 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 immunization records from a public health or state immunization information systems, a copy of medical records documenting the vaccination, or a copy of any other official documentation containing all data points required.
- d. **Compliance When an Exception Applies.**
- (1) If a VA employee is requesting an exception to being fully vaccinated for medical or religious reasons, the employee must complete the required information in the designated VA system for electronic submission (or VA Form 10230). Declaring an exception requires acknowledging the requirement to wear a face mask, physically distance, undergo COVID-19 testing, sign an authorization to release test results, and any other mitigation strategies when under conditions in the work environment as outlined in national VA guidance. COVID-19 testing will be performed as

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prescribed in VA policy. Official travel will also be restricted in accordance with applicable VA travel guidance.

- (2) Employees with an exception are required to wear a face mask as prescribed within the policies and procedures of this notice. Employees who refuse or fail to wear a face mask as prescribed will be considered non-compliant with this notice and may be subject to disciplinary action.
- e. **VA Applicants and New Employees.** New VA employees (both VHA HCP and non-HCP) are required to participate in the mandatory COVID-19 vaccination program. New VA employees must complete a COVID-19 vaccination series by November 8, 2021 or seek an exception. Employees who start government service at VA after November 22, 2021, must be fully vaccinated or have an approved exception prior to entrance on duty.
- f. **Health Professions Trainee (HPT) Compliance.** Monitoring compliance and documentation of HPT compliance with this notice is the responsibility of the Designated Education Officer via the Trainee Qualifications and Credentials Verification Letter (TQCVL) process. However, VA may choose to offer vaccine to HPTs, and must document vaccinations of HPTs using the same process used for other VA employees. HPT seeking an exception for medical or religious reasons must be evaluated using the processes set forth in this notice. The denial of an accommodation request must be supported by the relevant facts and meet the applicable legal standard. When an accommodation is denied, the HPT must receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the HPT should receive the second dose within six weeks of receiving the first dose. If an HPT received a first dose of a two-dose series prior to seeking an accommodation, and the request for accommodation is denied, the HPT must receive their second dose within two weeks of the final determination to deny the accommodation (or within a week of the earliest day by which they can receive their second dose), whichever is later.
- g. **Extended Leave of Absence.** Employees on an extended leave of absence (utilizing annual leave, sick leave, donated annual leave, military leave, leave without pay, paid parental leave, unpaid leave under the Family and Medical Leave Act, or leave of absence due to receiving workers' compensation) are required to submit documentation establishing they are fully vaccinated (or request an exception) prior to returning to VA duty. Such employees are not subject to the requirement to be vaccinated by November 22, 2021, when on an extended leave of absence and will not return to work until a later date. If an employee has provided notice to the supervisor that they are leaving their position and are on leave until the date of separation, the EO 14043 vaccine requirement will not be enforced. Volunteers, students, seasonal employees, and interns on an extended break are not required to submit documentation showing they are fully vaccinated by November 22, 2021 when they will not be

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reemployed until a later date. Documentation showing the volunteer, student, or intern is fully vaccinated will be required prior to return to duty.

- h. **Detailed Employees.** Employees on detail with VA should follow the procedures of their home agency for submitting documentation to demonstrate compliance with the EO 14043 vaccination requirement. VA employees on detail to other Executive branch agencies must follow the VA procedures outlined in this notice to comply with the vaccination requirement. VA employees on detail to positions outside of an Executive branch agency covered by EO 14043 should submit documentation establishing they are fully vaccinated (or request an exception) prior to returning to VA duty. VA employees on detail at VA from non-Federal entities via assignment through Intergovernmental Personnel Act (IPA) agreements will be required to follow the VA procedures outlined in this notice to comply with the vaccination requirement.
- i. **COVID-19 Vaccination Form.** The VA Form 10230 is available at: <https://vawww.va.gov/vaforms/> and <https://www.va.gov/find-forms/>. **NOTE:** The first link is an internal VA website that is not available to the public. To access the form, type VA Form 10230 into the search bar.

**3. EXCEPTIONS.** VA employees may request an exception to being fully vaccinated only for medical or religious reasons as prescribed in this notice. In such cases, VA employees must complete the required information in the designated VA system for electronic submission (or submit a completed VA Form 10230), requesting the exception, acknowledging the requirement to wear a face mask, physically distance, be subject to Government-wide travel restrictions, required COVID-19 testing, and any other mitigation requirements. The confidential nature of Personally Identifiable Information (PII) and Protected Health Information (PHI) must be protected as required by statute, regulation, and VA and VHA policies.

- a. **Medical Exception.** VA employees who decline to receive the COVID-19 vaccine because of a medical condition must complete the required information in the designated VA system for electronic submission (or submit a completed VA Form 10230), declaring an exception. The request for an exception for current employees who are non-VHA HCP should be submitted by October 18, 2021, but no later than November 22, 2021. The submission will be used to notify the employee's supervisor to initiate the reasonable accommodation process. If the request for reasonable accommodation is denied, the employee is required to be fully vaccinated as outlined below.
- b. **Religious Exception.** VA employees who decline to receive the COVID-19 vaccine because of a deeply held religious belief, practice, or observance must complete the required information in the designated VA system for electronic submission (or submit a completed VA Form 10230), requesting an exception. The request for an exception for current employees who are non-VHA HCP should be submitted by October 18, 2021, but no later than November 22, 2021. The submission will be used to notify the employee's supervisor to initiate the

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reasonable accommodation process. If the request for reasonable accommodation is denied, the employee is required to be fully vaccinated as outlined below.

- c. **Denial of an Exception.** The final determination to allow an exception will be based on the approval or denial of the reasonable accommodation request. The denial of a reasonable accommodation must be supported by the relevant facts and meet the applicable legal standards. When an accommodation is denied, the employee must receive their first (or, if a one-dose series, only) dose within two weeks of the final determination to deny the accommodation. If receiving a two-dose series, the employee should receive the second dose within six weeks of receiving the first dose. If an employee received a first dose of a two-dose series prior to seeking an accommodation, and the request for accommodation is denied, the employee must receive their second dose within two weeks of the final determination to deny the accommodation (or within a week of the earliest day by which they can receive their second dose), whichever is later.

**4. DOCUMENTATION.**

- a. **Vaccination Performed by VA.** When the VA employee is vaccinated in VHA Employee Occupational Health (EOH), the person administering the vaccine, EOH staff or designee, must document the vaccination in accordance with VA Handbook 5019, Employee Occupational Health Service, August 3, 2017, or as directed by VHA's Office of Employee Occupational Health. The VA employee must complete the required information in the designated VA system for electronic submission (or VA Form 10230). Acceptable and complete documentation verifying vaccination (with information on the type of vaccine administered, date(s) of administration, and name of health care professional(s) or clinic site(s) administering the vaccine(s)) must also be delivered to the supervisor in the designated electronic system or on the accompanying VA Form 10230 as applicable in the requirements. In lieu of submitting proof of vaccination, an employee may voluntarily elect to sign a release of information form (VA Form 10-5345) for VHA EOH to release the information to the supervisor insofar as the vaccination information is available from VHA EOH. The information released to the supervisor is limited to the information required to verify receipt of the required COVID-19 vaccine doses.
- b. **Vaccination Performed by Other Providers.** When the VA employee is vaccinated outside of VHA EOH, the employee must complete required information in the designated VA system for electronic submission (or VA Form 10230). Acceptable and complete documentation verifying vaccination (with information on type of vaccine administered, number of doses received, date of administration, and name of health care professional(s) or clinic site(s) administering vaccine) must also be delivered to the supervisor in the designated electronic system or with the accompanying VA Form 10230. Veteran employees vaccinated through primary care or other providers may also

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authorize the release of vaccination information or provide a copy of the vaccination documentation from their own records

**NOTE:** VA medical facility EOH staff may not identify individuals according to their vaccination status or otherwise indicate whether an individual has been vaccinated unless that individual has provided a qualifying authorization to EOH permitting the disclosure on VA Form 10-5345, Request for and Authorization to Release Health Information. Questions should be referred to the local Privacy Office.

**5. SAFETY PROTOCOLS FOR VA PERSONNEL NOT FULLY VACCINATED.**

- a. VA employees who do not receive COVID-19 vaccination due to medical or religious exception must designate this in the designated VA system for electronic submission (or VA Form 10230), wear a face mask while in any VA facility, including both clinical and non-clinical areas. In addition, unvaccinated VA employees are required to wear a face mask during performance of their assigned duties and responsibilities, as outlined in local conditions.
- b. The face mask must be worn until the individual is considered fully vaccinated for COVID-19 and completes the information in the designated VA system for electronic submission (or VA Form 10230). Face masks should be worn as outlined in local and national policies, collective bargaining agreements and memoranda of understanding with labor unions. Face masks will be made available and distributed per the local community level of transmission. A face mask must be replaced when it becomes wet, visibly soiled, torn, or damaged. Alternatives to face masks may be considered in limited situations, such as when an employee is unable to wear a face mask and is approved for a reasonable accommodation due to a qualifying disability or for religious reasons. Fitted N95 respirators or other respirators are not required by this policy, but they should be used when appropriate to task (e.g., when caring for a patient on airborne infection isolation precautions); if N95 or higher respirators are used, they also serve the purpose of being considered a face mask for this notice. Employees that require mask alternatives based on a medical condition can request a reasonable accommodation through their supervisor or contact their [RA Coordinator](#).

**NOTE:** Local policy and memoranda of understanding with labor unions may require that all individuals wear a face mask, regardless of vaccination status, if a risk of transmission of SARS COV-2 exists.

- c. VA employees may remove their face mask only in accordance with VA and VHA masking guidance.
- d. VA employees will submit to COVID-19 testing.
- e. VA employees will observe Government-wide travel restrictions.

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- f. VA employees will adhere to all other mitigation and safety strategies deemed necessary and appropriate for the circumstances.

**6. VA EMPLOYEES IN VIOLATION OF THIS NOTICE.**

- a. **VHA HCP.** VHA HCP will be in violation of this notice if they have not submitted the required information in the designated VA system for electronic submission (or VA Form 10230) to the supervisor no later than 14 calendar days after publication of this notice. A completed form must include:

- (1) Documentation showing receipt of a complete COVID-19 vaccine series by October 8, 2021; or
- (2) Documentation requesting an exception to being fully vaccinated.

**NOTE:** Acceptable documentation includes a signed 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 immunization records from a public health or state immunization information systems, a copy of medical records documenting the vaccination, or a copy of any other official documentation containing all data points.

- b. **Other VA Employees and VHA non-HCP.** All other VA employees, including VHA non-HCP, will be in violation of this notice if they have not submitted the required information in the designated VA system for electronic submission (or VA Form 10230) to the supervisor by the dates listed below. The completed information submitted electronically (or on VA Form 10230) must include:

- (1) Documentation of receipt of a completed COVID-19 vaccine series by November 8, 2021 submitted no later than November 22, 2021; or
- (2) A request for a medical or religious exception to being fully vaccinated. The request for an exception should be submitted by October 18, 2021, but no later than November 22, 2021.

**NOTE:** Acceptable documentation includes a signed 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 immunization records from a public health or state immunization information systems, a copy of medical records documenting the vaccination, or a copy of any other official documentation containing all data points.

- c. **Exceptions.** If a VA employee has an exception for medical or religious reasons, they must complete the required information in the designated VA system for electronic submission (or VA Form 10230), declaring the exception and acknowledging the requirements to wear a face mask, physically distance, and undergo COVID-19 testing when under conditions as outlined in VA guidance. COVID-19 testing will be performed as prescribed in VA policy.

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Official travel will also be restricted in accordance with applicable VA travel guidance. This submission will be used to notify the employee's supervisor to initiate the reasonable accommodation process. Approval of the requested accommodation is subject to the outcome of the reasonable accommodation process. The VA Form 10230 is available at: <https://vaww.va.gov/vaforms/> and <https://www.va.gov/find-forms/>. **NOTE:** The first link is an internal VA website that is not available to the public. To access the form, type VA Form 10230 into the search bar.

- d. **Masking.** Employees who refuse or fail to wear a face mask as prescribed will be considered non-compliant with this notice.
- e. **Compliance with Requirement.** Compliance with this notice is a requirement. VA employees in violation of this notice may face disciplinary action up to and including removal from Federal service.

# EXHIBIT 6

## Presidential Documents

Executive Order 14042 of September 9, 2021

### Ensuring Adequate COVID Safety Protocols for Federal Contractors

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and section 301 of title 3, United States Code, and in order to promote economy and efficiency in procurement by contracting with sources that provide adequate COVID-19 safeguards for their workforce, it is hereby ordered as follows:

**Section 1. Policy.** This order promotes economy and efficiency in Federal procurement by ensuring that the parties that contract with the Federal Government provide adequate COVID-19 safeguards to their workers performing on or in connection with a Federal Government contract or contract-like instrument as described in section 5(a) of this order. These safeguards will decrease the spread of COVID-19, which will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors at sites where they are performing work for the Federal Government. Accordingly, ensuring that Federal contractors and subcontractors are adequately protected from COVID-19 will bolster economy and efficiency in Federal procurement.

**Sec. 2. Providing for Adequate COVID-19 Safety Protocols for Federal Contractors and Subcontractors.** (a) Executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A) (agencies), shall, to the extent permitted by law, ensure that contracts and contract-like instruments (as described in section 5(a) of this order) include a clause that the contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance or Guidance), provided that the Director of the Office of Management and Budget (Director) approves the Task Force Guidance and determines that the Guidance, if adhered to by contractors or subcontractors, will promote economy and efficiency in Federal contracting. This clause shall apply to any workplace locations (as specified by the Task Force Guidance) in which an individual is working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order).

(b) By September 24, 2021, the Safer Federal Workforce Task Force (Task Force) shall, as part of its issuance of Task Force Guidance, provide definitions of relevant terms for contractors and subcontractors, explanations of protocols required of contractors and subcontractors to comply with workplace safety guidance, and any exceptions to Task Force Guidance that apply to contractor and subcontractor workplace locations and individuals in those locations working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order).

(c) Prior to the Task Force publishing new Guidance related to COVID-19 for contractor or subcontractor workplace locations, including the Guidance developed pursuant to subsection (b) of this section, the Director shall, as an exercise of the delegation of my authority under the Federal Property

and Administrative Services Act, *see* 3 U.S.C. 301, determine whether such Guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. Upon an affirmative determination by the Director, the Director's approval of the Guidance, and subsequent issuance of such Guidance by the Task Force, contractors and subcontractors working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order), shall adhere to the requirements of the newly published Guidance, in accordance with the clause described in subsection (a) of this section. The Director shall publish such determination in the *Federal Register*.

(d) Nothing in this order shall excuse noncompliance with any applicable State law or municipal ordinance establishing more protective safety protocols than those established under this order or with any more protective Federal law, regulation, or agency instructions for contractor or subcontractor employees working at a Federal building or a federally controlled workplace.

(e) For purposes of this order, the term "contract or contract-like instrument" shall have the meaning set forth in the Department of Labor's proposed rule, "Increasing the Minimum Wage for Federal Contractors," 86 FR 38816, 38887 (July 22, 2021). If the Department of Labor issues a final rule relating to that proposed rule, that term shall have the meaning set forth in that final rule.

**Sec. 3. Regulations and Implementation.** (a) The Federal Acquisition Regulatory Council, to the extent permitted by law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the clause described in section 2(a) of this order, and shall, by October 8, 2021, take initial steps to implement appropriate policy direction to acquisition offices for use of the clause by recommending that agencies exercise their authority under subpart 1.4 of the Federal Acquisition Regulation.

(b) By October 8, 2021, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts and contract-like instruments as described in section 5(a) of this order that are not subject to the Federal Acquisition Regulation and that are entered into on or after October 15, 2021, consistent with the effective date of such agency action, include the clause described in section 2(a) of this order.

**Sec. 4. Severability.** If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

**Sec. 5. Applicability.** (a) This order shall apply to any new contract; new contract-like instrument; new solicitation for a contract or contract-like instrument; extension or renewal of an existing contract or contract-like instrument; and exercise of an option on an existing contract or contract-like instrument, if:

- (i) it is a procurement contract or contract-like instrument for services, construction, or a leasehold interest in real property;
  - (ii) it is a contract or contract-like instrument for services covered by the Service Contract Act, 41 U.S.C. 6701 *et seq.*;
  - (iii) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or
  - (iv) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public;
- (b) This order shall not apply to:
- (i) grants;

(ii) contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93–638), as amended;

(iii) contracts or subcontracts whose value is equal to or less than the simplified acquisition threshold, as that term is defined in section 2.101 of the Federal Acquisition Regulation;

(iv) employees who perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the Federal Acquisition Regulation; or

(v) subcontracts solely for the provision of products.

**Sec. 6. *Effective Date.*** (a) Except as provided in subsection (b) of this section, this order is effective immediately and shall apply to new contracts; new contract-like instruments; new solicitations for contracts or contract-like instruments; extensions or renewals of existing contracts or contract-like instruments; and exercises of options on existing contracts or contract-like instruments, as described in section 5(a) of this order, where the relevant contract or contract-like instrument will be entered into, the relevant contract or contract-like instrument will be extended or renewed, or the relevant option will be exercised, on or after:

(i) October 15, 2021, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 3(a) of this order; or

(ii) for contracts and contract-like instruments that are not subject to the Federal Acquisition Regulation and where an agency action is taken pursuant to section 3(b) of this order, October 15, 2021, consistent with the effective date for such action.

(b) As an exception to subsection (a) of this section, where agencies have issued a solicitation before the effective date for the relevant action taken pursuant to section 3 of this order and entered into a new contract or contract-like instrument resulting from such solicitation within 30 days of such effective date, such agencies are strongly encouraged to ensure that the safety protocols specified in section 2 of this order are applied in the new contract or contract-like instrument. But if that contract or contract-like instrument term is subsequently extended or renewed, or an option is subsequently exercised under that contract or contract-like instrument, the safety protocols specified in section 2 of this order shall apply to that extension, renewal, or option.

(c) For all existing contracts and contract-like instruments, solicitations issued between the date of this order and the effective dates set forth in this section, and contracts and contract-like instruments entered into between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged, to the extent permitted by law, to ensure that the safety protocols required under those contracts and contract-like instruments are consistent with the requirements specified in section 2 of this order.

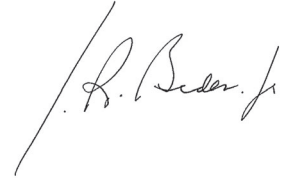
**Sec. 7. *General Provisions.*** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to read "J. R. Biden Jr.", is written in the upper right quadrant of the page.

THE WHITE HOUSE,  
*September 9, 2021.*

# EXHIBIT 7

**Safer Federal Workforce Task Force**  
**COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors**  
Issued September 24, 2021

**Introduction**

On September 9, President Biden announced his [Path Out of the Pandemic: COVID-19 Action Plan](#). One of the main goals of this science-based plan is to get more people vaccinated. As part of that plan, the President signed Executive Order 14042, [Ensuring Adequate COVID Safety Protocols for Federal Contractors](#), (“the order”) which directs executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. § 102(4)(A), to ensure that covered contracts and contract-like instruments include a clause (“the clause”) that the contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (“Task Force”), provided that the Director of the Office of Management and Budget (“OMB”) approves the Task Force Guidance (the or this “Guidance”) and determines that the Guidance, if adhered to by covered contractors, will promote economy and efficiency in Federal contracting.

The actions directed by the order will ensure that parties who contract with the Federal Government provide COVID-19 safeguards in workplaces with individuals working on or in connection with a Federal Government contract or contract-like instrument. These workplace safety protocols will apply to all covered contractor employees, including contractor or subcontractor employees in covered contractor workplaces who are not working on a Federal Government contract or contract-like instrument. These safeguards will decrease the spread of SARS-CoV-2, the virus that causes COVID-19, which will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors performing work for the Federal Government.

Pursuant to this Guidance, and in addition to any requirements or workplace safety protocols that are applicable because a contractor or subcontractor employee is present at a Federal workplace, Federal contractors and subcontractors with a covered contract will be required to conform to the following workplace safety protocols:

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.

The order also sets out a process for OMB and the Safer Federal Workforce Task Force to update the Guidance for covered contractors, which the Task Force will consider doing based on future changes to Centers for Disease Control and Prevention (“CDC”) COVID-19 guidance and as warranted by the circumstances of the pandemic and public health conditions. It also sets out a process for the Federal Acquisition Regulatory Council (“FAR Council”) to implement such protocols and guidance for covered Federal procurement solicitations and contracts subject to the Federal Acquisition Regulation (“FAR”) and for agencies that are responsible for covered contracts and contract-like instruments not subject to the FAR to take prompt action to ensure that those covered contracts and contract-like instruments include the clause, consistent with the order.

Covered contractors shall adhere to the requirements of this Guidance. The Director of OMB has, as authorized by Executive Order 14042, approved this Guidance and has, an exercise of the delegation of authority (see 3 U.S.C. § 301) under the Federal Property and Administrative Services Act determined that this Guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. The Director has published such determination in the Federal Register.

## Definitions

*Community transmission* – means the level of community transmission as set forth in the [CDC COVID-19 Data Tracker County View](#).

*Contract and contract-like instrument* – has the meaning set forth in the Department of Labor’s proposed rule, “Increasing the Minimum Wage for Federal Contractors,” [86 Fed. Reg. 38,816, 38,887](#) (July 22, 2021). If the Department of Labor issues a final rule relating to that proposed rule, this term shall have the meaning set forth in that final rule.

That proposed rule defines a contract or contract-like instrument as an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The term contract includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The term contract shall be interpreted broadly as to include, but not be limited to, any contract within the definition provided in the FAR at 48 CFR chapter 1 or applicable Federal statutes. This definition includes, but is not limited to, any contract that may be covered under any Federal procurement statute. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; exercised contract options; and bilateral contract modifications. The term contract includes contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, concessions contracts not otherwise subject to the Service Contract Act, and contracts in connection with Federal property or land and related to offering services for Federal employees, their dependents, or the general public.

*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.

*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.

*Covered contractor workplace* – means a location controlled by a covered contractor at which any employee of a covered contractor working on or in connection with a covered contract is likely to be present during the period of performance for a covered contract. A covered contractor workplace does not include a covered contractor employee’s residence.

*Federal workplace* – means any place, site, installation, building, room, or facility in which any Federal executive department or agency conducts official business, or is within an executive department or agency’s jurisdiction, custody, or control.

*Fully vaccinated* – People are considered [fully vaccinated](#) for COVID-19 two weeks after they have received the second dose in a two-dose series, or two weeks after they have received a single-dose vaccine. There is currently no post-vaccination time limit on fully vaccinated status; should such a limit be determined by the Centers for Disease Control and Prevention, that limit will be considered by the Task Force and OMB for possible updating of this Guidance.

For purposes of this Guidance, people are considered fully vaccinated if they have received COVID-19 vaccines currently approved or authorized for emergency use by the U.S. Food and Drug Administration (Pfizer-BioNTech, Moderna, and Johnson & Johnson [J&J]/Janssen COVID-19 vaccines) or COVID-19 vaccines that have been listed for emergency use by the World Health Organization (e.g., AstraZeneca/Oxford). More information is available at [Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC](#).

Clinical trial participants from a U.S. site who are documented to have received the full series of an “active” (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated two weeks after they have completed the vaccine series. Currently, the Novavax COVID-19 vaccine meets these criteria. More information is available at the CDC website [here](#).

*Mask* – means any mask that is consistent with CDC recommendations as set forth in [Types of Masks and Respirators | CDC](#). This may include the following: disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, masks with inner filter pockets, and filtering facepiece respirators that are approved by the National Institute for Occupational Safety and Health or consistent with international standards. The following do not constitute masks for purposes of this Guidance: masks with exhalation valves, vents, or other openings; face shields only (without mask); or masks with single-layer fabric or thin fabric that does not block light.

## Guidance

Covered contractors are responsible for ensuring that covered contractor employees comply with the workplace safety protocols detailed below. Covered contractor employees must also comply with agency COVID-19 workplace safety requirements while in Federal workplaces.

Consistent with applicable law, agencies are strongly encouraged to incorporate a clause requiring compliance with this Guidance into contracts that are not covered or directly addressed by the order because the contract is under the Simplified Acquisition Threshold as defined in section 2.101 of the FAR or is a contract or subcontract for the manufacturing of products. Agencies are also strongly encouraged to incorporate a clause requiring compliance with this Guidance into existing contracts and contract-like instruments prior to the date upon which the order requires inclusion of the clause.

*1. Vaccination of covered contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation*

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. After that date, all covered contractor employees must be fully vaccinated by the first day of the period of performance on a newly awarded covered contract, and by the first day of the period of performance on an exercised option or extended or renewed contract when the clause has been incorporated into the covered contract.

A covered contractor may be required to provide an accommodation to covered contractor employees who communicate to the covered contractor that they are not vaccinated against COVID-19 because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer. Requests for “medical accommodation” or “medical exceptions” should be treated as requests for a disability accommodation.

Should a Federal agency have an urgent, mission-critical need for a covered contractor to have covered contractor employees begin work on a covered contract or at a covered workplace before becoming fully vaccinated, the agency head may approve an exception for the covered contractor—in the case of such limited exceptions, the covered contractor must ensure these covered contractor employees are fully vaccinated within 60 days of beginning work on a covered contract or at a covered workplace. The covered contractor must further ensure that such employees comply with masking and physical distancing requirements for not fully vaccinated individuals in covered workplaces prior to being fully vaccinated.

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, 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.

The covered contractor shall ensure compliance with the requirements in this Guidance related to the showing or provision of proper vaccination documentation.

Covered contractors are strongly encouraged to incorporate similar vaccination requirements into their non-covered contracts and agreements with non-covered contractors whose employees perform work at covered contractor workplaces but who do not work on or in connection with a Federal contract, such as those contracts and agreements related to the provision of food services, onsite security, or groundskeeping services at covered contractor workplaces.

## *2. Requirements related to masking and physical distancing while in covered contractor workplaces*

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.

In addition to the guidance set forth below, CDC's guidance for mask wearing and physical distancing in specific settings, including healthcare, transportation, correctional and detention facilities, and schools, must be followed, as applicable.

In areas of high or substantial community transmission, fully vaccinated people must wear a mask in indoor settings, except for limited exceptions discussed in this Guidance. In areas of low or moderate community transmission, fully vaccinated people do not need to wear a mask. Fully vaccinated individuals do not need to physically distance regardless of the level of transmission in the area.

Individuals who are not fully vaccinated must wear a mask indoors and in certain outdoor settings (see below) regardless of the level of community transmission in the area. To the extent practicable, individuals who are not fully vaccinated should maintain a distance of at least six feet from others at all times, including in offices, conference rooms, and all other communal and work spaces.

Covered contractors must require individuals in covered contractor workplaces who are required to wear a mask to:

- Wear appropriate masks consistently and correctly (over mouth and nose).
- Wear appropriate masks in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).
- For individuals who are not fully vaccinated, wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated, consistent with CDC guidance.

A covered contractor may be required to provide an accommodation to covered contractor employees who communicate to the covered contractor that they cannot wear a mask because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer.

Covered contractors may provide for exceptions to mask wearing and/or physical distancing requirements consistent with CDC guidelines, for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining appropriate distancing. Covered contractors may also provide exceptions for covered contractor employees engaging in activities in which a mask may get wet; high intensity activities where covered contractor employees are unable to wear a mask because of difficulty breathing; or activities for which wearing a mask would create a risk to workplace health, safety, or job duty as determined by a [workplace risk assessment](#). Any such exceptions must be approved in writing by a duly authorized representative of the covered contractor to ensure compliance with this Guidance at covered contractor workplaces, as discussed further below.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Covered contractors must check the [CDC COVID-19 Data Tracker County View website](#) for community transmission information in all areas where they have a covered contractor workplace at least weekly to determine proper workplace safety protocols. When the level of community transmission in the area of a covered contractor workplace increases from low or moderate to substantial or high, contractors and subcontractors should put in place more protective workplace safety protocols consistent with published guidelines. However, when the level of community transmission in the area of a covered contractor workplace is reduced from high or substantial to moderate or low, the level of community transmission must remain at that lower level for at least two consecutive weeks before the covered contractor utilizes those protocols recommended for areas of moderate or low community transmission.

3. *Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.*

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.

The designated individual (or individuals) must ensure that information on required COVID-19 workplace safety protocols is provided to covered contractor employees and all other individuals likely to be present at covered contractor workplaces, including by communicating the required workplace safety protocols and related policies by email, websites, memoranda, flyers, or other means and posting signage at covered contractor workplaces that sets forth the requirements and workplace safety protocols in this Guidance in a readily understandable manner. This includes communicating the COVID-19 workplace safety protocols and requirements related to masking and physical distancing to visitors and all other individuals present at covered contractor workplaces. The designated individual (or individuals) must also ensure that covered contractor employees comply with the requirements in this guidance related to the showing or provision of proper vaccination documentation.

## Frequently Asked Questions

### *Vaccination and Safety Protocols*

#### **Q1: How do covered contractors determine vaccination status of visitors to covered contractor workplaces?**

A: Covered contractors should post signage at entrances to covered contractor workplaces providing information on safety protocols for fully vaccinated and not fully vaccinated individuals, including the protocols defined in the masking and physical distancing section above, and instruct individuals to follow the appropriate workplace safety protocols while at the covered contractor workplace. Covered contractors may take other reasonable steps, such as by communicating workplace safety protocols to visitors prior to their arrival at a covered contractor workplace or requiring all visitors to follow masking and physical distancing protocols for not fully vaccinated individuals.

#### **Q2: Do covered contractors need to provide onsite vaccinations to their employees?**

A: Covered contractors should ensure their employees are aware of [convenient opportunities to be vaccinated](#). Although covered contractors may choose to provide vaccinations at their facilities or workplaces, given the widespread availability of vaccinations, covered contractors are not required to do so.

#### **Q3: What should a contractor employee do if a covered contractor employee has lost or does not have a copy of required vaccination documentation?**

A: If covered contractor employees need new vaccination cards or copies of other documentation proof of vaccination, they should contact the vaccination provider site where they received their vaccine. Their provider should be able to provide them with new cards or documentation with up-to-date information about the vaccinations they have received. If the location where the covered contractor employees received their COVID-19 vaccine is no longer operating, the covered contractor employees should contact their State or local health department's [immunization information system \(IIS\)](#) for assistance. Covered contractor employees should [contact their State or local health department](#) if they have additional questions about vaccination cards or vaccination records.

An attestation of vaccination by the covered contractor employee is not an acceptable substitute for documentation of proof of vaccination.

#### **Q4: Who is responsible for determining if a covered contractor employee must be provided an accommodation because of a disability or because of a sincerely held religious belief, practice, or observance?**

A: A covered contractor may be required to provide an accommodation to contractor employees who communicate to the covered contractor that they are not vaccinated for COVID-19, or that they cannot wear a mask, because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer. The contractor is responsible for considering, and dispositioning, such requests for accommodations regardless of the covered contractor employee's place of performance. If the agency that is the party to the covered contract is a "joint employer" for purposes of compliance with the Rehabilitation Act and Title VII of the Civil Rights Act, both the agency and the covered contractor should review and consider what, if any, accommodation they must offer.

**Q5: Are covered contractor employees who have a prior COVID-19 infection required to be vaccinated?**

A: Yes, covered contractor employees who have had a prior COVID-19 infection are required to be vaccinated. More information from CDC can be found [here](#).

**Q6: Can a covered contractor accept a recent antibody test from a covered contractor employee to prove vaccination status?**

A: No. A covered contractor cannot accept a recent antibody test from a covered contractor employee to prove vaccination status.

*Workplaces*

**Q7: Does this Guidance apply to outdoor contractor or subcontractor workplace locations?**

A: Yes, this Guidance applies to contractor or subcontractor workplace locations that are outdoors.

**Q8: If a covered contractor employee is likely to be present during the period of performance for a covered contract on only one floor or a separate area of a building, site, or facility controlled by a covered contractor, do other areas of the building, site, or facility controlled by a covered contractor constitute a covered contractor workplace?**

A: Yes, unless a covered contractor can affirmatively determine that none of its employees on another floor or in separate areas of the building will come into contact with a covered contractor employee during the period of performance of a covered contract. This would include affirmatively determining that there will be no interactions between covered contractor employees and non-covered contractor employees in those locations during the period of performance on a covered contract, including interactions through use of common areas such as lobbies, security clearance areas, elevators, stairwells, meeting rooms, kitchens, dining areas, and parking garages.

**Q9: If a covered contractor employee performs their duties in or at only one building, site, or facility on a campus controlled by a covered contractor with multiple buildings, sites, or facilities, are the other buildings, sites, or facility controlled by a covered contractor considered a covered contractor workplace?**

A: Yes, unless a covered contractor can affirmatively determine that none of its employees in or at one building, site, or facility will come into contact with a covered contractor employee during the period of performance of a covered contract. This would include affirmatively determining that there will be no interactions between covered contractor employees and non-covered contractor employees in those locations during the period of performance on a covered contract, including interactions through use of common areas such as lobbies, security clearance areas, elevators, stairwells, meeting rooms, kitchens, dining areas, and parking garages.

**Q10: Are the workplace safety protocols enumerated above the same irrespective of whether the work is performed at a covered contractor workplace or at a Federal workplace?**

A: Yes. The Guidance applies to all covered contractor employees and to all contractor or subcontractor workplace locations. While at a Federal workplace, covered contractor employees must also comply with any additional agency workplace safety requirements for that workplace. Because covered contractor employees working on a covered contract need to be fully vaccinated after December 8, 2021, covered contractor employees who work only at a Federal workplace need to be fully vaccinated by that date as well, unless legally entitled to an accommodation.

**Q11: How does this Guidance apply to covered contractor employees who are authorized under the covered contract to perform work remotely from their residence?**

A: 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. A covered contractor employee's residence is not a covered contractor workplace, so 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.

#### *Scope and Applicability*

**Q12: By when must the requirements of the order be reflected in contracts?**

A: Section 6 of the order lays out a phase-in of the requirements for covered contracts as follows:

- *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.

**Q13: Must the order’s requirements be flowed down to all lower-tier subcontractors and, if so, who is responsible for flowing the clause down?**

A: Yes. The requirements in the order apply to subcontractors at all tiers, except for subcontracts solely for the provision of products. The prime contractor must flow the clause down to first-tier subcontractors; higher-tier subcontractors must flow the clause down to the next lower-tier subcontractor, to the point at which subcontract requirements are solely for the provision of products.

**Q14: Does the Guidance apply to small businesses?**

A: Yes, the requirement to comply with this Guidance applies equally to covered contractors regardless of whether they are a small business. This broad application of COVID-19 guidance will more effectively decrease the spread of COVID-19, which, in turn, will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors at workplaces where they are performing work for the Federal Government.

**Q15: What steps are being taken to promote consistent application of the order’s requirements across agencies?**

A: The FAR Council will conduct a rulemaking to amend the FAR to include a clause that requires covered contractors performing under FAR-based contracts to comply with this Guidance for contractor and subcontractor workplace locations. Prior to rulemaking, by October 8, 2021, the FAR Council will develop a clause and recommend that agencies exercise their authority to deviate from the FAR using the procedures set forth in subpart 1.4. Agencies responsible for contracts and contract-like instruments that are not subject to the FAR, such as concession contracts, will be responsible for developing appropriate guidance by October 8, 2021 to incorporate requirements into their covered instruments entered into on or after October 15, 2021.

**Q16: If the Safer Federal Workforce Task Force updates this Guidance to add new requirements, do those requirements apply to existing contracts?**

A: Yes. Covered contractors are required to, for the duration of the contract, comply with all Task Force Guidance for contractor or subcontractor workplace locations, including any new

Guidance where the OMB Director approves the Guidance and determines that adherence to the Guidance will promote economy and efficiency in Federal contracting. The Task Force and OMB plan to ensure any workplace safety protocols reflect what is necessary to decrease the spread of COVID-19.

**Q17: What constitutes work performed “in connection with” a covered contract?**

A: Employees who perform duties necessary to the performance of the covered contract, but who are not directly engaged in performing the specific work called for by the covered contract, such as human resources, billing, and legal review, perform work in connection with a Federal Government contract.

**Q18: Do the workplace safety protocols in the Guidance apply to covered contractor employees who perform work outside the United States?**

A: No. The workplace safety protocols in the Guidance do not apply to covered contractor employees who only perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the FAR.

*Compliance*

**Q19: Does this clause apply in States or localities that seek to prohibit compliance with any of the workplace safety protocols set forth in this Guidance?**

A: Yes. These requirements are promulgated pursuant to Federal law and supersede any contrary State or local law or ordinance. Additionally, nothing in this Guidance shall excuse noncompliance with any applicable State law or municipal ordinance establishing more protective workplace safety protocols than those established under this Guidance.

**Q20: Can a covered contractor comply with workplace safety requirements from the Occupational Safety and Health Administration, including pursuant to any current or forthcoming Emergency Temporary Standard related to COVID-19, instead of the requirements of this Guidance?**

A: No. Covered contractors must comply with the requirements set forth in this Guidance regardless of whether they are subject to other workplace safety standards.

**Q21: What is the prime contractor’s responsibility for verifying that subcontractors are adhering to the mandate?**

A: The prime contractor is responsible for ensuring that the required clause is incorporated into its first-tier subcontracts in accordance with the implementation schedule set forth in section 6 of the order. When the clause is incorporated into a subcontract, a subcontractor is required to

comply with this Guidance and the workplace safety protocols detailed herein. Additionally, first-tier subcontractors are expected to flow the clause down to their lower-tier subcontractors in similar fashion so that accountability for compliance is fully established throughout the Federal contract supply chain for covered subcontractor employees and workplaces at all tiers through application of the clause.



# Federal Contractors

## Vaccination and Safety Protocols **NEW**

### **Q: How do covered contractors determine vaccination status of visitors to covered contractor workplaces?**

A: Covered contractors should post signage at entrances to covered contractor workplaces providing information on safety protocols for fully vaccinated and not fully vaccinated individuals, including the protocols defined in the masking and physical distancing section in the Task Force's [Guidance for Federal Contractors and Subcontractors](#), and instruct individuals to follow the appropriate workplace safety protocols while at the covered contractor workplace. Covered contractors may take other reasonable steps, such as by communicating workplace safety protocols to visitors prior to their arrival at a covered contractor workplace or requiring all visitors to follow masking and physical distancing protocols for not fully vaccinated individuals.

### **NEW Q: Is there sample signage that a covered contractor can post at entrances to covered contractor workplaces providing information on safety protocols?**

A: Yes. Covered contractors should post signage at entrances to covered contractor workplaces providing information on safety protocols for fully vaccinated and not fully vaccinated individuals and instruct individuals to follow the appropriate workplace safety protocols while at the covered contractor workplace. Sample signage for areas of high or substantial levels of community transmission can be found [here](#). Sample signage for areas of low or moderate levels of community transmission can be found [here](#).

### **Q: Do covered contractors need to provide onsite vaccinations to their employees?**

A: Covered contractors should ensure their employees are aware of [convenient opportunities to be vaccinated](#). Although covered contractors may choose to provide vaccinations at their facilities or workplaces, given the widespread availability of vaccinations, covered contractors are not required to do so.

### **Q: If a covered contractor can access a covered contractor employee's vaccination documentation, consistent with relevant privacy laws, does the covered contractor need to require the employee to show or provide documentation?**

A: No. If, consistent with all relevant privacy laws, a covered contractor can access its employee's vaccination documentation directly, such as when the contractor previously requested the employee to provide vaccination documentation, has existing documentation from an employee vaccination program, or can access information through a State's immunization database, the covered contractor does not need to require its employee to show or provide documentation.

**Q: What should a contractor employee do if a covered contractor employee has lost or does not have a copy of required vaccination documentation?**

A: If covered contractor employees need new vaccination cards or copies of other documentation proof of vaccination, they should contact the vaccination provider site where they received their vaccine. Their provider should be able to provide them with new cards or documentation with up-to-date information about the vaccinations they have received. If the location where the covered contractor employees received their COVID-19 vaccine is no longer operating, the covered contractor employees should contact their State or local health department's [immunization information system \(IIS\)](#) for assistance. Covered contractor employees should [contact their State or local health department](#) if they have additional questions about vaccination cards or vaccination records.

An attestation of vaccination by the covered contractor employee is not an acceptable substitute for documentation of proof of vaccination.

**Q: Who is responsible for determining if a covered contractor employee must be provided an accommodation because of a disability or because of a sincerely held religious belief, practice, or observance?**

A: A covered contractor may be required to provide an accommodation to contractor employees who communicate to the covered contractor that they are not vaccinated for COVID-19, or that they cannot wear a mask, because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer. The contractor is responsible for considering, and dispositioning, such requests for accommodations regardless of the covered contractor employee's place of performance. If the agency that is the party to the covered contract is a "joint employer" for purposes of compliance with the Rehabilitation Act and Title VII of the Civil Rights Act, both the agency and the covered contractor should review and consider what, if any, accommodation they must offer.

**Q: Do all requests for accommodation need to be resolved by the covered contractor by the time that covered contractor employees begin work on a covered contract or at a covered workplace?**

A: No. The covered contractor may still be reviewing requests for accommodation as of the time that covered contractor employees begin work on a covered contract or at a covered workplace. While accommodation requests are pending, the covered contractor must require a covered contractor employee with a pending accommodation request to follow workplace safety protocols for

individuals who are not fully vaccinated as specified in the Task Force [Guidance for Federal Contractors and Subcontractors](#).

**Q: When a covered contractor employee is not vaccinated because a covered contractor has provided the employee with an accommodation, what workplace safety protocols must the employee follow while in a Federal workplace?**

A: The Federal agency will determine the workplace safety protocols that individuals who are not fully vaccinated must follow while in a Federal workplace. As noted in Task Force [guidance](#), in most circumstances individuals who are not fully vaccinated need to follow applicable masking, physical distancing, and testing protocols. However, there may be circumstances in which an agency determines that the nature of a covered contractor employee's job responsibilities at a Federal workplace, or the location of their work at a Federal workplace, requires heightened safety protocols. Further, in some cases, an agency may determine that the nature of a covered contractor employee's responsibilities at a Federal workplace are such that no safety protocol other than vaccination is adequate—in that case, covered contractor employees who are not fully vaccinated would be unable to perform the requisite work at the Federal workplace. Such circumstances do not relieve the contractor from meeting all contractual requirements.

In order for agencies to assess appropriate safety measures for contractor employees in Federal workplaces, contractors subject to a contractual requirement for maintaining COVID-19 workplace safety protocols pursuant to Executive Order 14042 should generally notify their contracting officers when one of their employees who works onsite at a Federal workplace has received an exception to the requirement to be fully vaccinated.

**Q: If a covered contractor employee requests an accommodation, and that accommodation is denied by the covered contractor, how long should the contractor employee be afforded to be fully vaccinated?**

A: Covered contractors should establish a timeline for a covered contractor employee whose request for an accommodation is denied to promptly become fully vaccinated.

**Q: Can a covered contractor grant a covered contractor employee an extension to the deadline for vaccination due to a documented medical necessity even if the contractor employee does not meet the legal definition of "disability" to be entitled to an accommodation?**

A: Even in cases where the covered contractor employee does not meet the legal definition of "disability" to be entitled to an accommodation under the Rehabilitation Act, in some limited circumstances a covered contractor may grant the contractor employee an extension to a vaccination deadline based upon other medical considerations. For example, as explained in a separate FAQ, the CDC [recommends](#) delaying COVID-19 vaccination for at least 90 days after receiving monoclonal antibodies or convalescent plasma for COVID-19 treatment. Covered contractors that receive documented medical reasons that may not qualify as a disability but that necessitate a delay in

vaccination can grant a covered contractor employee an extension, but covered contractors should specify, consistent with the nature of the medical necessity, by what date the contractor employee must be fully vaccinated.

Covered contractors should take note that an individual's medical need should be considered on a case-by-case basis, including any medical evaluation that addresses the individual's particular circumstance.

**Q: What medical conditions does the CDC consider a contraindication to vaccination with COVID-19 vaccines?**

A: The CDC considers a history of the following medical conditions to be [contraindications](#) to vaccination with COVID-19 vaccines:

- Severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine; and
- Immediate allergic reaction of any severity to a previous dose or known (diagnosed) allergy to a component of the COVID-19 vaccine.

If an individual is allergic to a component of one or more COVID-19 vaccines, that individual may not be allergic to components in all COVID-19 vaccines.

**UPDATED Q: Are there circumstances that the CDC recommends delaying vaccination for COVID-19?**

A: Yes. In the following circumstances, the CDC [recommends](#) delaying vaccination for COVID-19 for adults:

- Vaccination of people with known current SARS-CoV-2 infection should be delayed until the person has recovered from the acute illness (if the person had symptoms), and they have met [criteria](#) to discontinue isolation.
- People with a history of multisystem inflammatory syndrome in adults (MIS-A) should consider delaying vaccination until they have recovered from their illness and for 90 days after the date of diagnosis of MIS-A.
- Vaccination should be delayed for 90 days after receiving monoclonal antibodies or convalescent plasma for COVID-19 treatment.
- Whenever possible, mRNA COVID-19 vaccination doses (including the primary series and an additional dose) or the single dose Johnson and Johnson (J&J)/Janssen vaccine should be completed at least two weeks before initiation or resumption of immunosuppressive therapies, but timing of COVID-19 vaccination should take into consideration current or planned immunosuppressive therapies and optimization of both the patient's medical condition and response to vaccine. A patient's clinical team is best positioned to determine the degree of immune compromise and appropriate timing of vaccination.

- People who develop myocarditis or pericarditis after a dose of an mRNA COVID-19 vaccine should delay receiving a subsequent dose. People who choose to receive a subsequent dose should wait until myocarditis has completely resolved.
- People who have a history of myocarditis or pericarditis unrelated to mRNA COVID-19 vaccination may receive any currently FDA-approved or FDA-authorized COVID-19 vaccine after the episode of myocarditis or pericarditis has completely resolved. This includes resolution of symptoms attributed to myocarditis or pericarditis, as well as no evidence of ongoing heart inflammation or sequelae as determined by the person's clinical team, which may include a cardiologist, and special testing to assess cardiac recovery.

This is not an exhaustive list of the circumstances in which clinical considerations may recommend in favor of delaying vaccination.

In circumstances in which delay pursuant to these clinical considerations means that a covered contractor employee is not fully vaccinated as of the vaccination requirement implementation date of January 18, 2022 or at the time that covered contractor employees begin work on a covered contract or at a covered workplace, the covered contractor should require that individual to become fully vaccinated promptly after clinical considerations no longer recommend delay.

During the period in which vaccination is delayed, a covered contractor employee must follow applicable masking and physical distancing protocols for not fully vaccinated individuals. There may be circumstances in which an agency determines that the nature of a covered contractor employee's job responsibilities at a Federal workplace, or the location of their work at a Federal workplace, requires heightened safety protocols. In some cases, an agency may determine that the nature of a covered contractor employee's responsibilities at a Federal workplace are such that no safety protocol other than vaccination is adequate—in that case, covered contractor employees who are not fully vaccinated would be unable to perform the requisite work at the Federal workplace. Such circumstances do not relieve the contractor from meeting all contractual requirements.

**Q: Is vaccination for COVID-19 recommended for people who are trying to get pregnant or might become pregnant in the future?**

A: Yes. The CDC has [stated](#) that COVID-19 vaccination is recommended for people who are trying to get pregnant now or might become pregnant in the future, as well as their partners.

**Q: Does the CDC recommend that an individual delay vaccination due to pregnancy?**

A: The CDC recommends COVID-19 vaccination for [people who are pregnant, breastfeeding, trying to become pregnant now, or trying to become pregnant in the future](#). The American College of Obstetricians and Gynecologists and Society for Maternal-Fetal Medicine [recommend](#) that all pregnant individuals be vaccinated against COVID-19. However, a covered contractor may allow a covered contractor employee to delay vaccination based on the contractor employee's particular

medical circumstances, consistent with the covered contractor's process for reviewing delay requests.

**Q: Can a covered contractor employee delay a COVID-19 vaccine because they have recently received another vaccine, such as the seasonal influenza vaccine?**

A: COVID-19 vaccines may be administered without regard to timing of other vaccines. This includes simultaneous administration of COVID-19 vaccine and other vaccines on the same day.

**Q: Can a covered contractor employee who participates in a clinical trial for a COVID-19 vaccine be considered fully vaccinated?**

A: Clinical trial participants from a U.S. site who are documented to have received the full series of an "active" (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated 2 weeks after they have completed the vaccine series. Currently, the U.S.-based AstraZeneca and Novavax COVID-19 vaccines meet these criteria. More information is available [here](#).

**Q: Can a covered contractor employee who has received a heterologous primary vaccine series be considered fully vaccinated?**

A: Individuals can be considered fully vaccinated  $\geq 2$  weeks after receipt of the last dose if they have received any combination of two doses of an FDA approved or authorized or WHO emergency use listed COVID-19 two-dose series. For these purposes, the second dose in a two dose heterologous series must have been received no earlier than 17 days (21 days with a 4-day grace period) after the first dose.

**Q: Are covered contractor employees who have a prior COVID-19 infection required to be vaccinated?**

A: Yes, covered contractor employees who have had a prior COVID-19 infection are required to be vaccinated. More information from CDC can be found [here](#).

**Q: Can a covered contractor accept a recent antibody test from a covered contractor employee to prove vaccination status?**

A: No. A covered contractor cannot accept a recent antibody test from a covered contractor employee to prove vaccination status.

**Workplaces** UPDATED

**Scope and Applicability of Task Force Guidance for Federal Contractors**

## Compliance

### Onsite Contractor Employees and Federal Workplace Safety Protocols



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)





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MENU

# Federal Contractors

## Vaccination and Safety Protocols **NEW**

## Workplaces **UPDATED**

**Q: Does the Task Force [Guidance for Federal Contractors and Subcontractors](#) apply to outdoor contractor or subcontractor workplace locations?**

A: Yes, the Task Force Guidance applies to contractor or subcontractor workplace locations that are outdoors.

**Q: If a covered contractor employee is likely to be present during the period of performance for a covered contract on only one floor or a separate area of a building, site, or facility controlled by a covered contractor, do other areas of the building, site, or facility controlled by a covered contractor constitute a covered contractor workplace?**

A: Yes, unless a covered contractor can affirmatively determine that none of its employees on another floor or in separate areas of the building will come into contact with a covered contractor employee during the period of performance of a covered contract. This would include affirmatively determining that there will be no interactions between covered contractor employees and non-covered contractor employees in those locations during the period of performance on a covered contract, including interactions through use of common areas such as lobbies, security clearance areas, elevators, stairwells, meeting rooms, kitchens, dining areas, and parking garages.

**Q: If a covered contractor employee performs their duties in or at only one building, site, or facility on a campus controlled by a covered contractor with multiple buildings, sites, or facilities, are the other buildings, sites, or facility controlled by a covered contractor considered a covered contractor workplace?**

A: Yes, unless a covered contractor can affirmatively determine that none of its employees in or at one building, site, or facility will come into contact with a covered contractor employee during the period of performance of a covered contract. This would include affirmatively determining that there will be no interactions between covered contractor employees and non-covered contractor employees in those locations during the period of performance on a covered contract, including interactions

through use of common areas such as lobbies, security clearance areas, elevators, stairwells, meeting rooms, kitchens, dining areas, and parking garages.

**UPDATED Q: Are the workplace safety protocols enumerated in the Task Force [Guidance for Federal Contractors and Subcontractors](#) the same irrespective of whether the work is performed at a covered contractor workplace or at a Federal workplace?**

A: Yes. The Task Force Guidance applies to all covered contractor employees and to all contractor or subcontractor workplace locations. While at a Federal workplace, covered contractor employees must also comply with any additional agency workplace safety requirements for that workplace. Because covered contractor employees working on a covered contract need to be fully vaccinated after January 18, 2022, covered contractor employees who work only at a Federal workplace need to be fully vaccinated by that date as well, unless legally entitled to an accommodation.

**Q: How does the Task Force [Guidance for Federal Contractors and Subcontractors](#) apply to covered contractor employees who are authorized under the covered contract to perform work remotely from their residence?**

A: 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. A covered contractor employee's residence is not a covered contractor workplace, so 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.

## **Scope and Applicability of Task Force Guidance for Federal Contractors**

### **Compliance**

#### **Onsite Contractor Employees and Federal Workplace Safety Protocols**

Find COVID-19  
Vaccines Near You

Visit [Vaccines.gov](https://www.vaccines.gov)

Or Call 1-800-232-0233

For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)





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 FEDERAL WORKFORCE

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# Federal Contractors

**Vaccination and Safety Protocols** NEW

**Workplaces** UPDATED

## Scope and Applicability of Task Force Guidance for Federal Contractors

**Q: By when must the requirements of [Executive Order 14042](#) be reflected in contracts?**

A: Section 6 of the order lays out a phase-in of the requirements for covered contracts as follows:

- 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.

**Q: Must the requirements of [Executive Order 14042](#) be flowed down to all lower-tier subcontractors and, if so, who is responsible for flowing the clause down?**

A: Yes. The requirements in the order apply to subcontractors at all tiers, except for subcontracts solely for the provision of products. The prime contractor must flow the clause down to first-tier subcontractors; higher-tier subcontractors must flow the clause down to the next lower-tier subcontractor, to the point at which subcontract requirements are solely for the provision of products.

**Q: Does the Task Force [Guidance for Federal Contractors and Subcontractors](#) apply to small businesses?**

A: Yes, the requirement to comply with the Task Force Guidance applies equally to covered contractors regardless of whether they are a small business. This broad application of COVID-19 guidance will more effectively decrease the spread of COVID-19, which, in turn, will decrease worker

absence, reduce labor costs, and improve the efficiency of contractors and subcontractors at workplaces where they are performing work for the Federal Government.

**Q: What steps are being taken to promote consistent application of the requirements of [Executive Order 14042](#) across agencies?**

A: The FAR Council will conduct a rulemaking to amend the FAR to include a clause that requires covered contractors performing under FAR-based contracts to comply with the Task Force [guidance](#) for contractor and subcontractor workplace locations. Prior to rulemaking, the FAR Council has developed a clause and recommended that agencies exercise their authority to deviate from the FAR using the procedures set forth in subpart 1.4. Agencies responsible for contracts and contract-like instruments that are not subject to the FAR, such as concession contracts, will be responsible for developing appropriate guidance by October 8, 2021 to incorporate requirements into their covered instruments entered into on or after October 15, 2021.

**Q: Can agencies incorporate vaccination requirements into contracts that are not covered by [Executive Order 14042](#) (Ensuring Adequate COVID Safety Protocols for Contractors)?**

A: Yes. Consistent with applicable law, agencies are strongly encouraged to incorporate a clause requiring compliance with the Task Force [Guidance for Federal Contractors and Subcontractors](#) into contracts that are not covered or directly addressed by [Executive Order 14042](#) because the contract is under the Simplified Acquisition Threshold as defined in section 2.101 of the FAR or is a contract or subcontract for the manufacturing of products. Agencies are also strongly encouraged to incorporate a clause requiring compliance with the Task Force Guidance into existing contracts and contract-like instruments prior to the date upon which the order requires inclusion of the clause.

**Q: If the Safer Federal Workforce Task Force updates its [Guidance for Federal Contractors and Subcontractors](#) to add new requirements, do those requirements apply to existing contracts?**

A: Yes. Covered contractors are required to, for the duration of the contract, comply with all Task Force Guidance for contractor or subcontractor workplace locations, including any new Guidance where the OMB Director approves the Guidance and determines that adherence to the Guidance will promote economy and efficiency in Federal contracting. The Task Force and OMB plan to ensure any workplace safety protocols reflect what is necessary to decrease the spread of COVID-19.

**Q: What constitutes work performed “in connection with” a covered contract?**

A: Employees who perform duties necessary to the performance of the covered contract, but who are not directly engaged in performing the specific work called for by the covered contract, such as human resources, billing, and legal review, perform work in connection with a Federal Government contract.

**Q: Do the workplace safety protocols in the Task Force [Guidance for Federal Contractors and Subcontractors](#) apply to covered contractor employees who perform work outside the United**

## States?

A: No. The workplace safety protocols in the Task Force Guidance do not apply to covered contractor employees who only perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the FAR.

**Q: If a corporate affiliate of a covered contractor does not otherwise qualify as a covered contractor, are the employees of that affiliate considered covered contractor employees subject to COVID-19 workplace safety protocols for Federal contractors established through Task Force Guidance?**

A: For purposes of Task Force Guidance, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (i) either one controls or has the power to control the other; or (ii) a third party controls or has the power to control both.

Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, or common use of employees.

An employee of a corporate affiliate of a covered contractor is considered a covered contractor employee if the employee performs work at a covered contractor workplace.

**Q: If the workplace where a covered contractor's employees perform work on or in connection with a covered contract is a location owned, leased, or otherwise controlled by a corporate affiliate of a covered contractor that does not otherwise qualify as a covered contractor under Task Force guidance, is the workplace considered a covered contractor workplace?**

A: For purposes of Task Force Guidance, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (i) either one controls or has the power to control the other; or (ii) a third party controls or has the power to control both.

Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, or common use of employees.

If any employee of a covered contractor working on or in connection with a covered contract is likely to be present during the period of performance for a covered contract at a workplace controlled by a corporate affiliate of that covered contractor, that workplace is considered a covered contractor workplace.

## Compliance

### Onsite Contractor Employees and Federal Workplace Safety Protocols

## Find COVID-19 Vaccines Near You

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**Or Call 1-800-232-0233**



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# Federal Contractors

## Vaccination and Safety Protocols **NEW**

## Workplaces **UPDATED**

### Scope and Applicability of Task Force Guidance for Federal Contractors

#### Compliance

#### **Q: What steps should a covered contractor take if a covered contractor employee refuses to be vaccinated?**

A: A covered contractor should determine the appropriate means of enforcement with respect to its employee at a covered contractor workplace who refuses to be vaccinated and has not been provided, or does not have a pending request for, an accommodation. This may include the covered contractor using its usual processes for enforcement of workplace policies, such as those addressed in the contractor's employee handbook or collective bargaining agreements.

One model for enforcement among employees with respect to non-compliance with a vaccination requirement is that being followed by Federal agencies. Guidance for Federal agencies is to utilize an enforcement policy that encourages compliance, including through a limited period of counseling and education, followed by additional disciplinary measures if necessary. Removal occurs only after continued noncompliance. Guidance for Federal agencies is that employees should not be placed on administrative leave while the agency is pursuing an adverse action for refusal to be vaccinated but will be required to follow safety protocols for employees who are not fully vaccinated when reporting to agency worksites.

During the time period of enforcement, the covered contractor must ensure the covered contractor employee at a covered contractor workplace is following all workplace safety protocols for individuals who are not fully vaccinated.

An agency may determine that a covered contractor employee who refuses to be vaccinated in accordance with a contractual requirement pursuant to EO 14042 will be denied entry to a Federal

workplace, consistent with the agency's workplace safety protocols.

**Q: What steps should an agency take if a covered contractor does not comply with the requirements in the Task Force's [Guidance for Federal Contractors and Subcontractors](#)?**

A: Covered contractors are expected to comply with all requirements set forth in their contract. Where covered contractors are working in good faith and encounter challenges with compliance with COVID-19 workplace safety protocols, the agency contracting officer should work with them to address these challenges. If a covered contractor is not taking steps to comply, significant actions, such as termination of the contract, should be taken.

**Q: Does this clause apply in States or localities that seek to prohibit compliance with any of the workplace safety protocols set forth in the Task Force [Guidance for Federal Contractors and Subcontractors](#)?**

A: Yes. These requirements are promulgated pursuant to Federal law and supersede any contrary State or local law or ordinance. Additionally, nothing in the Task Force Guidance shall excuse noncompliance with any applicable State law or municipal ordinance establishing more protective workplace safety protocols than those established under the Task Force Guidance.

**Q: Can a covered contractor comply with workplace safety requirements from the Occupational Safety and Health Administration, including pursuant to any current or forthcoming Emergency Temporary Standard related to COVID-19, instead of the requirements of the Task Force [Guidance for Federal Contractors and Subcontractors](#)?**

A: No. Covered contractors must comply with the requirements set forth in the Task Force Guidance regardless of whether they are subject to other workplace safety standards.

**Q: What is the prime contractor's responsibility for verifying that subcontractors are adhering to the mandate?**

A: The prime contractor is responsible for ensuring that the required clause is incorporated into its first-tier subcontracts in accordance with the implementation schedule set forth in section 6 of [Executive Order 14042](#). When the clause is incorporated into a subcontract, a subcontractor is required to comply with the Task Force [Guidance for Federal Contractors and Subcontractors](#) and the workplace safety protocols detailed herein. Additionally, first-tier subcontractors are expected to flow the clause down to their lower-tier subcontractors in similar fashion so that accountability for compliance is fully established throughout the Federal contract supply chain for covered subcontractor employees and workplaces at all tiers through application of the clause.

**Q: May the prime contractor assume the subcontractor is complying with the clause?**

A: Yes, unless the prime contractor has credible evidence otherwise.

## Onsite Contractor Employees and Federal Workplace Safety Protocols



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# Federal Contractors

**Vaccination and Safety Protocols** NEW

**Workplaces** UPDATED

## Scope and Applicability of Task Force Guidance for Federal Contractors

### Compliance

#### Onsite Contractor Employees and Federal Workplace Safety Protocols

**Q: Do fully vaccinated federal employees, onsite contractor employees, or visitors need to wear a mask or physically distance in federal buildings or on federal lands?**

A: In areas of high or substantial transmission, fully vaccinated people need to wear a mask in public indoor settings, except for limited exceptions discussed in the [model safety principles issued by the Safer Federal Workforce Task Force on September 13, 2021](#).

In areas of low or moderate transmission, in most settings fully vaccinated people generally do not need to wear a mask or physically distance in federal buildings or on federal lands, except where called for by Federal, State, local, Tribal, or territorial laws, rules, and regulations.

Fully vaccinated individuals might choose to wear a mask regardless of the level of transmission for a variety of reasons.

CDC's guidance for mask-wearing and physical distancing in specific settings, including [healthcare](#), [transportation](#), [correctional and detention facilities](#), and [schools](#), should be followed as applicable. Agencies should communicate with employee representatives and satisfy any applicable collective bargaining obligations prior to implementing changes to policies regarding mask wearing and physical distancing.

**Q: Do federal employees, onsite contractor employees, and visitors who are not fully vaccinated need to wear a mask or physically distance in federal buildings or on federal lands?**

A: Yes, people who are not fully vaccinated need to continue to wear a mask and physically distance consistent with CDC guidance and the requirements set forth in Executive Order 13991 and OMB Memorandum M-21-15 and the [model safety principles issued by the Safer Federal Workforce Task Force on September 13, 2021](#).

**Q: Is symptom screening required before agency onsite employees, onsite contractor employees, and visitors come to the workplace?**

A: If federal employees, onsite contractor employees, or visitors have symptoms consistent with COVID-19, they should not enter a federal workplace.

Federal employees and contractors working on site should regularly complete virtual or in-person health checks (ask about symptoms, close contact with someone with SARS-CoV-2 infection, and SARS-CoV-2 testing and diagnosis status). The agency will use this information to assess the individual's risk level and to determine whether the individual should be allowed entry to the workplace. Visitors may be asked to complete symptom screening before entering a federal facility. In developing these tools, agencies may adapt the one developed by [CDC](#).

**Q: Are onsite contractor employees participating in an agency testing program limited in their ability to work onsite in between tests?**

A: No, provided that they have met any applicable testing requirement and have not tested positive for COVID-19, onsite contractor employees participating in an agency testing program are not limited in their ability to work onsite between tests, although they must comply with all relevant safety protocols. However, if the onsite contractor employee has come into close contact with a person with COVID-19 during this time, they should follow CDC guidelines for testing and quarantine and not enter a worksite. Similarly, if they have symptoms consistent with COVID-19, they should not enter a worksite.

Agencies should develop a procedure for addressing circumstances in which onsite contractor employees miss their required test, which may include restricting the individual's access to worksites if they have not obtained a test within a period of time specified by the agency.

A contractor employee's failure to comply with testing requirements may result in that individual being denied entry to a federal building. Such circumstances do not relieve the contractor from meeting all contractual requirements.

**Q: Should agencies inquire regarding the vaccination status of onsite contractor employees?**

A: Prior to contractor employees being subject to a contractual requirement to be vaccinated, agencies need to ask about the vaccination status of those onsite contractor employees. Onsite contractor employees must attest to the truthfulness of the response they provide. If an onsite contractor employee chooses not to provide a response, they will be treated as not fully vaccinated for the purpose of agency safety protocols. In requesting this information, agencies should comply

with any applicable federal laws, including requirements under the Privacy Act and the Paperwork Reduction Act.

**Q: Do onsite contractor employees need to provide proof of a negative COVID-19 test?**

A: Prior to being subject to a contractual requirement to be vaccinated, onsite contractor employees who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building. If a contractor employee is regularly tested pursuant to an agency testing program, then they do not need to provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building unless required to by the agency testing program.

**Q: How should an agency ask onsite contractor employees about their vaccination status?**

A: Prior to being subject to a contractual requirement to be vaccinated, onsite contractor employees should be provided with the Certification of Vaccination form when they enter a federal building or federally controlled indoor worksite.

Unless an agency has an existing system of records notice that permits it to collect and maintain this information on its contractor employees, agencies will direct onsite contractor employees to complete the Certification of Vaccination form and keep it with them during their time on federal premises—they may be asked to show the form upon entry to a federal building or federally controlled indoor worksite and to a federal employee who oversees their work.

Prior to being subject to a contractual requirement to be vaccinated, onsite contractor employees who are not fully vaccinated (or who decline to disclose vaccination status) are required to show proof of a negative COVID-19 test result from within the previous 3 days before entry to a federal building or federally controlled indoor worksite. If a contractor employee is regularly tested pursuant to an agency testing program, then they do not need to provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building unless required to by the agency testing program.

Agencies may email Certification of Vaccination form to contractor employees in advance of their time on-site or utilize a unique tool or application to share the form with contractor employees and enable them to easily complete it, but the agency will not maintain Certification of Vaccination forms from contractor employees at this time unless an agency has a system of records notice that covers its collection of this information from onsite contractor employees. Any such collection, storage, or maintenance of the attestation disclosure forms may implicate the Privacy Act and Paperwork Reduction Act.

Prior to having a contractual requirement for its employees to be vaccinated and if authorized and consistent with the terms of the contract, an agency may work with a contractor to facilitate compliance by its onsite employees with the agency's safety protocols, such as by having the company attest that all onsite contractor employees are fully vaccinated.

**Q: What type of negative COVID-19 test result must an onsite contractor employee who is not fully vaccinated show documentation of in order to enter a federal building?**

A: Agencies may determine what types of tests an onsite contractor employee who is not subject to a contractual requirement to be vaccinated can show documentation of in order to enter a federal building, provided that the tests are authorized by the U.S. Food and Drug Administration to detect current infection and produce a dated result.

**Q: If an agency has a system of records notice that covers its collection of information on vaccination status from onsite contractor employees, can the agency collect that information?**

A: Yes, if an agency has a system of records notice that covers its collection of the requisite information—as reflected in the [Certification of Vaccination form](#)—from onsite contractor employees consistent with the Privacy Act, it may do so. The agency should ensure such a collection is also consistent with the Paperwork Reduction Act. The agency should provide a means for individuals to update their vaccination status over time.

**Q: Are agencies required to establish different safety protocols for fully vaccinated and not fully vaccinated individuals?**

A: Yes. [Fully vaccinated individuals](#) do not need to physically distance or have restrictions on their official travel (although they still must comply with any local requirements and relevant CDC guidance for fully vaccinated individuals while traveling). Fully vaccinated individuals in areas of substantial or high transmission (see the [CDC COVID-19 Data Tracker County View](#)) need to wear a mask in public indoor settings. Fully vaccinated individuals in areas of low or moderate transmission do not need to wear a mask, unless required by state or local regulations or laws.

Fully vaccinated individuals might choose to wear a mask regardless of the level of transmission for a variety of reasons.

Some onsite contractor employees may not yet be subject to a contractual requirement to be vaccinated. Individuals who are not fully vaccinated or who decline to provide information about their vaccination status must wear masks regardless of community transmission level, physically distance, and comply with travel requirements for not fully vaccinated individuals

Prior to being subject to a contractual requirement to be vaccinated, onsite contractor employees who are not fully vaccinated or who decline to provide information about their vaccination status must provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building. If a contractor employee is regularly tested pursuant to an agency testing program, then they do not need to provide proof of a negative COVID-19 test from no later than the previous 3 days prior to entry to a federal building unless required to by the agency testing program.



For questions or comments, email the Safer Federal Workforce Task Force at [SaferFederalWorkforce@gsa.gov](mailto:SaferFederalWorkforce@gsa.gov)



# EXHIBIT 8

proposed information request may be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 29, 2021.

**ADDRESSES:** You may submit comments identified by Control Number 1235–0024, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

**Instructions:** Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

**FOR FURTHER INFORMATION CONTACT:** Robert Waterman, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, large print, braille, audiotape, compact disc, or other accessible format), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

**SUPPLEMENTARY INFORMATION:**

I. *Background:* The Wage and Hour Division (WHD) of the Department of Labor administers the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, *et seq.* Section 3(l) of the Act establishes a minimum age of 16 years for most non-agricultural employment, but allows the employment of 14- and 15-year olds in occupations other than manufacturing and mining if the Secretary of Labor determines such employment is confined to: (1) Periods

that will not interfere with the minor's schooling; and (2) conditions that will not interfere with the minor's health and well-being. FLSA section 11(c) requires all covered employers to make, keep, and preserve records of their employees' wages, hours, and other conditions of employment. Section 11(c) authorizes the Secretary of Labor to prescribe the recordkeeping and reporting requirements for these records. The regulations set forth reporting requirements that include a Work Study Program application and written participation agreement. In order to use the child labor work study provisions, § 570.37(b) requires a local public or private school system to file with the Wage and Hour Division Administrator an application for approval of a Work Study Program as one that does not interfere with the schooling or health and well-being of the minors involved. The regulations also require preparation of a written participation agreement for each student participating in a Work Study Program and that the teacher-coordinator, employer, and student each sign the agreement.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks approval for an extension of this information collection in order to ensure effective administration of Work Study programs.

*Type of Review:* Extension.

*Agency:* Wage and Hour Division.

*Title:* Work Study Program of the Child Labor Regulations.

*OMB Control Number:* 1235–0024.

*Affected Public:* Business or other for-profit, Not-for-profit institutions, Farms,

Federal, State, Local, or Tribal Government.

*Total Respondents:* WSP Applications: 10; Written Participation Agreements: 500.

*Total Annual Responses:* WSP Applications: 10.

*Written Participation Agreements:* 1,000.

*Estimated Total Burden Hours:* 1,529.

*Estimated Time per Response:* WSP Application: 121 minutes; Written Participation Agreements: 31 minutes.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* \$0.

Dated: September 20, 2021.

**Amy DeBisschop,**

*Director, Division of Regulations, Legislation, and Interpretation.*

[FR Doc. 2021–20956 Filed 9–27–21; 8:45 am]

**BILLING CODE 4510–27–P**

## OFFICE OF MANAGEMENT AND BUDGET

### Determination of the Promotion of Economy and Efficiency in Federal Contracting Pursuant to Executive Order No. 14042

**AGENCY:** Executive Office of the President, Office of Management and Budget.

**ACTION:** Notice of determination.

**SUMMARY:** The Director of the Office of Management and Budget determines that compliance by Federal contractors and subcontractors with the COVID–19 workplace safety protocols detailed in the Safer Federal Workforce Task Force guidance issued on September 24, 2021 will improve economy and efficiency by reducing absenteeism and decreasing labor costs for contractors and subcontractors working on or in connection with a Federal Government contract.

**DATES:** September 24, 2021.

**ADDRESSES:** The Safer Federal Workforce Task Force Guidance for Federal Contractors and Subcontractors on COVID–19 Workplace Safety is available at: <https://www.saferfederalworkforce.gov/new/>.

**FOR FURTHER INFORMATION CONTACT:** Cristin Dorgelo, 725 17th Street N, Email address: [Cristin.a.dorgelo@omb.eop.gov](mailto:Cristin.a.dorgelo@omb.eop.gov), telephone number: (202) 456–4066. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

**SUPPLEMENTARY INFORMATION:** As explained in Executive Order No. 14042

on *Ensuring Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors*, compliance with COVID-19-related safety protocols improves economy and efficiency by reducing absenteeism and decreasing labor costs for contractors and subcontractors working on or in connection with a Federal Government contract. Section 2(c) of E.O. 14042 requires that, before Federal contractors and subcontractors must adhere to any guidance from the Safer Federal Workforce Task Force pursuant to Executive Order No. 14042, the Director of the Office of Management and Budget must determine that such guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. Based on my review of the Safer Federal Workforce Task Force's COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors, scheduled for issuance on September 24, 2021, and exercising the President's authority under the Federal Property and Administrative Services Act (see 3 U.S.C. 3011) delegated to me through Executive Order No. 14042, I have determined that compliance by Federal contractors and subcontractors with the COVID-19-workplace safety protocols detailed in that guidance will improve economy and efficiency by reducing absenteeism and decreasing labor costs for contractors and subcontractors working on or in connection with a Federal Government contract.

**Shalanda Young,**  
*Acting Director, Office of Management and Budget.*

[FR Doc. 2021-21184 Filed 9-24-21; 4:15 pm]

**BILLING CODE 3110-01-P**

## NATIONAL CAPITAL PLANNING COMMISSION

### Senior Executive Service; Performance Review Board; Members

**AGENCY:** National Capital Planning Commission.

**ACTION:** Notice of members of senior executive service performance review board.

**SUMMARY:** This notice announces the membership of the National Capital Planning Commission Senior Executive Service Performance Review Board in accordance with section 4314(c) of Title 5, U.S.C. and 5 CFR 430.311.

**FOR FURTHER INFORMATION CONTACT:** Debra L. Dickson, Director of Administration, National Capital

Planning Commission, 401 Ninth Street NW, Suite 500, Washington, DC 20004, (202) 482-7229.

**SUPPLEMENTARY INFORMATION:** The following persons have been appointed to serve as members of the Performance Review Board for the National Capital Planning Commission from October 1, 2021, to September 30, 2023: Paige Cottingham-Streater, Executive Director, Japan U.S. Friendship Commission; John Farrell, Executive Director, U.S. Arctic Research Commission; and Christopher J. Roscetti, Technical Director, Defense Nuclear Facilities Safety Board.

Dated: September 22, 2021.

**Debra L. Dickson,**

*Director of Administration, National Capital Planning Commission.*

[FR Doc. 2021-20961 Filed 9-27-21; 8:45 am]

**BILLING CODE P**

## NATIONAL CREDIT UNION ADMINISTRATION

[NCUA 2021-0102]

RIN 3133-AF39

### Request for Information and Comment on Digital Assets and Related Technologies

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for information and comment; extension of comment period.

**SUMMARY:** On July 27, 2021, the NCUA Board (Board) published in the **Federal Register** a document entitled "Request for Information and Comment on Digital Assets and Related Technologies" (RFI) and invited comments from interested parties regarding the current and potential impact of activities connected to digital assets and related technologies on federally insured credit unions (FICUs), related entities, and the NCUA. The Board noted that it was broadly interested in receiving input on commenters' views in this area, including current and potential uses in the credit union system, and the risks associated with them. To allow interested persons more time to consider and submit their comments, the Board has decided to extend the comment period for an additional 30 days.

**DATES:** The comment period for the RFI published July 27, 2021, at 86 FR 40213, is extended. Responses to the RFI must now be received on or before October 27, 2021.

**ADDRESSES:** You may submit comments by any one of the following methods

(Please send comments by one method only):

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments for NCUA Docket 2021-0102.

- **Fax:** (703) 518-6319. Include "[Your name] Comments on 'Request for Information and Comment on Digital Assets and Related Technologies.'"

- **Mail:** Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- **Hand Delivery/Courier:** Same as mailing address.

**Public Inspection:** You may view all public comments on the Federal eRulemaking Portal at <http://www.regulations.gov> as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518-6540 or emailing [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

### FOR FURTHER INFORMATION CONTACT:

**Policy and Analysis:** Scott Borger, Senior Financial Modeler and Todd Sims, National Payment Systems Officer, Office of National Examinations and Supervision, (703) 518-6640; **Legal:** Thomas Zells, Senior Staff Attorney, Office of General Counsel, (703) 518-6540; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

**SUPPLEMENTARY INFORMATION:** On July 27, 2021, the Board published in the **Federal Register** an RFI inviting comments from interested parties regarding the current and potential impact of activities connected to digital assets and related technologies on FICUs, related entities, and the NCUA.<sup>1</sup> The Board published the RFI with the aim of engaging the broad credit union industry and other stakeholders and learning how emerging DLT and DeFi applications are viewed and used. The RFI emphasized that the NCUA hopes to learn how the credit union community is using these emerging technologies and gain additional feedback as to the role the NCUA can play in safeguarding the financial system and consumers in the context of these emerging technologies. In order to continue to

<sup>1</sup> 86 FR 40213 (July 27, 2021).

# EXHIBIT 9

September 30, 2021

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS  
SENIOR PROCUREMENT EXECUTIVES  
DEFENSE ACQUISITION REGULATIONS COUNCIL  
CIVILIAN AGENCY ACQUISITION COUNCIL

FROM:

Lesley A. Field LESLEY FIELD Digitally signed by LESLEY FIELD  
Date: 2021.09.30 16:48:42 -04'00'  
Acting Administrator  
for Federal Procurement Policy  
Office of Management and Budget

John M. Tenaglia TENAGLIA.JOHN.M.115494592  
6  
Digitally signed by  
TENAGLIA.JOHN.M.1154945926  
Date: 2021.09.30 17:04:52 -04'00'  
Principal Director, Defense Pricing and Contracting  
Department of Defense

Jeffrey A. Koses DocuSigned by:  
Jeffrey A. Koses  
21BD80B9E8AC4A0...  
Senior Procurement Executive &  
Deputy Chief Acquisition Officer  
Office of Acquisition Policy  
General Services Administration

Karla Smith Jackson Karla Jackson Digitally signed by Karla Jackson  
Date: 2021.09.30 16:53:01 -04'00'  
Senior Procurement Executive  
Assistant Administrator for Procurement  
National Aeronautics and Space Administration

SUBJECT: Issuance of Agency Deviations to Implement Executive Order 14042

The purpose of this memorandum is to provide agencies that award contracts under the Federal Acquisition Regulation (FAR) with initial direction for the incorporation of a clause into their solicitations and contracts to implement guidance issued by the Safer Federal Workforce Task Force (Task Force) pursuant to [Executive Order 14042](#) ("the order").

**Background**

The order directs agencies to ensure that the parties that contract with the Federal Government provide adequate COVID-19 safeguards to their workers performing on or in connection with the contract to decrease the spread of COVID-19, reduce worker absence, lower labor costs, and improve the efficiency of contractors and subcontractors at sites where they are performing work.

On September 24, 2021, the Task Force issued guidance to implement the order, [COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors](#). The Task Force guidance requires:

- All covered contractor employees to be fully vaccinated for COVID-19 by December 8, 2021, except in limited circumstances where an employee is legally entitled to an accommodation;
- All individuals, including covered contractor employees and visitors, to comply with published Centers for Disease Control and Prevention guidance for masking and physical distancing at a covered contractor workplace, as discussed in the Task Force guidance; and
- Covered contractors to designate a person or persons to coordinate implementation of and compliance with the Task Force guidance and the required workplace safety protocols at covered contractor workplaces.

Section 3(a) of the order directs the Federal Acquisition Regulatory Council (FAR Council) to develop a contract clause requiring contractors and subcontractors at any tier to comply with all guidance for contractor or subcontractor workplace locations published by the Task Force and to provide initial policy direction to acquisition offices for use of the clause by recommending that agencies exercise their authority under FAR subpart 1.4., Deviations from the FAR.

### **Guidance**

The FAR Council has developed the attached clause pursuant to section 3(a) of the order to support agencies in meeting the applicability requirements and deadlines set forth in the order. Contracting officers should follow the direction for use of the clause set forth in the deviations issued by their respective agencies.

Agencies are reminded of the following points as they develop and issue their deviations:

1. Applicability and effective dates. In accordance with section 5 of the order, agencies are required to include an implementing clause in solicitations and contracts for services, including construction, in accordance with the following dates specified in section 6 of the order:

- new contracts awarded on or after November 14 from solicitations issued before October 15 (this includes new orders awarded on or after November 14 from solicitations issued before October 15 under existing indefinite-delivery contracts);
- new solicitations issued on or after October 15 and contracts awarded pursuant to those solicitations (this includes new solicitations issued on or after October 15 for orders awarded pursuant to those solicitations under existing indefinite-delivery contracts);
- extensions or renewals of existing contracts and orders awarded on or after October 15, 2021; and
- options on existing contracts and orders exercised on or after October 15, 2021.

To maximize the goal of getting more people vaccinated and decrease the spread of COVID-19, the Task Force strongly encourages agencies to apply the requirements of its guidance broadly, consistent with applicable law, by including the clause in:

- contracts that have been or will be awarded prior to November 14 on solicitations issued before October 15; and
- contracts that are not covered or directly addressed by the order because the contract or subcontract is under the simplified acquisition threshold or is a contract or subcontract for the manufacturing of products.

2. Exclusions. The clause shall not be applied to:

- contracts and subcontracts with Indian Tribes under the Indian Self-Determination and Education Assistance Act (the exclusion would not apply to a procurement contract or subcontract under the FAR to an Indian-owned or tribally-owned business entity); or
- solicitations and contracts if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work only outside the U.S. or its outlying areas).

3. Timing of deviations. Agencies should act expeditiously to issue their deviations so that their contracting officers may begin to apply the clause on or before October 15, as explained above. Agencies should review, and update as necessary, any relevant guidance previously provided to contractors to ensure consistency with the deviated FAR text.

4. Civilian agency coordination of deviations. Civilian agencies that adopt the attached clause language without change in their deviations will be presumed to have consulted with the Chair of the Civilian Agency Acquisition Council (CAAC) required by FAR 1.404(a)(1). However, if a civilian agency intends to use clause text different than the deviated clause text provided, the agency must consult with the CAAC Chair, William Clark, who will consult with OMB and the Task Force to ensure consistency with Administration policy. Any such request must be emailed to [william.clark@gsa.gov](mailto:william.clark@gsa.gov).

Once processed, agencies are requested to share the deviation widely among their workforces to ensure full awareness of, and compliance with, the order.

Civilian agencies should furnish a copy of their approved class deviations (including direction to the workforce, prescription for use of clause, and clause text) to the FAR Secretariat, General Services Administration, by emailing the deviation to [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Agencies must submit their class deviations no later than October 15, 2021.

5. Length of deviation. The FAR Council has opened a case (FAR Case 2021-021, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors) to make appropriate amendments in the FAR to reflect the requirements of the order. Agencies are encouraged to make their deviations effective until the FAR is amended or the deviation is otherwise rescinded by the agency.

Attachment

**FAR Deviation Clause**

**Executive Order 14042**

**Ensuring Adequate COVID Safety Protocols for Federal Contractors**

Baseline is FAC 2021-07, published in the Federal Register on August 11, 2021.

*September 24, 2021*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

\*\*\*\*\*

**Subpart 52.2—Text of Provisions and Clauses**

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**[52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors.**

**ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION)**

**(a) *Definition.* As used in this clause -**

***United States or its outlying areas* means—**

- (1) The fifty States;**
- (2) The District of Columbia;**
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;**
- (4) The territories of American Samoa, Guam, and the United States Virgin Islands;**  
**and**
- (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.**

**(b) *Authority.* This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the Federal Register on September 14, 2021, 86 FR 50985).**

**(c) *Compliance.*** The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>

**(d) *Subcontracts.*** The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

**(End of clause)]**

\*\*\*\*\*

# **EXHIBIT 10**

Dated: November 11, 2021.

**Jessica L. Wechter,**

*Special Assistant to the President, Legal Services Corporation.*

[FR Doc. 2021-25037 Filed 11-12-21; 11:15 am]

BILLING CODE 7050-01-P

## OFFICE OF MANAGEMENT AND BUDGET

### Determination of the Acting OMB Director Regarding the Revised Safer Federal Workforce Task Force Guidance for Federal Contractors and the Revised Economy & Efficiency Analysis

**AGENCY:** Executive Office of the President, Office of Management and Budget.

**ACTION:** Notice of determination; request for comments.

**SUMMARY:** The Director of the Office of Management and Budget (“OMB”) determines that compliance by Federal contractors and subcontractors with the COVID-19 workplace safety protocols detailed in the Safer Federal Workforce Task Force (“Safer Federal Workforce Task Force” or the “Task Force”) guidance (the “Guidance”) to be issued on November 10, 2021, will promote economy and efficiency in Federal contracting by reducing absenteeism and decreasing labor costs for contractors and subcontractors working on or in connection with a Federal Government contract, and the Director approves the guidance. This notice accordingly rescinds and supersedes the Director’s prior notice issued on September 24, 2021.

**DATES:** To be ensured consideration, comments must be received on or before December 16, 2021.

**ADDRESSES:** You should submit comments via the Federal eRulemaking Portal at <https://www.regulations.gov/>. Follow the instructions for submitting comments.

Please be advised OMB will post all comments received that relate to this notice of determination on <https://www.regulations.gov> without making any change to the comments or redacting any information.

All comments posted are available and accessible to the public. So, do not include any information you would not like to be made publicly available, such as Social Security numbers, personal addresses, telephone numbers, and email addresses. It is the responsibility of the commenter to safeguard personal information.

**FOR FURTHER INFORMATION CONTACT:** Cristin Dorgelo, 725 17th Street NW,

Email address: [cristin.a.dorgelo@omb.eop.gov](mailto:cristin.a.dorgelo@omb.eop.gov), telephone number: (202) 456-4066. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

**SUPPLEMENTARY INFORMATION:** Section 2 of Executive Order 14042 (“Executive Order 14042” or the “order”) requires that, before Federal contractors and subcontractors must adhere to any guidance from the Task Force, the Director of OMB must approve such guidance and determine that such guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. Based on my review of the Task Force’s COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors, scheduled for issuance on November 10, 2021 (reproduced in relevant part in Part I below), as well as the economy-and-efficiency analysis presented in Part II below, and exercising the President’s authority under the Federal Property and Administrative Services Act (see 3 U.S.C. 301) delegated to me through Executive Order 14042, I approve the Guidance and have determined that the COVID-19-workplace safety protocols detailed in that Guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. This notice accordingly rescinds and supersedes my prior notice issued on September 24, 2021. 86 FR 53691.

This notice consists of the following sections. Part I consists of revised Guidance from the Task Force. Part II consists of an economic analysis of the COVID-19-workplace safety protocols detailed in such Guidance and the effect on economy and efficiency in Federal procurement. Part III addresses procedural requirements.

#### Part I. Safer Federal Workforce Task Force Guidance

On September 9, President Biden announced his Path Out of the Pandemic: COVID-19 Action Plan. One of the main goals of this science-based plan is to get more people vaccinated. As part of that plan, the President signed Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, which directs executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A), to ensure that covered contracts and contract-like instruments include a clause (“the clause”) that the

contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Task Force, provided that the Director of OMB approves the Task Force Guidance and determines that the Guidance, if adhered to by covered contractors, will promote economy and efficiency in Federal contracting.

The actions directed by the order will ensure that parties who contract with the Federal Government provide COVID-19 safeguards in workplaces with individuals working on or in connection with a Federal Government contract or contract-like instrument. These workplace safety protocols will apply to all covered contractor employees, including contractor or subcontractor employees in covered contractor workplaces who are not working on a Federal Government contract or contract-like instrument. These safeguards will decrease the spread of SARS-CoV-2, the virus that causes COVID-19, which will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors performing work for the Federal Government.

Pursuant to this Guidance, and in addition to any requirements or workplace safety protocols that are applicable because a contractor or subcontractor employee is present at a Federal workplace, Federal contractors and subcontractors with a covered contract will be required to conform to the following workplace safety protocols:

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.

The order also sets out a process for OMB and the Safer Federal Workforce Task Force to update the Guidance for covered contractors, which the Task Force will consider doing based on future changes to Centers for Disease Control and Prevention (“CDC”) COVID-19 guidance and as warranted by the circumstances of the pandemic and public health conditions. It also sets out a process for the Federal Acquisition

Regulatory Council (“FAR Council”) to implement such protocols and guidance for covered Federal procurement solicitations and contracts subject to the Federal Acquisition Regulation (“FAR”) and for agencies that are responsible for covered contracts and contract-like instruments not subject to the FAR to take prompt action to ensure that those covered contracts and contract-like instruments include the clause, consistent with the order.

Covered contractors shall adhere to the requirements of this Guidance.

#### A. Definitions

**Community transmission**—means the level of community transmission as set forth in the CDC COVID-19 Data Tracker County View.<sup>1</sup>

**Contract and contract-like instrument**—has the meaning set forth in the Department of Labor’s proposed rule, “Increasing the Minimum Wage for Federal Contractors,” 86 FR 38816, 38887 (July 22, 2021). If the Department of Labor issues a final rule relating to that proposed rule, this term shall have the meaning set forth in that final rule.

That proposed rule defines a contract or contract-like instrument as an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The term contract includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The term contract shall be interpreted broadly as to include, but not be limited to, any contract within the definition provided in the FAR at 48 CFR chapter 1 or applicable Federal statutes. This definition includes, but is not limited to, any contract that may be covered under any Federal procurement statute. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued

under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; exercised contract options; and bilateral contract modifications. The term contract includes contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, concessions contracts not otherwise subject to the Service Contract Act, and contracts in connection with Federal property or land and related to offering services for Federal employees, their dependents, or the general public.

**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.

**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.

**Covered contractor workplace**—means a location controlled by a covered contractor at which any employee of a covered contractor working on or in connection with a covered contract is likely to be present during the period of performance for a covered contract. A covered contractor workplace does not include a covered contractor employee’s residence.

**Federal workplace**—means any place, site, installation, building, room, or facility in which any Federal executive department or agency conducts official business, or is within an executive department or agency’s jurisdiction, custody, or control.

**Fully vaccinated**—people are considered fully vaccinated for COVID-19 two weeks after they have received the second dose in a two-dose series, or two weeks after they have received a single-dose vaccine.<sup>2</sup> There is currently no post-vaccination time limit on fully vaccinated status; should such a limit be determined by the Centers for Disease Control and Prevention, that limit will

be considered by the Task Force and OMB for possible updating of this Guidance.

For purposes of this Guidance, people are considered fully vaccinated if they have received COVID-19 vaccines currently approved or authorized for emergency use by the U.S. Food and Drug Administration (Pfizer-BioNTech, Moderna, and Johnson & Johnson [J&J]/Janssen COVID-19 vaccines) or COVID-19 vaccines that have been listed for emergency use by the World Health Organization (e.g., AstraZeneca/Oxford). More information is available at Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC.<sup>3</sup>

Clinical trial participants from a U.S. site who are documented to have received the full series of an “active” (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated two weeks after they have completed the vaccine series. Currently, the Novavax COVID-19 vaccine meets these criteria. More information is available at the CDC website.<sup>4</sup>

**Mask**—means any mask that is consistent with CDC recommendations.<sup>5</sup> This may include the following: Disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, masks with inner filter pockets, and filtering facepiece respirators that are approved by the National Institute for Occupational Safety and Health or consistent with international standards. The following do not constitute masks for purposes of this Guidance: Masks with exhalation valves, vents, or other openings; face shields only (without mask); or masks with single-layer fabric or thin fabric that does not block light.

#### B. Requirements

Covered contractors are responsible for ensuring that covered contractor employees comply with the workplace

<sup>3</sup> CDC, Interim Clinical Considerations for Use of COVID-19 Vaccines, <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html>.

<sup>4</sup> CDC, People who received COVID-19 vaccine as part of a clinical trial in the United States, <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/covid-19-vaccines-us.html#vaccinated-part-clinical-trial>.

<sup>5</sup> CDC, Types of Masks and Respirators (Sept. 23, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/types-of-masks.html>.

<sup>1</sup> CDC, COVID-19 Integrated County View, <https://covid.cdc.gov/covid-data-tracker/#county-view>.

<sup>2</sup> CDC, When You’ve Been Fully Vaccinated (last updated Oct. 15, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>.

safety protocols detailed below. Covered contractor employees must also comply with agency COVID-19 workplace safety requirements while in Federal workplaces.

Consistent with applicable law, agencies are strongly encouraged to incorporate a clause requiring compliance with this Guidance into contracts that are not covered or directly addressed by the order because the contract is under the Simplified Acquisition Threshold as defined in section 2.101 of the FAR or is a contract or subcontract for the manufacturing of products.

Agencies are also strongly encouraged to incorporate a clause requiring compliance with this Guidance into existing contracts and contract-like instruments prior to the date upon which the order requires inclusion of the clause.

#### 1. Vaccination of Covered Contractor Employees, Except in Limited Circumstances Where an Employee Is Legally Entitled to an Accommodation

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 January 18, 2022. After that date, all covered contractor employees must be fully vaccinated by the first day of the period of performance on a newly awarded covered contract, and by the first day of the period of performance on an exercised option or extended or renewed contract when the clause has been incorporated into the covered contract.

A covered contractor may be required to provide an accommodation to covered contractor employees who communicate to the covered contractor that they are not vaccinated against COVID-19 because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer. Requests for “medical accommodation” or “medical exceptions” should be treated as requests for a disability accommodation.

Should a Federal agency have an urgent, mission-critical need for a covered contractor to have covered contractor employees begin work on a covered contract or at a covered workplace before becoming fully vaccinated, the agency head may approve an exception for the covered contractor—in the case of such limited

exceptions, the covered contractor must ensure these covered contractor employees are fully vaccinated within 60 days of beginning work on a covered contract or at a covered workplace. The covered contractor must further ensure that such employees comply with masking and physical distancing requirements for not fully vaccinated individuals in covered workplaces prior to being fully vaccinated.

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, 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.

The covered contractor shall ensure compliance with the requirements in this Guidance related to the showing or provision of proper vaccination documentation.

Covered contractors are strongly encouraged to incorporate similar vaccination requirements into their non-covered contracts and agreements with non-covered contractors whose employees perform work at covered contractor workplaces but who do not work on or in connection with a Federal contract, such as those contracts and agreements related to the provision of food services, onsite security, or groundskeeping services at covered contractor workplaces.

#### 2. Requirements Related To Masking and Physical Distancing While in Covered Contractor Workplaces

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.

In addition to the guidance set forth below, CDC’s guidance for mask wearing and physical distancing in specific settings, including healthcare, transportation, correctional and detention facilities, and schools, must be followed, as applicable.

In areas of high or substantial community transmission, fully vaccinated people must wear a mask in indoor settings, except for limited exceptions discussed in this Guidance. In areas of low or moderate community transmission, fully vaccinated people do not need to wear a mask. Fully vaccinated individuals do not need to physically distance regardless of the level of transmission in the area.

Individuals who are not fully vaccinated must wear a mask indoors and in certain outdoor settings (see below) regardless of the level of community transmission in the area. To the extent practicable, individuals who are not fully vaccinated should maintain a distance of at least six feet from others at all times, including in offices, conference rooms, and all other communal and work spaces.

Covered contractors must require individuals in covered contractor workplaces who are required to wear a mask to:

- Wear appropriate masks consistently and correctly (over mouth and nose).
- Wear appropriate masks in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).
- For individuals who are not fully vaccinated, wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated, consistent with CDC guidance.

A covered contractor may be required to provide an accommodation to covered contractor employees who communicate to the covered contractor that they cannot wear a mask because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer.

Covered contractors may provide for exceptions to mask wearing and/or physical distancing requirements consistent with CDC guidelines, for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining appropriate distancing. Covered contractors may also provide

exceptions for covered contractor employees engaging in activities in which a mask may get wet; high intensity activities where covered contractor employees are unable to wear a mask because of difficulty breathing; or activities for which wearing a mask would create a risk to workplace health, safety, or job duty as determined by a workplace risk assessment.<sup>6</sup> Any such exceptions must be approved in writing by a duly authorized representative of the covered contractor to ensure compliance with this Guidance at covered contractor workplaces, as discussed further below.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Covered contractors must check the CDC COVID-19 Data Tracker County View website for community transmission information in all areas where they have a covered contractor workplace at least weekly to determine proper workplace safety protocols.<sup>7</sup> When the level of community transmission in the area of a covered contractor workplace increases from low or moderate to substantial or high, contractors and subcontractors should put in place more protective workplace safety protocols consistent with published guidelines. However, when the level of community transmission in the area of a covered contractor workplace is reduced from high or substantial to moderate or low, the level of community transmission must remain at that lower level for at least two consecutive weeks before the covered contractor utilizes those protocols recommended for areas of moderate or low community transmission.

### 3. Designation by Covered Contractors of a Person or Persons To Coordinate COVID-19 Workplace Safety Efforts at Covered Contractor Workplaces

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.

The designated individual (or individuals) must ensure that information on required COVID-19 workplace safety protocols is provided to covered contractor employees and all other individuals likely to be present at covered contractor workplaces, including by communicating the required workplace safety protocols and related policies by email, websites, memoranda, flyers, or other means and posting signage at covered contractor workplaces that sets forth the requirements and workplace safety protocols in this Guidance in a readily understandable manner. This includes communicating the COVID-19 workplace safety protocols and requirements related to masking and physical distancing to visitors and all other individuals present at covered contractor workplaces. The designated individual (or individuals) must also ensure that covered contractor employees comply with the requirements in this Guidance related to the showing or provision of proper vaccination documentation.

### Frequently Asked Questions

Frequently Asked Questions regarding this Guidance can be found here: <https://www.saferfederalworkforce.gov/faq/contractors/>.

All Task Force Guidance, FAQs, and additional information for Federal contractors and subcontractors can be found here: <https://www.saferfederalworkforce.gov/contractors/>.

### Part II. Economy-and-Efficiency Analysis

The following analysis outlines the ways in which the Guidance set forth in Part I will promote economy and efficiency in Federal procurement.

The Guidance requires vaccination of covered contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation. It imposes requirements related to masking and physical distancing in covered contractor workplaces. And it requires covered contractors to designate a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

The Guidance is issued pursuant to Executive Order 14042, which the President promulgated, in part, under the Federal Property and Administrative Services Act (FPASA). The FPASA, 40 U.S.C. 101 *et seq.* provides that the President “may prescribe policies and directives that the President considers necessary to carry out” the Act, which

includes a purpose of “provid[ing] the Federal Government with an economical and efficient system for . . . [p]rocuring and supplying property and nonpersonal services.” 40 U.S.C. 101(1), 121(a).

This analysis of the economic impact of the Guidance is based on OMB’s subject matter expertise and OMB’s review and analysis of the academic literature on interventions to prevent the spread of COVID-19.

As explained below, the overall effect of enacting these protocols for Federal contractors and subcontractors will be to decrease the spread of COVID-19, which will in turn decrease worker absence, save labor costs on net, and thereby improve efficiency in Federal contracting. Indeed, numerous private companies have undertaken vaccine mandates that were announced or take effect before the Federal Government’s mandate on Federal contractors takes effect and private companies have also imposed masking and physical distancing requirements at their workplaces. Just as these private businesses have concluded that vaccination, masking, and physical distancing requirements will make their operations more efficient and competitive in the market, we have concluded that the Guidance will realize economy and efficiency in Federal contracting.

### A. COVID-19 Infection Imposes Significant Costs on Contractors and the Federal Government

The primary goal of the safety protocols is to reduce the spread of COVID-19 among contractor employees. COVID-19 is a highly communicable disease that tends to spread between people who are indoors, sharing space, and in close quarters—conditions common in typical workplaces.<sup>8</sup> There is also evidence that COVID-19 can be spread by asymptomatic individuals. One study estimated that more than half of transmissions come from individuals who do not have symptoms (Johansson et al., 2021). Individuals who do not have symptoms are likely to continue to report to work and therefore may spread the disease to their coworkers. As such, safety protocols applied even in the absence of observable illness among employees can meaningfully reduce the spread of COVID-19. Moreover, because employees working at a single workplace will regularly come into contact, safety protocols applied to all

<sup>6</sup> OSHA, Recommended Practices for Safety and Health Programs, <https://www.osha.gov/safety-management>.

<sup>7</sup> CDC, COVID-19 Integrated County View, <https://covid.cdc.gov/covid-data-tracker/#county-view>.

<sup>8</sup> See U.S. Environmental Protection Agency, Indoor Air and Coronavirus (COVID-19), <https://www.epa.gov/coronavirus/indoor-air-and-coronavirus-covid-19>.

employees in a workplace can meaningfully reduce the spread of COVID-19.

The CDC recommends that individuals remain isolated for ten days after symptom onset, which would mean workers who catch the virus can miss up to eight days of work.<sup>9</sup> Furthermore, those individuals could infect other workers, who would also miss eight days of work. Additional exposed workers would likely need to quarantine and would also miss work.

Workers unable to work generate substantial costs on employers. An imperfect proxy for the cost to an employer of a foregone hour of work is the worker's hourly pay. We calculate the average hourly wage for a Federal contractor to be approximately \$31.51, making the average pay for eight days \$2,016.<sup>10</sup> Wages are higher in Washington, DC, Maryland and Virginia, where many contractors are located, ranging from \$33.36 in Virginia to \$42.83 in Washington, DC, making the average pay for eight days in those areas \$2,135 and \$2,741, respectively. Such costs are substantial and, if borne by contractors, such costs would be expected to be passed on to the Federal Government, either in direct cost or lower quality, including delays.

Fortunately, vaccines, masks, and physical distancing have all been proven to reduce the prevalence of COVID-19 infection, and vaccines have been shown to greatly reduce the severity of breakthrough infections. And vaccines, masking, and physical distancing are all low-cost interventions.

#### *B. COVID-19 Vaccination Reduces Net Costs*

Requiring any workers who have not yet done so to receive a COVID-19 vaccine would generate meaningful efficiency gains for Federal contractors. COVID-19 vaccines provide strong and persistent protection against infection, illness, and hospitalization (see Tenforde, et al., 2021 and references). Reducing the number of infected people mechanically reduces transmission, and some preliminary evidence also indicates that vaccines also reduce transmission by people who contract "breakthrough" infections (Ke, et al.,

2021). The vaccine requirement in the Guidance buttresses other workplace-specific safety protocols and provides protection against infection outside of the workplace, increasing the likelihood that the full set of protocols will prevent infection and illness and preserve the productivity of people working on or in connection with Federal contracts.<sup>11</sup>

Because vaccines are widely available for free, the cost of implementing a vaccine mandate is largely limited to administrative costs associated with distributing information about the mandate and tracking employees' vaccination status. Such costs are likely to be small.<sup>12</sup> Other costs of vaccination include employees quitting and using sick time when experiencing side effects from vaccination. However, based on experiences shared by private companies detailed below, we expect few employees to quit because of the vaccine mandate, and side effects lead to significantly less sick leave than COVID-19 infection. And unlike COVID-19 infection, side effects are not contagious to other employees.

Consistent with the view that COVID-19 vaccines promote economy and efficiency, numerous private companies have undertaken vaccine mandates that were announced or take effect before the Federal Government's mandate on Federal contractors takes effect. Led originally by companies like United Airlines and Tyson Foods, a wide and growing swath of private companies have determined that vaccine mandates are net beneficial to their companies.<sup>13</sup>

While anecdotal reports suggest that vaccine mandates may lead some workers to quit their jobs rather than comply, which could create some cost associated with replacing them, we know of no systematic evidence that this has been a widespread phenomenon, or that it would be likely

to occur among employees of Federal contractors. In fact, the experience of private companies is to the contrary. For example, United Airlines reported in October 2021 that 99.7 percent of the airline's workforce complied with the vaccination requirements, Tyson Foods reported more than 96 percent of its workforce is now vaccinated, and healthcare providers such as California's Kaiser Permanente reported placing only two percent of employees on administrative leave for failing to comply with vaccine requirements.<sup>14</sup> And finally, even if some non-negligible number of workers were to quit rather than comply with a vaccine mandate, the cost of replacing those workers would be a one-time cost, while the benefits of increased vaccination (including among replacement workers, who would be vaccinated) would be long-lasting.

#### *C. Masking and Physical Distancing Reduces Net Costs*

COVID-19 is generally thought to be spread by respiratory particles and aerosols.<sup>15</sup> Masking and physical distancing have proven effective in reducing the spread of COVID-19. One study found that communities with the greatest physical distancing had a 31 percent lower risk of COVID-19 than communities with poor physical distancing, and that communities where individuals reported always using face masks outside of the home, even with poor physical distancing, had 62 percent reduced risk of COVID-19 compared to communities where face masks were never worn (Kwon et al., 2020). Another study found that full population masking reduces transmission of the virus by 25.8 percent (Leech et al., 2021). Similarly, a study of masking and ventilation improvements in Georgia schools found that COVID-19 incidence was 37 percent lower in schools where masks were required and 39 percent lower in schools with improved ventilation

<sup>11</sup> Note that the other safety protocols discussed above will still be appropriate even after the vaccine requirement is implemented, e.g., to protect against breakthrough infections and emerging variants of the virus, or for the benefit of workers who may be unable to receive a vaccine for medical or religious reasons, until such time as public health conditions improve and CDC guidance related to masking and physical distancing changes.

<sup>12</sup> For example, the Occupational Safety and Health Administration estimated that providing information would take ten minutes per firm (84 FR 61476 cl. 3) and that tracking employees' vaccination status would take five minutes per employee (id. 84 FR 61488 cl. 2).

<sup>13</sup> The Major Companies Requiring Workers to Get COVID Vaccines, *Fortune* (Aug. 23, 2021), <https://fortune.com/2021/08/23/companies-requiring-vaccines-workers-vaccination-mandatory/>. See greater discussion on page 12 of the White House Vaccination Requirements Report (Oct. 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/10/Vaccination-Requirements-Report.pdf>.

<sup>14</sup> COVID Vaccine Some 5 Percent of Unvaccinated Adults Have Quit Their Jobs Over a Mandate Survey Shows CNBC (Oct. 28, 2021), <https://www.cnbc.com/2021/10/28/covid-vaccine-some-5percent-of-unvaccinated-adults-have-quit-their-jobs-over-a-mandate-survey-shows.html>; How Tyson Foods Got 60,500 Workers to Get the Coronavirus Vaccine Quickly, *N.Y. Times* (Nov. 4, 2021), <https://www.nytimes.com/2021/11/04/business/tyson-vaccine-mandate.html>. Vaccine mandates stoked fears of labor shortages. But hospitals say they're working, *Washington Post* (Oct. 16, 2021), <https://www.washingtonpost.com/health/2021/10/16/hospital-covid-vaccine-mandate/>.

<sup>15</sup> CDC, Prevent Getting Sick: How COVID Spreads (last updated July 14, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.

<sup>9</sup> See Centers for Disease Control and Prevention, Recommendations for Ending Isolation (last updated Sept. 14, 2021), [https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html#anchor\\_1631308518116](https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html#anchor_1631308518116).

<sup>10</sup> This calculation uses the distribution of NAICS codes in the contractor population and average salary of those NAICS codes from the Occupational Employment and Wage Statistics program at the Bureau of Labor Statistics, <https://www.bls.gov/oes/>.

(Gettings et al., 2021). This research shows that masking, physical distancing, and improved ventilation will all reduce the likelihood that COVID-19 spreads among the contractor workforce. These preventative measures will decrease worker absence and allow contract workers to continue their work without the need to take time off to recover from COVID-19. Thus, mask wearing and physical distancing are likely to reduce the spread of COVID-19 within contractor workplaces, reducing worker absence and maintaining productivity.

The costs of masking and physical distancing are minimal. For example, contractors may have to pay for masks for their employees. Masks can cost as little as \$0.13 per mask and would need to be provided only to employees who do not already have their own masks.<sup>16</sup> Physical distancing can often be done without additional costs. Numerous private companies like Walmart require all employees to wear masks and physically distance, embodying a judgment that these mitigation measures promote economy and efficiency in the workplace.<sup>17</sup>

#### D. Conclusion

For these reasons, it is OMB's expert opinion that the Guidance will promote economy and efficiency in Federal Government procurement. All plans for economic recovery and growth are predicated on the need to prevent additional spread of the COVID-19 virus and facilitate vaccinations, and no employer, whether public or private, can expect to see increased productivity or economic efficiency without a healthy workforce. The safety protocols that are set forth by the Safer Federal Workforce Task Force are meant to ensure that COVID-19 does not easily spread within the workplace, so that Federal contractor employees can continue to be productive.

#### E. References

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- Ke, Ruian, Pamela Martinez, Rebecca Lee Smith, et al. 2021. "Longitudinal analysis of SARS-CoV-2 vaccine breakthrough infections reveal limited infectious virus shedding and restricted tissue distribution." Preprint, <https://www.medrxiv.org/content/10.1101/2021.08.30.21262701v1>.
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### Part III. Procedural Requirements

#### A. Public Contract Requirements Under Public Law 111-350

I am making my determination pursuant to a Presidential delegation under 3 U.S.C. 301. That determination is therefore not subject to the procedural requirements of Public Law 111-350, codified at 41 U.S.C. 1707. See *NRDC, Inc. v. U.S. Dep't of State*, 658 F. Supp. 2d 105, 109 & n.5, 111 (D.D.C. 2009) (when an agency acts pursuant to 3 U.S.C. 301, the agency "stands in the President's shoes" and that action is "not reviewable under the APA"); *Detroit Int'l Bridge Co. v. Canada*, 189 F. Supp. 3d 85, 100 (D.D.C. 2016) ("Several cases have concluded that an agency's action on behalf of the President, involving discretionary authority committed to the President, is 'presidential' and unreviewable under the APA."). To the extent that 41 U.S.C. 1707 is applicable to my determination set forth in this document, there are urgent and compelling circumstances that justify departing from the notice-and-comment and delayed-effective-date requirements in 41 U.S.C. 1707.

The notice-and-comment and delayed-effective-date requirements of subsections (a) and (b) of 41 U.S.C. 1707 "may be waived by the officer authorized to issue a procurement policy, regulation, procedure, or form if urgent and compelling circumstances make compliance with the requirements impracticable." 41 U.S.C. 1707(d). This statutory exception is implemented in FAR section 1.501-3, which provides that "[a]dvance comments need not be solicited when urgent and compelling

circumstances make solicitation impracticable prior to the effective date of the coverage, such as when a new statute must be implemented in a relative short period of time."

Urgent and compelling circumstances justify waiving the notice-and-comment requirement for this notice. This is a once in a generation pandemic, which has already resulted in more than 46,405,253 cases of COVID-19, hospitalized more than 3,283,045 Americans, and taken more than 752,196 American lives. The pandemic continues to present an imminent threat to the health and safety of the American people, including due to the emergence of the B.1.617.2 (Delta) variant, which is a variant of concern that spreads more easily than previously discovered variants of SARS-CoV-2. This threat reaches all Americans, including those working for Federal contractors and subcontractors. The Guidance directly addresses this imminent threat by requiring vaccination. The CDC has determined that the best way to slow the spread of COVID-19, including preventing infection by the Delta variant, is for individuals to get vaccinated. According to the CDC, vaccinated individuals are 5 times less likely to be infected and 10 times less likely to experience hospitalization or death due to COVID-19 than unvaccinated individuals. The Guidance thus promotes the most important, urgent public health measure to slow the spread of COVID-19 among Federal contractors and subcontractors—which is critical to avoiding worker absence and unnecessary labor costs that could hinder the efficiency of federal contracting.

The minimum delay required by subsections (a) and (b) of 41 U.S.C. 1707 is also incompatible with a fundamental purpose of issuing this determination. The Guidance set forth in Part I changes the vaccination deadline for Federal contractors from December 8, 2021, to January 18, 2022. If the determination implementing this change were required to comply with subsections (a) and (b) of 41 U.S.C. 1707 (requiring 30 days for comment, and another 30 days to become effective), the earliest possible effective date for this determination would be January 9, 2022. But waiting until January for this determination to become effective would prevent the change in deadlines from having practical effect, as Federal contractors and subcontractors would still be legally obligated to meet the December 8, 2021, vaccination deadline until this determination became effective. That alone establishes urgent and compelling

<sup>16</sup> Mask costs were taken from a search of Amazon and would likely be lower for a contractor who would be able to order in bulk.

<sup>17</sup> The Major Companies Requiring Workers to Get COVID Vaccines, *Fortune* (Aug. 23, 2021), <https://fortune.com/2021/08/23/companies-requiring-vaccines-workers-vaccination-mandatory/>.

circumstances to warrant making this determination immediately effective.

Additionally, even if there were no prior deadline that contractors and subcontractors were obligated to meet, urgent and compelling circumstances would still exist because the broader economy-and-efficiency purpose of this determination would be severely undermined by the minimum delay required under subsections (a) and (b) of 41 U.S.C. 1707. As an initial matter, such a delay would interfere with an important purpose of the Task Force Guidance—aligning the vaccination deadline for Federal contractors with the vaccination deadline for private companies under recent regulatory actions. In particular, the Occupational Safety and Health Administration (OSHA) issued an Emergency Temporary Standard (ETS) requiring employers with 100 or more employees to ensure their workers are fully vaccinated or tested for COVID-19 on at least a weekly basis, and the Centers for Medicare & Medicaid Services (CMS) issued a rule requiring health care workers at facilities participating in Medicare and Medicaid to be fully vaccinated. 86 FR 61402; 86 FR 61555. Those rules set a deadline of January 4, 2022, for employees to receive their final COVID-19 vaccination dose—*i.e.*, January 18, 2022, for a fully vaccinated covered workforce. The Task Force’s decision to set the same deadline for Federal contractors and subcontractors will make it easier for private employers to administer successful vaccination policies across their workforce and will allow Federal contractors and subcontractors to implement their requirements on the same timeline as other employers in their industries.<sup>18</sup> For example, a large employer covered by the ETS may have some but not all of their workplaces covered by the vaccination requirement for Federal contractors and subcontractors. For such an employer, that would mean some workplaces are governed by the ETS and some by the Task Force Guidance. Or, an employer may have some workers covered by the CMS rule, and other workers covered by the vaccination requirement for Federal contractors and subcontractors. For employers in these circumstances, having the same

deadline across all requirements will promote consistency and administrability of public health standards, and eliminate potential confusion and frustration that disparate deadlines could produce. It could also avoid needless costs in having multiple systems of records and internal accountability established for different deadlines. Ensuring that private employers do not need to meet different compliance dates across different Federal vaccination policies is thus important to the success of their vaccination programs and to promoting economy and efficiency in Federal procurement.

Moreover, in order for such alignment to be effective, employers require regulatory certainty in the near-term. An immediately effective notice gives contractors and subcontractors a clear understanding not only of their responsibilities under Federal law but also the deadline for complying with those responsibilities. By contrast, absent an immediately effective determination of that deadline, such employers would have to wait until comments are received and a determination is finalized to know with certainty the deadline for ensuring that their covered employees are fully vaccinated. That would cause much of the administrability problems and frustration that alignment is intended to avoid, undermining the critical efforts to curb the spread of COVID-19 among Federal contractors and subcontractors and preventing alignment of the relevant deadlines.

Compliance with the procedural requirements of 41 U.S.C. 1707(a) and 1707(b) would fundamentally undermine the effort to provide private companies with aligned deadlines and regulatory certainty, as outlined above. As noted above, under those requirements the earliest effective date for this determination would be January 9, 2022. Simply put, that is far too late to provide regulatory certainty for Federal contractors, as that is *past* the date that covered employees of covered Federal contractors must receive their final COVID-19 vaccination dose (January 4, 2022), and it is less than ten days before the deadline for covered contractor employees to be fully vaccinated (January 18, 2022). Thus, compliance with the procedural requirements of 41 U.S.C. 1707(a) and 1707(b) would undermine the success of the Federal Government’s vaccination efforts and economy and efficiency in Federal procurement.

Thus, to the extent that it is found that my determination is subject to the procedural requirements in 41 U.S.C.

1707, I have concluded that urgent and compelling circumstances exist under section 1707(d). The requirements of this notice are accordingly effective immediately upon filing with the **Federal Register**. Additionally, to the extent that it is found that my determination is subject to the procedural requirements in 41 U.S.C. 1707, this determination is temporary, consistent with section 1707(e). And regardless of whether this determination is subject to the procedural requirements in 41 U.S.C. 1707, I am soliciting comment on all subjects of this determination, which would also be consistent with sections 1707(c) and (e), if those provisions applied.

#### *B. Administrative Procedure Act*

My determination is not subject to the procedural rulemaking requirements of the Administrative Procedure Act (APA).

As noted above, this determination is pursuant to a delegation from the President under 3 U.S.C. 301. When any agency acts pursuant to such a delegation, the agency “stands in the President’s shoes” and its actions “cannot be subject to judicial review under the APA.” *NRDC v. State*, 658 F. Supp. 2d at 109 & n.5, 111.

Even if the APA were applicable, the notice-and-comment requirements of 5 U.S.C. 553 exempt “a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.” 5 U.S.C. 553(a)(2). This determination relates to procurement and contractors—*i.e.*, “contracts” under section 553(a)(2)—and is thus exempt from the APA’s notice-and-comment requirements.

Moreover, even if the notice-and-comment requirements of 5 U.S.C. 553 were applicable, the good-cause exception is satisfied here. 5 U.S.C. 553(b)(3)(B) waives notice-and-comment requirements if “the agency for good cause finds” that compliance would be “impracticable, unnecessary, or contrary to the public interest.” Notice and comment is impracticable in situations where delay would result in harm. *See, e.g., Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 93 (D.C. Cir. 2012). Applicable procedures are “[i]mpracticable” if “the due and required execution of the agency functions would be unavoidably prevented by its undertaking public rule-making proceedings” or negotiated rulemaking. *N.J., Dep’t of Env’tl. Prot. v. EPA*, 626 F.2d 1038, 1046 (D.C. Cir. 1980) (quoting S. Doc. No. 248, at 200 (1946)); *see also United States v. Cotton*, 760 F. Supp. 2d 116, 129 (D.D.C. 2011). Such “good cause” would also exempt an agency from the delayed effective

<sup>18</sup> Unlike the vaccination deadline for covered employees of Federal contractors, the vaccination deadline for Federal employees under Executive Order 14043 does not require alignment with private companies, because there is no subset of private companies also subject to Executive Order 14043. Thus, the exigencies of combatting the global pandemic require maintaining the current vaccination deadline for Federal employees of November 22, 2021.

date under 5 U.S.C. 553(d). For the reasons explained above, notice-and-comment rulemaking and a delayed effective date would be impracticable, because the resulting delay in the effective date would not provide Federal contractors and subcontractors sufficient time to ensure compliance in time for the January 18, 2022, vaccination deadline.

\* \* \* \* \*

**Shalanda Young,**

*Acting Director.*

[FR Doc. 2021-24949 Filed 11-10-21; 4:15 pm]

**BILLING CODE 3110-01-P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m., Thursday, November 18, 2021.

**PLACE:** Due to the COVID-19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage ([www.ncua.gov](http://www.ncua.gov)) and access the provided webcast link.

**STATUS:** This meeting will be open to the public.

#### MATTERS TO BE CONSIDERED:

1. Board Briefing, Share Insurance Quarterly Report.
2. NCUA's 2022-2026 Strategic Plan.
3. NCUA Rules and Regulations, Service Facilities.
4. Board Briefing, NCUA's Modernized Examination Tools.
5. Board Briefing, Update to NCUA's Response to the COVID-19 Pandemic.

**CONTACT PERSON FOR MORE INFORMATION:** Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703-518-6304.

**Melane Conyers-Ausbrooks,**

*Secretary of the Board.*

[FR Doc. 2021-25032 Filed 11-12-21; 11:15 am]

**BILLING CODE 7535-01-P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

#### Arts Advisory Panel Meetings

**AGENCY:** National Endowment for the Arts.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 17 meetings of the Arts Advisory Panel to the National Council on the Arts will be

held by teleconference or videoconference.

**DATES:** See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate:

**ADDRESSES:** National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

#### FOR FURTHER INFORMATION CONTACT:

Further information with reference to these meetings can be obtained from Ms. Sherry P. Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; [hales@arts.gov](mailto:hales@arts.gov), or call 202/682-5696.

**SUPPLEMENTARY INFORMATION:** The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meetings are:

*Our Town* (review of applications): This meeting will be closed.

*Date and time:* December 2, 2021; 11:00 a.m. to 1:00 p.m.

*Our Town* (review of applications): This meeting will be closed.

*Date and time:* December 2, 2021; 2:30 p.m. to 4:30 p.m.

*Arts Education* (review of applications): This meeting will be closed.

*Date and time:* December 3, 2021; 11:30 a.m. to 1:30 p.m.

*Arts Education* (review of applications): This meeting will be closed.

*Date and time:* December 3, 2021; 2:30 p.m. to 4:30 p.m.

*Our Town* (review of applications): This meeting will be closed.

*Date and time:* December 3, 2021; 11:00 a.m. to 1:00 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* December 6, 2021; 2:00 p.m. to 4:00 p.m.

*Museums* (review of applications): This meeting will be closed.

*Date and time:* December 7, 2021; 11:30 a.m. to 1:30 p.m.

*Museums* (review of applications): This meeting will be closed.

*Date and time:* December 7, 2021; 2:30 p.m. to 4:30 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* December 7, 2021; 2:00 p.m. to 4:00 p.m.

*Museums* (review of applications): This meeting will be closed.

*Date and time:* December 8, 2021; 11:30 a.m. to 1:30 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* December 8, 2021; 2:00 p.m. to 4:00 p.m.

*Arts Education* (review of applications): This meeting will be closed.

*Date and time:* December 9, 2021; 1:30 p.m. to 3:30 p.m.

*Local Arts Agencies* (review of applications): This meeting will be closed.

*Date and time:* December 9, 2021; 1:00 p.m. to 3:00 p.m.

*Local Arts Agencies* (review of applications): This meeting will be closed.

*Date and time:* December 9, 2021; 3:30 p.m. to 5:30 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* December 9, 2021; 2:00 p.m. to 4:00 p.m.

*Folk and Traditional Arts* (review of applications): This meeting will be closed.

*Date and time:* December 14, 2021; 1:00 p.m. to 3:00 p.m.

*Folk and Traditional Arts* (review of applications): This meeting will be closed.

*Date and time:* December 16, 2021; 1:00 p.m. to 3:00 p.m.

Dated: November 10, 2021.

**Sherry P. Hale,**

*Staff Assistant, National Endowment for the Arts.*

[FR Doc. 2021-24928 Filed 11-15-21; 8:45 am]

**BILLING CODE 7537-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-201; NRC-2021-0175]

**New York State Energy Research and Development Authority; Irradiated Nuclear Fuel Processing Plant; Western New York Nuclear Service Center**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has issued an

# EXHIBIT 11

**Safer Federal Workforce Task Force**  
**COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors**  
Updated November 10, 2021

## **Introduction**

On September 9, President Biden announced his [Path Out of the Pandemic: COVID-19 Action Plan](#). One of the main goals of this science-based plan is to get more people vaccinated. As part of that plan, the President signed Executive Order 14042, [Ensuring Adequate COVID Safety Protocols for Federal Contractors](#), (“the order”) which directs executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. § 102(4)(A), to ensure that covered contracts and contract-like instruments include a clause (“the clause”) that the contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (“Task Force”), provided that the Director of the Office of Management and Budget (“OMB”) approves the Task Force Guidance (the or this “Guidance”) and determines that the Guidance, if adhered to by covered contractors, will promote economy and efficiency in Federal contracting.

The actions directed by the order will ensure that parties who contract with the Federal Government provide COVID-19 safeguards in workplaces with individuals working on or in connection with a Federal Government contract or contract-like instrument. These workplace safety protocols will apply to all covered contractor employees, including contractor or subcontractor employees in covered contractor workplaces who are not working on a Federal Government contract or contract-like instrument. These safeguards will decrease the spread of SARS-CoV-2, the virus that causes COVID-19, which will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors performing work for the Federal Government.

Pursuant to this Guidance, and in addition to any requirements or workplace safety protocols that are applicable because a contractor or subcontractor employee is present at a Federal workplace, Federal contractors and subcontractors with a covered contract will be required to conform to the following workplace safety protocols:

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.

The order also sets out a process for OMB and the Safer Federal Workforce Task Force to update the Guidance for covered contractors, which the Task Force will consider doing based on future changes to Centers for Disease Control and Prevention (“CDC”) COVID-19 guidance and as warranted by the circumstances of the pandemic and public health conditions. It also sets out a process for the Federal Acquisition Regulatory Council (“FAR Council”) to implement such protocols and guidance for covered Federal procurement solicitations and contracts subject to the Federal Acquisition Regulation (“FAR”) and for agencies that are responsible for covered contracts and contract-like instruments not subject to the FAR to take prompt action to ensure that those covered contracts and contract-like instruments include the clause, consistent with the order.

Covered contractors shall adhere to the requirements of this Guidance. The Director of OMB has, as authorized by Executive Order 14042, approved this Guidance and has, an exercise of the delegation of authority (see 3 U.S.C. § 301) under the Federal Property and Administrative Services Act determined that this Guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. The Director has published such determination in the Federal Register.

## Definitions

*Community transmission* – means the level of community transmission as set forth in the [CDC COVID-19 Data Tracker County View](#).

*Contract and contract-like instrument* – has the meaning set forth in the Department of Labor’s proposed rule, “Increasing the Minimum Wage for Federal Contractors,” [86 Fed. Reg. 38,816](#), 38,887 (July 22, 2021). If the Department of Labor issues a final rule relating to that proposed rule, this term shall have the meaning set forth in that final rule.

That proposed rule defines a contract or contract-like instrument as an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The term contract includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The term contract shall be interpreted broadly as to include, but not be limited to, any contract within the definition provided in the FAR at 48 CFR chapter 1 or applicable Federal statutes. This definition includes, but is not limited to, any contract that may be covered under any Federal procurement statute. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; exercised contract options; and bilateral contract modifications. The term contract includes contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, concessions contracts not otherwise subject to the Service Contract Act, and contracts in connection with Federal property or land and related to offering services for Federal employees, their dependents, or the general public.

*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.

*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.

*Covered contractor workplace* – means a location controlled by a covered contractor at which any employee of a covered contractor working on or in connection with a covered contract is likely to be present during the period of performance for a covered contract. A covered contractor workplace does not include a covered contractor employee’s residence.

*Federal workplace* – means any place, site, installation, building, room, or facility in which any Federal executive department or agency conducts official business, or is within an executive department or agency’s jurisdiction, custody, or control.

*Fully vaccinated* – People are considered [fully vaccinated](#) for COVID-19 two weeks after they have received the second dose in a two-dose series, or two weeks after they have received a single-dose vaccine. There is currently no post-vaccination time limit on fully vaccinated status; should such a limit be determined by the Centers for Disease Control and Prevention, that limit will be considered by the Task Force and OMB for possible updating of this Guidance.

For purposes of this Guidance, people are considered fully vaccinated if they have received COVID-19 vaccines currently approved or authorized for emergency use by the U.S. Food and Drug Administration (Pfizer-BioNTech, Moderna, and Johnson & Johnson [J&J]/Janssen COVID-19 vaccines) or COVID-19 vaccines that have been listed for emergency use by the World Health Organization (e.g., AstraZeneca/Oxford). More information is available at [Interim Clinical Considerations for Use of COVID-19 Vaccines | CDC](#).

Clinical trial participants from a U.S. site who are documented to have received the full series of an “active” (not placebo) COVID-19 vaccine candidate, for which vaccine efficacy has been independently confirmed (e.g., by a data and safety monitoring board), can be considered fully vaccinated two weeks after they have completed the vaccine series. Currently, the Novavax COVID-19 vaccine meets these criteria. More information is available at the CDC website [here](#).

*Mask* – means any mask that is consistent with CDC recommendations as set forth in [Types of Masks and Respirators | CDC](#). This may include the following: disposable masks, masks that fit properly (snugly around the nose and chin with no large gaps around the sides of the face), masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, masks with inner filter pockets, and filtering facepiece respirators that are approved by the National Institute for Occupational Safety and Health or consistent with international standards. The following do not constitute masks for purposes of this Guidance: masks with exhalation valves, vents, or other openings; face shields only (without mask); or masks with single-layer fabric or thin fabric that does not block light.

## Guidance

Covered contractors are responsible for ensuring that covered contractor employees comply with the workplace safety protocols detailed below. Covered contractor employees must also comply with agency COVID-19 workplace safety requirements while in Federal workplaces.

Consistent with applicable law, agencies are strongly encouraged to incorporate a clause requiring compliance with this Guidance into contracts that are not covered or directly addressed by the order because the contract is under the Simplified Acquisition Threshold as defined in section 2.101 of the FAR or is a contract or subcontract for the manufacturing of products. Agencies are also strongly encouraged to incorporate a clause requiring compliance with this Guidance into existing contracts and contract-like instruments prior to the date upon which the order requires inclusion of the clause.

### *1. Vaccination of covered contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation*

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 January 18, 2022. After that date, all covered contractor employees must be fully vaccinated by the first day of the period of performance on a newly awarded covered contract, and by the first day of the period of performance on an exercised option or extended or renewed contract when the clause has been incorporated into the covered contract.

A covered contractor may be required to provide an accommodation to covered contractor employees who communicate to the covered contractor that they are not vaccinated against COVID-19 because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer. Requests for “medical accommodation” or “medical exceptions” should be treated as requests for a disability accommodation.

Should a Federal agency have an urgent, mission-critical need for a covered contractor to have covered contractor employees begin work on a covered contract or at a covered workplace before becoming fully vaccinated, the agency head may approve an exception for the covered contractor—in the case of such limited exceptions, the covered contractor must ensure these covered contractor employees are fully vaccinated within 60 days of beginning work on a covered contract or at a covered workplace. The covered contractor must further ensure that such employees comply with masking and physical distancing requirements for not fully vaccinated individuals in covered workplaces prior to being fully vaccinated.

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, 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.

The covered contractor shall ensure compliance with the requirements in this Guidance related to the showing or provision of proper vaccination documentation.

Covered contractors are strongly encouraged to incorporate similar vaccination requirements into their non-covered contracts and agreements with non-covered contractors whose employees perform work at covered contractor workplaces but who do not work on or in connection with a Federal contract, such as those contracts and agreements related to the provision of food services, onsite security, or groundskeeping services at covered contractor workplaces.

*2. Requirements related to masking and physical distancing while in covered contractor workplaces*

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.

In addition to the guidance set forth below, CDC's guidance for mask wearing and physical distancing in specific settings, including healthcare, transportation, correctional and detention facilities, and schools, must be followed, as applicable.

In areas of high or substantial community transmission, fully vaccinated people must wear a mask in indoor settings, except for limited exceptions discussed in this Guidance. In areas of low or moderate community transmission, fully vaccinated people do not need to wear a mask. Fully vaccinated individuals do not need to physically distance regardless of the level of transmission in the area.

Individuals who are not fully vaccinated must wear a mask indoors and in certain outdoor settings (see below) regardless of the level of community transmission in the area. To the extent practicable, individuals who are not fully vaccinated should maintain a distance of at least six feet from others at all times, including in offices, conference rooms, and all other communal and work spaces.

Covered contractors must require individuals in covered contractor workplaces who are required to wear a mask to:

- Wear appropriate masks consistently and correctly (over mouth and nose).
- Wear appropriate masks in any common areas or shared workspaces (including open floorplan office space, cubicle embankments, and conference rooms).

- For individuals who are not fully vaccinated, wear a mask in crowded outdoor settings or during outdoor activities that involve sustained close contact with other people who are not fully vaccinated, consistent with CDC guidance.

A covered contractor may be required to provide an accommodation to covered contractor employees who communicate to the covered contractor that they cannot wear a mask because of a disability (which would include medical conditions) or because of a sincerely held religious belief, practice, or observance. A covered contractor should review and consider what, if any, accommodation it must offer.

Covered contractors may provide for exceptions to mask wearing and/or physical distancing requirements consistent with CDC guidelines, for example, when an individual is alone in an office with floor to ceiling walls and a closed door, or for a limited time when eating or drinking and maintaining appropriate distancing. Covered contractors may also provide exceptions for covered contractor employees engaging in activities in which a mask may get wet; high intensity activities where covered contractor employees are unable to wear a mask because of difficulty breathing; or activities for which wearing a mask would create a risk to workplace health, safety, or job duty as determined by a [workplace risk assessment](#). Any such exceptions must be approved in writing by a duly authorized representative of the covered contractor to ensure compliance with this Guidance at covered contractor workplaces, as discussed further below.

Masked individuals may be asked to lower their masks briefly for identification purposes in compliance with safety and security requirements.

Covered contractors must check the [CDC COVID-19 Data Tracker County View website](#) for community transmission information in all areas where they have a covered contractor workplace at least weekly to determine proper workplace safety protocols. When the level of community transmission in the area of a covered contractor workplace increases from low or moderate to substantial or high, contractors and subcontractors should put in place more protective workplace safety protocols consistent with published guidelines. However, when the level of community transmission in the area of a covered contractor workplace is reduced from high or substantial to moderate or low, the level of community transmission must remain at that lower level for at least two consecutive weeks before the covered contractor utilizes those protocols recommended for areas of moderate or low community transmission.

*3. Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.*

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.

The designated individual (or individuals) must ensure that information on required COVID-19 workplace safety protocols is provided to covered contractor employees and all other individuals likely to be present at covered contractor workplaces, including by communicating the required workplace safety protocols and related policies by email, websites, memoranda, flyers, or other means and posting signage at covered contractor workplaces that sets forth the requirements and workplace safety protocols in this Guidance in a readily understandable manner. This includes communicating the COVID-19 workplace safety protocols and requirements related to masking and physical distancing to visitors and all other individuals present at covered contractor workplaces. The designated individual (or individuals) must also ensure that covered contractor employees comply with the requirements in this guidance related to the showing or provision of proper vaccination documentation.

## **Frequently Asked Questions**

Frequently Asked Questions regarding this Guidance can be found here:

<https://www.saferfederalworkforce.gov/faq/contractors/>

All Task Force Guidance, FAQs, and additional information for Federal contractors and subcontractors can be found here:

<https://www.saferfederalworkforce.gov/contractors/>

# EXHIBIT 12

**AFFIDAVIT OF SPENCER CHRETIEN**

1. My name is Spencer Chretien. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge and are submitted solely in my own capacity.
2. I have extensive professional experience in the staffing of federal agencies, having served as a Special Assistant to the President and Associate Director of Presidential Personnel from 2020 to 2021 during the COVID pandemic, and having identified qualified candidates for positions at all levels across the federal government.
3. In January 2021, President Biden established the Safer Federal Workforce Task Force (“Task Force”). This Task Force is “led by the White House COVID-19 Response Team, the General Services Administration (GSA), and the Office of Personnel Management (OPM).”<sup>1</sup> The Task Force was created to “give the heads of federal agencies ongoing guidance to keep their employees safe and their agencies operating during the COVID-19 pandemic.”<sup>2</sup>
4. In September 2021, President Biden issued an executive order requiring each federal agency to adopt and implement, “to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law.”<sup>3</sup> The President directed the Task Force to issue guidance “on agency implementation of this requirement for all agencies covered by this order.”<sup>4</sup>
5. Shortly thereafter, the Task Force issued a guidance document recommending a deadline of November 22, 2021, for all federal employees to be fully vaccinated, meaning 14 days after the last required shot.<sup>5</sup> Federal employees who fail to comply with the requirement to be fully vaccinated by November 22, 2021, “are in violation of a lawful

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<sup>1</sup> Safer Federal Workforce, Overview, <https://www.saferfederalworkforce.gov/overview/>.

<sup>2</sup> *Id.*

<sup>3</sup> Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees (Sept. 9, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/>.

<sup>4</sup> *Id.*

<sup>5</sup> Safer Federal Workforce Task Force, *COVID-19 Workplace Safety: Agency Model Safety Principles* (Sept. 13, 2021), <https://www.saferfederalworkforce.gov/downloads/updates%20to%20model%20safety%20principles%2009.13.21.pdf>.

order” and are subject to discipline, “up to and including termination or removal.”<sup>6</sup>

6. Also in September 2021, President Biden issued an executive order requiring the Task Force to issue guidance for federal contractors and then for the OMB Director to determine whether that guidance would improve economy and efficiency in government contracting.<sup>7</sup>
7. Shortly thereafter, the Task Force issued guidance requiring that nearly all federal contractors and subcontractors be vaccinated, via an extraordinarily broad definition of “covered contractors.”<sup>8</sup> The OMB Director soon concluded summarily that this guidance would improve government contracting,<sup>9</sup> and the FAR Council issued a directive that agencies must include in new contracts, requiring the contractor to follow the Task Force guidance as it changes over time.<sup>10</sup>
8. As a result of these combined actions, nearly all employees of federal agencies and federal contractors must be vaccinated, unless they are entitled to a religious or medical accommodation under some other federal law.
9. The President has sought to target and label federal employees who do not choose to receive the COVID-19 vaccine as pariahs who cannot and should not be employed by the federal government, nor hired anywhere else. They will be deemed lawbreakers (“violat[ors] of a lawful order”), and the President himself has called them “kill[ers].”<sup>11</sup>

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<sup>6</sup> Safer Federal Workforce Task Force, *FAQ*, <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

<sup>7</sup> Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors (Sept. 9, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/>.

<sup>8</sup> Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors (Sept. 24, 2021), [https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc\\_20210922.pdf](https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf).

<sup>9</sup> 86 Fed. Reg. 53,691–92 (Sept. 28, 2021).

<sup>10</sup> *Memorandum from FAR Council to Chief Acquisition Officers et al. re: Issuance of Agency Deviations to Implement Executive Order 14042* (Sept. 30, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/09/FAR-Council-Guidance-on-Agency-Issuance-of-Deviations-to-Implement-EO-14042.pdf>.

<sup>11</sup> Transcript: CNN Presidential Town Hall with President Joe Biden, CNN (Oct. 21, 2021), <https://transcripts.cnn.com/show/se/date/2021-10-21/segment/01>.

10. He has also condemned unvaccinated people for hindering economic growth, costing other people jobs, and putting unnecessary strain on the healthcare system.<sup>12</sup>
11. In particular, during his speech announcing the various mandates, he expressed his “anger at those who haven’t gotten vaccinated,” whom he accused of “overcrowd[ing] our hospitals, ... overrunning the emergency rooms and intensive care units, leaving no room for someone with a heart attack, or pancreitis [sic], or cancer.”<sup>13</sup> He said those who oppose vaccinations “ha[ve] cost us all,” they “stand in the way of protecting the large majority of Americans who have done their part and want to get back to life as normal,” and they are “undermining you and ... lifesaving actions”—as a result, he would “use my power as President to get them out of the way.”<sup>14</sup> He said the unvaccinated were so dangerous that he would have “to protect vaccinated workers from unvaccinated co-workers.”<sup>15</sup>
12. The President’s characterizations of these employees as selfish killers who have destroyed the country and economy has caused significant reputational harm equivalent to pernicious targeting and blackballing. Disciplining or terminating a worker’s employment on the stated basis that he or she is intentionally a health hazard—a “kill[er]”—to fellow employees makes him or her a pariah. The impact extends far beyond simply denying someone a particular job or wages; it will follow them throughout their career, imposing reputational harms that cannot be undone with simple backpay or even reinstatement. The President’s targeting of these workers makes this entirely unlike routine federal employment actions where an individual faces discipline or termination for any number of reasons. In those cases, the President of the United States has not publicly and repeatedly called out the employees as selfish “kill[ers].”
13. Anyone who is disciplined or terminated under these conditions would be hard pressed to regain their unblemished reputation or find employment in their chosen fields.

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<sup>12</sup> Robert Towey, *Biden says unvaccinated Americans are ‘costing all of us’ as he presses Covid vaccine mandates*, CNBC (Sept. 24, 2021), <https://www.cnbc.com/2021/09/24/biden-says-unvaccinated-americans-are-costing-all-of-us-as-he-presses-covid-vaccine-mandates.html>.

<sup>13</sup> Joseph Biden, *Remarks by President Biden on Fighting the Covid-19 Pandemic* (Sept. 9, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/>.

<sup>14</sup> *Id.*

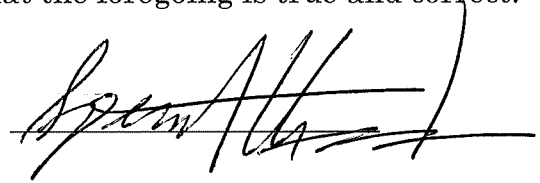
<sup>15</sup> *Id.*

14. And, moreover, barring unvaccinated workers from almost any type of civil service or contracting position deprives them not just of one job, but of nearly every possible employment opportunity in their chosen profession. The government has sought to cover the waterfront to make it impossible for unvaccinated workers who are terminated to find any other job within their chosen field.

15. A true and correct copy of my curriculum vitae, detailing my educational and professional experience, is attached to this declaration.

16. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 21, 2021

A handwritten signature in black ink, appearing to read "Spencer", written over a horizontal line.

Spencer Chretien

[REDACTED]

## BIOGRAPHY

- Dedicated professional with high-level White House service, achieving the rank of Special Assistant to the President at the age of 28. Additional federal service in the Office of a Cabinet Member. Top Secret/SCI security clearance.
- Extensive experience at Washington, DC-area nonprofit organizations. Strong relationships with hundreds of political appointees, state lawmakers, political activists, policy experts, and government affairs professionals.
- Keenly interested in American government, policy, economics, and international relations. A consistent record of thriving under pressure.
- Deep knowledge of government hiring practices and processes.

## WORK EXPERIENCE

### *FreedomWorks*

Washington, DC

#### **Director of Programs**

February 2021-present

- Responsible for all programs and campaigns at this multi-issue grassroots organization, managing five direct reports.
- Serve as a conduit between FreedomWorks programs staff and the organization's leadership.
- Manage relationships between FreedomWorks and external funders of programs and campaigns.

### *The White House, Executive Office of the President*

Washington, DC

#### **Special Assistant to the President**

#### **Associate Director, Office of Presidential Personnel**

June 2020-January 2021

- Oversaw all political personnel at the Departments of State, Justice, and the Agency for International Development; worked with White House Liaisons to recruit and place political appointees, fill vacancies, and coordinate between each agency and the White House.
- Interviewed and vetted hundreds of political appointees, candidates, and nominees. Managed two direct reports.
- Frequently navigated multiple options that came from different sources and made tough decisions after considering all information.
- *Top Secret/SCI security clearance*

### *Department of Housing and Urban Development, Office of the Secretary*

Washington, DC

#### **Deputy White House Liaison**

March 2020-June 2020

- Worked with the White House Office of Presidential Personnel to recruit political appointees to HUD; interviewed and vetted dozens of Schedule C HUD applicants.
- Helped oversee reassignments of HUD political appointees; briefed Secretary Carson on personnel issues.

### **Policy Advisor**

December 2019-June 2020

#### **Special Policy Assistant**

April 2019-December 2019

- Coordinated activities involving Opportunity Zones; worked with HUD program offices and other agencies on the White House Opportunity and Revitalization Council to implement best practices in distressed areas.

## Spencer Chretien

- Planned and hosted meetings with investors and community and nonprofit leaders to spur revitalization; planned dozens of successful events focused on Opportunity Zones, including one attended by the President; spoke on panels about Opportunity Zones.
- Wrote and oversaw the content on the OpportunityZones.gov website; drafted well-received reports to the President.
- Made policy recommendations and coordinated between different components of HUD to ensure a smooth flow of information to HUD leadership.
- Served as Secretary Carson's representative to the Federal Council on the Arts and the Humanities; represented HUD as part of the Census Bureau's Opportunity Project; participated in the White House Council on Eliminating Regulatory Barriers to Affordable Housing; helped represent HUD on the PREVENTS Task Force that works to end veteran suicide.

### ***Citizens Against Government Waste***

Washington, DC

#### **State Policy & Government Affairs Manager**

August 2017-March 2019

- Responsible for all state and local policy issues, including state budgets, taxes, regulations, labor policy, telecommunications, and gaming.
- Wrote editorials and blogposts; networked and developed relationships with external partners in the nation's capital and throughout the country.

### ***American Legislative Exchange Council***

Arlington, VA

#### **Membership Manager**

January 2017-August 2017

#### **Membership Coordinator**

June 2014-December 2016

- Managed the ALEC State Chair program at this public-private membership organization; oversaw legislative membership recruitment and retention; assisted with fundraising and event planning; wrote foundation proposals; represented ALEC at conferences; assisted with donor research and cultivated relationships with ALEC exhibitors; drafted communications to thousands of public and private sector members and the Board of Directors; supervised interns.
- Recruited more than 700 legislators to ALEC; travelled to 24 states; helped raise more than \$200,000 in travel reimbursement funds for legislators.

## **EDUCATION**

### **The College of William & Mary**

Williamsburg, VA

Bachelor's Degree in Government and minor in Economics awarded 2014; Dean's List, 2013

### **St. Albans School, Class of 2010**

Washington, DC

## **OTHER ACTIVITIES AND INTERESTS**

Hiking; travelling; and reading, writing, and editing. Work off and on as a part-time professional church musician from 2014 to present. Hillsdale College James Madison Fellowship, Class of 2021-2022.

# EXHIBIT 13

**AFFIDAVIT OF RAYMOND A. BEEBE JR.**

1. My name is Raymond A. Beebe Jr. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I am the Chairman and CFO of Highland Engineering, Inc., located in Howell, Michigan.
3. Highland Engineering is a federal contractor. In October 2021, GSA unilaterally modified all of our contracts with GSA to add the new provision requiring us to follow the Task Force guidance, including in contracts valued at over \$250,000. This was not a one-time event. For ongoing contract bids—including as recently as December 10, 2021, for a contract where we were solicited to submit a bid as a sub-contractor to a covered defense contractor—we have had to agree to accept the Task Force guidance clause or else be ineligible even to bid.
4. One hundred percent of Highland Engineering's employees are considered "covered contractors." Because of the imminent deadline for them all to be vaccinated, we are facing the decision of whether to terminate unvaccinated employees. If we had to do so, it would cause a major disruption on our operation. The loss of key people will cause us to be late on many of our contracts, most that are very critical to our military customers. Not only will this hurt the Military's readiness, but it will hurt the reputation that we have spent 35 years building
5. I started Highland Engineering 35 years ago and have work to build trust and loyalty with the employees. When Michigan shut down for COVID, we were contacted by the Air Force to develop and built containers to allow the Air Force to transport COVID infected service men. We asked our employees to work thru the shutdown at great risk to themselves and families.
6. Some of those employees have issues with getting vaccinated, and I respect their right to make decisions on their health care. Unlike large companies where a HR representative calls them and says "they tell me that I have to fire you," we actually have to look our workers in the eye and say "we are firing you for your beliefs." It's very personal, and I feel that I am betraying their trust. This is especially true because the alternative is forced vaccination, which is permanently in their body. There is no way to undo it.

7. Moreover, Highland Engineering has been operating during the entire pandemic to support urgent Government needs, and during this period we have followed all the COVID mandated safety requirements, social distancing, masks, contact tracing, testing and quarantining suspected infected employees, to the best of our ability while continuing to support the Government's mission, this project required employees to operate in close quarters at times, which they were willing to do in spite of the increased risk.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 11, 2021

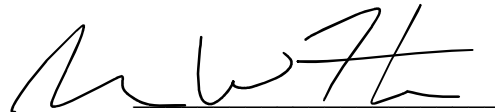
DocuSigned by:  
  
340FD5F1F0AE4CF...

# EXHIBIT 14

**AFFIDAVIT OF MARCUS THORNTON**

1. My name is Marcus Thornton. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I am the President of Feds 4 Med Freedom ("F4MF"), a non-profit registered in Nevada.
3. F4MF has over 6000 members, located in all 50 states and at embassies, consulates, and military bases around the world. They work for nearly every federal agency in existence, and for dozens of different federal contractors. Some members are prohibited by law or regulation from suing under their own names due to the sensitive positions they hold.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 21, 2021

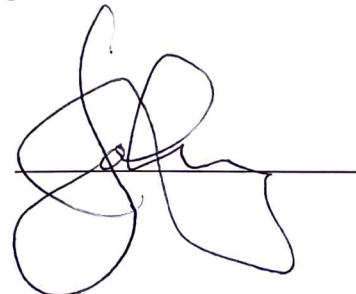
A handwritten signature in black ink, appearing to read 'M Thornton', is written over a horizontal line.

# EXHIBIT 15

**AFFIDAVIT OF JOHN ARMBRUST**

1. My name is John Armbrust. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Rutherford County, North Carolina. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Transportation, with the Federal Aviation Administration.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have declined to provide my vaccination status to my agency.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. On November 30, 2021, I was disciplined in the form of a written counseling (copy enclosed), which says I could face termination unless I upload proof of vaccination. On December 14, 2021, I was further disciplined in the form of a written letter of reprimand (copy enclosed) stating it is "disciplinary action" and that "[c]ontinued misconduct of this nature" may lead to "removal from Federal service."
7. My work is important to the public because I am a flight test pilot who conducts certification flight test on new and modified aircraft including airliners, rotorcraft and general aviation aircraft. I determine whether or not those aircraft comply with federal safety regulations.
8. I am the primary provider in my household. I currently work from home full-time. I served 21 years, 1 month, and 5 days in the US Army achieving the rank of CW4(P), experimental test pilot, prior to retirement.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 14, 2021

A handwritten signature in blue ink, appearing to be 'John Armbrust', written over a horizontal line.



## Federal Aviation Administration

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# Memorandum

Date: November 30, 2021

To: John Armbrust; Project Manager, Flight Test Branch, AIR 710

From: Eric Kinney; Manager, Flight Test Branch, AIR 710 (A)

Subject: Written Counseling

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On September 9, 2021, President Biden issued Executive Order (EO) 14043 *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees*. To protect the Federal workforce and the public with whom they interact, the EO requires Federal employees to be fully vaccinated against COVID-19 by **November 22, 2021**, subject to such exceptions as required by law.

The Department of Transportation (DOT) Assistant Secretary for Administration and FAA Assistant Administrator for Human Resource Management sent broadcast messages to the DOT and FAA workforce respectively, affirming the vaccine mandate requiring employees to be fully vaccinated by the November 22, 2021 deadline. This mandate applies to all FAA employees, including employees who do not report to the worksite.

Employees will be considered fully vaccinated against COVID-19, two weeks after they have received the requisite number of doses of a COVID-19 vaccine either approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization.

**As of November 22, 2021, FAA records indicate that you have not submitted documentation to show that you are fully vaccinated.**

Employees who failed to comply with the vaccine mandate by November 22, 2021, are subject to disciplinary action up to and including removal from federal service, except in limited circumstances where the law requires an exception. Failure to comply includes delaying to get vaccinated, refusing to get vaccinated and failing to provide proof of vaccination.

The Agency may be required to provide a reasonable and/or religious accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a **medical condition or because of a sincerely held religious belief, practice, or observance**, absent undue hardship.

You are to immediately provide the required documentation of your COVID-19 vaccination or submit your intent to request a legally required accommodation based on a medical condition or sincerely held religious belief, practice or observances via the Vaccination Documentation application at <https://attest.faa.gov/>. Employees are required to provide documentation (digital copies will suffice) to prove their vaccination status, even if an employee has previously attested to their vaccination status. If you require assistance navigating the Microsoft Power Apps System, please contact the [COVID-19@faa.gov](mailto:COVID-19@faa.gov) email box.

If you are not fully vaccinated, please take immediate action to comply with the requirements of EO 14043, by finding your nearest vaccination site by visiting the following link: <https://www.vaccines.gov/>.

For additional information on the vaccination requirement, please visit the Safer Federal Workforce Task Force website by clicking on the following link: [SFWT FAQs](#). For information on the COVID-19 vaccines either approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization please visit the CDC website by clicking on the following link: [CDC Vaccine Guidance](#).

It is my hope that you understand the seriousness of this situation and will give it your immediate attention. Do not hesitate to contact me if you need further clarification or assistance with this matter. If you are unable to meet the requirements outlined above notify me as soon as possible.

Keeping our workforce healthy is a top priority and is key to fulfilling the FAA's mission to provide the safest, most efficient aerospace system in the world. The best thing you can do to protect yourself, your loved ones, and others, is to get [vaccinated](#).

In the event you may have a personal or health problem, assistance is available through the Employee Assistance Program (EAP). Through EAP, employees are afforded free professional and confidential assistance in finding solutions to workplace problems. Whether you avail yourself of the services offered by EAP, you are expected to make every effort to correct your behavior. You can seek assistance EAP 24 hours a day, 7 days a week, by calling the EAP Hotline at 1-800-234-1EAP or visiting the EAP website at [www.MagellanAscend.com](http://www.MagellanAscend.com).

This letter is not a disciplinary action and it will not be placed in your official personnel file (eOPF). You are requested to sign and date the acknowledgement copy of this memorandum as evidence that you have received it. Your signature does not mean you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgement copy will not void the contents.

Acknowledged Receipt:

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_



## Federal Aviation Administration

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# Memorandum

Date: December 14<sup>th</sup>, 2021

To: John Armbrust; Project Manager, Flight Test Branch, AIR 710

From: Eric Kinney; Manager, Flight Test Branch, AIR 710 (A)

Subject: Letter of Reprimand

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This is notice that you are officially reprimanded for your failure to follow instructions. This action is initiated for such cause as will promote the efficiency of the Federal service. The following information is presented in support of this reprimand.

**Background:** On September 9, 2021, President Joseph Biden signed Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees. The Executive Order states, "it is necessary to require COVID-19 vaccination for all Federal employees, subject to such exceptions as required by law." On September 20, 2021, Department of Transportation (DOT) Assistant Secretary for Administration and the Federal Aviation Administration (FAA) Assistant Administrator for Human Resource Management sent broadcast messages via email to the DOT and FAA workforce respectively, affirming the vaccine mandate. According to these broadcast emails, DOT and FAA employees were instructed to be fully vaccinated against COVID-19 by November 22, 2021. This mandate applies to all FAA employees, including employees who do not report to the worksite.

On October 6, 2021, the FAA Assistant Administrator for Human Resource Management sent a bulletin via email to all FAA employees. The bulletin required all FAA employees to attest to their vaccination status and provide proof of vaccination by November 8, 2021. Finally, on October 13, 2021, the United States Secretary of Transportation sent an email to FAA employees, wherein he reiterated the requirement that all Federal employees be fully vaccinated by November 22, 2021. Since October 2021, the FAA Daily Broadcast has contained messages reminding employees that they must be fully vaccinated by November 22, 2021 and that they must attest to their vaccination status.

On November 30<sup>th</sup>, 2021, I advised you in a Letter of Counseling you were not in compliance with the requirements of the EO and instructed you to either (1) submit your vaccination documentation via the Microsoft Power Apps tool to prove you are fully vaccinated; or (2) submit a request for an accommodation based on a medical condition or a sincerely held religious belief, observance, or practice, if applicable. You were provided with instructions on how to submit the requisite vaccination documentation and on how to submit a request for a medical or religious exception from vaccination.

**Charge:** Failure to Follow Instructions

**Specification 1:** As of December 14<sup>th</sup>, 2021, you have not complied with my instructions. Specifically, you have failed to submit the required vaccination documentation to demonstrate that you are fully vaccinated in compliance with the requirements of EO 14043.

**Second Instruction**

I am again instructing you to provide the required documentation of your COVID-19 vaccination via the online application at <https://attest.faa.gov> or submit your request for an exception based on a medical disability or sincerely held religious belief, if appropriate, as soon as possible. If you are unvaccinated, I strongly urge you to start the vaccination process *immediately* to meet the requirements of EO 14043.

If you provide the appropriate documentation that verifies you are fully vaccinated, request an accommodation based on a medical condition or a sincerely held religious belief, observance, or practice, or initiate the vaccination process during the disciplinary process, future disciplinary actions may be held in abeyance pending your full vaccination or approval of your accommodation request. Please take immediate action to become compliant with the requirements of EO 14043, by finding your nearest vaccination site by visiting the following link: <https://www.vaccines.gov/>.

For additional information on the vaccination requirement, please visit the Safer Federal Workforce Task Force website by clicking on the following link: [SFWT FAQs](#). For information on the COVID-19 vaccines either approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization please visit the CDC website by clicking on the following link: [CDC Vaccine Guidance](#).

You are required to follow my instructions, and I expect that you will be compliant with EO 14043 going forward. Do not hesitate to contact me or Lance Gant if you need further clarification or assistance with this matter. If you are unable to follow these instructions and/or meet the requirements outlined above, please notify me as soon as possible. I hope that you understand the seriousness of this situation.

If you cannot receive the vaccine based on a medical condition or a sincerely held religious belief, observance, or practice, you can attest to your intent to request an accommodation by clicking on the following link: [Vaccination Documentation App](#) or by going to the online application at <https://attest.faa.gov>.

Before initiating this action, I carefully considered the information contained in the FAA Personnel Management System, Chapter III, Performance Management; the Human Resources Policy Manual (HRPM), ER-4.1, Standards of Conduct; the Human Resources Operating Instructions (HROI), Table of Penalties; Executive Order 14043, and the email notices cited above. Your actions are inconsistent with Paragraph 7c of the Standards of Conduct, which requires that FAA employees “respond promptly to, and fully comply with directions and instructions received from their manager or other management officials.”

You are a federal employee and the direction for you to comply with the vaccine mandate was a lawful instruction. You were on clear notice to comply with the vaccine mandate by November 22, 2021, and your failure to follow instructions is a serious offense. You are a Project Manager and your conduct, as described above, demonstrates poor judgement and has a negative impact on the good order and the safety of our office. Workforce safety is a top priority and key to fulfilling our mission. I expect you to conduct yourself in a professional manner, which includes following my instructions and adhering to the vaccination requirements set forth for Federal government employees.

Your failure to follow instructions is a first offense. The Table of Penalties recommends a Reprimand to a 14 Day Suspension for a first offense of failure or delay in carrying out orders, directions, or assignments. I have decided to issue this reprimand to correct your behavior, with the hope that you will understand the importance of following my instructions, as well as comply with the vaccination requirement established by EO 14043. Your failure to do so constitutes misconduct. Your continued failure to follow these mandatory instructions reiterated below will be grounds for further disciplinary action up to and including removal from Federal service.

This Letter of Reprimand is intended to be corrective in nature rather than punitive. Continued misconduct of this nature or any other type may be grounds for further disciplinary action, up to and including removal from Federal service.

**Your Reply Rights:** You have the right to make an oral and/or written reply to me, within fifteen (15) calendar days from the date you receive this memo, to offer reasons or arguments why this reprimand should not be sustained. You may furnish affidavits or other documentary evidence in support of your reply. Please be assured that any reply you submit will be fully considered and, if you reply, I will provide you with a written decision in response to any information you provide in your response.

If you wish to make a response to this reprimand, you have the right to be represented. If you choose an agency employee as a representative, it may be disallowed if a conflict of interest exists or because of operational demands. Should this occur, you will be allowed a reasonable amount of time to select another representative. Acquiring appropriate representation will be your responsibility, and you must advise me in writing of any such representative.

You and your representative have a right to review the documentation relied upon to support this reprimand action. A copy of the materials relied upon in issuing this reprimand is attached.

**Action after Your Reply Period:** If I determine that the reprimand is sustained after I review your reply, you will be informed and your reply will be filed in your electronic Personnel Folder (eOPF), along with this memorandum and the reprimand decision memorandum, for a maximum period of two (2) years. If you do not reply to this memo within fifteen (15) calendar days from the date of your receipt, this reprimand will be considered sustained, and this memorandum will be placed in your eOPF for a maximum period of two (2) years. In the event I decide this reprimand should be rescinded after receipt and consideration of your reply, you will be informed and this memorandum will not be filed in your eOPF.

**Your Grievance/Equal Employment Opportunity (EEO) Rights:** You have the right to file either a grievance or EEO complaint on this action as noted below. However, you may elect only one of these forums to challenge this action.

If you choose to file a written grievance, it must be filed within ten (10) calendar days of my final decision. In the event you do not respond to this reprimand and thus receive no decision notice from me, you will have ten (10) calendar days after the end of your fifteen (15) day reply period to file such a grievance. It has to be filed through the procedures outlined in HRPM ER-4.3, "FAA Administrative Grievance." The written grievance must state your reasons for contesting the reprimand and you may

supply any information or proof you care to submit. If you have a representative, he/she must be designated to me in writing.

The law protects federal employees from discrimination because of your race, color, religion, sex (including gender identity, sexual orientation, sexual harassment and pregnancy), national origin, age (40 or older), disability or genetic information. The law also protects you from retaliation if you oppose employment discrimination, file a complaint of discrimination, or participate in the EEO complaint process (even if the complaint is not yours).

If you believe that this action is taken in whole or part on the basis of discrimination and you wish to file an EEO complaint, contact the Office of Civil Rights National Intake Unit through the voicemail only telephone line at 1-888- WK IT OUT (954-8688) or 1-800-877-8339 (TTY relay service). You may email the National Intake Unit at [9-ACR-EEOComplaint-Services@faa.gov](mailto:9-ACR-EEOComplaint-Services@faa.gov) or use [https://employees.faa.gov/org/staffoffices/acr/eo\\_complaint\\_program/national\\_intake\\_unit/precomplaint\\_of\\_discrimination/](https://employees.faa.gov/org/staffoffices/acr/eo_complaint_program/national_intake_unit/precomplaint_of_discrimination/). The National Intake Unit accepts messages twenty-four (24) hours a day seven (7) days a week from anywhere you can access the Internet. Calls and emails are retrieved during the business work week only. You must file your EEO complaint no later than forty-five (45) days from the incident or personnel action. If you would like additional information about the informal complaint process, please visit our website link at <https://my.faa.gov/org/staffoffices/acr/civil-rights-wjh-technical-center--washington-hq---eoo-complaint/eoo-rights-and-responsibilities-videos.html> to watch 7 short videos explaining the EEO Complaint process and your roles and responsibilities.

If you believe this action was taken in retaliation for whistleblowing, you may seek corrective action before the U.S. Office of Special Counsel, [www.osc.gov](http://www.osc.gov). However, if you seek corrective action, your appeal will be limited to whether the agency took one or more covered personnel actions against you in retaliation for making protected whistleblowing disclosures. You will be forgoing the right to otherwise challenge the personnel action(s).

In the event you may have a personal or health problem, assistance is available through the Employee Assistance Program (EAP). Through EAP, employees are afforded free professional and confidential assistance in finding solutions to workplace problems. Whether you avail yourself of the services offered by EAP, you are expected to make every effort to correct your behavior. You can seek assistance EAP 24 hours a day, 7 days a week, by calling the EAP Hotline at 1-800-234-1EAP or visiting the EAP website at [www.MagellanAscend.com](http://www.MagellanAscend.com).

If you have any questions concerning this action, I am available to discuss them with you. If you have any questions concerning your procedural rights, you may contact Human Resources Office, Employee/Labor Relations Specialist, **Conner Craig**, at **206-231-4042** or via email at [Conner.C.Craig@faa.gov](mailto:Conner.C.Craig@faa.gov) for assistance.

You are requested to sign and date the acknowledgement copy of this memorandum as evidence that you have received it. Your signature does not mean you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgement copy will not void the contents.

I acknowledge receipt:

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John Armbrust

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Date

Attachments:

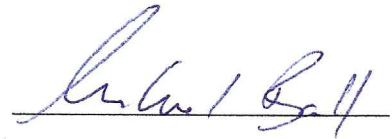
- PMS chapter III
- Excerpt from ER-4.1 (front page plus paragraph 7c)
- Excerpt from TOP (page 1)
- EO 14043
- Sept 20 emails from both Andrews and McNamara
- Letter of Counseling dated November 30<sup>th</sup>, 2021

# EXHIBIT 16

**AFFIDAVIT OF MICHAEL BALL**

1. My name is Michael Ball. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Alexandria, Virginia. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of State.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. On December 7, I was disciplined in the form of a Letter of Counseling and Education threatening me with consequences for refusing to comply with the Executive Order requiring me to provide proof of full vaccination for COVID-19. I was threatened with imminent disciplinary action up to and including removal/separation.
7. My work is important to the public because I advance U.S. economic interests overseas, advance U.S. foreign policy, and help provide consular and other services to American citizens overseas.
8. I am the primary provider in my household. I currently work from home full-time.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 12, 2021

A handwritten signature in blue ink, appearing to read "Michael Ball", written over a horizontal line.

# EXHIBIT 17

**AFFIDAVIT OF CRAIGAN BIGGS**

1. My name is Craigan Biggs. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Yuma County, Arizona. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Defense, with the Marine Corps Community Service.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have declined to provide my vaccination status to my agency.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. On December 1, 2021, I was disciplined in the form of a written reprimand that says I will be subject to a 14-day suspension without pay if I do not get vaccinated (copy enclosed).
7. My work is important to the public because I serve in a Clinical Counseling office that provides services to Active Duty Military Members. Among my many duties, I provide clerical support in the form of accurate record management of Client's Privileged and Private information that could be entered into their permanent record and have adverse repercussions on their career and future benefits. I have also served as the primary instructor, to our entire clinical staff, of the curriculum of Profession Assault Crisis Training (Pro-ACT). This training is critical to the safety of our staff and other clientele, as we regularly work individuals that have behavioral health concerns and have often demonstrated a history of violent tendencies that have brought them into services at our facility.
8. I am the primary provider in my household.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 10, 2021

A handwritten signature in blue ink, appearing to read 'Craigan Biggs', is written over a horizontal line.



**MARINE CORPS** COMMUNITY SERVICES

MCCS YUMA • BOX 99119 • YUMA AZ 85369-9119 • (928) 269-2422 • FAX: (928) 269-6201

1 Dec 21

MEMORANDUM

From: Family Advocacy Program Manager

To: Craigan Biggs, Social Services Assistant NF3

Subj: NOTICE OF REQUIREMENT - MANDATORY CORONAVIRUS DISEASE  
2019 VACCINATION, DTD 1 DEC 21 AND COMPLETION OF DOD  
CIVILIAN EMPLOYEE CERTIFICATION OF VACCINATION DD FORM  
3175 REQUIREMENT

Ref: (a) MCO P12000.11A, w/changes 1-5

Encl: (1) DoD Civilian Employee Certification of Vaccination  
FORM 3175

(2) Vaccination Requirement Fact Sheet dtd 16 Nov 2021

1. On 7 October 2021, you were issued a letter advising you of the requirement to be fully vaccinated against COVID-19 not later than 22 November 2021. Additionally on 27 October, you were informed of the requirement to complete enclosure (1) by 8 November 2021. As of the date of this letter, you have not provided proof that you are fully vaccinated or that you have started the vaccination process and you have not completed enclosure (1). Further, to my knowledge, you have not requested an exemption based on disability or a sincerely held religious belief, practice or observance.

2. This letter is to remind you of the requirement, pursuant to EO 14043, that all Federal employees were required to be fully vaccinated against COVID-19 by 22 November 2021, unless they had been granted a legally required exemption, or an exemption request is pending determination. This letter serves as your second notice of the vaccination requirement. You are instructed to complete enclosure (1) and if you have not already done so, start the vaccination process, or request an exemption, within five calendar days from the date of this letter or face discipline, up to a fourteen-day suspension without pay. Further non-compliance with the instruction to be vaccinated, absent an approved legally required exemption or an exemption request pending, will result action up to and including removal

Subj: NOTICE OF REQUIREMENT - MANDATORY CORONAVIRUS DISEASE  
2019 VACCINATION, DTD 1 DEC 21 AND COMPLETION OF DOD  
CIVILIAN EMPLOYEE CERTIFICATION OF VACCINATION DD FORM  
3175 REQUIREMENT

from the Federal Service. No disciplinary action will be taken until after the end of the five-day calendar period.

3. If you wish to request an exemption to the vaccination requirement, you may do so by completing the applicable form located at <https://www.secnav.navy.mil/donhr/Pages/coronavirus.aspx> and submit it to me within the next five calendar days from the date of this letter.

4. Until such time as you are fully vaccinated, to include while awaiting a determination on an exemption request, you are required to wear a mask and maintain physical distancing from others while at the worksite, indoors (and outdoors, where large numbers of people are congregated). Your official travel, if any, may also be restricted. Furthermore, regular weekly COVID testing is required even if you have an exemption request pending determination or approved. Employees who telework or work remotely are not subject to the weekly testing requirement but must provide a negative test result performed within the prior 72 hours for entry into a DoD facility. More information about the testing requirement will be provided to you shortly.

5. It is important for you to know and understand the facts associated with COVID-19 and the vaccines. Below is information taken from the Centers for Disease Control and the White House websites:

- COVID-19 disease is caused by a coronavirus called SARS-CoV-2. You can get COVID-19 through contact with another person who has the virus. It is predominantly a respiratory illness that can affect other organs. People with COVID-19 have had a wide range of symptoms reported, ranging from mild symptoms to severe illness leading to death. Symptoms may appear 2 to 14 days after exposure to the virus. Symptoms may include: fever or chills; cough; shortness of breath; fatigue; muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; diarrhea.
- While COVID-19 vaccines were developed rapidly, all steps have been taken to ensure their safety and effectiveness.

Subj: NOTICE OF REQUIREMENT - MANDATORY CORONAVIRUS DISEASE  
2019 VACCINATION, DTD 1 DEC 21 AND COMPLETION OF DOD  
CIVILIAN EMPLOYEE CERTIFICATION OF VACCINATION DD FORM  
3175 REQUIREMENT

COVID-19 vaccines are not experimental. They went through all the required stages of clinical trials. Extensive testing and monitoring have shown that these vaccines are safe and effective. COVID-19 vaccines have received and continue to undergo the most intensive safety monitoring in U.S. history.

- COVID 19-vaccines are effective. They can keep you from getting and spreading the virus that causes COVID-19. COVID-19 vaccines also help keep you from getting seriously ill even if you do get COVID-19. Getting vaccinated yourself may also protect people around you, particularly people at increased risk for severe illness from COVID-19.
- Get vaccinated regardless of whether you already had COVID-19. Evidence is emerging that people get better protection by being fully vaccinated compared with having had COVID-19. One study showed that unvaccinated people who already had COVID-19 are more than 2 times as likely than fully vaccinated people to get COVID-19 again.
- None of the COVID-19 vaccines contain the live virus that causes COVID-19 so a COVID-19 vaccine cannot make you sick with COVID-19.

6. As noted in the enclosure (2), COVID-19 vaccines are widely available in the United States. Additionally, you are eligible to receive the COVID-19 vaccine at Military Treatment Centers. As also noted in the enclosure, you are authorized up to four hours of duty time for each vaccination event, to include travel time to and from the vaccination site.

7. Maximum COVID-19 vaccination of the civilian workforce will reduce transmission of disease, reduce severity of disease among USMC civilians who become infected, and promote the Marine Corps' duty to provide and maintain a workplace that is free of known hazards. You are encouraged to speak to your medical provider to obtain more information about the vaccine.

Subj: NOTICE OF REQUIREMENT - MANDATORY CORONAVIRUS DISEASE  
2019 VACCINATION, DTD 1 DEC 21 AND COMPLETION OF DOD  
CIVILIAN EMPLOYEE CERTIFICATION OF VACCINATION DD FORM  
3175 REQUIREMENT

8. You are encouraged to read the enclosure carefully as it provides detailed information about the vaccine requirement and related issues. Should you have any questions regarding this requirement or my resulting instructions, please contact Erlinda San Roman, Human Resources Director at (928)269-5759 or at [Erlinda.sanroman@usmc-mccs.org](mailto:Erlinda.sanroman@usmc-mccs.org).

  
E. YASHER

Please sign to acknowledge receipt of this letter in the space provided. Your signature does not mean you agree with the content of this letter; it only means you have received this letter. Failure to sign this letter does not void the content of this letter.

\_\_\_\_\_  
Employee Signature

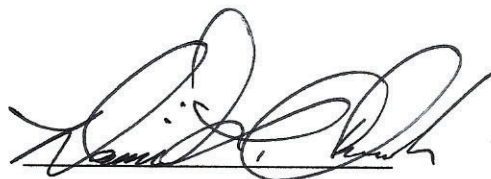
\_\_\_\_\_  
Date

# EXHIBIT 18

**AFFIDAVIT OF DAVID CLARK**

1. My name is David Clark. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Jefferson County, West Virginia.
3. I am a civilian employee with the federal government. I work for the Central Intelligence Agency.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. Although the CIA has not published its policy, it has (like other federal agencies) required employees to be vaccinated or receive a religious or medical accommodation. The CIA required proof of vaccination by November 5, 2021. I have declined to reveal my vaccination status and will continue to do so.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. On December 1, 2021, I was disciplined in the form of a written warning saying I was now in disciplinary action and that if I continue to remain in breach of the vaccine mandate, I would be issued a Letter of Reprimand followed by 14 calendar days of suspension. Following that, should I continue to fail to comply they would process me for termination.
7. My work is important to the public because the mission of the Central Intelligence Agency is critical to providing tactical and strategic advantage to the United States.
8. I am the primary provider in my household. I previously served in the U.S. Armed Forces as a commissioned Military Police Officer with a combat deployment.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 14, 2021

A handwritten signature in black ink, appearing to read "David Clark", written over a horizontal line.

# EXHIBIT 19

**AFFIDAVIT OF KEVIN DANTUMA**

1. My name is Kevin Dantuma. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Fairfax County, Virginia. I am a member of Feds for Medical Freedom.
3. I am a civilian contractor for the federal government. I work for Peraton, which had no vaccine mandate until the federal government required it. On October 1, 2021, in response to President Biden's September 9 speech, Peraton mandated that all employees be vaccinated by January 4, 2022, or else face discipline or termination. I have not revealed my vaccination status and do not plan to do so.
4. I have been told that if I do not provide proof of vaccination, I will be terminated.
5. I have not sought any exemption from my employer's vaccine mandate, nor do I plan to do so.
6. My work is important to the public because I perform an essential cyber security function that safeguards information critical to national security.
7. I am the primary provider in my household. I previously served 14 years in the U.S. Armed Forces as a U.S. Army Staff Sergeant.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 09, 2021

Kevin Dantuma

# EXHIBIT 20

**AFFIDAVIT OF KERI DIVILBISS**

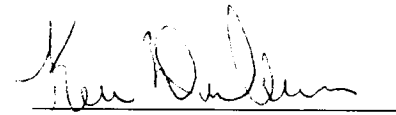
1. My name is Keri Divilbiss. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Liberty County, Texas. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the U.S. Department of Agriculture.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. On Friday, November 12, 2021, after my regular tour of duty, I was disciplined in the form of a Letter of Caution stating: I had 5 calendar days from receipt of this notice to complete proof of vaccination survey with proof of vaccination; failure to follow this instruction will result in appropriate disciplinary action being initiated against you, up to and including removal from Federal Service; and a copy of this letter is retained in a confidential, non-permanent supervisory file for a period not to exceed 1 year from issuance.

On November 30th, 2021, a general email on USDA's phased return to physical workplace- timeline and resources contained the following information: Employees who refuse to be vaccinated, provide proof of vaccination, and who do not have a pending request for a legally entitled accommodation will have appropriate disciplinary action initiated against them, up to and including removal from Federal service. Based on OPM guidance, USDA is using a three step approach: 1) letter of caution; 2) suspension; and 3) removal. The letters of caution have been sent. Out of respect for the holiday season and in an effort to stay aligned with most other Federal agencies, USDA will resume the progressive discipline process with notices of suspension beginning on January 3, 2022.

7. My work is important to the public because I provide crucial intel to USDA staff to detect and prevent the unlawful entry and distribution of prohibited and/or non-compliant products that may harbor exotic plant and animal pests, disease or invasive species. This work is vital to protect our food supply and natural resources.
8. I am the primary provider in my household. I currently work from home full-time.

9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 10, 2021

A handwritten signature in black ink, appearing to read "Ken Dallen", is written over a horizontal line.

# EXHIBIT 21

**AFFIDAVIT OF THOMAS DAVID GREEN**

1. My name is Thomas David Green. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Pima County, Arizona. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Homeland Security.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination.
5. I have not been vaccinated and do not plan to get vaccinated, but I supported my mother and grandmother getting vaccinated.
6. I previously served as a Sergeant in the U.S. Marine Corps and as a Sergeant in the U.S. Army during Operation Iraqi Freedom III. I have had an exemplary career with no discipline.
7. I am a single father and sole financial provider of four minor children.
8. I declare under penalty of perjury that the foregoing is true and correct.

*"I can only pray my signature that was penned to paper, and all that it signifies, will contain the integrity and strength of our founding fathers."*

Executed on: December 10<sup>th</sup>, 2021

Thomas D. Green

# **EXHIBIT 22**

**AFFIDAVIT OF TYLER KLOSTERMAN**

1. My name is Tyler Klosterman. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Burleigh County, North Dakota. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Interior.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have declined to provide my vaccination status to my agency.
5. I have not sought a medical or religious exemption from my agency's vaccine mandate, nor do I plan to do so.
6. My work is important to the public because it is instrumental in assisting our office with meeting its mission to manage, develop, and protect water in the interests of the American public. Achieving this mission successfully involves proper management of dams used for irrigation and flood control purposes along with the management of rural water systems. These rural water systems are integral in providing potable water to many rural areas and communities that otherwise would have no water or water that does not meet EPA standards for human use and consumption. We recently experienced drought conditions this past summer in my area of the country and it wasn't that long ago that we were in flood operations; further driving home the importance of my role in the proper management of water to facilitate the protection of life and property in the interests of the American public.
7. I am the primary provider in my household.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 11, 2021

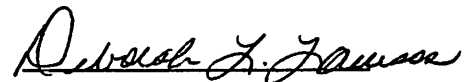


# **EXHIBIT 23**

**AFFIDAVIT OF DEBORAH LAWSON**

1. My name is Deborah Lawson. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Montgomery County, Texas. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the U.S. Department of Homeland Security.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. I reluctantly agreed to get vaccinated against my will to save my job, but I had a terrible reaction and refuse to take any further COVID vaccination shots. When boosters are inevitably required, I will refuse to take them.
7. My work is important to the public because I work for DHS/USCIS/asylum, which is one of the three immigration agencies dealing with the current border rush. My position is congressional liaison, which entails researching and responding to any inquiry from members of Congress and Senate, and providing information, rules, regulations and current immigration law. Most of the inquiries are made on behalf of the public, specifically individuals with immigration issues.
8. I am the primary provider in my household, and I work from home full-time.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 17, 2021



# EXHIBIT 24

**AFFIDAVIT OF STEVEN MCCOMIS**

1. My name is Steven McComis. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Pasco County, Florida. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Defense, with the Defense Intelligence Agency.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not yet sought any exemption from my agency's vaccine mandate.
6. I require a security clearance to keep my job, but I believe DOD will revoke my clearance if I do not comply with DOD's vaccination policy.
7. My work is important to the public because I engage with willing international partners, fulfilling the NDS direction to strengthen alliances and attract new partners. These relationships provide agility to a global network that creates a common understanding of threats and aids in the development of response options.
8. I am the primary provider in my household. I currently serve in the U.S. Armed Forces Reserve (USAR, Individual Mobilization Augmentee) Staff Officer/ Colonel/ USSOUTHCOM.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 10, 2021


*Steven McComis*

# EXHIBIT 25

**AFFIDAVIT OF JOSHUA ROBERTS**

1. My name is Joshua Roberts. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Hidalgo County, Texas. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Homeland Security.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. I am currently an Air Interdiction Agent for Customs and Border Protection. I provide air support as a pilot in command of the AS350, and UH-60 helicopters. We provide this support for all the federal and local governments within our area of responsibility. Primarily we are charged with interdicting illegal border crossers and contraband entering the United States. Because of our unique capabilities, we also provide such things as search and rescue, aerial observation (for fire support for example), communication relay, and etc.
7. I am the primary provider in my household. My wife is currently not working so that we are able to serve as foster parents for two infants we've had since they were a few weeks old. We hope to be able to adopt them, but we worry that if I lose my job, we will not qualify to adopt them.
8. I retired last year from the Alaska Air National Guard. I retired at the rank of Major and served primarily as a Personnel Recovery Pilot.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 10, 2021

A handwritten signature in black ink, appearing to read 'J. Roberts', is written over a horizontal line.

# **EXHIBIT 26**

**AFFIDAVIT OF M. LEEANNE RUCKER-REED**

1. My name is M. LeeAnne Rucker-Reed. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Paulding County, Georgia. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Justice, with the U.S. Marshals Service.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so at this time.
6. On 10/27/21, I was notified by my supervisor that I could no longer travel for work to attend necessary training, which was extremely punitive in nature as I need to be able to attend training to maintain my skill set and continue to perform my duties at the highest level. Moreover, by not furthering my knowledge related to my occupation, my career can and most likely will be negatively impacted through lost job opportunities, such as promotions and competitive lateral moves. On this same date, I was also told I could no longer travel to work Judicial conferences or protection details, which is punitive in nature as it has resulted in lost opportunities to make some extra money to help pay my bills as well as help my mother with her living expenses. Additionally, I was notified by my supervisor that I will have to provide a negative Covid test up to twice a week for any time I am coming into the office or attending in person meetings, when necessary, which can harm my health by constantly rubbing the inside of my nose up to twice a week. On 11/23/21, my request to attend a training class that is directly pertinent to my current duties was denied by my supervision and upper management, which is detrimental to my career and disciplinary in nature. On 11/30/21, I learned that I was not selected for a promotion opportunity that I had been specifically asked to put in for by upper management, and this happened after I submitted my attestation of my vaccination status in late October. All of these incidents listed here are punitive and the equivalent to being disciplined. Over the last 25 years of employment and prior to the vaccine mandate issue and my decision to not get the vaccine for my own

reasons, I was seen as a very good employee and given very high evaluations by my supervisors, and now suddenly I am being told by the DOJ and senior level officials that I am a problem employee that doesn't deserve continued employment, which is itself stressful and taking a toll on my physical and mental health.

7. My work is important to the public because the Marshals Service occupies a uniquely central position in the federal justice system. It is the enforcement arm of the federal courts, involved in virtually every federal law enforcement initiative. The duties include protecting the federal judicial process to include protecting federal judges, other court officials, witnesses, jurors the visiting public, prisoners and other threatened persons; apprehending an average of 310 federal fugitives every day in addition to combining their efforts with those of federal, state and local law enforcement agencies to locate and arrest the most dangerous fugitives; managing and selling seized assets acquired by criminals through illegal activities in furtherance of DOJ's mission to use asset forfeiture as a tool to deter, disrupt and dismantle criminal enterprises by depriving criminals of the instruments of illicit activity; providing safe, secure and humane custody, housing, medical care and transportation for federal prisoners throughout the United States and its territories; managing the coordination, scheduling and secure handling of prisoners in federal custody, transporting them to detention facilities, courts and correctional institutions across the 94 judicial districts via a network of aircraft, buses, vans and cars; and operating the Witness Security Program that provides for the security, safety and health of government witnesses and their authorized family members, whose lives are in danger as a result of their cooperation with the U.S. government
8. I am the primary provider in my household.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 10th, 2021

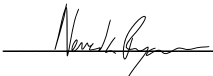
*A. J. Eudick - Dued*

# EXHIBIT 27

**AFFIDAVIT OF NEVADA RYAN**

1. My name is Nevada Ryan. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Los Angeles County, California. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Transportation, with the Federal Aviation Administration.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not attested to my vaccination status.
5. I have not sought any exemption from my agency's vaccine mandate.
6. On November 30, 2021, I was disciplined in the form of a written counseling (copy enclosed), which says I could face termination unless I attest to my vaccination status. On December 14, 2021, I was further disciplined in the form of a written letter of reprimand (copy enclosed) stating it is "disciplinary action" and that "[c]ontinued misconduct of this nature" may lead to "removal from Federal service."
7. My work is important to the public because I am the Manager of the West Flight Test Section and responsible for the safe Certification for the National Airspace System (NAS) of Autonomous & Artificial Intelligence (AI) Drones, Unmanned Aerial Systems (UAS), Urban Air Mobility (UAM), Airplanes, and Helicopters not only for the safety of the Flying Public but the Public as a whole on the ground within US airspace.
8. I currently work from home full-time.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 15, 2021

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## Federal Aviation Administration

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# Memorandum

Date: November 30, 2021

To: Nevada Ryan; Manager, West Flight Test Section, AIR - 716

From: Eric Kinney; Manager, Flight Test Branch, AIR - 710 (A)

Subject: Written Counseling

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On September 9, 2021, President Biden issued Executive Order (EO) 14043 *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees*. To protect the Federal workforce and the public with whom they interact, the EO requires Federal employees to be fully vaccinated against COVID-19 by **November 22, 2021**, subject to such exceptions as required by law.

The Department of Transportation (DOT) Assistant Secretary for Administration and FAA Assistant Administrator for Human Resource Management sent broadcast messages to the DOT and FAA workforce respectively, affirming the vaccine mandate requiring employees to be fully vaccinated by the November 22, 2021 deadline. This mandate applies to all FAA employees, including employees who do not report to the worksite.

Employees will be considered fully vaccinated against COVID-19, two weeks after they have received the requisite number of doses of a COVID-19 vaccine either approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization.

**As of November 22, 2021, FAA records indicate that you have not submitted documentation to show that you are fully vaccinated.**

Employees who failed to comply with the vaccine mandate by November 22, 2021, are subject to disciplinary action up to and including removal from federal service, except in limited circumstances where the law requires an exception. Failure to comply includes delaying to get vaccinated, refusing to get vaccinated and failing to provide proof of vaccination.

The Agency may be required to provide a reasonable and/or religious accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19

because of a **medical condition or because of a sincerely held religious belief, practice, or observance**, absent undue hardship.

You are to immediately provide the required documentation of your COVID-19 vaccination or submit your intent to request a legally required accommodation based on a medical condition or sincerely held religious belief, practice or observances via the Vaccination Documentation application at <https://attest.faa.gov/>. Employees are required to provide documentation (digital copies will suffice) to prove their vaccination status, even if an employee has previously attested to their vaccination status. If you require assistance navigating the Microsoft Power Apps System, please contact the [COVID-19@faa.gov](mailto:COVID-19@faa.gov) email box.

If you are not fully vaccinated, please take immediate action to comply with the requirements of EO 14043, by finding your nearest vaccination site by visiting the following link: <https://www.vaccines.gov/>.

For additional information on the vaccination requirement, please visit the Safer Federal Workforce Task Force website by clicking on the following link: [SFWT FAQs](#). For information on the COVID-19 vaccines either approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization please visit the CDC website by clicking on the following link: [CDC Vaccine Guidance](#).

It is my hope that you understand the seriousness of this situation and will give it your immediate attention. Do not hesitate to contact me if you need further clarification or assistance with this matter. If you are unable to meet the requirements outlined above notify me as soon as possible.

Keeping our workforce healthy is a top priority and is key to fulfilling the FAA's mission to provide the safest, most efficient aerospace system in the world. The best thing you can do to protect yourself, your loved ones, and others, is to get [vaccinated](#).

In the event you may have a personal or health problem, assistance is available through the Employee Assistance Program (EAP). Through EAP, employees are afforded free professional and confidential assistance in finding solutions to workplace problems. Whether you avail yourself of the services offered by EAP, you are expected to make every effort to correct your behavior. You can seek assistance EAP 24 hours a day, 7 days a week, by calling the EAP Hotline at 1-800-234-1EAP or visiting the EAP website at [www.MagellanAscend.com](http://www.MagellanAscend.com).

This letter is not a disciplinary action and it will not be placed in your official personnel file (eOPF). You are requested to sign and date the acknowledgement copy of this memorandum as evidence that you have received it. Your signature does not mean you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgement copy will not void the contents.

Acknowledged Receipt:

Employee Signature\_\_\_\_\_ Date\_\_\_\_\_



## Federal Aviation Administration

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# Memorandum

Date: December 14<sup>th</sup>, 2021

To: Nevada Ryan; Manager, West Flight Test Section, AIR - 716

From: Eric Kinney; Manager, Flight Test Branch, AIR - 710 (A)

Subject: Letter of Reprimand

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This is notice that you are officially reprimanded for your failure to follow instructions. This action is initiated for such cause as will promote the efficiency of the Federal service. The following information is presented in support of this reprimand.

**Background:** On September 9, 2021, President Joseph Biden signed Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees. The Executive Order states, "it is necessary to require COVID-19 vaccination for all Federal employees, subject to such exceptions as required by law." On September 20, 2021, Department of Transportation (DOT) Assistant Secretary for Administration and the Federal Aviation Administration (FAA) Assistant Administrator for Human Resource Management sent broadcast messages via email to the DOT and FAA workforce respectively, affirming the vaccine mandate. According to these broadcast emails, DOT and FAA employees were instructed to be fully vaccinated against COVID-19 by November 22, 2021. This mandate applies to all FAA employees, including employees who do not report to the worksite.

On October 6, 2021, the FAA Assistant Administrator for Human Resource Management sent a bulletin via email to all FAA employees. The bulletin required all FAA employees to attest to their vaccination status and provide proof of vaccination by November 8, 2021. Finally, on October 13, 2021, the United States Secretary of Transportation sent an email to FAA employees, wherein he reiterated the requirement that all Federal employees be fully vaccinated by November 22, 2021. Since October 2021, the FAA Daily Broadcast has contained messages reminding employees that they must be fully vaccinated by November 22, 2021 and that they must attest to their vaccination status.

On – November 30<sup>th</sup>, 2021, I advised you in a Letter of Counseling that you were not in compliance with the requirements of the EO and instructed you to either (1) submit your vaccination documentation via the Microsoft Power Apps tool to prove you are fully vaccinated; or (2) submit a request for an accommodation based on a medical condition or a sincerely held religious belief, observance, or practice, if applicable. You were provided with instructions on how to submit the requisite vaccination documentation and on how to submit a request for a medical or religious exception from vaccination.

**Charge:** Failure to Follow Instructions

**Specification 1:** As of December 14<sup>th</sup>, 2021, you have not complied with my instructions. Specifically, you have failed to submit the required vaccination documentation to demonstrate that you are fully vaccinated in compliance with the requirements of EO 14043.

**Second Instruction**

I am again instructing you to provide the required documentation of your COVID-19 vaccination via the online application at <https://attest.faa.gov> or submit your request for an exception based on a medical disability or sincerely held religious belief, if appropriate, as soon as possible. If you are unvaccinated, I strongly urge you to start the vaccination process *immediately* to meet the requirements of EO 14043.

If you provide the appropriate documentation that verifies you are fully vaccinated, request an accommodation based on a medical condition or a sincerely held religious belief, observance, or practice, or initiate the vaccination process during the disciplinary process, future disciplinary actions may be held in abeyance pending your full vaccination or approval of your accommodation request. Please take immediate action to become compliant with the requirements of EO 14043, by finding your nearest vaccination site by visiting the following link: <https://www.vaccines.gov/>.

For additional information on the vaccination requirement, please visit the Safer Federal Workforce Task Force website by clicking on the following link: [SFWT FAQs](#). For information on the COVID-19 vaccines either approved or authorized for emergency use by the U.S. Food and Drug Administration or that has been listed for emergency use by the World Health Organization please visit the CDC website by clicking on the following link: [CDC Vaccine Guidance](#).

You are required to follow my instructions, and I expect that you will be compliant with EO 14043 going forward. Do not hesitate to contact me or Lance Gant if you need further clarification or assistance with this matter. If you are unable to follow these instructions and/or meet the requirements outlined above, please notify me as soon as possible. I hope that you understand the seriousness of this situation.

If you cannot receive the vaccine based on a medical condition or a sincerely held religious belief, observance, or practice, you can attest to your intent to request an accommodation by clicking on the following link: [Vaccination Documentation App](#) or by going to the online application at <https://attest.faa.gov>.

Before initiating this action, I carefully considered the information contained in the FAA Personnel Management System, Chapter III, Performance Management; the Human Resources Policy Manual (HRPM), ER-4.1, Standards of Conduct; the Human Resources Operating Instructions (HROI), Table of Penalties; Executive Order 14043, and the email notices cited above. Your actions are inconsistent with Paragraph 7c of the Standards of Conduct, which requires that FAA employees “respond promptly to, and fully comply with directions and instructions received from their manager or other management officials.”

You are a federal employee and the direction for you to comply with the vaccine mandate was a lawful instruction. You were on clear notice to comply with the vaccine mandate by November 22, 2021, and your failure to follow instructions is a serious offense. You are a Manager – Aerospace Engineer and your conduct, as described above, demonstrates poor judgement and has a negative impact on the good order and the safety of our office. Workforce safety is a top priority and key to fulfilling our mission. I

expect you to conduct yourself in a professional manner, which includes following my instructions and adhering to the vaccination requirements set forth for Federal government employees.

Your failure to follow instructions is a first offense. The Table of Penalties recommends a reprimand to 14 day suspension for a first offense for failure or delay in carrying out orders, directions, or assignments. I have decided to issue this reprimand to correct your behavior, with the hope that you will understand the importance of following my instructions, as well as comply with the vaccination requirement established by EO 14043. Your failure to do so constitutes misconduct. Your continued failure to follow these mandatory instructions reiterated below will be grounds for further disciplinary action up to and including removal from Federal service.

This Letter of Reprimand is intended to be corrective in nature rather than punitive. Continued misconduct of this nature or any other type may be grounds for further disciplinary action, up to and including removal from Federal service.

**Your Reply Rights:** You have the right to make an oral and/or written reply to me, within fifteen (15) calendar days from the date you receive this memo, to offer reasons or arguments why this reprimand should not be sustained. You may furnish affidavits or other documentary evidence in support of your reply. Please be assured that any reply you submit will be fully considered and, if you reply, I will provide you with a written decision in response to any information you provide in your response.

If you wish to make a response to this reprimand, you have the right to be represented. If you choose an agency employee as a representative, it may be disallowed if a conflict of interest exists or because of operational demands. Should this occur, you will be allowed a reasonable amount of time to select another representative. Acquiring appropriate representation will be your responsibility, and you must advise me in writing of any such representative.

You and your representative have a right to review the documentation relied upon to support this reprimand action. A copy of the materials relied upon in issuing this reprimand is attached.

**Action after Your Reply Period:** If I determine that the reprimand is sustained after I review your reply, you will be informed and your reply will be filed in your electronic Personnel Folder (eOPF), along with this memorandum and the reprimand decision memorandum, for a maximum period of two (2) years. If you do not reply to this memo within fifteen (15) calendar days from the date of your receipt, this reprimand will be considered sustained, and this memorandum will be placed in your eOPF for a maximum period of two (2) years. In the event I decide this reprimand should be rescinded after receipt and consideration of your reply, you will be informed and this memorandum will not be filed in your eOPF.

**Your Grievance/Equal Employment Opportunity (EEO) Rights:** You have the right to file either a grievance or EEO complaint on this action as noted below. However, you may elect only one of these forums to challenge this action.

If you choose to file a written grievance, it must be filed within ten (10) calendar days of my final decision. In the event you do not respond to this reprimand and thus receive no decision notice from me, you will have ten (10) calendar days after the end of your fifteen (15) day reply period to file such a grievance. It has to be filed through the procedures outlined in HRPM ER-4.3, "FAA Administrative

Grievance.” The written grievance must state your reasons for contesting the reprimand and you may supply any information or proof you care to submit. If you have a representative, he/she must be designated to me in writing.

The law protects federal employees from discrimination because of your race, color, religion, sex (including gender identity, sexual orientation, sexual harassment and pregnancy), national origin, age (40 or older), disability or genetic information. The law also protects you from retaliation if you oppose employment discrimination, file a complaint of discrimination, or participate in the EEO complaint process (even if the complaint is not yours).

If you believe that this action is taken in whole or part on the basis of discrimination and you wish to file an EEO complaint, contact the Office of Civil Rights National Intake Unit through the voicemail only telephone line at 1-888- WK IT OUT (954-8688) or 1-800-877-8339 (TTY relay service). You may email the National Intake Unit at [9-ACR-EEOComplaint-Services@faa.gov](mailto:9-ACR-EEOComplaint-Services@faa.gov) or use [https://employees.faa.gov/org/staffoffices/acr/eo\\_complaint\\_program/national\\_intake\\_unit/precomplaint\\_of\\_discrimination/](https://employees.faa.gov/org/staffoffices/acr/eo_complaint_program/national_intake_unit/precomplaint_of_discrimination/). The National Intake Unit accepts messages twenty-four (24) hours a day seven (7) days a week from anywhere you can access the Internet. Calls and emails are retrieved during the business work week only. You must file your EEO complaint no later than forty-five (45) days from the incident or personnel action. If you would like additional information about the informal complaint process, please visit our website link at <https://my.faa.gov/org/staffoffices/acr/civil-rights-wjh-technical-center--washington-hq---eEO-complaint/eEO-rights-and-responsibilities-videos.html> to watch 7 short videos explaining the EEO Complaint process and your roles and responsibilities.

If you believe this action was taken in retaliation for whistleblowing, you may seek corrective action before the U.S. Office of Special Counsel, [www.osc.gov](http://www.osc.gov). However, if you seek corrective action, your appeal will be limited to whether the agency took one or more covered personnel actions against you in retaliation for making protected whistleblowing disclosures. You will be forgoing the right to otherwise challenge the personnel action(s).

In the event you may have a personal or health problem, assistance is available through the Employee Assistance Program (EAP). Through EAP, employees are afforded free professional and confidential assistance in finding solutions to workplace problems. Whether you avail yourself of the services offered by EAP, you are expected to make every effort to correct your behavior. You can seek assistance EAP 24 hours a day, 7 days a week, by calling the EAP Hotline at 1-800-234-1EAP or visiting the EAP website at [www.MagellanAscend.com](http://www.MagellanAscend.com).

If you have any questions concerning this action, I am available to discuss them with you. If you have any questions concerning your procedural rights, you may contact Human Resources Office, Employee/Labor Relations Specialist, Conner Craig, at (206) - 231 - 4042 or via email at [Conner.C.Craig@faa.gov](mailto:Conner.C.Craig@faa.gov) for assistance.

You are requested to sign and date the acknowledgement copy of this memorandum as evidence that you have received it. Your signature does not mean you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgement copy will not void the contents.

I acknowledge receipt:

---

Nevada Ryan

---

Date

Attachments:

- PMS chapter III
- Excerpt from ER-4.1 (front page plus paragraph 7c)
- Excerpt from TOP (page 1)
- EO 14043
- Sept 20 emails from both Andrews and McNamara
- Letter of Counseling dated November 30<sup>th</sup>, 2021

# EXHIBIT 28

**AFFIDAVIT OF JAMES CHARLES SAMS III**

1. My name is James Charles Sams III. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Jasper County, Indiana. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of Treasury, with the Treasury Inspector General for Tax Administration.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not sought any exemption from my agency's vaccine mandate.
6. On November 23, 2021, I was disciplined in the form of a Counseling Memorandum, which, per my agency's own policy guidelines, is deemed a penalty for breaking some sort of rule or guideline. I was threatened in that memorandum that failing to submit to a COVID-19 vaccination would result in "a process of progressive discipline" if I failed to comply with the Vaccine Mandate. The memorandum further stated, "Misconduct may lead to disciplinary action up to and including removal from your position with the Federal service."
7. My work is important to the public because my agency is charged with oversight of the Internal Revenue Service (IRS). These duties include investigating allegation of wrongdoing by IRS employees, as well as safeguarding the tax administration system against threats to IRS employees, installations, and information technology infrastructure. We also work to prevent and investigate frauds as related to IRS impersonation scams which have, to date, resulted in the loss of hundreds of millions of dollars to taxpayers across the country.
8. I am the primary provider in my household. I currently work from home full-time.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 11, 2021

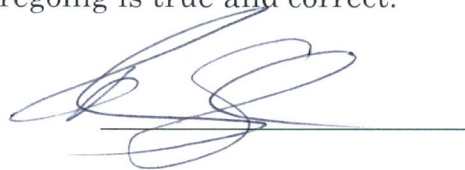
A handwritten signature in black ink, appearing to read "James C. Sams III", written over a horizontal line.

# EXHIBIT 29

**AFFIDAVIT OF MICHAEL SCHAECHER**

1. My name is Michael Schaecher. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in North Carolina. I am a member of Feds for Medical Freedom.
3. I am a federal civilian employee with the North Carolina National Guard (a "Title 5 National Guard" employee), which is under the control of the federal National Guard Bureau.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. I have not sought any exemption from my agency's vaccine mandate.
6. On November 29, 2021, I received a counseling letter (copy enclosed) stating that "refusal to provide proof of vaccination by 3 December 2021 subjects you to disciplinary measures, up to and including removal from the Federal service for failing to follow a direct order." It also stated: "Your refusal to provide proof of vaccination by 3 December 2021 subjects you to disciplinary measures, up to and including removal from the Federal service for failing to follow a direct order."
7. On December 10, 2021, I received a letter (copy enclosed) stating: Effective January 10th 2022, you will be removed from your technician employment. This letter constitutes your 30 day notice of removal. Alternative actions such as reassignment to a different duty location or reassignment to a lower grade does not apply and does not further the efficiency of the Agency."
8. My work is important to the public because I maintain and provide all 911 calling ability to all 90 Armories across the state of North Carolina. I provide the VTC equipment used to talk to FEMA and other National Agencies. I maintain all the security for anything under the umbrella of voice, fax, and video assets. I insure and maintain all phone calls in or out of the NC National Guard outside of cell phones.
9. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 15, 2021

A handwritten signature in blue ink, appearing to be 'Michael Schaecher', written over a horizontal line.



**ROY COOPER**  
GOVERNOR

**STATE OF NORTH CAROLINA  
DEPARTMENT OF PUBLIC SAFETY  
JOINT FORCE HEADQUARTERS  
NORTH CAROLINA NATIONAL GUARD**

**EDDIE M. BUFFALOE**  
SECRETARY



**MARVIN T. HUNT**  
MAJOR GENERAL, NCNG  
ADJUTANT GENERAL

NGNC-TAG

29 November 2021

MEMORANDUM FOR Mr. Michael S. Schaecher

SUBJECT: Mandatory Counseling for T5 Employees – Failure to Provide Proof of Vaccination

1. On September 9, 2021, President Biden signed Executive Order (EO) 14043, titled, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees." As stated within Section 1 of the EO, the President determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary for all agencies to require COVID-19 vaccination for Federal employees covered by EO 14043, subject only to such exemptions as required by law.
2. On 8 October 2021, the North Carolina National Guard's Human Resources Officer (HRO) notified you of the Agency's intent to enforce the Executive Order. This notification stated you could comply with this directive by either receiving the COVID-19 vaccination or submitting a religious or medical exemption by the close of business on 19 November 2021. As of the date of this letter, you have neither provided documentation that you have received the COVID-19 vaccine, nor have you submitted a medical or religious exemption. Accordingly, you are in violation of the Executive Order and the Agency notification.
3. You have 5 days from the date of this counseling to educate, initiate or complete the COVID-19 vaccination process. You are encouraged to review The Centers for Disease Control and Prevention's "Benefits of Getting a COVID-19 Vaccine" at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html> and seek medical advice from any credible source during this period.
4. Your refusal to provide proof of vaccination by 3 December 2021 subjects you to disciplinary measures, up to and including removal from the Federal service for failing to follow a direct order.
5. The following information required by the Privacy Act is provided for your information. AUTHORITY: 10 USC § 9013. PURPOSE: To obtain any comments or documents you desire to submit (on a voluntary basis) for consideration concerning this action.

NGNC-TAG

SUBJECT: Mandatory Counseling for T5 Employees – Failure to Provide Proof of Vaccination

ROUTINE USES: Provides you an opportunity to submit comments or documents for consideration. If provided, the response you submit becomes a part of the record.

DISCLOSURE: Your written acknowledgment of receipt and signature are mandatory. Any other comments or documents you provide are voluntary.

6. You may have the right to Union Representation in accordance with the applicable negotiated agreement between the North Carolina National Guard and the Association of Civilian Technicians (ACT) Old Hickory Chapter.

7. Points of contact are provided below:

- a. LTC Jonathan Hearn, Human Resources Officer, [jonathan.p.hearn.mil@army.mil](mailto:jonathan.p.hearn.mil@army.mil) or (984) 664-6168.
- b. COL Christina Henderson, Occupational Health Nurse, [christina.j.henderson4.mil@army.mil](mailto:christina.j.henderson4.mil@army.mil) or (984) 664-6206.
- c. CPT Shameka Boakye-Boaten, Labor Relations Specialist, [shameka.r.boakye-boaten.mil@army.mil](mailto:shameka.r.boakye-boaten.mil@army.mil) or (984) 664-8058.

FOR THE ADJUTANT GENERAL:

JONATHAN P. HEARN  
LTC, FA, NCNG  
Human Resources Officer

Attachments:

1. Executive Order 14043
2. Force Health Protection Guidance (Supplement 23) Revision 2 – Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification date 2 Oct 2021
3. T5 Vaccine Notification Letter

I acknowledge receipt of this counseling. I understand that failure to adhere to Executive Order 14043 will result in further adverse action to include suspension up to termination.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

NGNC-TAG

SUBJECT: Mandatory Counseling for T5 Employees – Failure to Provide Proof of  
Vaccination

Print Name: \_\_\_\_\_



ROY COOPER  
GOVERNOR

**STATE OF NORTH CAROLINA  
DEPARTMENT OF PUBLIC SAFETY  
JOINT FORCE HEADQUARTERS  
NORTH CAROLINA NATIONAL GUARD**

EDDIE M. BUFFALOE  
SECRETARY



MARVIN T. HUNT  
MAJOR GENERAL, NCNG  
ADJUTANT GENERAL

**Suspense: 10 January 2022**

NGNC-TAG

10 December 2021

MEMORANDUM FOR Michael S. Schaecher, Telecommunication Manager, G6, 1636 Gold Star Drive, Raleigh, North Carolina 27607

SUBJECT: Removal for Failure to Meet a Condition of Employment (General)

1. On September 9, 2021, President Biden signed Executive Order (EO) 14043, titled, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees." As stated within Section 1 of the EO, the President determined that in order to promote the health and safety of the workforce and the efficiency of the civil service, it is necessary for all agencies to require COVID-19 vaccination for Federal employees covered by EO 14043, subject only to such exemptions as required by law.

2. On October 8, 2021 you were notified of the Agency's requirement to ensure all Title 5 Employees were fully vaccinated by November 22, 2021. On November 29, 2021, you were counseled, encouraged to educate yourself in the benefits of getting a COVID-19 vaccine and directed to become vaccinated or submit an authorized exemption. Throughout this time, you have failed to acknowledge any step of this process or declare your intent to this organization. To date, you have not provided proof of the vaccination within the prescribed period or otherwise requested an exemption. This constitutes as failure to meet a condition of employment as defined in Chief of the National Guard Bureau Instruction (CNGBI) 1400.25, Vol 715, National Guard Technician and Civilian Personnel Voluntary and Non-Disciplinary Actions Program, Enclosure C-5, Paragraph 5, "Failure to Meet a Condition of Employment (General)".

3. Effective January 10<sup>th</sup> 2022, you will be removed from your technician employment. This letter constitutes your 30 day notice of removal. Alternative actions such as reassignment to a different duty location or reassignment to a lower grade does not apply and does not further the efficiency of the Agency.

4. You may have appeal rights through various processes including but not limited to Equal Employment Opportunity Commission (EEOC). Each of these options have potential limitations for their processes. You may choose to appeal your removal to the Merit Systems Protection Board (MSPB) if you are alleging that this removal was due to

NGNC-TAG

SUBJECT: Removal for Failure to Meet a Condition of Employment (General)

discrimination because of partisan political reasons, your marital status, and/or the agency failed to follow proper procedure IAW 5 CFR 315.806. MSPB regulations and appeal processes are available at <http://www.mspb.gov/appeals/appeals.htm>. The timeframe to file a MSPB appeal is no later than 30 calendar days after the effective date of your termination. If you do not file an appeal within the 30-day time limit, the appeal could be dismissed as untimely. If you choose to appeal to the MSPB, you may file your appeal electronically via e-Appeal at <https://e-appeal.mspb.gov/>, by fax at (202) 653-7130, or by postal mail, commercial or personal delivery by downloading or using the enclosed MSPB Form 185 from <http://www.mspb.gov/index.htm> and submitting to the applicable MSPB Regional/Field Office. Based upon your duty station, the appropriate field office is US Merit Systems Protection Board, Washington Regional Office, 1901 S. Bell Street, Suite 950, Arlington, VA 22202.

5. You may have the right to Union Representation in accordance with the applicable negotiated agreement between the North Carolina National Guard and the Association of Civilian Technicians (ACT) Old Hickory Chapter.

6. Points of contact are provided below:

a. LTC Jonathan Hearn, Human Resources Officer, [jonathan.p.hearn.mil@army.mil](mailto:jonathan.p.hearn.mil@army.mil) or (984) 664-6168.

b. CPT Shameka Boakye-Boaten, Labor Relations Specialist, [shameka.r.boakye-boaten.mil@army.mil](mailto:shameka.r.boakye-boaten.mil@army.mil) or (984) 664-8058.

FOR THE ADJUTANT GENERAL:

JONATHAN P. HEARN  
LTC, FA, NCNG  
Human Resources Officer

Attachments:

1. Executive Order 14043
2. Force Health Protection Guidance (Supplement 23) Revision 2 – Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification date 2 Oct 2021
3. T5 Vaccine Notification Letter
4. T5 Letter of Counseling

I acknowledge receipt of this removal letter. I understand that I will be removed on the effective date as stated in paragraph 2 for failure to adhere to Executive Order 14043, a condition of employment.

NGNC-TAG

SUBJECT: Removal for Failure to Meet a Condition of Employment (General)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# **EXHIBIT 30**

**AFFIDAVIT OF KURTIS SIMPSON**

1. My name is Kurtis Simpson. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Canyon County, Idaho. I am a member of Feds for Medical Freedom.
3. I am a civilian contractor for the federal government. I work for Valiant Integrated Services, which had no vaccine mandate until the federal government required it. On October 27, 2021, Valiant set a vaccination compliance date of full vaccination by December 8, 2021, matching the date in the President's September 9, 2021, Executive Order 14042. On November 12, 2021, Valiant changed the full vaccination compliance date to January 18, 2022, again to match the federal government's new date for contractors. I have not been vaccinated and do not plan to get vaccinated.
4. If I do not get vaccinated, I will be subjected to increasing discipline, up to termination.
5. I have not sought any exemption from my employer's vaccine mandate, nor do I plan to do so.
6. My work is important to the public because I help train soldiers in the National Guard on tactics and practices that can save their lives one day. I do my best to ensure that I train and share whatever knowledge I have to that those who do have to eventually put their training into action, they will have a good foundation. I also take pride in serving my country in the private sector after my active and inactive duty in the armed forces for the US. The project and work that I do helps with disaster relief planning for commands to combat maneuvers in theaters of war.
7. I am the primary provider in my household. I previously served in the U.S. Armed Forces as a Sergeant, Fire Support NCO, E-5.
8. I declare under penalty of perjury that the foregoing is true and correct.

12/16/2021

Executed on: December \_\_\_\_\_, 2021

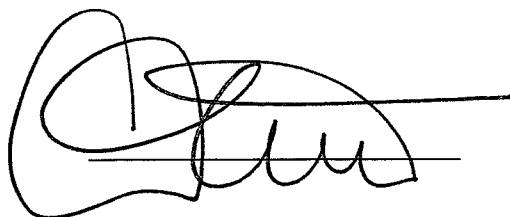
  
\_\_\_\_\_

# EXHIBIT 31

**AFFIDAVIT OF CHRISTINE VRTARIC**

1. My name is Christine Vrtaric. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in Bucks County, Pennsylvania. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the Department of State.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination. I have not been vaccinated and do not plan to get vaccinated.
5. On December 6, 2021, I received a warning letter telling me to upload my vaccination status within five days. It says, "As a result of failing to comply with the vaccination and/or certification requirements, you may face disciplinary action including suspension without pay and removal/separation."
6. My work is important to the public because I protect people and facilities.
7. I am the primary provider in my household.
8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 10, 2021

A handwritten signature in black ink, appearing to read 'Christine Vrtaric', written over a horizontal line.

# EXHIBIT 32

**AFFIDAVIT OF CAREY HUNTER-ANDREWS**

1. My name is Carey Hunter-Andrews. I am over the age of 18 and am competent to make this declaration. The facts set forth in this declaration are based on my personal knowledge.
2. I reside in New Hanover County, North Carolina. I am a member of Feds for Medical Freedom.
3. I am a civilian employee with the federal government. I work for the U.S. Department of Justice, with the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
4. My agency has issued a vaccine mandate requiring me to be fully vaccinated by November 22, 2021, or else be subjected to increasing discipline, up to termination.
5. I have not sought any exemption from my agency's vaccine mandate, nor do I plan to do so.
6. On November 10, 2021, I was disciplined in the form of a written reprimand (copy enclosed). It says I may be terminated if I do not upload my vaccination status. It also says I cannot file a grievance against the reprimand because the mandate is a formal agency regulation: "You do not have a right to grieve this action in accordance with the procedures contained in ATF Order 2115.1A, Administrative Grievance Procedures, dated August 2, 2016. ATF Order 2115.1A para. 6.a. excludes from the grievance process the content of established agency regulations, directives and policy."
7. I reluctantly agreed to get vaccinated against my will to save my job, but I had a terrible reaction and refuse to take any further COVID vaccination shots. When boosters are inevitably required, I will refuse to take them.
8. My work is important to the public because my agency puts the most violent offenders in prison keeping the public safe from harm. We conduct long term investigations dismantling entire organized criminal groups. We work along side local law enforcement agencies and assist them in investigations keeping offenders off the street.
9. I am the primary provider in my household.
10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 21, 2021

Carey Hunter-  
Andrews

Digitally signed by Carey Hunter-  
Andrews  
Date: 2021.12.21 21:28:50 -06'00'

# **EXHIBIT 33**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

FEDS FOR MEDICAL FREEDOM, et	§	
al.,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	CIVIL ACTION NO. 3:21-cv-356
VS.	§	
	§	
JOSEPH R. BIDEN, JR., et al.,	§	
	§	
<i>Defendants.</i>		

**[PROPOSED] ORDER**

Pending before the Court is Plaintiffs’ Motion for a Preliminary Injunction. After reviewing the related filings, the record, and the applicable law, the Court is of the opinion that the motion should be GRANTED.

The Court ORDERS that Defendants—excluding Joseph R. Biden, Jr., but including all other Defendants, as well as all Defendants’ (including President Biden’s) officers, agents, servants, employees, attorneys, persons who are in active concert or participation, and successors in office, *see* Fed. R. Civ. P. 65—are enjoined from implementing or enforcing the Federal Employee and Contractor Mandates. The Court ORDERS that Plaintiffs shall pay no bond.

SIGNED on Galveston Island this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
JEFFREY VINCENT BROWN  
UNITED STATES DISTRICT JUDGE