



U.S. Department of Justice

Federal Bureau of Prisons

Washington, D.C. 20534

October 14, 2021

MEMORANDUM FOR CONTRACTORS

Re: Requirements for Contractor Employee Vaccination and Testing

Dear Contractor,

On September 9, 2021, President Biden announced his [Path Out of the Pandemic: COVID-19 Action Plan](#). The President's plan uses regulatory and other actions to substantially increase the number of Americans covered by vaccination requirements. The President also signed Executive Order (EO) 14042, [Ensuring Adequate COVID Safety Protocols for Federal Contractors](#), which requires Federal contractor employees to be vaccinated. The actions directed by the EO ensure that parties who contract with the Federal Government provide adequate COVID-19 safeguards in locations with individuals working on or in connection with a Federal Government contract or contract-like instrument. These workplace safety protocols 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. Definitions for the relevant terms utilized in the EO and other guidance are provided as Attachment 1 to this letter.

In accordance with the EO, the [Safer Federal Workforce Task Force](#) (Task Force) issued guidance on workplace safety protocols that will be required of contractors and subcontractors. 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 workplaces.

Covered contractors shall adhere to the requirements of the Task Force guidance, including, but not limited to, the recent guidance provided on September 24, 2021 which is available [here](#). The

OMB Director has, as authorized by the EO, approved this guidance. Exercising his delegated authority (see 3 U.S.C. § 301) under the Federal Property and Administrative Services Act, the Director has determined that this guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. The Director has published this determination in the Federal Register.

The EO sets out a process for OMB and the Task Force to update the guidance for covered contractors, which the Task Force will consider doing based on future changes to CDC COVID-19 guidance and as warranted by the circumstances of the pandemic and public health conditions. The EO 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 a clause, consistent with the EO. The FAR Council has taken initial steps to provide appropriate policy direction to agency acquisition offices. The FAR Council is utilizing the deviation process in FAR Subpart 1.4. The Department of Justice's (DOJ's) FAR deviation has been executed and contracting officers will start including the new clause as prescribed in all covered contracts and contract-like instruments.

Notwithstanding the scope exclusions¹ detailed in the EO, if your firm's Active Contract² is identified as having activities that require the immediate implementation of COVID-19 protocols, a bilateral modification incorporating the new clause will be issued as soon as practicable.

In the intervening time period, until your covered employees are contractually required to be vaccinated, onsite contractor employees must comply with COVID-19 protocols in order to promote Federal workplace safety. Given the different safety protocols for individuals who are fully vaccinated and those who are not fully vaccinated, your firm must inform the Contracting Officer's Representative (COR) of the vaccination status of your onsite contractor employees who are not yet contractually required to be vaccinated. Individuals must attest to the truthfulness of the responses they provide. When a contractor employee discloses that they are not fully vaccinated or declines to provide information on their vaccination status, the individual should be treated as not fully vaccinated for purposes of implementing safety measures, including with respect to mask wearing and physical distancing.

On July 29, 2021, the Task Force released Agency Model Safety Principles that require onsite contractors at Federal facilities to attest to their COVID-19 vaccination status or be treated as not fully vaccinated for purposes of safety protocols. The Centers for Disease Control and Prevention (CDC) define an individual as fully vaccinated two weeks after administration of the

¹ The Executive Order and prescribed contract clause do not apply to: Contracts under the Simplified Acquisition Threshold (at or less than \$250k in total contract value); Grants; Contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (P.L. 93-638), as amended; Contractor employees who perform work outside the United States or its outlying areas; or Contracts, contract-like instruments, or subcontracts solely for the provision of products.

² **Active Contract.** A contract for which the contract closeout procedures set forth under FAR Subsection 4.804-5 have not been completed.

first dose in a one-dose series of a vaccine, or the second dose of a two-dose series.³ The BOP has determined that the requirements for onsite contractors shall also apply to Residential Reentry Center contractors and Private Prison Contractors due to the nature of their services and contact with the inmate population.

The Task Force has issued [Frequently Asked Questions](#) (FAQs) regarding the need to determine the vaccination status of onsite contractors. FAQs relevant to vaccination requirements, onsite contractors and safety protocols are included as an Attachment 2 to this memo for your information. Accordingly, it shall be the responsibility of the contractor to ensure that its employees and subcontractor employees working under the referenced contract truthfully attest to their vaccination status prior to their physical presence in DOJ facilities, and have a copy of the completed form in their possession at all times while onsite. If onsite contractor employees are not fully vaccinated or decline to state their vaccination status, they must present a negative COVID-19 test result dated within the three days before entry,⁴ as described below, and follow all posted/applicable safety practices.

Your firm must complete Attachment 3 by providing a roster of contract employees who are working on-site at a DOJ facility under the referenced contract. Your firm must also identify the employee(s) or other on-site contractor(s) who will serve as the Vaccination Attestation Sponsor (VAS) for compliance activities regarding facility access under this contract. The designated VAS for the contract must coordinate with onsite contractor employees to review required documentation to determine compliance with the Task Force and DOJ protocols prior to entering the facility. Please have each identified contract employee complete Attachment 4, Certification of Vaccination Form. No substitute forms are acceptable. The contractor should collect and retain the completed forms, and your employees must keep a copy of the completed form in their possession to present for entry to DOJ buildings and facilities, as discussed further below. **Do not forward the completed forms to the Government.**

Please provide the COR a completed roster of onsite contractor employees, annotating the vaccination status of each employee (vaccinated or not fully unvaccinated), and return the list to the COR within 7 days of the date of this letter. Contractor employees who decline to state their vaccine status should be noted as “not fully vaccinated” on Attachment 3 in order to properly classify the appropriate protocols the individual must follow. Any requests for a medical or religious accommodation from safety protocols should be handled by the contractor and the contractor should advise the COR of any impacts to contract performance. If a contractor employee who is not fully vaccinated subsequently becomes fully vaccinated, the contractor shall secure an updated vaccination attestation from the employee and promptly notify the COR of the change in that individual’s vaccination status, otherwise, the contractor should provide an updated personnel roster including vaccination status to the COR on a weekly basis.

Security personnel in Bureau buildings and institutions (including those that are secured by the Federal Protective Service (FPS) as well as Justice Protective Service (JPS) contractors), may

³ The definition of “fully vaccinated” may change as booster shots become widely recommended and/or required. The Department will provide additional guidance on this topic as it becomes available.

⁴ The COVID-19 test product must be an FDA-approved test that produces a report that is dated and clearly states the result of the testing.

ask contract employees or visitors entering the building if they have the necessary vaccine attestation documentation. The Certification of Vaccination form should be filled out in advance, but blank forms will be available for those who arrive without completed forms. Contractor personnel also will be asked to read a self-screening health questionnaire and confirm that they understand and meet the standards for entry. Notwithstanding the aforementioned security personnel protocols, *effective October 15th*, the designated VAS for each contract must begin coordinating with “not fully vaccinated” onsite contractor and subcontractor employees to review required documentation to determine compliance with the Task Force and DOJ protocols prior to entering the facility. In order to ensure contractor compliance, the COR, may request that the VAS provide evidence of its compliance activities at the Federal facility (this will not include individuals’ medical information). The designated VAS must continue this compliance measure unless or until the VAS updates the contractor employee roster to report that all onsite contractor and subcontractor employees are fully vaccinated. The contractor must continue use of the vaccine attestation and testing protocols for not fully vaccinated contractor and subcontractor employees with documented reasonable accommodation determinations on file with the prime contractor.

Costs associated with testing or time lost due to denied access to DOJ facilities because of the lack of a negative test result are NOT reimbursable. Additionally, any costs associated with obtaining a COVID test are not billable as a direct charge to the contract. Finally, your firm is still responsible for ensuring that all contract deliverables are met. Please take whatever steps are necessary to ensure that assigned onsite contractor staff meet the requirements stated in this letter.

Please consult the Agency Workplace Safety Plan for restrictions on the presence of individuals in DOJ facilities who are ill themselves or who have been exposed to others with COVID-19. These restrictions apply to all onsite contractor employees under the referenced contract.

Thank you for doing your part to keep our community safe and healthy. Please let me know if you have any questions.

Sincerely,

Federal Bureau of Prisons

Enclosures

Executive Order 14042 Definitions of Terms
Excerpted from the Safer Federal Workforce Task Force Website
[Definitions | Safer Federal Workforce](#)

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.

FAQs on Vaccination and Safety Protocols
Excerpted from the Safer Federal Workforce Task Force Website
[Vaccinations | Safer Federal Workforce](#)

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. Agencies are strongly encouraged to incorporate vaccination requirements into contracts that are not covered by Executive Order 14042, consistent with applicable law. This might include, for example, incorporating vaccination requirements into contracts in advance of when they are otherwise required by the Executive Order or incorporating requirements into contracts that are not covered by the Executive Order, such as contracts under the Simplified Acquisition Threshold. Implementation of such additional requirements should generally follow the Safer Federal Workforce Task Force’s guidance for implementing the vaccination requirement in Executive Order 14042.

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, and any applicable collective bargaining obligations.

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 a visitor or 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 a visitor or 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: 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.

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: 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: 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.

Q: 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.

Q: If a covered contractor employee is likely to be present during the period of performance for a covered contract 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.

Q: 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.

Q: 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.

Q: 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.

Q: 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.

Q: 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.

Q: 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.

Q: 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.

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 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.

Q: 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.

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 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.

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 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.

Q: May the prime contractor assume the subcontractor is complying with the clause?

A: Yes, unless the prime contractor has credible evidence otherwise.

Certification of Vaccination

The purpose of this form is to take steps to prevent the spread of COVID-19, to protect the health and safety of all Federal employees, onsite contractors, visitors to Federal buildings or Federally controlled indoor workspaces, and other individuals interacting with the Federal workforce. If you fail to submit this signed attestation or any required negative COVID-19 test, you may be denied entry to a Federal facility.

My Vaccination Status

By checking the box below, I declare that the following statement is true:

I am fully vaccinated.¹

I am not yet fully vaccinated.²

I have not been vaccinated.³

I decline to respond.

I understand that if I decline to respond or am not fully vaccinated, I must comply with the following safety protocols while in a Federal facility:

- Wear a mask regardless of the level of community transmission;
- Physically distance; and
- Provide proof of having received a negative COVID-19 test from within the previous 3 days if I am a visitor or I am an onsite contractor who is not enrolled in an agency's testing program.

I sign this document under penalty of perjury that the above is true and correct, and that I am the person named below. 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). Checking "I decline to respond" does not constitute a false statement. I understand that if I am a Federal employee or contractor making a false statement on this form could result in additional administrative action,

¹ The Centers for Disease Control and Prevention considers an individual fully vaccinated if they are:

- 2 weeks after their second dose in a 2-dose series, such as the Pfizer or Moderna vaccines, or
- 2 weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine

If you don't meet these requirements, regardless of your age, you are **not** fully vaccinated.

² Either I have received my first dose of Moderna or Pfizer, and my second appointment is scheduled, or I received my final dose less than two weeks ago.

³ If you are not vaccinated due to medical or religious reasons, please check either "I have not been vaccinated" or "I decline to respond."

including an adverse personnel action up to and including removal from my position or removal from a contract.

Your printed name here:

Your signature here:

Date: _____

Directions and notice to Federal employees

Consistent with guidance from the Centers for Disease Control and Prevention (CDC) and the Safer Federal Workforce Task Force, has established specific safety protocols for fully vaccinated people and not fully vaccinated people, respectively. You may be asked to submit this completed form to your employing agency.

In areas of low or moderate transmission, as defined by CDC, fully vaccinated people generally can safely participate in most activities, indoor or outdoor, without needing to wear a mask or maintain physical distance, and do not need to undertake regular testing—please note that consistent with CDC guidance, agencies may have different protocols for fully vaccinated people in specific work settings, such as healthcare settings. In areas of high or substantial transmission, everyone, including fully vaccinated people, must wear a mask consistent with Federal requirements.

Employees who disclose that they are fully vaccinated will comply with agency guidance for fully vaccinated individuals. Employees who are unvaccinated, are not fully vaccinated, or who choose not to provide vaccine information are required to comply with CDC and agency guidance for not fully vaccinated individuals, including wearing masks regardless of the transmission rate in a given area, physical distancing, regular testing, and adhering to applicable travel restrictions. These requirements are to prevent the spread of COVID-19 to protect the health and safety of our workforce. Making a false statement on this form could result in an adverse personnel action against you, up to and including removal from your position.

Pursuant to 5 U.S.C. § 552a(e)(3), this **Privacy Act Statement** informs you of why you are being asked to provide this information.

Authority: We are authorized to collect the information requested on this form pursuant to Executive Order 13991, Protecting the Federal Workforce and Requiring Mask-Wearing (Jan. 20, 2021), Executive Order 12196, Occupational Safety and Health Program for Federal Employees (Feb. 26, 1980), and 5 U.S.C. chapters 11 and 79.

Purpose: This information is being collected and maintained to promote the safety of Federal buildings and the Federal workforce 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 Uses: 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 Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease or other laws concerning health and safety in the work environment; to 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; to contractors, grantees, or volunteers as necessary to perform their duties for the Federal government; to other 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 the routine uses can be found in the system of records notice associated with this collection of information, OPM/GOVT-10, Employee Medical File System of Records, [75 Fed. Reg. 35099 \(June 21, 2010\)](#), amended [80 Fed. Reg. 74815 \(Nov. 30, 2015\)](#).

Consequence 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 with respect to mask wearing, physical distancing, testing, travel, and quarantine.

Please contact _____ with questions. Please return this form to _____.

Directions and notice to Federal contractors

In areas of low or moderate transmission, as defined by CDC, fully vaccinated people generally can safely participate in most activities, indoor or outdoor, without needing to wear a mask or maintain physical distance, and do not need to undertake regular testing—please note that consistent with CDC guidance, agencies may have different protocols for fully vaccinated people in specific work settings, such as healthcare settings. In areas of high or substantial transmission, everyone, including fully vaccinated people, must wear a mask consistent with Federal requirements.

You may be asked to show this form and/or information from a health screening upon entry to a Federal building or Federally controlled indoor worksites, and/or to a Federal employee who is supervising or managing your work on Federal premises. Please maintain this form during your time on Federal premises.

Please contact _____ with questions.

Directions and notice to visitors

In areas of low or moderate transmission, as defined by CDC, fully vaccinated people generally can safely participate in most activities, indoor or outdoor, without needing to wear a mask or maintain physical distance, and do not need to undertake regular testing—please note that consistent with CDC guidance, agencies may have different protocols for fully vaccinated people in specific work settings, such as healthcare settings. In areas of high or substantial transmission, everyone, including fully vaccinated people, must wear a mask consistent with Federal requirements.

You may be asked to show this form and/or information from a health screening upon entry to a Federal building or Federally controlled indoor worksites. **Please maintain this form during your visit.** You may be asked to show this form as part of your in-person participation in a Federally hosted meeting, event, or conference. If you are entering to obtain a public service or benefit and are not fully vaccinated, you must comply with all relevant CDC guidance, including mask wearing and physical distancing requirements, however this form and the requirement to show a negative COVID-19 test do not apply to you.

Public burden information

Public burden reporting for this collection of information is estimated to average 2 minutes per response, including time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to PRA@opm.gov. The OMB clearance number 3206-0277, is currently valid.

may not collect this information, and you are not required to respond, unless this number is displayed.