

CLIENT ALERT

Safer Federal Workforce Task Force Releases Much-Anticipated Vaccine Mandate Guidance for Federal Contractors

September 24, 2021

This afternoon, the Safer Federal Workforce Task Force issued its [Guidance](#) regarding COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors (at all tiers), pursuant to President Biden's September 9, 2020 [Executive Order](#). The 14-page Guidance addresses the following topics:

- **Vaccination requirement.** The Guidance mandates vaccinations, with exceptions only for those employees legally entitled to accommodations. It does not offer a testing alternative. Covered contractor employees must be fully vaccinated by December 8, 2021.
- **Other COVID safety requirements.** The Guidance also provides masking requirements for vaccinated and unvaccinated individuals in certain circumstances and requires contractors to designate a person or persons to coordinate COVID-19 safety efforts at covered contractor workplaces.
- **Proof of Vaccination.** Covered contractors must ensure employees are vaccinated by checking authorized vaccination records. Attestations of vaccination are not acceptable substitutes.
- **Covered contracts.** The Guidance confirms that all contracts and contract-like instruments for services (including contracts subject to the Service Contract Act and concession contracts exempted from the Service Contract Act), construction (including contracts covered by the Davis Bacon Act), leasehold interest in real property, and contracts in connection with Federal property or land and related to offering services for Federal employees, their dependents, or the general public are covered. In addition to Executive Order 14042's exclusion of subcontracts for products, the Guidance appears to also exempt contracts for products. The requirements must be flowed down to all lower-tier subcontractors, to the point at which subcontract requirements are solely for the provision of products.
- **Workplace location.** The Guidance defines "workplace location" as a location where covered contract employees work, including both the contractor's workplace (including outdoor workplaces) and the Federal workplace. The Guidance further makes clear that the mandate applies to all workers at a covered workplace, regardless of whether those employees work on or in connection with the contract, unless the contractor can affirmatively determine that no covered contractor employees will come in any contact with non-covered employees anywhere on the premises, including in restrooms, meeting rooms, stairways, parking garages, etc.
- **Remote workers.** As to remote workers, the Guidance provides that even individuals working on a covered contract from their residence must comply with the vaccination requirements. However, private residences are not covered contractor workplaces, so individuals need not comply with other requirements, such as masking and physical distancing.
- **Work "on or in connection with."** The Guidance clarifies that work "on or in connection with" encompasses all duties necessary to the performance of the covered contract. This includes work by employees 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.

- **Non-covered contracts.** The Guidance also strongly encourages federal agencies to apply the vaccine mandate to non-covered contracts. It is therefore possible that contractors that do not have covered contracts will likely see contract clauses imposing similar vaccine mandates.

Our team will cover all of these issues in detail in our webinar on Monday September 27 at 1:30 EDT.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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