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## White House Task Force Issues Guidance on Vaccine Requirement for Government Contractors

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On September 24, 2021, The Safer Federal Workforce Task Force issued [Guidance](#) regarding implementation of [Executive Order No. 14042](#) Ensuring Adequate COVID Safety Protocols for Federal Contractors (“E.O.”).

### What you need to know:

- Requires most Federal contractors’ and subcontractors’ employees to be fully vaccinated against COVID-19 to perform contracts modified on or after October 15 and new contracts awarded on or after November 15.
- Vaccination requirement extends to employees who perform services “in connection” with Federal contracts, such as employees working in human resources, billing and legal support.
- Vaccination requirement extends to employees who are working from home.

The Guidance provides that covered contractors ensure that covered employees are fully vaccinated against COVID-19 no later than December 8, 2021. Employees who have been previously infected with the virus still must be vaccinated. The vaccination requirement, however, does not apply to employees who are legally entitled to accommodations.

Other important provisions of the Guidance include the following:

- The E.O. applies to a “covered contractor,” which is defined as a prime contractor or subcontractor at any tier who is a party to a “covered contract.” It does not apply to contracts under the Simplified Acquisition Threshold (currently \$250,000) or grants. It also does not apply to subcontractors that simply provide products for use in Government contracts.
- The E.O. applies to a “covered contract employee,” which is defined as any full-time or part-time employee of a covered contractor: (i) working “on or in connection with a covered contract,” or (ii) working in a “covered contract workplace.”
  - An employee who works “in connection with a covered contract” is a person who performs “duties necessary to the performance of the covered contract, but who [is] not directly engaged in performing the specific work called for by the contract,” such as human resources, billing and legal review.

- A “covered contract workplace” is 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.”
  - While an employee’s residence is expressly excluded from the definition of “covered contract workplace,” the Guidance nevertheless provides that an employee working from home must be vaccinated. An employee’s home is exempt from the other safety requirements, such as masking and physical distancing, required by the E.O.
  - Outdoor locations are included in the definition of “covered contract workplace,” and the requirements of the E.O. apply to such locations.
  - The E.O. does not apply to work performed outside the U.S. or its outlying areas.
- An employee must provide specific documentation of their vaccination status. An attestation by the employee is insufficient. Similarly, a report establishing the presence of antibodies is insufficient.
- The requirements of the E.O. apply to all contract options exercised or modifications issued after October 15, 2021. It also applies to all new contracts awarded on or after November 15, 2021.
- The Guidance requires that contractors follow other workplace safety measures as protocols established by the CDC. These measures include masking and physical distancing for employees and visitors in specific circumstances.
- The requirements of the E.O. supersede any less stringent requirements imposed by other federal, state, local, or municipal law.

The Federal Acquisition Regulation (“FAR”) Council shortly will issue implementing regulations incorporating these requirements into the FAR.

Federal contractors and subcontractors should take steps to comply with the vaccine and other safety requirements discussed in the Guidance. If you have questions about the requirements or compliance with the Guidance, please contact the author or the attorney at the Firm with whom you are regularly in contact.

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