
NOVEMBER 12, 2021

COVID-19 Update: Deadline for Federal Contractor Vaccine Mandate is Extended to January 4, 2022

On September 9, 2021, President Biden issued an Executive Order mandating COVID-19 vaccinations for employees of federal contractors and subcontractors (the “Federal Contractor Vaccine Mandate”).¹ To implement the mandate, federal agencies, covered federal contractors and subcontractors must include a clause in all new, renewed, amended, or modified federal contracts that requires the signatory to comply with the Federal Contractor Vaccine Mandate (the “Contract Clause”) and any implementing guidance.² The implementing guidance issued by the Safer Federal Workforce Task Force (the “Task Force”) initially required all covered contractor employees to be fully vaccinated by December 8, 2021.³ However, on November 4, 2021, with the announcement of vaccine requirements for employees of companies with 100 or more employees (the “Employer ETS”) and healthcare workers at facilities participating in Medicare and Medicaid (the “CMS Mandate”), President Biden clarified that the deadline for complying with the Federal Contractor Vaccine Mandate will be aligned with those for the Employer ETS and CMS Mandate—January 4, 2022—“to make it easier for employers” to comply with the new requirements.⁴ While covered federal contractors and subcontractors have until January 2022 to comply with the vaccination requirement of the Federal Contractor Vaccine Mandate, they must comply with the workplace safety protocols upon the first date of performance of a covered contract.⁵ The Federal Contractor Vaccine Mandate is already subject to multiple legal challenges in actions brought by state entities, private individuals, and organizations, asserting various constitutional and statutory claims.

¹ White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>. On that day, President Biden simultaneously issued another Executive Order mandating COVID-19 vaccination for all federal employees (the “Federal Employee Vaccine Mandate”). White House, Executive Order on Requiring Coronavirus 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/>.

² White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

³ 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.

⁴ White House, Fact Sheet: Biden Administration Announces Details of Two Major Vaccination Policies (Nov. 4, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/>.

⁵ 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.

Key Takeaways

- By January 4, 2022, the Federal Contractor Vaccine Mandate requires that employees of all covered federal contractors and subcontractors of all tiers be fully vaccinated.
- The Federal Contractor Vaccine Mandate requires that all covered federal contractors and subcontractors implement workplace safety protocols, including physical distancing and masking, while in covered contractor workplaces.
- Covered federal contractors and subcontractors must comply with the requirements of the Federal Contractor Vaccine Mandate on the first date of performance of any new, amended, modified or exercised option contract that includes the Contract Clause.
- All solicitations for covered federal contracts issued on or after October 15, 2021 and all covered federal contracts awarded on or after November 14, 2021 must include the Contract Clause.
- All covered federal contracts awarded prior to October 15, 2021 where performance is ongoing for which an option is exercised or an extension, amendment, or modification is made must include the Contract Clause.
- Covered federal contractors must include the Contract Clause in all tiers of subcontracts that exceed a certain threshold on the date of the subcontract award and are for services, including construction, performed in whole or in part within the United States or its outlying areas.
- The Federal Contractor Vaccine Mandate supersedes any inconsistent state and local laws, particularly those that ban or limit an employer from requiring vaccinations, face coverings or testing.
- The Federal Contractor Vaccine Mandate does not preempt generally applicable requirements meant to protect public health by helping prevent the spread of COVID-19 in public spaces, such as requirements mandating that everyone wear face coverings in indoor spaces like businesses, schools and government buildings, or provide proof of vaccination or recent COVID-19 testing to enter restaurants, shops or other public spaces.

Federal Contractor Vaccine Mandate

Background and Implementing Guidance

On September 9, 2021, President Biden announced that, under the Federal Contractor Vaccine Mandate, covered employees of federal contractors and subcontractors must be fully vaccinated.⁶ The covered contractor's obligation to ensure employees are fully vaccinated includes employees who work from their own residence while working on a covered contract and those who perform duties necessary to the performance of a 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.⁷ President Biden's Executive Order

⁶ White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

⁷ 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; Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

states that the purpose of the Federal Contractor Vaccine Mandate is to “ensur[e] that Federal contractors and subcontractors are adequately protected from COVID-19” in order to “bolster economy and efficiency in Federal procurement.”⁸

The Federal Contractor Vaccine Mandate was issued as part of President Biden’s COVID-19 Action Plan aimed to strengthen safety requirements for unvaccinated federal workers.⁹ The Federal Contractor Vaccine Mandate preceded the November 2021 rollout of the Employer ETS by the Occupational Safety and Health Administration (“OSHA”) for companies with over 100 employees and the CMS Mandate by the Centers for Medicare & Medicaid Services (“CMS”) for healthcare workers at facilities participating in Medicare and Medicaid.¹⁰

The Federal Contractor Vaccine Mandate directs that all covered federal contracts and subcontracts include the Contract Clause in all contracts that are new, renewed, extended, amended or on which an option on an existing contract is exercised.¹¹ The Federal Acquisition Regulatory Council (the “FAR Council”) issued the interim version of the required language for the Contract Clause on September 30, 2021, pending any changes after the formal agency rulemaking process.¹² Individual federal agencies are responsible for incorporating the Contract Clause in covered federal procurement solicitations, contracts, and contract-like instruments, including those not subject to the Federal Acquisition Regulation.¹³ The Contract Clause requires signatory contractors and subcontractors of all tiers, from the first date of performance and for the duration of the contract, to comply with the Federal Contractor Vaccine Mandate and all implementing guidance published by the Task Force, including the Frequently Asked Questions (“FAQs”) on the mandate the Task Force publishes and periodically updates.¹⁴ Hence, it is by contract—and not by direct regulation—that federal contractors and their subcontractors of all tiers will be responsible for complying with the Federal Contractor Vaccine Mandate.

On September 24, 2021, pursuant to the Federal Contractor Vaccine Mandate, the Task Force published guidance and FAQs that provide additional details about covered federal contractors’ and subcontractors’ obligations under the mandate.¹⁵ The Task Force guidance includes relevant definitions, explanations of protocols and exceptions to the requirements of the Federal Contractor Vaccine Mandate.¹⁶ To date, the Task Force has published several sets of updated FAQs that provide covered contractors and subcontractors with additional information on how to implement the Federal Contractor Vaccine Mandate, discussed in further detail below.¹⁷

⁸ White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

⁹ See White House, Path out of the Pandemic: President Biden’s COVID-19 Action Plan, <https://www.whitehouse.gov/covidplan/>.

¹⁰ White House, Fact Sheet: Biden Administration Announces Details of Two Major Vaccination Policies (Nov. 4, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/>.

¹¹ White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

¹² Federal Acquisition Regulatory Council, Memorandum for Chief Acquisition Officers, Senior Procurement Executives, Defense Acquisition Regulations Council, Civilian Agency Acquisition Council (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>.

¹³ 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.

¹⁴ Federal Acquisition Regulatory Council, Memorandum for Chief Acquisition Officers, Senior Procurement Executives, Defense Acquisition Regulations Council, Civilian Agency Acquisition Council (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>.

¹⁵ 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.

¹⁶ *Id.*

¹⁷ Safer Federal Workforce Task Force, Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

Contractor and Subcontractor Requirements

Compliance Date. Covered contractors and subcontractors must comply with the vaccination requirement by January 4, 2022.¹⁸ After January 4, 2022, all covered contractor employees must be fully vaccinated by the first day of the period of performance for any covered federal contract in which the Contract Clause has been incorporated.¹⁹ However, all covered federal contractors and subcontractors must comply with other workplace safety protocols (e.g., physical distancing, masking, designation of a COVID-19 safety coordinator) upon the first date of performance of a covered contract.²⁰

Covered Contracts and Contractors. The Federal Contractor Vaccine Mandate requires that employees of all covered federal contractors and subcontractors at any tier performing work on or “in connection”²¹ with covered federal contracts for (i) procurement; (ii) services; (iii) concessions; and (iv) property or lands and services be fully vaccinated by January 4, 2022.²² The Federal Contractor Vaccine Mandate does not apply to: (a) grants; (b) contracts or agreements under the Indian Self-Determination and Education Assistance Act; (c) contracts for less than the “simplified acquisition threshold” as defined in Federal Acquisition Regulation 2.101 (generally defined as contracts for less than \$250,000, with some exceptions); (d) employees performing work outside of the United States; or (e) subcontracts solely to provide products.²³

The Federal Contractor Vaccine Mandate applies to new covered federal contracts, solicitations, renewals, extensions, amendments, and exercises of options.²⁴ For contracts that existed before October 15, 2021 but that are renewed, extended, amended, or for which an option is subsequently exercised, the Contract Clause must be included in the renewal, extension, amendment, or exercised option.²⁵ All covered contracts solicited or entered into on or after November 14, 2021 must include the Contract Clause.²⁶ For contracts solicited before October 15, 2021 that will be awarded before November 14, 2021, the FAR Council guidance “strongly encourage[s]” contracting agencies to ensure the safety protocols in the Federal Contractor Vaccine Mandate are met.²⁷

Effect on Subcontractors. The Contract Clause issued by the FAR Council includes flow-down provisions. This means that covered prime contractors are required to include the Contract Clause (and, by incorporation, all applicable Task Force guidance and FAQs) in all subcontracts for covered federal contracts that exceed the simplified acquisition threshold on the date of the award

¹⁸ White House, Fact Sheet: Biden Administration Announces Details of Two Major Vaccination Policies (Nov. 4, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/04/fact-sheet-biden-administration-announces-details-of-two-major-vaccination-policies/>.

¹⁹ 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.

²⁰ Federal Acquisition Regulatory Council, Memorandum for Chief Acquisition Officers, Senior Procurement Executives, Defense Acquisition Regulations Council, Civilian Agency Acquisition Council (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>.

²¹ The Task Force guidance defines work performed “in connection with” a covered contract as covering “[e]mployees 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.” 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.

²² White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

²³ *Id.*

²⁴ *Id.*

²⁵ Federal Acquisition Regulatory Council, Memorandum for Chief Acquisition Officers, Senior Procurement Executives, Defense Acquisition Regulations Council, Civilian Agency Acquisition Council (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>.

²⁶ *Id.*

²⁷ White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

and are for services, including construction, performed in whole or in part in the United States or its outlying areas.²⁸ 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.²⁹ This is consistent with the stated goal of the Executive Order, namely to decrease worker absence, reduce labor costs, and improve efficiency of both contractors and subcontractors when performing work on covered federal contracts.³⁰

Covered Contractor Employees. The Task Force guidance requires that all employees of covered contractors and subcontractors at all tiers be fully vaccinated unless they are legally entitled to an accommodation, namely: a disability (including medical conditions) or because of a sincerely held religious belief, practice or observance.³¹ The covered contractor is responsible for reviewing and considering what, if any, accommodation it must offer an employee who has requested an accommodation.³² All requests for an accommodation need not be resolved by the time the contractor employee begins working on a covered contract or at a covered workplace, but that employee must comply with workplace safety protocols while the accommodation request is under review by the covered contractor.³³ The Task Force guidance also provides for a 60-day grace period, upon approval by an agency head, if a contractor has an unvaccinated employee for whom it is “mission-critical” to work on-site or on a covered contract with masking and physical distancing, but after the grace period ends, that employee must be vaccinated.³⁴

An employee of a corporate “affiliate” of a contractor is considered a covered contractor employee, and thus subject the Federal Contractor Vaccine Mandate, if the employee performs work at a covered contractor workplace (described further below).³⁵ The Task Force FAQs define a business concern, organization, or individual as an affiliate of another if, directly or indirectly, (i) either one controls or has the power to control the other; or (ii) a third party controls or has power to control both.³⁶ Such control may include interlocking management or ownership, identity of interests among family members, shared facilities and equipment or common use of employees.³⁷

Covered Contractor Workplace. The workplace safety measures apply to any location controlled by a covered contractor or subcontractor at which an 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, including an outdoor workplace, but not a covered contractor employee’s residence, even if the employee working from home is performing work on a covered contract.³⁸ A building or other location owned by a corporate affiliate of a covered contractor or subcontractor at which an employee who will perform work on a covered contract is likely to be present during the period of performance is subject to the workplace safety requirements in the Federal Contractor Vaccine Mandate.³⁹

²⁸ Federal Acquisition Regulation Deviation Clause, E.O. 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>.

²⁹ 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.

³⁰ White House, Executive Order on Requiring Coronavirus Disease 2019 Vaccination 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/>.

³¹ 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.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Safer Federal Workforce Task Force, Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

³⁶ *Id.*

³⁷ *Id.*

³⁸ 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.

³⁹ Safer Federal Workforce Task Force, Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

Vaccination Requirements. Covered contractors are responsible for reviewing employees’ proof of vaccination status, which can be proven by a vaccine card, medical records, or other official documentation showing the vaccine name, dates of administration, and name of the administering health care professional or clinic site that administered the vaccine.⁴⁰ The guidance and FAQs do not provide for any recordkeeping requirement.

Covered contractors must ensure all covered contractor employees are fully vaccinated for COVID-19, unless that employee is legally entitled to an accommodation.⁴¹ “Fully vaccinated” means an employee two weeks after the employee has received a second dose in a two-dose series or two weeks after the employee has received a single dose vaccine.⁴² Covered contractors need not themselves provide on-site vaccination to employees, but they must ensure that employees are aware of convenient opportunities to be vaccinated.⁴³ Covered contractors are strongly encouraged to incorporate similar vaccination requirements into their non-covered contracts and agreements with non-covered contractors who perform work at covered contractor workplaces but who do not work on or in connection with a federal contract, such as contracts and agreements related to provision of food services, on-site security or groundskeeping services at covered contractor workplaces.

Covered Contractor Workplace Safety Measures. The Task Force guidance requires that covered contractors and subcontractors implement and enforce workplace safety measures, which apply not only to covered contractor employees but also to contractor or subcontractor employees in covered contractor workplaces who are not working directly on a covered contract and to any visitor to a covered contractor workplace.⁴⁴ Under the workplace safety measures, all employees and visitors at any covered contractor workplace must comply with applicable masking and physical distancing safety protocols that correspond to published guidance from the Centers for Disease Control and Prevention (the “CDC”) for masking and physical distancing and must (i) be fully vaccinated or, (ii) if legally entitled to an accommodation, comply with masking and physical distancing safety protocols for unvaccinated individuals while in covered contractor workplaces.⁴⁵ The Task Force guidance also makes clear that any CDC guidance for specific settings also apply to covered contractor workplaces as relevant, such as those for healthcare, transportation, correctional and detention facilities and schools.⁴⁶ The workplace safety measures delineate protocols that must be followed for each employee or visitor depending on his or her vaccination status.

Physical Distancing. Fully vaccinated employees are not required to physically distance, regardless of the level of transmission of a given area.⁴⁷ Individuals who are not fully vaccinated must maintain six feet of physical distance from others at all times, including in offices, conference rooms and all other communal and work spaces.⁴⁸

Masking. In areas of high or substantial community transmission, the workplace safety measures require that even fully vaccinated employees wear a mask in indoor settings except under special limited circumstances (e.g., when an individual is alone in an office with floor to ceiling walls and a closed door or when eating or drinking), but in areas of low or moderate transmission, fully vaccinated employees are not required to wear a mask.⁴⁹ Individuals who are not fully vaccinated must wear a mask regardless of community transmission level.⁵⁰ Covered contractors may provide exceptions to masking requirements for employees engaging in activities in which a mask may get wet; during high-intensity activities where wearing a mask impedes

⁴⁰ 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.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Safer Federal Workforce Task Force, Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ 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.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Safer Federal Workforce Task Force, Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

breathing; or activities for which wearing a mask would create a risk to workplace health, safety or job based on a workplace risk assessment, subject to approval in writing by a duly authorized representative.⁵¹

Designation of COVID-19 Safety Coordinator. Covered contractors must designate a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.⁵²

Intersection with State Law. The Task Force guidance makes clear that the Federal Contractor Vaccine Mandate preempts any inconsistent state and local requirements, including requirements that ban or limit employers' authority to require vaccination, face covering or testing.⁵³ However, nothing in the guidance excuses noncompliance with any applicable State law or municipal ordinance establishing more protective workplace safety protocols than those established under the Task Force guidance.⁵⁴ Covered contractors and subcontractors must comply with the Federal Contractor Vaccine Mandate regardless of whether they are subject to other workplace safety standards, including the Employer ETS.⁵⁵

Implications for Employers

- Employers are advised to review their contracts and contract-like instruments, including new contracts and any potential renewals, amendments or exercisable options to determine whether they are a covered federal contractor or subcontractor under the Federal Contractor Vaccine Mandate.
- Employers who determine that they are subject to the Federal Contractor Vaccine Mandate are advised to ensure that they implement vaccination, physical distancing and masking policies that are consistent with the mandate.
- Employers are advised to review the Task Force guidance and FAQs and ensure that their policies and procedures are consistent with the Task Force guidance and FAQs, including any updates thereto.
- Given lawsuits that have been filed challenging the legal authority of the Federal Contractor Vaccine Mandate, it is expected that multiple legal challenges to the Federal Contractor Vaccine Mandate will be addressed by courts in the coming weeks. Employers are advised to monitor further developments.
- Additionally, employers may want to monitor COVID-19 guidance from relevant federal, state and local authorities as the public health situation is rapidly developing.
 - President Biden's national strategy to combat COVID-19 (COVID-19 Action Plan) can be found [here](#).
 - The Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors can be found [here](#).
 - The FAR Council guidance can be found [here](#).
 - The Task Force guidance can be found [here](#).
 - The Task Force FAQs can be found [here](#).

⁵¹ 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.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Safer Federal Workforce Task Force, Safer Federal Workforce FAQs: Federal Contractors, <https://www.saferfederalworkforce.gov/faq/contractors/>.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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