



**Frequently Asked Questions (FAQs)
On USDA's Response to COVID-19
Workplace Safety
June 14, 2021**

Revised on January 14, 2022

The President's Management Council has asked all Federal Departments to begin the planning process for re-entry and post-reentry personnel policies and work environment. As you consider the information below and, in an effort to use common terminology, please keep the following definitions in mind:

- **Re-entry**: USDA's plan for a safe, increased return of Federal employees to the workplace. USDA is using the phrase "return to the physical workplace."
- **Post re-entry**: The work environment and policies USDA will implement once we complete the re-entry process.
- **Future of work**: The longer-term impact and trends of decisions being made during the re-entry period and beyond.

All of our work related to re-entry, post-reentry and future of work is guided by the following key values: trust, respect, equity, service, and inclusion. Through this process – which will actively engage our workforce and their labor unions – we aim to enhance employee engagement and morale while delivering our mission effectively, equitably, and efficiently.

USDA's Return to the Physical Workplace and Covid-19 Taskforce regularly updates these FAQs. This task force is led by the Deputy Secretary and the Assistant Secretary for Administration. Other key members are: Deputy Chief of Staff for Operations and Senior Advisors for COVID-19 in the Office of the Secretary, USDA's mission area Chief Operating Officers (COO), and CXOs (Chief Information Officer (CIO), Chief Financial Officer (CFO), Chief Human Capital Officer (CHCO), Acting Chief Employee Experience Officer (CEEEO), Chief Acquisition Officer (CAO), as well as representatives from the Office of the General Counsel, Office of Communications, Office of the Assistant Secretary for Civil Rights, White House Liaison, Office of Budget and Program Analysis, and the Office of Congressional Relations.

This FAQ document will continue to evolve based on questions the Department receives from employees and supervisors, as well as input from our labor unions. If you have questions you would like answered, which do not appear below, please send those to futureofwork@usda.gov. The [Employee Assistance Program](#) (EAP) is a helpful resource as you are navigating re-entry, post re-entry and the future of work. EAP services are open to all USDA employees.

Finally, here are some links you may find useful:

- [Safer Federal Workforce Task Force](#)
- [Office of Personnel Management](#)
- [Centers for Disease Control and Prevention](#)



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Returning to the physical workplace

1. When are employees required to return to the physical workplace?

On **December 1, 2021**, USDA's senior leadership cadre (Appointees, SES, SL, ST, SSTS and Senior Foreign Service Officers) returned to the physical workplace however, they may utilize enhanced telework until further notice.

We do not expect employees who are currently in maximum telework status to begin returning to the physical workplace until further notice. We will continue to keep the workforce updated and informed on the process of our phased retry.

Returning to the workplace will be a process. Once the return to the workplace process begins, we expect it will be a phased approach that is dependent on satisfaction of any labor relations obligations.

2. How much notice will employees receive before having to return to the physical workplace?

Employees will receive at least 45 calendar days. Based on union feedback and in reviewing our collective bargaining agreements (CBAs) across agencies, we are defining ample notice to be at least 45 calendar days and up to 90 calendar days.

3. When can I expect to receive my notification about my eligibility for remote or telework?

Agencies and Staff Offices are beginning to notify employees about their eligibility for potential telework or remote work. Employee notifications about the eligibility for potential



telework or remote work preferences will occur as determined by each Agency for their workforce, and employees may be given at least 30 days to decide whether to work remotely or whether they will telework. Some agencies will have to complete union negotiations on the implementation of the Departmental Regulation (DR) for Telework and Remote Work Programs before notices are issued. This simply means agencies meet with their unions to bargain over the procedures and arrangements for implementing the DR. Additional instructions and information will be forthcoming from each Agency CHCO or COO, and additional details about the telework and remote work policy can be found here.

4. Will the return to the physical workplace be flexible?

Yes. Our agency-specific mission needs and our commitment to civil rights, equity, inclusion, and belonging will drive our planning, as will strategies for ensuring we are able to attract, recruit, retain, and galvanize top talent from across the country. USDA's revised return to the physical workplace schedule depends on Agencies and Staff Offices having 1) their formal workplace safety plans in place, 2) satisfying labor relations obligations, 3) providing ample notice to employees, and 4) the status of the pandemic. Also, we know many supervisors are taking into consideration that some employees who are in positions that can be performed remotely will want to continue working remotely.

5. Is there still an occupancy limit?

Yes. Mission Areas and agencies with approval from the Secretary's office may exceed the 25% occupancy limit to meet mission critical work. The Mission Area or agency's tailored safety plan outlines the exceptions to the 25% occupancy limit and required safety protocols. USDA will provide further guidance when requirements in the Safety Plan are met and the 25% occupancy limit is lifted.

6. If States, localities, Tribal areas, or privately-owned buildings maintain stricter mask mandates than the Federal standards, do Federal employees have to follow those standards?

Yes. Federal employees that work in areas that have stricter State, local, Tribal, or mask mandates should follow those masking requirements.

7. If States, localities, Tribal areas, or privately owned buildings maintain more lenient masking requirements than the Federal standards, must Federal employees follow the Federal masking requirements?

Yes. USDA employees must follow Federal safety protocols even if the local area in which they work have more lenient standards.

8. Do USDA employees working in foreign countries have to follow the COVID safety standards established by the Chief of Mission for that country?

Yes. USDA staff in foreign countries should follow all requirements established by the Chief of Mission for that country.




9. How will agencies and offices address staffing needs to increase capacity to execute USDA's missions?

We know that staffing has been a challenge for many agencies and offices operating under capacity for some time. USDA's FY2022 budget request includes a substantial staffing increase, of more than 12,500 employees over FY2020 levels, across USDA. Each Mission Area, agency, and office's request varies, and the Department's Office of Human Resources Management (OHRM) will be working with Chief Human Capital Officers (CHCOs) across USDA to develop aggressive hiring plans that are focused on bringing in a diverse applicant pool and hiring the best and brightest talent to our agency.


Workplace safety

10. What should individuals do if they experience symptoms consistent with COVID-19?

If USDA employees, onsite contractors, or visitors have [symptoms](#) consistent with COVID-19, they should not enter the USDA workplace. 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.

Employees and onsite contractors who were in the USDA workplace within 3 days of either symptom onset or a positive COVID test, must report it via this  [form](#).

11. What should individuals do if they test positive for COVID-19?

Employees and onsite contractors who were in the USDA workplace within 3 days of a positive COVID test, must report it as soon as possible via this  [form, which includes information for contact tracing](#). If an employee or onsite contractor is too sick to complete the form, the supervisor should work with them to gather the information.

Employees should share the completed form with Pandemic Coordinators, or their designee. The Pandemic Coordinator or their designee is responsible for coordinator cleaning and the notification of close contacts, as needed.

Any individual, regardless of vaccination status, who tests positive for COVID-19 should stay home for 5 days. After isolating for 5 days, the individual may leave home if the individual has no symptoms or if the symptoms are resolving. Individuals must continue to stay home until a fever resolves.

The individual must wear a mask around others for 5 additional days after isolating at home.

12. What should individuals do if they were exposed to someone who tested positive for COVID-19?

Any individual, regardless of vaccination status, who is experiencing symptoms of COVID-19 should be tested and stay home.



If an individual has (a) received a booster dose of a COVID-19 vaccine, or (b) completed the primary series of the Pfizer or Moderna vaccine within the last 6 months, or (c) completed the primary series of the Johnson & Johnson/Janssen vaccine within the last 2 months, the individual should wear a mask around others for 10 days after exposure to someone who tested positive for COVID-19, and, if possible, test for COVID-19 on the 5th day after exposure.

If an individual (a) is not vaccinated, or (b) has completed the primary series of the Pfizer or Moderna vaccine over 6 months ago and is not boosted, or (c) has completed the primary series of the Johnson & Johnson/Janssen vaccine over 2 months ago and is not boosted, the individual should stay home for 5 days after exposure to someone who tested positive for COVID-19 and continue to wear a mask around others for 5 additional days. The individual should test on the day 5th day after exposure, if possible. If the individual cannot quarantine, the individual must wear a mask for 10 days.

13. Are health services available at USDA?

Yes. For employees located in the National Capital Regional, there is Health Unit in the South Building (Room 1411, first floor, wing 4). The Health Unit provides basic primary care services including COVID testing, COVID vaccines, COVID boosters, and flu shots. Appointments are needed for shots and employees should call (202) 720-9522. Satellite health units are being established in the Whitten Building and at the George Washington Carver Center.

14. Does the review process for the 50 in-person limit apply to all events, meetings, and conferences?

No. The review process for events/meetings/conferences with more than 50 people in-person (from USDA or elsewhere) only applies to agency hosted events. It does not apply to third party hosted events/meetings/conferences.

15. Who approves an agency hosting an in-person event/meeting/conference with more than 50 attendees?

The Mission Area Head approves in-person events/meetings/conferences with more than 50 attendees in consultation with USDA Senior Covid Advisors Dr. Gregory Parham. For purposes of this request for approval, Agency Head does not refer to the Secretary.

16. Must USDA ask attendees about their vaccination status?

Yes. 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 will 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 person attendees must wear a mask in public indoor settings regardless of vaccination status.

17. Do masks need to be worn indoors?

Yes. 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.

18. How will I know if I have been exposed to a

Time Taken to Obtain the Vaccine

19. Can an employee receive official time for the time it takes to receive the vaccine?

Yes. The time the employee spends obtaining the initial series of a COVID-19 vaccination (including travel time) is considered official duty time. Thus, there is no need for the employee to use 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 their basic tour of duty hours, the normal overtime hours of workrules apply. Timesheets that were previously coded for administrative leave to receive the vaccine do not need to be corrected.

20. Can employees receive paid time off to address any side effects?

Yes. Administrative leave of up to two days is authorized if any employee has an adverse reaction to a COVID-19 vaccination dose (i.e., no more than 2 workdays for reactions associated with a single dose.) Employees should communicate with their supervisor and HR organization to correct timesheets in accordance with the guidance and answer any specific questions they might have.

21. What happens if an employee has an adverse reaction to the COVID vaccine?

An employee may receive up to 2 workdays of administrative leave if they have an adverse reaction to a COVID-19 vaccination dose that prevents the employee from working. Employees who experience an adverse reaction to the required COVID-19 vaccination 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.

22. Can an employee receive retroactive administrative leave for taking a family member to receive a vaccine?

Yes. Employees may receive administrative leave of up to four hours per dose to take family members to a COVID vaccination. This applies from July 29, 2021 and forward. 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).

23. Can I receive administrative leave to receive my COVID booster shot?

Yes. Supervisors may grant leave-eligible employees up to 4 hours of administrative leave to their employees who choose to receive a COVID booster shot. Administrative leave of up to two days is authorized if any employee has an adverse reaction to a COVID-19 booster dose (i.e., no more than 2 workdays for reactions associated with a single dose). 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.

Vaccination Requirement for USDA Employees

Please refer to the Safer Federal Workforce Taskforce for [additional FAQs](#) on this topic.

24. By what date do Federal Employees need to be fully vaccinated?

All USDA employees must be fully vaccinated by November 22, 2021. Employees will be considered fully vaccinated 2 weeks after they have received the requisite number of doses of COVID-19 vaccine approved or authorized for emergency use by the U.S. Food and Drug Administration or that have been listed for emergency use by the World Health Organization. For vaccines that require 2 doses, an employee is fully vaccinated 2 weeks after the employee has received the second dose. For a single dose vaccine (i.e., Johnson and Johnson (J&J)/Janssen), an employee is fully vaccinated 2 weeks after receiving a single dose.

25. Are boosters required for Federal Employees?

Boosters are NOT currently required by vaccine requirement for Federal employees. However, the CDC is urging all adults in the United States to get a Covid-19 booster shot in light of the omicron variant.

26. How does the vaccine requirement apply to individuals who start their federal employment after the issuance of EO 14043 (September 9, 2021) but prior to November 22, 2021?

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.

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 calendar days of their start date (except in limited circumstances where an accommodation is approved), and they must follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.



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

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 an accommodation is legally required. However, if there is 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 – in the case of such limited hiring exceptions, new hires need to be vaccinated within 60 calendar days of their start date and follow safety protocols for not fully vaccinated individuals until they are fully vaccinated.

USDA will 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.

28. 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)?

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 an approved exception need to be fully vaccinated by November 22, 2021, regardless of where they are work. Employees who are on maximum telework or working remotely are not excused from this requirement, including employees working offsite who 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.

29. Are there exceptions to the requirement for all employees to be fully vaccinated?

Federal employees must be fully vaccinated other than in limited circumstances where an accommodation is applicable. In some situations, USDA may be required to provide an accommodation to employees who cannot be vaccinated against COVID-19 because of a medical condition or because of a sincerely held religious belief, practice, or observance.

30. What steps will USDA take if a Federal employee refuses to be vaccinated or refuses to provide proof of vaccination?

If a Federal employee refuses to be vaccinated or provide proof of vaccination, USDA will pursue disciplinary measures, up to and including removal from Federal service.

31. Must an employee on extended leave of absence be fully vaccinated by the November 22nd deadline?

Employees on extended leave of absence (e.g., annual leave, sick leave, donated annual leave, military leave, leave without pay, paid parental leave, or unpaid leave under Family and Medical Leave) 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 an extended leave of absence and will not return to work until a later date.

32. Must an employee on an extended leave of absence due to receiving workers compensation as a result of sustaining an on-the-job injury or illness be fully vaccinated by the November 22nd deadline?

Employees on extended leave of absence due to receiving workers compensation are required to 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 November 22, 2021, as long as they are on an extended leave of absence and will not return to duty until a later date.

33. Must seasonal employees who are not currently working for an agency under their seasonal appointment be fully vaccinated by the November 22nd deadline?

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 a November 22, 2021 deadline, as long as they will not return to duty until a later date. A permanent seasonal employee who is in non-pay status, is not subject to the requirement but will have to provide proof of documentation before they come back into pay status next season.

34. Must employees who are on detail be fully vaccinated by the November 22nd deadline?

Employees who are on detail to another executive branch agency must be fully vaccinated by November 22, 2021. Detailees should follow the procedures of their home agency for submitting documentation to demonstrate their compliance with the vaccination requirement.

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.

35. Will the Agency enforce the vaccine mandate for employees who have submitted their retirement application package for a retirement date on or before December 31, 2021?

No. Agencies will not initiate any progressive discipline related to compliance with the vaccine mandate to employees who submit their retirement application package by November 22, 2021 for a retirement date on or before December 31, 2021. Employees who previously submitted a retirement package but do not retire by December 31, 2021 must then come into compliance with the vaccine mandate.

36. Must employees who are on leave in advance of departing federal service, and do not intend to return to duty before their resignation or retirement, be fully vaccinated by the November 22nd deadline?

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 EO



14043.



Proof of Vaccination Requirement for USDA Employees and Privacy Act Information

Please refer to the Safer Federal Workforce Taskforce for [additional FAQs](#) on this topic.

37. How does a USDA employee submit proof of vaccination?

Employees must submit proof of vaccination by clicking [here](#). Employees should contact their supervisor with questions about submitting proof of vaccination.

38. What must employees submit to prove their vaccination status?

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.

39. Can an employee provide a recent antibody test in order to prove vaccination status?

No. A recent antibody test cannot be used to prove vaccination status.

40. Must an employee who is teleworking full-time or is a virtual or remote employee submit proof of vaccination?

Yes. All employees, regardless of their duty station or telework status, must submit proof of vaccination, except in limited circumstances where an accommodation is legally required.

41. What if an employee or supervisor is having technical difficulties in submitting proof of vaccination through the online system?

Please first check [this](#) website with FAQs related to the proof of vaccination survey. If you are still having trouble, please contact OCIO at OCIO.Survey@usda.gov.



42. What should managers do to ensure employees are compliant with the vaccine mandate?

Managers will be receiving further information on their role in ensuring employees are compliant with the vaccine mandate. Managers do not have access to employee's proof of vaccination documents.

43. Who will have access to employee's vaccine information?

All vaccination information is to be maintained in accordance with all applicable laws, including the Privacy Act. SharePoint is being used among other USDA Microsoft 365 Power Platform tools to collect and process the data. Only persons with a "need to know" will have access to an employee's vaccine documentation. For now, persons with a "need to know" includes USDA employees who have been hand selected by their Mission Area or Staff Office to participate in the effort to check proof of vaccination.

44. How long will employee vaccine information be stored?

The Employee Medical File System Records (EMF) is maintained for the period of the employee's service in the agency and is then transferred to the National Personnel Records Center for storage, or as appropriate, to the next employing Federal agency. Other medical records are either retained at the agency for various lengths of time in accordance with the National Archives and Records Administration's records schedules or destroyed (by shredding, burning, or securely erasing electronic data from storage media) when they have served their purpose or when the employee leaves the agency.

45. Is my information stored in accordance with the Privacy Act?

Yes. The collection and use of this information for many agencies is subject to the OPM/GOVT-10 Employee Medical File (EMF) system of records notice (SORN) and OPM regulations (5 C.F.R. part 293, subpart E). Under those rules, USDA has written instructions for its EMF system with appropriate safeguards.

46. Does HIPAA apply to USDA?

No. The Health Insurance Portability and Accountability Act (HIPAA) does not apply to an employee's vaccination status because USDA is not a covered entity under the statute. HIPAA's Privacy Rule limits the uses and disclosures of individuals' personal health information. HIPAA's Privacy Rule standards address the use and disclosure of individuals' health information (known as "protected health information") by entities subject to the Privacy Rule. These individuals and organizations are called "covered entities." See 45 C.F.R. §§ 160.103. The Federal government, as an employer, is not a HIPAA-covered entity. Therefore, HIPAA does not apply to questions involving Federal employees' vaccination status.



47. What if an employee does not have access to the USDA proof of vaccination survey?

If an employee does not have access to the proof of vaccination survey, the employee should follow the procedures specified by their Agency's human resources contact to provide the proof of vaccination to the Agency in an alternative confidential protocol specified by that agency in accordance with the Privacy Act.

48. Should a manager keep an employee's proof of vaccination documentation?

No. In the event an employee provides a manager with their proof of vaccination documentation, the manager should direct the employee to complete the proof of vaccination survey and return the documentation to the employee. In the event an employee does not have access to the proof of vaccination survey, See No. 40.

49. We have new employees onboarding. How should they provide their proof of vaccination if they do not have USDA credential yet?

The new hire should send their proof of vaccination form to Human Resources. If the supervisor receives the proof of vaccination form, they should send it back to the new hire for the new hire to send it to the Agency's HR contact to process as required by that Agency's protocol.

Employee or Applicant Requests for Accommodations for Medical or Religious Reasons

Please refer to the Safer Federal Workforce Taskforce for [additional FAQs](#) on this topic.

50. How should I submit a request for an accommodation for a medical or religious reason?

Employees should submit a request for a medical accommodation to their Reasonable Accommodation Coordinator. [Here](#) is a link to the Reasonable Accommodation Coordinators.

Employees 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 format.

51. What happens if I choose not to complete the provided religious accommodation request form?

Requests must be in writing but there is no requirement to use a particular format or form. 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.



52. How should the Agency process vaccine related accommodations for those receiving job offer letters?

For new hires, the Agencies should process reasonable or religious accommodation requests through their Agencies normal point of contact for those types of requests. Usually that will be a reasonable accommodation coordinator for the medical accommodation requests and a point of contact in Human resources for the religious accommodation requests. However, their hiring should not be delayed if they request an accommodation. The request will be processed with other requests pending with the Agency.

53. When should I submit a request for an accommodation?

Employees should immediately request an accommodation due to a medical condition or a sincerely held religious belief, practice or observance through their [Reasonable Accommodation Coordinator](#) or [Religious Accommodation Coordinator](#). Employees who have requested an accommodation must indicate this on the [proof of vaccination survey](#).

54. Should managers make decisions on an employee's request for an exception to the vaccine mandate?

Yes. Managers who are designated as a Mission Area or Staff Office decision-maker for exception requests should proceed with making decisions on employees' requests for an accommodation to the vaccine mandate due to a medical condition, in accordance with DR 4300-008 and any applicable Agency-specific policies or collective bargaining agreements. Decisions on requests for an accommodation due to a sincerely held religious belief, practice or observance should proceed as soon as guidance is issued.

55. Will USDA pursue disciplinary measures for failure to comply with the vaccination requirement against an employee who has a pending request for an accommodation for a medical condition or a sincerely held religious belief?

No. 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. Given the volume of requests, it may take some Mission Areas or Staff Offices several weeks to respond to pending requests.

56. What is an employee required to do if the employee's request for an accommodation is denied?

An employee whose request for an accommodation is denied should 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 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.

If an employee's reasonable accommodation request is denied, the employee may file an EEO complaint. Bargaining unit employees may file a grievance to the extent permitted under the negotiated grievance procedures contained within a current collective bargaining agreement, or file an EEO complaint, but not both.

57. 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?

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. Medical documentation that addresses the individual's particular circumstance will be considered.

Employees who have documented medical reasons that necessitate a delay in vaccination will be granted an extension that specifies, consistent with the nature of the medical necessity, by what date the employee must be fully vaccinated.

58. What medical conditions does the Centers for Disease Control and Prevention (CDC) consider a reason not to receive the COVID-19 vaccines?

The CDC considers a history of the following medical conditions to be reasons not to receive the 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.

59. Are there circumstances that the CDC recommends delaying vaccination for COVID-19?



Yes. In a limited circumstance for specific medical conditions, the CDC recommends delaying vaccination for COVID-19. These circumstances are identified at [Vaccinations | Safer Federal Workforce](#).

In circumstances where an employee submits medical documentation supporting a delay in receiving a COVID-19 vaccination such that the employee will not be fully vaccinated by November 22, 2021, USDA 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 must 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 must 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.

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

Generally, employees who are not fully vaccinated must follow applicable masking, physical distancing, and testing protocols as well as applicable travel guidance. Additional guidance will be forthcoming regarding testing protocols.

61. Is vaccination for COVID-19 recommended for people who are pregnant, trying to get pregnant or might become pregnant in the future?

Yes. 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 also [recommend](#) that all pregnant individuals be vaccinated against COVID-19.

62. Is an employee who has had a prior COVID-19 infection required to be fully vaccinated?

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.

63. Should an employee delay a COVID-19 vaccine because they have recently received another vaccine, such as the seasonal influenza vaccine?



No. 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.

64. Should an employee delay a second dose of a two-dose series mRNA vaccine series because of lack of availability of the second dose?

Both Pfizer and Moderna are mRNA vaccines. In situations where the same mRNA vaccine product is temporarily unavailable, it is preferable to delay the second dose to receive the same product than to receive a mixed series using a different product. In exceptional situations in which the mRNA vaccine product given for the first dose cannot be determined or is no longer available, any available mRNA COVID-19 vaccine may be administered at a minimum interval of 28 days between doses to complete the mRNA COVID-19 vaccination series.

Vaccination Requirement for Federal Contractors

Please refer to the Safer Federal Workforce Taskforce for [additional FAQs](#) on this topic.

65. When will contractors be contractually required to be vaccinated?

Federal contractors and subcontractors with a covered contract for construction or services above the simplified acquisition threshold will be required to include a [contract clause](#) requiring contractor employees to have their final vaccination dose by January 4, 2022 (so that they are fully vaccinated by January 18, 2022), except in limited circumstances where an employee is legally entitled to an accommodation.

This new contract clause applies to contracts 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 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;
- 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.

The new contract clause will be modified for use in contract-like instruments, as well as solicitations, extensions or renewals, and exercises of options for contract-like instruments.

66. Which Contractor employees are required to be vaccinated?

Any full-time or part-time employee of a contractor working on or in connection with a covered contract is required to be vaccinated, except in limited circumstances where an employee is legally entitled to an accommodation. All employees who are working at a



“covered contractor workplace,” defined as 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,” are also required to be vaccinated unless legally entitled to an accommodation. Unless the contractor can affirmatively determine that there will be no interactions between covered contractor employees and non-covered contractor employees in common areas such as security clearance areas, elevators, stairwells, meeting rooms, and parking garages, all contractor employees must be vaccinated.

Contractor employees working remotely or performing outdoors are still subject to vaccination requirements if they work “on or in connection with” a “covered contract,” even if they work separately from where covered employees perform the federal contract work.

67. Are contractors also subject to masking and physical distancing requirements?

Yes. Contractors must ensure that their employees and visitors comply with CDC guidance for masking and physical distancing at a covered contractor’s workplace.

68. Will USDA inquire regarding the vaccination status of onsite contractor employees before they are contractually required to be vaccinated?

Yes. Prior to contractor employees being subject to a contractual requirement to be vaccinated, USDA will ask about the vaccination status of onsite contractor employees. Onsite contractor employees must attest to the truthfulness of the responses they provide. 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.

69. Who is considered “on-site” for purposes of complying with this guidance?

“On-site” means contractor personnel, cooperators, volunteers, visiting guests of USDA employees, USDA remote employees, visiting employees of other non-USDA Federal agencies, and elected USDA county committee members 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). All on-site personnel should complete the non-employee contractor/visitor vaccine certification form.

For delivery services 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 short drop-offs, the vaccine certification form is not required but



these individuals do need to follow the masking requirements.

70. Which form should an “on-site contractor” use? Does USDA need to collect and keep a copy of the form?

Prior to contractor employees being subject to a contractual requirement to be vaccinated, all on-site contractors need to complete [this](#) form. After the on-site contractor shows USDA staff the completed form, the on-site contractor should retain it on their person while on Federal premises. On-site contractor can use a previously used form if there is no change in vaccination status. If on-site contractor is not fully vaccinated, they will have to provide new documentation of a negative COVID test in the past 3 days.

71. Do the workplace safety protocols apply only at a Federal workplace?

No. 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. Covered contractor employees working on a covered contract must receive their final vaccination dose by January 4, 2022 so that they are fully vaccinated by January 18, 2022, unless legally entitled to an accommodation as determined by their employer.

72. 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?

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.

73. 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?

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.

74. How does this Guidance apply to covered contractor employees who are authorized under the covered contract to perform work remotely from their residence?

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.

75. Does this Guidance apply to outdoor contractor or subcontractor workplace locations?

Yes, this Guidance applies to contractor or subcontractor workplace locations that are outdoors.

76. Does this guidance apply to sales of surplus real and personal property?

No, this Guidance does not apply to sales of surplus real and personal property.

77. Does this Guidance apply to contracts that are solely for products?

No, this Guidance does not apply to contracts that are solely for products.

Vaccination Self-Certification and Safety Requirements for On-Site Visitors (including Contractors not otherwise covered by EO 14042, Volunteers, Cooperators, Delivery Persons, and Other On-Site Federal and Non-Federal Personnel)

78. How will USDA inquire regarding the vaccination status of visitors to federal buildings?

Visitors to federal buildings should be asked to provide information about vaccination status. 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.

Individuals entering a federal building, federally controlled indoor worksite, or federal land to obtain a public service or benefit do not need to complete the form or show documentation of a negative COVID-19 test result. However, if they are not fully



vaccinated, they must comply with all relevant CDC guidance and safety protocols, including mask-wearing and physical distancing requirements.

79. How will USDA ask visitors about their vaccination status?

The Certification of Vaccination [form](#) may be emailed to visitors in advance of arrival or it should be provided when they enter a federal building or federally controlled indoor worksite. Visitors may email their vaccine self-certification form to their USDA point of contact in advance of their visit. For those visitors that do not email the information to their point of contact ahead of time, visitors should be directed to complete the Certification of Vaccination form and submit it to their USDA point of contact.

Upon arrival, visitors that are not fully vaccinated or decline to answer are required to show to their USDA point of contact a negative COVID-19 test result from within the previous three days.

USDA will collect and maintain only the Certification of Vaccination forms.

80. How will USDA confirm that all visitors are complying with certification requirements?

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, including asking visitors who are not vaccinated to show a negative COVID-19 test result from within the previous three days. Agencies should do this in a way that makes most sense for them, including providing guidance for staff. Host agency personnel may keep a list of regular onsite employees who have certified they are fully vaccinated. In co-located facilities, agencies are required to harmonize on how they are checking the information and ensuring compliance with the appropriate COVID safety protocols. In the NCR, security officers will verbally ask screening questions to visitors and contractors without PIV cards or Site Badges at visitor entrances, but agencies maintain the responsibility for collecting all verification of vaccination forms and visually confirming test results (if applicable). Implementation guidance has been circulated to the Pandemic Coordinators.

81. Is there standard text to share with visitors in advance to describe workplace safety policies?

The following text may be shared with visitors in advance of their visit:

We look forward to your visit to USDA. Based on guidance from the White House, visitors to our buildings who are not seeking a public benefit need to complete the Certification of Vaccination [form](#) and email it in advance to their USDA point of contact or be prepared to show it upon entry. If you are unable to complete the form in advance, a copy will be available at the building entrances and must be completed and submitted to your USDA point of contact upon entry. Visitors who are not fully vaccinated will also be required to show a negative COVID-19 test result from within the previous three days, which must be



presented upon arrival to your host and/or the security officer and not emailed in advance. Please be aware that 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.

82. Do USDA employees who visit a non-USDA Federal facility for meetings, interviews, or training need to fill out any forms?

Yes. Employees visiting a non-USDA Federal facility for meetings, interviews, or training are to fill out the Visitor Certification of Vaccination when they enter the Federal facility and keep the form on their person.

83. Does this requirement apply to other federal personnel (e.g., Department of the Interior, Department of Justice, Department of Homeland Security officials) who visit our offices or other facilities?

Yes. Other Federal personnel should fill out the visitor certification [form](#) and maintain it on their person while in or on USDA Federal buildings or lands.

84. Does this form need to be filled out by all cleaning personnel, custodians, landlords, and maintenance staff at all Federal facilities?

Yes. Building staff should fill out the non-employee contractor [form](#) and maintain it on their person while in or on Federal buildings or lands. Additional guidance about this implementation has been shared with the Pandemic Coordinators.

85. What if a visitor declines to follow USDA's safety protocols for entry?

Visitors who decline to submit a certification of vaccination form or fail to follow established safety protocols for entry are not permitted entry.

86. What is the difference between USDA employees, on-site contractors, visitors, and customers? How can I tell?

You should first determine whether an individual is performing work on-site or is merely a customer entering a Federal building or Federal land to obtain a public service or benefit. You may also check if the individual has a USDA employee PIV badge. Contractors and visitors (to the extent issued) should have different looking badges or stickers that they must wear indicating that they are non-Federal employees in a Federal facility. USDA county office employees should be considered employees for this purpose and should submit proof of vaccination through the online USDA system.

Vaccination Self-Certification and Safety Requirements for Customers

Please refer to the Safer Federal Workforce Taskforce for [additional FAQs](#) on this topic.

87. Does the vaccination self-certification guidance apply to members of the public seeking a public benefit or service?



No. The requirements related to asking visitors about their vaccination status and providing proof of a recent negative COVID-19 test **does not apply** to members of the public entering a Federal building or Federal land to obtain a public service or benefit. If customers are not fully vaccinated, these visitors must comply with all relevant CDC guidance, including wearing a mask and physically distancing from other people. USDA defines a public benefit or service as applying to all customers at service centers or field offices, recreation areas, food and nutrition direct service centers, and grain offices.

88. What should a USDA employee do if a member of the public seeking a public benefit or service refuses to wear a mask and maintain physical distancing?

If a customer refuses to comply with USDA's safety protocols, USDA employees can considerately make customers aware of the masking requirement. Customers who will 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.

Telework and remote work

89. Are all positions now eligible to telework?

No. Not all positions are eligible for telework due to the pandemic because the duties of some positions may require employees to be in a Federal facility, in the field, or other office location. The Department is committed to providing a better work experience for all employees.

90. What if our agency collective bargaining agreement does not allow 4 days a week of telework, can an employee still telework up to 4 days under the Telework and Remote Work Directive?

No. Agencies are obligated to notify their unions and engage in impact and implementation bargaining. It is recommended agencies consult with their Office of Human Resources and Labor Relations staff to determine appropriate labor relations obligations and compliance with collective bargaining agreements.

91. How are current Reasonable Accommodation agreements for full-time telework impacted by the Telework and Remote Work Directive?

The Telework and Remote Work Directive does not impact current reasonable accommodation agreements. While telework can be a form of reasonable accommodation under appropriate circumstances, reasonable accommodation and personal



assistance service (PAS) are governed by a different USDA policy, Departmental Regulation 4300-008, not the USDA telework policy. Information on USDA's Reasonable Accommodation and Personal Assistance Services, contacts for requesting an accommodation or personal assistance services, training and FAQ's can be found at: <https://www.usda.gov/ra>.

92. Will USDA have positions that can be performed remotely/virtually?

Yes. The [Secretary's memo](#) directed Mission Areas and Staff Offices to perform a review of duty stations of positions to identify positions that can be effectively performed remotely. The results of the review will be communicated to each employee as part of an Agency's Return to the Physical Workplace plan. USDA's long-term policy on remote work is included in the Telework and Remote Work Directive that was finalized in November. To the extent these matters are not covered by a collective bargaining agreement, agencies and staff offices will be obligated to fulfill any impact and implementation bargaining requested by their respective union.

93. Will employees working remotely receive equipment for use at home and IT support?

Yes. USDA employees should expect support for any USDA-furnished device and service while working outside the office. DR-3170-001, Section 5b allows for one machine and one phone per-person, and support services follow the remote-first Enterprise support practice. Exceptions for special circumstances require approval and must use OCIO-approved devices. Reasonable Accommodation requests will continue to follow Departmental Regulation 4300-008. OCIO continues to review and improve services, practices, and policies related to remote work, and will update these FAQ accordingly.

94. Can new positions be advertised as Telework-Eligible or Location Negotiable after Selection?

Yes. Mission Areas have been instructed to list any new applicable positions as telework-eligible or location negotiable after selection if the position is deemed eligible.

Travel

Please refer to the Safer Federal Workforce Taskforce for [additional FAQs](#) on this topic.

95. Are there restrictions on official travel for fully vaccinated Federal employees?

Yes. To protect employee health and safety, all employees should continue to limit official travel to mission critical activities, until further notice, with limited exceptions as determined by Agency and Staff Office Heads. Until further notice, official domestic travel for all Federal employees is limited to mission critical trips as determined by the Agency. International travel should also be avoided if possible, unless it is mission critical (e.g., military deployments, COVID-19 response deployments/activities, diplomats traveling, high-level international negotiations that cannot occur remotely).



96. What does mission critical mean for purposes of travel?

Mission critical refers to activities necessary for the ongoing operation of the Department and its programs which cannot be performed remotely. Until further notice, 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. Official travel can include distinct opportunities that uniquely advance USDA's diversity, equity, inclusion and workforce strategy and culture goals.

97. While traveling, what health and safety guidelines must Federal employees who are fully vaccinated follow?

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 other similar types of stations.

Employee wellbeing

98. What programs and services are available to assist employees?

The USDA Employee Assistance Program (EAP) is available to all USDA employees. Through EAP, USDA employees and their family members, who reside in their households have access to licensed/certified counselors, licensed attorneys, and qualified financial consultants. EAP can assist you with emotional, family, marital, alcohol or drug use/abuse, relationship problems, and other issues related to employee's wellbeing. In addition EAP provides monthly live Webinars (see the [2021 calendar](#)), and on-demand access to [pre-recorded webinars](#) for staff on topics that range from parenting young children, understanding family dynamics, dealing with holiday stress, managing personal financing, and leadership strategies just to name a few. Some USDA offices have a Workplace Wellness Office which is available to assist employees. Employees can contact their agency representative or visit [USDA Employee Assistance Program](#) for more information on the program and all that it has to offer you.

Information technology

99. Will I be notified when my new Linc Pass card is available?



Yes. You will receive an email from HSPD12Admin@usaccess.gsa.gov that your LincPass is ready for pick up and Activation. Additional information about credentialing can be found [here](#).

100. I received an email that my Linc Pass card has been delivered to a location that is too far for me to drive. How do I go about getting the card sent to a closer Activation station?

Please contact the USDA HSPD-12 helpdesk in order to assist with a card reroute. Additional information about credentialing can be found [here](#).

101. My current card has physically expired. Can I still go through the card renewal process to receive a new card?

No. A renewal request cannot be created after card expiration (Requests must be made 1 day prior to expiration). The applicant will need to re-enroll.

NOTE: An expired badge cannot be used for enrollment, however if it is a reprint the expired badge will be turned in and a new one will be ordered by the sponsor. In the interim after verification of employee status, a site badge can be issued after the sponsor completes a AD1197 form. The site badge will be valid until the new badge arrives.

Please contact the USDA HSPD-12 Helpdesk for further instructions and guidance on the renewal process. Additional information about credentialing can be found [here](#).

Facility Protection Division Helpdesk contact (202) 815-7474.

Vaccination Requirements for 'Contract-Like' Instruments v. Federal Contracts

102. What does Executive Order (EO) 14042 require?

EO 14042 requires federal agencies to include a clause in certain types of contracts and contract-like instruments, and extensions of or exercise of an option on certain types of existing contracts and contract-like instruments, executed on or after October 15, 2021, that requires compliance with guidance issued on September 24, 2021, by the Safer Federal Workforce Task Force (Task Force) at <https://www.saferfederalworkforce.gov/faq/contractors/> regarding COVID-19 safety protocols, including COVID-19 vaccination requirements. The clause also must be included in any subcontracts that are subject to the EO. Appendices A through C contain approved clauses for implementing the EO.

103. What is the impact of federal court order enjoining the vaccine mandate in EO 14042?

On December 1, 2021, OMB issued initial guidance on implementing requirements of Executive Order 14042 while ensuring compliance with a court order covering the States of



Kentucky, Ohio, and Tennessee. Since the issuance of that initial guidance, on December 7 another court issued a nationwide injunction—an order that bars enforcement of the Executive Order in any state or outlying area of the United States. Both court orders are preliminary and may be supplemented, modified, or vacated, depending on the course of ongoing litigation. As a result, the December 1, 2021, OMB guidance has been rescinded. Given the uncertainty surrounding the court orders, OMB issued updated guidance that will apply covered contracts and contract-like instruments.

Accordingly, USDA will take no action to enforce the clause implementing the requirements of Executive Order 14042, absent further written notice, where the place of performance identified in the contract is in a U.S. state or outlying area subject to a court order prohibiting the application of vaccine mandate requirements pursuant to the Executive Order (hereinafter, “Excluded State or Outlying Area”). In all other circumstances, the Government will enforce the clause, except for contractor employees who perform substantial work on or in connection with a covered contract in an Excluded State or Outlying Area, or in a covered contractor workplace located in an Excluded State or Outlying Area. A current list of such Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>.

104. What does this mean for existing contracts or contract-like instruments for work performed in an Excluded State or Outlying Area that contain the clause either at award or to which a contractor is agreed by modification?

If the work under such a contract is performed entirely in an Excluded State or Outlying Area, the USDA will not enforce the clause implementing vaccine requirements of the Executive Order into the contract.

105. For existing contracts that do not include a clause implementing vaccine requirements of Executive Order 14042, will USDA seek to amend to include that clause?

Whether USDA will seek to add the clause to a contract implementing the vaccine requirements of the Executive Order will depend on whether a State or outlying area continues to be an Excluded State or Outlying Area as litigation moves forward:

- A. If the work under such a contract or contract-like instrument is performed entirely in an Excluded State or Outlying Area, USDA will not attempt to add a clause implementing requirements of the Executive Order into the contract or contract-like instrument.
- B. If work performance under the contract to which the Executive Order applies is not in an Excluded State or Outlying Area, then when exercising an option, issuing a new order under the contract, or extending the term of the contract, USDA will pursue bilateral modification of the contract to include the clause. If USDA is not exercising an option, issuing a new order, or extending the contract’s term, the agency *may* pursue bilateral modification to include the clause.

In either case, when requesting that a contractor agree to the addition of the clause, USDA will inform the contractor of the following:



USDA will take no action to enforce the clause implementing requirements of Executive Order 14042, absent further written notice from the agency, where the place of performance identified in the contract is in a U.S. state or outlying area subject to a court order prohibiting the application of requirements pursuant to the Executive Order (hereinafter, "Excluded State or Outlying Area"). In all other circumstances, USDA will enforce the clause, except for contractor employees who perform substantial work on or in connection with a covered contract in an Excluded State or Outlying Area, or in a covered contractor workplace located in an Excluded State or Outlying Area. A current list of such Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>.

106. What will USDA do with solicitations (existing or future), including solicitations for new orders to be issued under existing indefinite delivery/indefinite quantity contracts not containing a clause that implements requirements of Executive Order 14042?

The answer depends on whether a State or outlying area continues to be an Excluded State or Outlying Area as litigation moves forward. For now, given the nationwide injunction, only the following applies:

- A. If the solicitation indicates that work under the contract to be awarded will be performed entirely in an Excluded State or Outlying Area, the solicitation should not include a clause implementing the vaccine requirements of Executive Order 14042. If the solicitation does include such a clause, USDA will remove it through an amendment to the solicitation.
- B. For all other solicitations to which Executive Order 14042 applies, the agency must include a clause implementing the vaccine requirements of the Executive Order and a provision stating as follows: **[TBD]**.

107. Must contractors continue to comply with masking, social distancing, and COVID-19 testing requirements when working in Federal facilities or lands?

Yes. The court orders only apply to the application of vaccine requirements mandated pursuant to Executive Order 14042. There is no change to the Safer Federal Workforce Task Force's guidance for COVID-19 workplace safety protocols for Federal agencies. Federal agency workplace safety protocols for Federal buildings and Federally controlled facilities still apply in all locations. Contractor employees working onsite in those facilities must still follow those Federal agency workplace safety protocols. For USDA, contractor employees must follow the same protocols and attestation requirements applicable to visitors. **SEE Q 9, 73-76 above.**

103. [Deleted and reserved pending outcome of litigation].