



TGG Alert – New January 2022 Deadline for Contractors to Comply with Mandatory Covid Vaccinations

November 4, 2021

To reduce the spread of COVID-19, the Federal Government is instituting significant requirements for Government contractors

What is Required?

Under the guidance issued by the Safer Federal Workforce Task Force, Federal contractors will be required to implement the following safety protocols:

1. COVID-19 vaccination of employees that work in connection with a covered contract except in cases of a disability (including medical conditions) or because of a “sincerely held religious belief, practice, or observance.” Employees must be “fully vaccinated” **now by January 4, 2022. Employees are only considered “fully vaccinated” once they are two-weeks past the second dose of a two-shot vaccine, or two weeks after receiving a one-shot vaccine.**
2. Compliance by employees and visitors with guidance on masking and physical distancing while in contractor workplaces. This requirement does not apply to employees who work from a residence.
3. Designation of a person or persons to coordinate COVID-19 workplace safety efforts at contractor workplaces.

Key Dates

- November 14, 2021 – All GSA /VA awarded contracts must include the new clause/requirements and issued mass mods must be accepted
- November 23, 2021 – Is the last day a Covered Contractor Employee can receive the first shot of a Moderna two-shot vaccine considering the four-week waiting period between shots
- November 30, 2021 – Is the last day to receive the first shot of a Pfizer-BioNTech two-shot vaccine considering the three-week waiting period between shots
- December 21, 2021 – Is the last day to receive the Johnson & Johnson single shot vaccine
- January 4, 2022 – All covered employee contractors should be fully vaccinated under existing contracts with the new clause/requirements incorporated
- Post January 4, 2022 – All covered contractor employees should be fully vaccinated by the first day or contract period of performance for all new awards, exercised options, or extended or renewed contracts



Are there exceptions to the rules?

There are several exceptions to the rules, but not many:

- The rules only apply to Federal contractors providing services to the Government, but agencies are being encouraged to include the new clause in as many contracts as possible, even if the contracts are solely for the provision of products.
 - This [clause](#) is being added to **ALL** GSA and VA Schedule contracts, regardless of whether the contractor offers services or products.
- The rule does not apply to contractor employees who perform work outside the United States.
- The contractor may provide an accommodation to the vaccine requirement for employees in the case of a disability (including medical conditions) or because of a “sincerely held religious belief, practice, or observance.”

The guidance also expands on several cases where the Government does not provide exceptions to the requirements:

- The rule applies to all employees who work directly or indirectly on a Government contract, including human resources, billing, and legal.
- The requirement to receive a vaccine applies to covered employees regardless of whether they work in a contractor location or a Federal Government facility.
- The requirement flows down to subcontractors at all tiers except for subcontracts solely for the provision of products.

Recommendations for Contractors

- While there are many unanswered questions, it is clear that the guidance reflects the spirit of the Executive Order in encouraging broad application of the requirement to fully vaccinate contractor employees. The exceptions to this order are few and far between – contractors should assume that they will need to be in compliance with this order by January 4, 2022.
- **However, DON'T cancel or walk away from your Government contract because you feel that your company can not meet these “deadlines.” As questions and concerns continue to pour into the Government, the responses are consistently indicating a spirit of flexibility and willingness to extend deadlines, especially where the company is demonstrating good faith efforts to reach compliance. See the [GSA Covid-19 web page that includes additional Frequently Asked Questions \(FAQs\)](#), addressing the added flexibility.**
- Recently, 20 states have filed lawsuits challenging the legality of the federal vaccine mandate. As these cases are decided, it is expected that further guidance will be forthcoming regarding the mandates, including possible delays or increased flexibility.
- The requirements are broad and apply to a wide cross section of a company's work force and subcontractors. Contractors should begin working with their human resources and legal departments now (if they have not already) to establish a clear plan of action and communicate that policy and process to all employees and subcontractors before the new January 4, 2022 deadline.

- The guidance provides for medical or religious exemptions but does not elaborate on what constitutes a valid basis for such an exemption. The exemption issue puts a contractor in a precarious position. The denial of an exemption request could lead to litigation from the requesting employee, and the granting of a request could lead to litigation from those employees having to work with an unvaccinated co-worker or claims of non-compliance from the Government. Contractors should establish an internal policy and process in anticipation of this vaccination requirement. They should be able to identify all covered employees, establish a means of documenting the vaccination status of covered employees, and have a fair and consistent process for considering all requests for exemption.
- Lastly, this clause will require a certification from contractors and like many Government contracts requirements the risk of non-compliance includes up to \$23,000 per claim and treble damages under the False Claims Act (FCA). The Government recovered over \$2.2 billion through the FCA in 2020 and the Administration has signaled their intent enforce this rule. Contractors should be aware of potential penalties for non-compliance with this guidance.

If you have any questions about the COVID-19 requirements, please contact your TGG consultant.

Additional resources

- [President's Executive Order](#)
- [Safer Federal Workforce Task Force Guidance](#)
- [GSA Covid-19 Website](#)
- [FAR Council Guidance and Instructions for Deviations](#)
- [CAAC Class Deviation and Contract Clause](#)
- [GSA Class Deviation and application to the Schedule Program](#)
- [VA Class Deviation and application to the VA Schedule Program](#)