



## DISCLAIMER:

**This Guide is intended to provide general information about the federal contractor mandate for COVID-19 vaccination. It should not be relied upon as legal advice. Please consult an attorney if you have legal questions or concerns. UCON will make every effort to update this information as quickly as possible when changes occur.**

### **What is the Federal Contractor COVID-19 Vaccine Mandate**

This mandate is part of President Biden's "Path Out of the Pandemic." [Executive Order 14042](#) directed the inclusion of certain COVID-19 safety protocol clauses in all contracts subject to the Federal Property and Administrative Services Act [40 U.S.C. 102(4)(A)]. The Safer Federal Workforce Task Force (SFWTF) issued [guidance](#) (revised on November 11) on the new COVID-19 safety protocols that apply to **all federal contractors and subcontractors**. The three key elements are:

1. **Full vaccination of all employees by January 18, 2022**, with limited exceptions and **no testing option** instead of vaccination (original date was December 8, 2021, which was revised afterwards)
2. Worksite requirements for masking and physical distancing, including visitors and others as well as employees
3. A designated COVID-19 workplace safety coordinator

Covered contractors and subcontractors also need to include requirements clauses in their downstream subcontracts.

### **Does this law apply to my company? To all contracts with federal funding?**

The requirement covers certain types of federal contracts and "contract-like instruments." If your company has even one of these types of contracts or subcontracts, **the requirement applies to all of your company employees**, including administrative employees, even if they are not working on this project. Generally, these are contracts (including service contracts) directly with a federal agency under any federal procurement statute, plus all downstream subcontracts, but you will need to check all current and upcoming contracts for work performed in the U.S.

### **What is the status of legal challenges to this mandate?**

On December 8, 2021, a federal court in Georgia issued an injunction blocking enforcement of this mandate nationwide. The situation could change again at any time. Read [this article](#) for an analysis of the current situation and advisory on what to do if you are covered by this mandate.

### **When do these requirements become effective?**

1. **Contracts awarded before October 15, 2021 that are ongoing:** The requirements will be incorporated when there is an option exercised or extension made.
2. **Contracts made between October 15 and November 14:** The requirements will be in the solicitation.
3. **Contracts made on and after November 14:** All new contracts will contain the requirements.

### **What happens if we can't comply?**

The [SFWTF Contractor FAQ](#) on compliance state that agencies should work with contractors to address challenges when the contractors are making good faith efforts to comply. However, if the contractor is not making those good faith efforts, “significant actions, such as termination of the contract, should be taken.” There is no further information yet on penalties for non-compliance, but there could be financial penalties as well as potential impact on your ability to bid work as a federal contractor or subcontractor.

### **Can we just fire any employees who refuse to get vaccinated?**

It will depend. Employees with legitimate medical or religious reasons for not being vaccinated are protected and exempt from the requirements. You may be able to **lay off** employees if they do not qualify for work and you have no other work available for them, but you should consult legal counsel before deciding to terminate anyone who does not meet these requirements. For now, the recommendation is to 1) determine if any of your current contracts cause you to fall under these requirements, and if so 2) evaluate your entire workforce and the workplace logistics.

### **What do we need to do right now?**

- [Read this article](#) from Fisher Phillips for a helpful breakdown of the main requirements and **recommendations for next steps to take**.
- Read UCON's [COVID-19 Vaccination FAQ](#) for the latest guidance on vaccination in general, including information on union employees. We continue to update this guide as developments occur.
- Talk to your legal counsel for advisory specific to your company, especially regarding how to handle medical and religious exemption requests.

UCON will continue to update members on relevant regulatory changes. Please refer to our [COVID-19 Resources Page](#) (available to everyone in the industry) for regular updates to federal, statewide and local policy developments.

### **Resources for Employers**

[Safer Federal Workforce Task Force Website for Federal Contractors](#) – includes links to the SFWTF Guidance and comprehensive FAQ

[Federal Contractor Vaccine Mandate Survival Guide \(Sheppard Mullin\)](#) – detailed guide put together by a national legal team

[Fisher Phillips Vaccine Resource Center](#) – central location for articles on topics related to COVID-19 vaccines and labor/employment law