



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

Revised on November 15, 2021

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) will begin to return to the physical workplace.

On **January 3, 2022**, USDA will begin our full-fledged return to the workplace for all USDA employees. 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.

By **March 14, 2022**, we anticipate all USDA employees completing the phased return, subject to union negotiations.

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. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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

9. 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.

10. 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's Senior Covid Advisors Dr. Sara Bleich and Dr. Gregory Parham. For purposes of this request for approval, Agency Head does not refer to the Secretary.

11. 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 in areas of high or substantial transmission must wear a mask in public indoor settings regardless of vaccination status.

Time Taken to Obtain the Vaccine

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

Yes. When a Federal employee is required to be vaccinated, the time the employee spends obtaining any 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 work



rules apply. Timesheets that were previously coded for administrative leave to receive the vaccine do not need to be corrected.

13. 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.

14. 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.

15. 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).

16. 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.

17. 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.

18. By what date do Federal Employees need to receive their first vaccine in order to be fully vaccinated by the November 22nd deadline?

- **October 11:** First dose deadline (Moderna COVID-19 vaccine)
- **October 18:** First dose deadline (Pfizer COVID-19 vaccine)
- **November 8:** Second dose deadline (Moderna and Pfizer vaccine)
- **November 8:** First (only) dose deadline (Johnson and Johnson COVID-19 vaccine)
- **November 22:** Federal employees must be fully vaccinated

19. 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.

20. 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.

21. 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.

22. 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 the 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.

23. 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.

24. 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.



25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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 Shweta Maheshwari (shweta.maheshwari@usda.gov) from OCIO-CEC for assistance.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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. 37.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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](#).

47. 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.

48. 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.

49. 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.

50. 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.

51. 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.

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

Yes. In a limited circumstances 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.

53. 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.

54. 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.



55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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.

65. 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.

66. 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.

67. 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.

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

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

69. 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.

70. 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 (Volunteers, Cooperators, Delivery Persons, and Other On-Site Federal and Non-Federal Personnel)



71. 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.

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

Visitors should be provided with the [Certification of Vaccination form](#) when they enter a federal building or federally controlled indoor worksite. Visitors should be directed to complete the Certification of Vaccination form and keep it with them during their time on federal premises. If they are not fully vaccinated or decline to answer, they will be required to show a negative COVID-19 test result from within the previous three days.

The Certification of Vaccination form may be emailed to visitors in advance of arrival or utilize a tool or application to share the form with visitors and enable visitors to easily complete it, but USDA will not maintain Certification of Vaccination forms from visitors. **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.

73. 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. Agencies should do this in a way that makes most sense for them, including providing guidance for staff. 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. Implementation guidance has been circulated to the Pandemic Coordinators.



74. 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.

75. 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.

76. 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.

77. 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.

78. 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.

79. 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.

80. 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

81. Will the interim telework policy apply when employees return to the physical workplace?

Yes. The [Secretary's memo](#) establishes interim guidance regarding telework and allows telework up to four days per week based on the duties of a position. The memo will be used until the Departmental Regulation on Telework is reviewed and revised. A new Departmental Regulation is a substantive change in conditions of employment. 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. It is expected that USDA's Telework and Remote Directive will be issued by the end of October and these FAQs will be updated.

82. 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.

83. 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 interim telework policy?

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.

84. How are current Reasonable Accommodation agreements for full-time telework impacted by the Secretary's telework memo?

The Secretary's telework memorandum 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>.

85. 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 will be included in the Telework and Remote Work Directive expected to be finalized in October. 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.

86. 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.

87. 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.



88. 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, through January 3, 2022, with limited exceptions as determined by Agency and Staff Office Heads. Until January 3, 2022, 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).

89. 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.

90. 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

91. 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

92. 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](#).

93. 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](#).

94. 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

95. 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.

96. Does the EO apply to existing contracts or contract-like instruments?

No, not unless they are extended, or an option is exercised.

Modifications to existing contracts or contract-like instruments do not trigger applicability of the EO.

97. What is a contract or contract-like instrument for purposes of the EO?

“Contract or contract-like instrument” is defined broadly for purposes of the EO to include an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law, including any procurements, leases, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or form and regardless of whether they are oral or written.

98. What types of contracts and contract-like instruments are covered by the EO?

The following types of contracts and contract-like instruments are subject to the EO:

- Procurement contracts and contract-like instruments for services or construction.
- Leases.
- Contracts and contract-like instruments for services covered by the Service Contract Act (SCA), 41 U.S.C. § 6701 *et seq.*
- Contracts and contract-like instruments for concessions.
- Contracts and contract-like instruments in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.

99. What types of contracts and contract-like instruments are not covered by the EO?

The following contracts and contract-like instruments are not subject to the EO:

- Contracts and contract-like instruments that are at or below the Simplified Acquisition Threshold (SAT) of \$250,000. However, delivery or task orders issued under an indefinite delivery, indefinite quantity (IDIQ), or requirements type contract are covered if the total estimated value of the base contract is over \$250,000 and



performance is being extended or an option is being exercised under the base contract.

- Grants.
- Memoranda of understanding.
- Contracts and contract-like instruments executed under the Indian Self Determination and Education Assistance Act, Pub. L. No. 93-638 (ISDEAA). Currently only the Forest Service and the Food and Nutrition Service have authority to enter into agreements under ISDEAA pursuant to Pub. L. No. 115-334, title VIII, § 8703, Dec. 20, 2018, 132 Stat. 4625 (also found at 7 U.S.C. § 2013 note), for the Forest Service, and Pub. L. No. 115-334, title IV, § 4003(b), Dec. 20, 2018, 132 Stat. 4625 (also found at 25 U.S.C. § 3111b), for the Food and Nutrition Service.
- Contracts and contract-like instruments other than leases that involve the disposal of property or that otherwise do not involve offering services to federal agencies, federal employees, their dependents, or the general public.
- Contracts for procurement of products, including supplies and commodities.
- Contracts and contract-like instruments that are performed entirely outside the United States and its outlying areas.

100. Does the clause need to be included in a contract or contract-like instrument covered by the EO if the contract or contract-like instrument will be performed outdoors?

Yes. The EO does not differentiate between indoor and outdoor activities. If a contract or contract-like instrument is covered by the EO, the clause must be included. USDA's October 25, 2021, COVID-19 Workplace Safety Plan states:

Covered 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.

101. Does the EO apply to every business that a contractor has a financial stake in?

The EO, Federal Workplace Task Force guidance, and Office of Management and Budget (OMB) regulations apply to contractors and subcontractors who enter into contracts and contract-like instruments with the federal government that are subject to the EO.

To the extent a contractor has a financial stake in a business that is not subject to the EO, i.e., a business that has not executed a primary or lower-tier contract or contract-like instrument subject to the EO, that business is not required to comply with the EO, the Task Force guidance, or OMB regulations.

102. How will the EO be implemented?

USDA has issued a standard clause for contracts based on guidance from the Federal Acquisition Regulation Council. USDA has developed a standard clause for cooperative agreements that meets the requirements of the EO. The General Services Administration



(GSA) has included a standard clause that meets the requirements of the EO in its standard lease, which a federal agency may use to sublease space in a GSA-controlled building.

When a contract or contract-like instrument is subject to the EO, the appropriate clause must be included in the contract or contract-like instrument completely, not in part, and without revision.

Further guidance regarding the applicability of the EO to contract-like instruments is being issued by the Office of the Chief Financial Officer. It will include the appropriate clause.

103. Does the EO allow an option for testing instead of the vaccine?

No. On September 9, President Biden announced his Path Out of the Pandemic: COVID-19 Action Plan. One of the main goals of this science-based plan is to get more people vaccinated. As part of that plan, the President signed EO 14042, which requires covered contracts and contract-like instruments to include a clause requiring compliance with Task Force guidance regarding COVID-19 safety protocols. On September 24, 2021, the Task Force issued guidance on federal workplace safeguards that will decrease the spread of SARS-CoV-2, the virus that causes COVID-19, decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors performing work for the federal government. The guidance requires COVID-19 vaccination of contractors' employees, except in limited circumstances where an employee is legally entitled to an accommodation, and a separate requirement for compliance by individuals, including contractors' employees and visitors, with the Task Force guidance related to showing proof of a negative COVID-19 test performed within the last 3 days if they are not fully vaccinated or decline to provide information about their vaccination status and masking and physical distancing while in contractors' workplaces. Other than vaccination for COVID-19 and masking, the Task Force guidance does not provide any alternative methods of compliance with the EO, such as COVID-19 testing.

104. What if a contractor is not subject to the EO? Are there other COVID-related requirements the contractor must meet?

The following COVID-related requirements apply when contractors are not subject to the EO:

- Contractors entering federal buildings who are not fully vaccinated or who decline to provide information about their vaccination status must show proof of a negative COVID-19 test performed within the last 3 days and must wear a mask inside the buildings.
- Contractors working outdoors on National Forest System lands do not need to show proof of a negative COVID-19 test and need to wear a mask only if they cannot physically distance from federal employees.

105. Does the EO apply to procurement contracts?

Yes, if they are for services or construction, and they are at or above the SAT.



106. Are task orders subject to the EO?

Yes, if new task orders issued after October 15, 2021, are above the SAT or if the task order is being issued under a base contract with an estimated value of over \$250,000 and performance is being extended or an option is being exercised under the base contract.

107. Are cooperative agreements covered by the EO?

Yes, they are covered if they exceed the SAT of \$250,000. Examples of types of cooperative agreements that are covered by the EO include:

- Cooperative research and development agreements (unless the work is performed entirely outside the United States and its outlying areas)
- Cost reimbursable agreements
- **Agriculture Conservation Experienced Services (ACES)**

108. Are fixed amount awards and cooperative agreements that involve federal financial assistance and that do not have any federal involvement in their execution subject to the EO?

No. These agreements are either grants or essentially grants even if not labelled properly as such, which are exempt from the EO.

109. How is the SAT determined for a cooperative agreement: based on just the agency's contribution, or the total contribution from the agency and the cooperator?

Because cooperative agreements are covered as service contracts for the federal government, only the agency's contribution should be considered in determining whether the agreement is above the SAT.

110. Should the SAT be applied per transaction or cumulatively? Cooperative agreements often start below the SAT threshold, with funding added throughout the term of the agreement, as it becomes available.

Because the EO governs new instruments, not existing instruments, the applicability of the EO should be determined only at the time the instrument is executed or extended or an option is exercised. In addition, it is not clear that the agency would have the authority to amend an existing instrument to add the clause. Splitting a cooperative agreement so that the initial Forest Service contribution is at or below the SAT, but an extension would not be, or to avoid application of the EO to either a new cooperative agreement or extension of an existing agreement, both of which individually would be at or below the SAT, but cumulatively would exceed it, could raise fiscal law concerns as to whether the entire agency's contribution should have been obligated in the first year. To avoid these fiscal law concerns, splitting cooperative agreements to avoid application of the EO should be avoided.



111. Will applicability of the SAT be affected where a single cooperator may work with the agency in multiple locations and have a variety of funding levels for each project? For example, what if a cooperator has multiple agreements in their portfolio, but the federal contribution to each ranges from \$0 to \$1 million or more? If applicability of the SAT is determined by project, the agency could have projects taking place side by side with the same cooperator and have the mandate in effect for one transaction, but not another.

Applicability of the EO should be determined for each cooperative agreement. The possibility of a cooperator having multiple projects with different vaccination requirements applying inconsistently across its workforce is a matter of conjecture.

112. Does the EO apply to agreements with an internationally registered cooperator where work is performed in the United States?

Yes. The EO applies to contracts and contract-like instruments involving work performed in the United States. Contracts and contract-like instruments involving work performed outside the United States are exempt. Please see clauses in the attachments for the definition of the "United States."

113. Are agreements with members of federal advisory committees subject to the EO?

No. Since members of federal advisory committees are not paid, their agreements fall below the SAT of \$250,000. However, members of a federal advisory committee who are appointed as special government employees (SGEs) may be treated as federal employees. Further guidance on any vaccination requirements for SGEs is forthcoming.

114. Are material transfer agreements and non-disclosure agreements subject to the EO?

No. They do not involve funding and are therefore exempt.

115. What requirements apply to individuals working with the Department on agreements that are under the \$250,000 threshold

For contract-like instruments under the \$250,000 threshold, individuals must follow the rules for visitors to USDA facilities and property.