

Biden Administration Clarifies That Government Will Not Enforce Federal Contractor COVID-19 Vaccine Mandate

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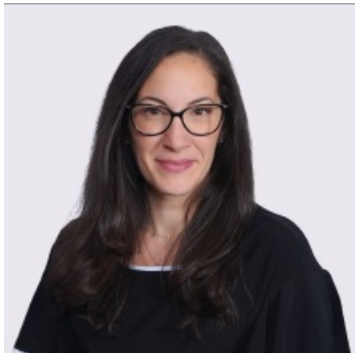
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In a statement on its [website](#), the Safer Federal Workforce Task Force has indicated that, until further notice, the government will not enforce any part (not just the COVID-19 vaccine mandate portion) of [Executive Order 14042](#) (EO 14042).

Court Overturned Injunction

On August 26, 2022, the U.S. Court of Appeals for the Eleventh Circuit published its [decision overturning the nationwide injunction](#) against the federal contractor COVID-19 vaccine mandate, but leaving the injunction in place for the plaintiff parties. It was initially unclear whether or how the federal government planned to enforce the vaccine mandate for contractors or jurisdictions that were not covered by this narrowed injunction or some other injunction.

State of Existing Injunctions

Currently, the vaccine mandate portion of EO 14042 is enjoined by a patchwork of injunctions covering all or a portion of federal contracts in 25 states. These include the following:

- *Any contracts within the following states:* Alaska, Arizona, Arkansas, Florida, Iowa, Kentucky, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, South Dakota, Tennessee, and Wyoming;
- *Contracts between the following states themselves (and their agencies) and the federal government (i.e., not companies located or contracts performed within those states):* Alabama, Georgia, Idaho, Indiana, Kansas, Louisiana, Mississippi, South Carolina, Utah, and West Virginia; and
- *Others:*
 - Any business that is domiciled or headquartered in Arizona; and
 - Nationwide – Any contract that received bids from:
 - Any member of the trade association Associated Builders and Contractors (ABC); or
 - The states of Georgia, Alabama, Idaho, Kansas, South Carolina, Utah, or West Virginia.

Updated Safer Federal Workforce Guidance

The Safer Federal Workforce Task Force has updated its website for federal contractors. The updated website states that the federal government “will take no action to implement or enforce [EO] 14042.” It further stated that, for existing contracts containing a “clause implementing requirements of [EO] 14042, the Government will take no action to enforce the clause.”

This guidance was not limited to just the *vaccine mandate portion* of EO 14042, which had been the subject of the injunctions. Rather, the guidance stated that the federal government would not attempt to implement or enforce *EO 14042*. EO 14042 (and the [Safer Federal Workforce Task Force guidance](#) issued pursuant to EO 14042) included other COVID-19 workplace safety protocols, such as masking and physical distancing requirements at contractors' workplaces, and a requirement that contractors designate a person responsible for coordinating COVID-19 safety efforts at the contractors' workplaces. Accordingly, it appears that the federal government will no longer require contractors' employees to wear masks at contractors' worksites (although employees may still be required to wear masks to enter certain federal facilities).

We will provide updates on any major developments related to EO 14042. If you have any questions about requirements for federal contractors, please contact any of the authors or the Jackson Lewis attorneys with whom you regularly work.

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