



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF FINANCE AND OPERATIONS

DATE: December 10, 2021

TO: Department of Education Contractors

FROM: Phillip R. Juengst
Deputy Assistant Secretary for Acquisition and Grants Administration
Senior Procurement Executive

SUBJECT: Update on the Implementation of Executive Order (EO) 14042 (Ensuring Adequate COVID Safety Protocols for Federal Contractors)

On December 7th, a Federal District Court issued a temporary injunction suspending the enforcement of provisions of Executive Order 14042 (“EO 140142”) in all fifty of the States; the District of Columbia; the commonwealths of Puerto Rico and the Northern Mariana Islands; American territories; and the outlying areas of the United States (hereafter, “Excluded State(s) and Outlying Area(s)”). A current list of Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>. As a result of this injunction, absent further written notice, the U.S Department of Education (the “Department”) advises the following:

- For contracts or contract-like instruments (“Contract(s)”) that include Federal Acquisition Regulation (“FAR”) clause 52.223-99, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (the “Clause”), implementing requirements of EO 14042, the Department will take no action to enforce the Clause where the place of performance identified in the Contract is in an Excluded State or Outlying Area.
- For Contracts that include the Clause where the place of performance is not in an Excluded State or Outlying Area, the Department will enforce the Clause. Except, the Department will take no action to enforce the Clause for contractor employees who perform substantial work on or in connection with the Contract in an Excluded State or Outlying Area, or at a contractor workplace located in an Excluded State or Outlying Area.
- For Contracts that do not contain the Clause, the Department will not attempt to add the Clause to any Contract where the place of performance identified in the Contract is in an Excluded State or Outlying Area.

This injunction does not impact the building entrance requirements for Federal facilities that went into effect on Monday, November 22, 2021. Federal contractors reporting on-site to a Department facility must complete the OMB-approved [Certification of Vaccination Form](#) (the “Certification Form”) and attest to their vaccination status prior to accessing the facility. Contractors who are not fully vaccinated, or who decline to provide their vaccination status on

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the [Certification Form](#), must present their proof of a negative COVID-19 test from within 3 calendar days prior to the date on which they seek to enter a Department facility (collectively referred to as “Documentation”). Contractors must bring the Documentation with them and be prepared to present it to building security and/or front desk staff (“Department Personnel”) prior to accessing the facility.

The Department will not collect the Documentation; however, the contractor should keep the Documentation with them at all times while in the Department facility and be prepared to show the Documentation to Department Personnel, if requested.