



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION
AND SUSTAINMENT

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Implementation of Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in Other Transaction Agreements

This memorandum implements the requirements of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021, which directs agencies to include a clause in certain contracts and contract-like instruments to ensure contractors comply with all guidance for contractor and subcontractor workplace locations. This guidance was published by the Safer Federal Workforce Task Force, and is available at: <https://www.saferfederalworkforce.gov/contractors/>. Class Deviation 2021-O0009 promulgated clause 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, for use in Federal Acquisition Regulations-based contracts.

Effective immediately, agreements officers shall insert the attached clause, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the following Other Transaction Agreements and modifications thereof that are for services (including research, development, and/or prototyping) performed in whole or in part within the United States or its outlying areas:

- Solicitations issued on or after October 15, 2021, and agreements awarded pursuant to those solicitations, that are expected to exceed \$250,000.
- Agreements awarded on or after November 14, 2021, from solicitations issued before October 15, 2021, that exceed \$250,000.
- All extensions or renewals exceeding \$250,000 issued on or after October 15, 2021.
- Award of new work executed on after November 14, 2021, exceeding \$250,000, and within the existing ceiling and period of performance of an agreement irrespective of when the agreement was awarded.
- All options exercised, on or after October 15, 2021, on agreements that exceed \$250,000.

Agreements officers may make modifications to the clause to reflect the characterization of the parties to the agreement if terms other than “contractor” and “subcontractor” are used.

In accordance with the Safer Federal Workforce Task Force Guidance, agreements officers may insert the clause in—

- Solicitations issued prior to October 15, 2021;
- Agreements awarded before November 14, 2021, resulting from solicitations issued before October 15, 2021;
- Extensions or renewals, or award of new work within the existing ceiling and period of performance of the agreement, that are valued at or below \$250,000; and
- Agreements for the manufacturing of products.

When modifying existing agreements, agreements officers shall use a bilateral modification to incorporate the attached clause.

This guidance remains in effect until rescinded. Direct any comments or questions to the Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, Contract Policy, at osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachment:
As stated

Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors

Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors

As prescribed in Principal Director, DPC memorandum of October 8, 2021, Implementation of Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in Other Transaction Agreements, use the following clause:

ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021)

(a) *Definition.* As used in this clause –

United States or its outlying areas means—

- (1) The fifty States;
 - (2) The District of Columbia;
 - (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;
 - (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and
 - (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.
- (b) *Authority.* This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the *Federal Register* on September 14, 2021, 86 FR 50985).
- (c) *Compliance.* The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this agreement, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.
- (d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed \$250,000 and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of clause)