



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

Effective immediately, this memorandum revises and supersedes the Defense Pricing and Contracting memorandum on the same subject, dated on October 8, 2021. This revision implements the requirements of a preliminary injunction issued by the United States District Court for the Southern District of Georgia on December 7, 2021, enjoining implementation of the provisions of Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, in the United States and its territories. This revision also implements the requirements of the preliminary injunction issued by the United States District Court for the Eastern District of Kentucky on November 30, 2021, enjoining the implementation of E.O. 14042's provisions in Kentucky, Ohio, and Tennessee.

Therefore, effective immediately, to ensure compliance with the preliminary injunctions, agreements officers shall not enforce the attached clause, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors in Other Transaction Agreements. Agreements officers shall not include this clause in new solicitations, and shall not enforce the requirements of this clause in existing other transaction agreements, and modifications thereof, that are for services (including research, development, and/or prototyping).

This memorandum remains in effect until further notice. Please direct any comments or questions to Defense Pricing and Contracting, Contract Policy, at [osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil](mailto: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**

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)