

Subj: UPDATE - SUMMARY OF COVID-19 VACCINATION REQUIREMENTS FOR NAF CONTRACTS, CONTRACTOR PERSONNEL, AND OTHER NON-DOD INDIVIDUALS CONDUCTING BUSINESS WITH MCCS

- Ref: (a) Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dtd 9 Sep 21
(b) Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors dtd 11 Nov 21
(c) USD P&R Memo, Force Health Protection Guidance (Supplement 23) Revision 1, Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification, dtd 18 Oct 21
(d) DON Guidance, Mandatory Coronavirus Disease 2019 Vaccination of Department of Navy Civilian Employees, dtd 5 Nov 21

Encl (1) Description of “covered contracts”

1. Purpose. Updates and replaces the 23 Nov 21 memorandum of the same Subject title with changes related to NAF contracts. This memorandum provides Marine Corps Community Services (MCCS) a summary of the COVID-19 vaccination requirements, in effect on date of this memorandum, for Non-Appropriated Fund (NAF) contracts, and contractor personnel or other non-DoD individuals who require physical access to an installation facility.

QUALIFICATION STATEMENT: COVID-19 guidance remains fluid. The current listing of references may change and additional guidance concerning contractors and non-DoD individuals may be published. Changes to references or guidance may impact information in this memo.

2. Background

a. In general, it may be helpful to think of the above requirements affecting three distinct categories:

(1) NAF covered contracts (hereinafter “Covered Contracts”). Encl (1) provides description;

(2) Contractor personnel issued a DoD credential (e.g., Common Access Card) that affords the individual recurring access to DON facilities (hereinafter “Contractor Personnel”); and

(3) Non-DoD individuals requiring physical access to DON facilities seeking or conducting business with MCCS (hereinafter “Official Onsite Visitors”). Official Onsite Visitors include individuals seeking one time or recurring access, but do not possess a DoD credential. Official Onsite Visitors may include Contractor Personnel who do not meet requirements of (1) and (2) above, and include individuals who are not under a Covered Contract, but are seeking or

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conducting non-contracted business with MCCS inside installation facilities (e.g., commercial sponsors, educational institution personnel, and vendors).

b. Per ref (c) and (d), the vaccination requirements found in the references do not apply to individuals receiving ad hoc access to USMC facilities (e.g., delivery personnel when services are not a requirement of a NAF contract); to individuals accessing DON facilities unrelated to the performance of official MCCS business; or to individuals accessing DON facilities to receive a public benefit (e.g., patrons for commissary; exchange; air show; or Morale, Welfare, and Recreation resources).

c. All non-DoD individuals, regardless of category noted in para 2a, or exclusions noted in para 2b, must comply with DoD and DON workplace safety requirements applicable while on military installations (e.g., wearing appropriate face masks properly).

3. Discussion

a. NAF Covered Contracts

(1) Ref (a) directed federal executive departments and agencies, including MCCS/MCX, to include a contract clause requiring “covered contractors” and their subcontractors, for the duration of the contract, to comply with all guidance for workplace locations published by the Task Force and approved by Office of Management and Budget (OMB). MRB disseminated a NAF contract clause to the NAF Regional Procurement Offices to meet this requirement. On 7 Dec 21, a federal court issued a nationwide suspension of the requirements found in ref (a) and (b).

(2) Subsequent to the 7 Dec 21 suspension, OMB issued guidance on implementing requirements of Executive Order (E.O.) 14042 while ensuring compliance with applicable court orders and injunctions, including those that are preliminary and may be supplemented, modified, or vacated, depending on the course of ongoing litigation. **Until further notice, MCCS must not take action to implement the required contract clause or enforce the clause on covered contracts.** This means that contractors will continue to be eligible for new contracts, new orders, options, and extensions even if they have not agreed to follow or accept the clause. Currently, the suspension is effective in all fifty States, District of Columbia, and the commonwealths and territories of the United States.

(3) For existing NAF contracts or contract-like instruments (hereinafter “contracts”) that already contain a clause implementing requirements of E.O., contracting personnel must not take action to enforce or confirm compliance. There is no requirement to modify a contract to rescind the clause.

b. Contractor personnel and Official Onsite Visitors (collectively referred to as “non-DoD individuals”)

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(1) **The court-ordered suspension does not apply to non-DoD individuals seeking or requiring access to DON Facilities.** DoD, DON, and installation COVID-19 workplace safety protocols remain effect. Per ref (c), contractor personnel and Official Onsite Visitors must complete DD Form 3150, "Contractor and Visitor Certification of Vaccination," maintain a current completed DD Form 3150, and show it to authorized DoD personnel upon request. If fully vaccinated is marked on the DD Form 3150, NAF contractor personnel and Official Onsite Visitors must show acceptable vaccination documentation upon request.

(2) Per section 6 of ref (d), acceptable vaccination documentation for non-DoD individuals seeking access to DON facilities includes the following:

- *Record of immunization from a health care provider or pharmacy including employee's name;*
 - *COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination;*
 - *Immunization records from a public health or state immunization information system;*
- and
- *Any other official documentation containing required data points.*

MCCS personnel must not retain a copy of the vaccination documentation.

(3) Non-DoD individuals not fully vaccinated against COVID-19 because (i) they are not performing under a covered NAF contract that requires COVID-19 vaccination, (ii) due to a legally required accommodation, or (iii) decline to attest to their COVID-19 vaccination status, must provide proof of a negative COVID-19 test in order to gain access to DON facilities. Non-DoD individuals who are unvaccinated, or who decline to volunteer their vaccination status, must show an electronic or paper copy of negative results from a COVID-19 test, administered no earlier than three (3) days prior to their visit.

(4) Access to DON Facilities will be denied to Non-DoD individuals who refuse/fail to complete the DD Form 3150, refuse to show a completed DD Form 3150 or acceptable vaccination documentation (if attesting to being fully vaccinated), or, if applicable, refuse or are unable to show a negative COVID- 19 test result.

4. Questions on COVID-19 vaccination requirements for non-DoD individuals doing business with MCCS, by contract or not, should be directed to the supporting MCCS Counsel or other installation designated point of contact. DON guidance on contract employees is pending.

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Per Section 5 of ref (a), excerpt below for reference, “covered contracts” include NAF contracts meeting the following requirements:

Sec. 5. Applicability.

(a) This order shall apply to any new contract; new contract-like instrument; new solicitation for a contract or contract-like instrument; extension or renewal of an existing contract or contract-like instrument; and exercise of an option on an existing contract or contract-like instrument, if:

(i) it is a procurement contract or contract-like instrument for services, construction, or a leasehold interest in real property;

(ii) it is a contract or contract-like instrument for services covered by the Service Contract Act, 41 U.S.C. 6701 et seq.;

(iii) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 C.F.R. 4.133(b); or

(iv) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public;

(b) This order shall not apply to:

(i) grants;

(ii) contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), as amended;

(iii) contracts or subcontracts whose value is equal to or less than the simplified acquisition threshold, as that term is defined in section 2.101 of the Federal Acquisition Regulation;

(iv) employees who perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the Federal Acquisition Regulation; or

(v) subcontracts solely for the provision of products.

Encl (1)