

October 13, 2021

MEMORANDUM TO: SNC Suppliers, Consultants, and Visitors (“Contractor”)

FROM: Scott Whitehill
Vice President Supply Chain
Sierra Nevada Corporation

SUBJECT: Issuance, Guidance and Adherence to Executive Order 14042

The purpose of this memorandum is to provide information to the SNC Supply Base that are awarded contracts under the Federal Acquisition Regulation (FAR). As you now likely know, the USG is mandating that the employee populations of Federal contractors and subcontractors be vaccinated against COVID, barring certain exceptions for individuals and contractors. This information is for initial guidance when SNC incorporates the clause into solicitations, purchase orders and subcontracts to implement guidance issued by the Safer Federal Workforce Task Force (Task Force) pursuant to [Executive Order 14042](#) (“the Order”) should the requirement flow down.

This letter is not direction under any current or future contract. Instead, it is intended to set expectations for future awards, extensions, and option exercises.

Background

On September 24, 2021, the Task Force issued guidance to implement the Order, “[COVID- 19 Workplace Safety: Guidance for Federal Contractors and Subcontractors](#)”. The Task Force guidance requires:

- All covered contractor employees to be fully vaccinated for COVID-19 by December 8, 2021, except in limited circumstances where an employee is legally entitled to an accommodation;
- All individuals, including covered contractor employees and visitors, to comply with published Centers for Disease Control and Prevention guidance for masking and physical distancing at a covered contractor workplace, as discussed in the Task Force guidance; and
- Covered contractors to designate a person or persons to coordinate implementation of - and compliance with - the Task Force guidance and the required workplace safety protocols at covered contractor workplaces.

SNC Guidance

SNC intends to comply with all requirements of the clause, both as it applies to SNC and its supply chain. SNC expects its supply chain to meet USG requirements pertaining to employee

vaccinations. This will soon become a precondition for award of subcontracts, extensions of subcontracts and exercise of options.

Supply Management will follow the direction for use of the clause(s) set forth in any deviations issued by their respective Prime Contracts to be flowed down.

Importantly, compliance with these clauses requires action prior to subcontract award – it takes weeks to vaccinate a workforce and allow for the necessary time (2 weeks prior to Dec 8, 2021) to pass to ensure effectiveness of the vaccine.

1. Applicability and effective dates

Supply Management is to include clause 52.223-99, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, and/or DFARS 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009) in all solicitations, purchase orders and subcontracts for services, including construction, in accordance with the following:

- SNC contracts awarded on or after November 14, 2021 from solicitations issued before October 15, 2021 (this includes new orders awarded on or after November 14, 2021 from solicitations issued before October 15, 2021 under existing indefinite-delivery contracts);
- SNC contracts issued solicitations on or after October 15 and SNC contracts awarded pursuant to those solicitations (this includes new solicitations issued on or after October 15 for orders awarded pursuant to those solicitations under existing indefinite-delivery contracts);
- Extensions or renewals of existing SNC contracts and orders awarded on or after October 15, 2021; and
- Options on existing SNC contracts and orders exercised on or after October 15, 2021.

In all other solicitations, subcontracts and purchase orders, Supply Management will only flow down clause 52.223-99, “Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors” and/or DFARS 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009), as dictated by our customer.

2. Exclusions. The clause shall not be applied to:

- Subcontracts and Purchase Orders with Indian Tribes under the Indian Self-Determination and Education Assistance Act (the exclusion would not apply to a procurement contract or subcontract under the FAR to an Indian-owned or tribally-owned business entity); or
- Solicitations and awards, if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work only outside the U.S. or its outlying areas).
- Subcontracts and Purchase Orders whose value is equal to or less than the simplified acquisition threshold, as defined in section 2.101 of the FAR.

3. **Length of deviation**

Deviations are effective until the FAR is amended or the Prime Contract otherwise rescinds the deviation.

In order to continue operations, SNC will be complying with these regulations and contractual provisions in order to continue our work and to acquire new work. If you have concerns or questions, please consult the following reference:

<https://www.saferfederalworkforce.gov/contractors/>

or email SupplyChain.COVID@sncorp.com

Attachments:

- A) FAR 52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION)**
- B) DFARS 252.223-7999 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009)**

FAR Deviation Clause
Executive Order 14042
Ensuring Adequate COVID Safety Protocols for Federal Contractors

Baseline is FAC 2021-07, published in the Federal Register on August 11, 2021.

September 24, 2021

52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION)

(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 contract, 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 the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of clause)]

DFARS Deviation Clause

**Executive Order 14042
Ensuring Adequate COVID Safety Protocols for Federal Contractors**

252.223-7999 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009)

As prescribed in Class Deviation 2021-O0009, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, use the following clause:

ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (DEVIATION 2021-O0009) (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
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(End of clause)