



National Aeronautics and Space Administration

Mary W. Jackson NASA Headquarters
Washington, DC 20546-0001

December 2, 2021

MEMORANDUM FOR NASA CONTRACTOR COMMUNITY

SUBJECT: Update on NASA Implementation of Executive Order 14042 on Ensuring Adequate COVID Safety Protocols for Federal Contractors

On November 30, 2021, the U.S. District Court for the Eastern District of Kentucky (hereinafter “Court”) temporarily enjoined implementation of provisions of Executive Order 14042 (hereinafter “E.O.”) on Ensuring Adequate COVID Safety Protocols for Federal Contractors, in Kentucky, Ohio, and Tennessee. In accordance with direction from the Office of Management and Budget, NASA provides the following guidance to ensure compliance with the Court order:

Contractors shall notify their cognizant NASA contracting officer in writing if contract performance (including subcontracts) occurs at least in part in Kentucky, Ohio, or Tennessee.

For existing contracts and contract-like instruments, including subcontracts (hereinafter “contracts”), that include the NASA deviated Federal Acquisition Regulation (FAR) clause 52.223-99, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (hereinafter “the clause”) that are performed at least in part in Kentucky, Ohio, or Tennessee, NASA shall take no action to enforce the clause, absent further notice from the agency.

For existing contracts, including subcontracts, that do not include the clause and have performance at least in part in Kentucky, Ohio, or Tennessee, NASA will not pursue including the clause via modification.

For existing solicitations that include the clause, NASA will amend the solicitation to indicate that the clause will not be enforced in contracts subject to the Court order.

For future solicitations that include the clause, NASA will indicate in the solicitation that the clause will not be enforced in contracts subject to the Court order.

As litigation pertaining to the E.O. continues and agencies implement the Court order, additional or amended guidance may be issued to address new legal developments, resolve logistical difficulties, or mitigate any disruptions to the procurement process.

The clause remains in effect for any contract that includes the clause and does not have any performance in Kentucky, Ohio, or Tennessee.

I appreciate your cooperation and continued commitment to safety and the NASA mission.

Please direct any other questions concerning this letter to your cognizant NASA contracting officer.

Karla Smith Jackson
Assistant Administrator for Procurement