

# FREQUENTLY ASKED QUESTIONS (FAQs) COVID-19 VACCINATIONS OF COUNTY CONTRACTOR PERSONNEL

(Updated March 13, 2022)

*Please note: Certain Personnel for Contractors of the Department of Health Services (DHS) and Department of Public Health (DPH) must be fully vaccinated. DPH and DHS cannot accommodate the weekly testing option for individuals with religious or medical exemptions. Please contact your DHS or DPH contract manager for details concerning which Personnel must be vaccinated and additional information. Guidance on these policies is not contained herein.*

On December 7, 2021, the County of Los Angeles (“County”) Board of Supervisors adopted an urgency ordinance as contained in Chapter 2.212, COVID-19 Vaccinations of County Contractor Personnel of County Code Title 2 – Administration, Division 4 (“Ordinance”) requiring all County Contractor Personnel who (1) interact in person with County employees, interns, volunteers, and commissioners, (2) work on County owned or controlled property while performing services under a County Contract, and/or (3) come into contact with the public while performing services under a contract with the County, must either:

- Provide one-time verification that they are fully vaccinated; OR
- If the Contractor Personnel has been granted a valid medical or sincerely held religious belief exemption by its employer, provide a weekly certification through the Contractor of a negative polymerase chain reaction (“PCR”) or antigen test as evidence that they are in compliance with the mandate.

The County’s Ordinance requirements do not replace any applicable federal, state, local and departmental rules, regulations, requirements and laws that may be applicable to Contractors. To assist Contractors as they implement the requirements of the Ordinance, please refer to the frequently asked questions (FAQs) and answers below. This document will be updated periodically as additional questions arise.

## **1. Where can I find a copy of the Ordinance?**

A copy of the Ordinance can be found here: [164148.pdf \(lacounty.gov\)](#)

## **2. Which Contractor Personnel are covered by the Ordinance?**

The Ordinance covers Contractor Personnel who:

- (1) Interact in person with County employees, interns, volunteers, and commissioners (“County Workforce Members”);
- (2) Work on County owned or controlled property while performing services under a Contract with the County; and/or
- (3) Come into contact with the public while performing services under a Contract with the County.

"Contractor Personnel" means all employees of a Contractor, and persons working on its behalf on a Contract with the County, including but not limited to, subcontractors of any tier, who fall into the above three (3) categories.

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While the Ordinance is effective immediately, all Contractors and their Contractor Personnel who meet the criteria above will have until January 1, 2022, to comply with the Ordinance. If a Contractor takes steps towards compliance by getting their Contractor Personnel vaccinated, the County department the Contractor has a contract with will work with them to allow them to get to full compliance with the Ordinance after January 1, 2022.

#### **3. Does the Ordinance only apply to Contractor Personnel who fall within the three categories in Question #2, or are all employees and staff of a Contractor and its subcontractors covered (e.g. back office, administrative, staff who do not work on a Contract with the County, etc.)?**

Only the employees and subcontractors who fall into one of the three categories in Question #2 are covered by the Ordinance. Contractor employees who provide services exclusively to customers other than the contracted services to the County under the Contract with the County, or exclusively support the general operations of the Contractor and do not fall into the three categories in Question #2, are not covered by the Ordinance. However, given the importance of vaccinations in our fight against COVID-19, the County recommends that it's Contractors consider implementation of a vaccination policy for all its employees.

#### **4. For the purpose of this Ordinance, how are you defining "Contractor" and "Contract"?**

For the purposes of this Ordinance, "Contractor" means any individual or entity who enters into a Contract with the County to provide goods or services but does not include those who solely sell commodities that are delivered to the County via common carrier with little to no in-person interaction with County Workforce Members or the public, or commodities where associated services are de minimis in scope.

"Contract" means any agreement between any individual or entity, and the County for the sale of goods and/or performance of services to the County, and includes construction agreements, concession agreements, delegated authority agreements, lease agreements, licenses, master agreements, purchase orders, subrecipient agreements, work orders, or any other type of agreement, regardless of nomenclature, where some portions of services are provided to the County pursuant to the agreement.

#### **5. Does this Ordinance apply to the clients served by the County or its Contractors?**

No. This Ordinance is specific to County Contractors and their Contractor Personnel, as defined above. County Contractors should integrate the requirements of this Ordinance into their own COVID-19 return to work and health and safety policies.

#### **6. Does this Ordinance cover interns and volunteers of Contractors?**

Yes, interns, aides, volunteers, and fellows of Contractors that work directly with members of the public, including service recipients, or are on County owned or controlled property, or interact in person with County employees, are covered by this Ordinance.

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### **7. Does this Ordinance extend to subcontractors?**

Yes, this Ordinance extends to subcontractors of any tier to a County Contractor who has a Contract covered by the Ordinance, including building security, food service employees, and construction subcontractors.

### **8. Does this Ordinance apply to small dollar and short-term vendors?**

Yes. Contractors should check for Contractor Personnel vaccine or negative test proof prior to their reporting for work under the Contract with the County. For example, a photographer who comes to the office for half a day would need to show proof of full vaccination or a negative test to their employer (County Contractor) and the Contractor must certify to the County that this is the case.

### **9. Does this apply to people who come on-site (e.g., vendors, home health aides) that do not have a contract with the County?**

This Ordinance does not apply to visitors that have no contractual relationship with the County. However, other federal, state, local and departmental orders, rules, requirements and regulations may apply.

### **10. What if the Contract with the County uses Contractor Personnel that are covered by a Collective Bargaining Agreement?**

Contractors should first notify the County that the applicable contract includes Contractor Personnel that are covered by a collective bargaining agreement. Contractors should then undertake all required collective bargaining requirements, if any, before imposing the requirements of the Ordinance, and shall notify County of any actions taken.

### **11. Do Contractor Personnel interacting with the public have to wear a face covering, even if fully vaccinated?**

Yes, Contractor Personnel interacting with members of the public, County Workforce Members, other contractors including covered Contractors and their subcontractors and staff -- must wear a face covering, even if their Contractor has certified proof of full vaccination.

### **12. Will there be any medical or religious accommodations or exemptions for this Ordinance?**

Yes, the Contractor or employer of record for the Contractor Personnel will have to comply with any medical or religious exemptions procedures as required by law. If the Contractor or employer of record has determined that Contractor Personnel has met the requirements to be granted a valid medical or sincerely held religious belief exemption, the Contractor must certify that the unvaccinated exempt Contractor Personnel has tested negative weekly and the Contractor Personnel must mask and engage in proper physical distancing. If Contractor's Personnel does not want to undergo weekly testing, they cannot provide services under the Contract, or they can get fully vaccinated.

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#### **13. Which vaccines count? What if the Contractor has been vaccinated with a non-FDA approved vaccine?**

Only Food and Drug Administration (FDA) and World Health Organization (WHO) approved vaccines will be accepted. FDA vaccines are readily available in the United States. As of the date of this FAQ, FDA-authorized vaccines include the Pfizer, Moderna, and Johnson & Johnson vaccines.

#### **14. If Contractor Personnel get their first dose but are not fully vaccinated yet, will they be required to provide weekly test results?**

Yes, Contractor Personnel who have received at least one dose of a vaccine that requires two doses (e.g., Moderna and Pfizer) will be required to undergo weekly testing until fully vaccinated.

Contractor Personnel who have received one dose of a single dose COVID-19 vaccine (e.g., Johnson and Johnson) will not need to submit proof of weekly negative test results.

#### **15. What counts as proof of vaccination?**

Contractor Personnel shall submit, using secure means, proof of vaccination directly to the Contractor.

Proof must be:

- An official CDC card or other official immunization card bearing the employee's name and date(s) of vaccine administration. The employer must see this document or a photograph of it;
- Documentation from a licensed medical provider; or
- A proof of vaccination issued by the State of California (e.g., the CDPH QR code).

Contractors should maintain a confidential record of the employees who have demonstrated proof of vaccination, pursuant to the Contractor's policies and procedures for safeguarding personal information.

#### **16. What if Contractor Personnel were vaccinated but lost their CDC vaccination card?**

Contractor Personnel who lost their CDC vaccination card should contact the medical provider where they got vaccinated to get an official record of vaccination.

#### **17. Where can people be vaccinated?**

Vaccination is free and convenient across the County. Convenient vaccination sites can be found via <http://www.publichealth.lacounty.gov/media/coronavirus/vaccine/index.htm>.

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#### **18. Can Contractor Personnel take time from their shift to get vaccinated?**

The Contractor should follow all relevant federal, state, and local laws and policies associated with time off for getting vaccinated. Please see the California Department of Industrial Relations website for Guide to COVID-19 Related Frequently Asked Questions:

<https://www.dir.ca.gov/dlse/COVID19resources/FAQs.html>

Please also see the U.S. Occupational Safety and Health Administration Emergency Temporary Standard for details:

<https://www.osha.gov/sites/default/files/publications/OSHA4162.pdf>

#### **19. Will Contractor Personnel who are seropositive – have antibodies – be able to opt out of vaccination or testing requirements?**

No. Most experts agree that vaccination provides additional protection from COVID-19, including the Delta variant, above and beyond the antibodies that a person may have as a result of prior infection. Contractors will **NOT** be exempt due to evidence of prior COVID-19 infection.

#### **20. For Contractor Personnel who have been granted a valid medical or sincerely held religious belief exemption by their employer and must undergo weekly testing, what tests qualify?**

Both PCR tests and antigen tests qualify for the County's requirement.

#### **21. When must a Contractor certify that its Contractor Personnel who was granted a valid medical or sincerely held religious belief exemption, has tested negative?**

For any unvaccinated Contractor Personnel that the employer has granted a valid medical or religious exemption, Contractor must ensure the person does not perform work on the Contract unless they received a prior negative COVID-19 PCR or antigen test within the preceding 72 hours of the start of the work week (unless the contracting County department requires otherwise).

#### **22. When must a COVID-19 test be taken for exempt Contractor Personnel?**

The test must be taken within a timeframe that allows for a negative test result to come back within the preceding 72 hours of the start of the work week for the exempt Contractor Personnel.

#### **23. Where can people find testing?**

The County and other health providers offer free COVID-19 testing in convenient locations across the County, but Contractors and their Contractor Personnel may opt to go to their trusted medical professionals as well.

There are many testing locations in the County, which can be found here:

<https://covid19.lacounty.gov/testing>

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#### **24. Who is responsible for paying for tests at non-County sites (to the extent it isn't covered)?**

Most providers across the County will attempt to bill insurance for test collection. While private providers may charge for testing or charge a co-pay, tests are widely available at no cost to individuals across dozens of County-sponsored test sites. All County residents are strongly encouraged to ask about associated costs before being tested.

#### **25. What happens if Contractor Personnel test positive?**

Contractor Personnel who test positive must follow the Public Health Emergency Isolation Order – Health Office Order for the Control of COVID-19, which can be found here: [http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO\\_Coronavirus\\_Blanket\\_Isolation.pdf](http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO_Coronavirus_Blanket_Isolation.pdf). Contractor Personnel who test positive must not report to a County work site, provide services to the public, or work alongside County Workforce Members until they have met the requirements set forth in the health order identified above.

#### **26. Will Contractors be expected to pay out of pocket for vaccine or test?**

Vaccines are widely available for free. Contractors should follow their own policies for testing costs. Please see the U.S. Occupational Safety and Health Administration Emergency Temporary Standard for details: <https://www.osha.gov/sites/default/files/publications/OSHA4162.pdf>

#### **27. Can Contractor Personnel take time from their shift to get tested?**

Contractors should develop their own policies and procedures with regards to testing. However, no additional funding will be provided associated with time off for testing. For Contractor employers that choose to allow employees to get tested on shift time, the Contractor may want to consider:

- Requiring employees to be tested at the beginning or end of their shift.
- Requiring employees for whom testing is already provided on-site due to pre-existing safety protocols, in places such as schools, shelters, and jails, to continue to use these services during their shift.
- Requiring employees to get tested in a place close to their home or work.
- Requiring employees to document time taken to seek testing.
- Requiring employees to provide adequate notice and request time off in advance to supervisors for testing.

Please see the U.S. Occupational Safety and Health Administration Emergency Temporary Standard for details: <https://www.osha.gov/sites/default/files/publications/OSHA4162.pdf>

In no case should testing time have a detrimental impact on operations or the services Contractor is required to provide under the Contract.

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#### **28. How will Contractors track compliance?**

Each Contractor must track compliance for their Contractor Personnel. Contractors are responsible for verifying individual vaccination status of each Contractor Personnel and monitoring compliance with weekly testing, face covering requirements, and physical distance requirements for those who have been granted a valid medical or sincerely held religious belief exemption. Contractors are subject to reviews for compliance by the County.

#### **29. How will the Ordinance be enforced for Contractors?**

All County Contractors with covered Contracts must submit the County's Certification of Compliance signed by the organization's authorized signatory or equivalent that they are complying with the County's requirements by sending it to their contracting County department and certify weekly if it has any exempt Contractor Personnel who will be testing. Contractors should update internal policies that reflect compliance with the Ordinance requirements. If Contractors are non-compliant, County departments will exercise any rights they may have under the contract.

#### **30. How should Contractors monitor compliance for subcontractors?**

Contractors are responsible for ensuring compliance by any of its subcontractors, of any tier. It is recommended that Contractors collect attestations and certifications, implement policies, and do further review as necessary for subcontractors.

#### **31. What documentation must Contractors keep on hand?**

Consistent with applicable privacy laws and regulations, Contractors must maintain records of proof of vaccination for its Contractor Personnel or exemption status for the document retention period set forth in the applicable Contract. If Contractor Personnel are exempt pursuant to a medical or sincerely held religious belief reason, the Contractor must also maintain records of the Contractor Personnel's testing results. The Contractor must provide access to such records to the County for audit purposes, when required by County.

#### **32. What if my business doesn't have any COVID-19 vaccination policies in place? What can I do?**

Resources for businesses to adopt COVID-19 vaccination policies are available at:

<https://doingbusiness.lacounty.gov/>

#### **33. What is the penalty? Will non-compliant Contractor Personnel be allowed to work on the Contract with the County?**

Contractors should not send non-compliant Contractor Personnel who do not meet the requirements of the Ordinance to work on the applicable Contract with the County. County departments will exercise any rights and remedies they have under the Contract, as well as legally and administratively.

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#### **34. Can the Vaccine Mandate Certification be electronically signed?**

Yes.

#### **35. Can contractors submit one Certification for all County contracts?**

Certifications can contain all departmental contracts, or be done individually, as designated by a department.

#### **36. If a contractor is scheduling their employees to get the first vaccine shot by end of 2021, how should contractors complete the Certification?**

The contractor can send a letter listing individuals who are in the process of getting vaccinated, thereafter, a weekly letter/certification is required indicating that these individuals tested negative. Contractors do not need to send actual test results for each employee, contractors only need to provide the County with the Certification listing the individuals by name indicating they have tested negative and are cleared to work for the week. Actual test results are confidential, due to PHI/PII data in it.

#### **37. Is the same certification form that is submitted for contractor compliance with the Ordinance also used for weekly certification for unvaccinated Contractor Personnel that have tested negative within 72 hours of starting their work week under the County Contract?**

Initially, if the Contractor has unvaccinated personnel, they should be choosing option two on the form and should list the names of the unvaccinated personnel that will need to test negative on a weekly basis. Since this is a weekly requirement for exempt Contractor Personnel or for those that are in process of getting fully vaccinated, weekly verifications are required and a weekly certification has been generated for this purpose. Contractors can find it here:

[http://file.lacounty.gov/SDSInter/isd/dbw/1118779\\_WeeklyComplianceNotice1\\_2022\\_fillable.pdf](http://file.lacounty.gov/SDSInter/isd/dbw/1118779_WeeklyComplianceNotice1_2022_fillable.pdf)

Identifying the Contractor Personnel initially in other ways, such as employee identification numbers, badge numbers, etc. cannot be accepted because the County is not able to identify who needs to be testing and send them back to the Contractor if weekly verifications have not been received.

#### **38. Does the 5<sup>th</sup> Circuit Court of Appeals ruling regarding mandatory vaccinations apply to Los Angeles County?**

No, the 5th Circuit decision does not apply to Los Angeles County. The 5<sup>th</sup> Circuit decision applies to actions taken by the Biden Administration as issued by the Occupational Safety & Health Administration and has no bearing on LA County.

#### **39. Are there health concerns with the current vaccines?**

FDA approved vaccines for COVID-19 are safe. The FDA has approved a number of COVID-19 vaccines. There are several vaccines to choose from, including J&J, Pfizer and Moderna. In addition, the FDA has



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approved a pill form of the Pfizer COVID-19 vaccine. For more vaccine information, please visit the County of Los Angeles Department of Public Health:

<http://publichealth.lacounty.gov/media/Coronavirus/vaccine/>

#### **40. What requirements should contractors follow when handling personal and private medical histories for their employees?**

As the employer of record, contractors should comply with all applicable legal privacy requirements for this type of information.

#### **41. What is the liability to the County and to contractors for making vaccinations a condition of employment?**

If Contractor Personnel work on a County Contract, and are either working with County workforce members, the public, or otherwise work on County owned or controlled property, they must be vaccinated or test weekly if they qualify for a valid medical or religious exemption. The County encourages all County contractors covered by the Ordinance to comply with the Ordinance requirements. If you need assistance or have further questions, please visit our Doing Business with the County website that has extensive information and resources available for contractors and their subcontractors at <https://doingbusiness.lacounty.gov/>.

#### **42. What form can a Contractor use to provide weekly certifications for Contractor Personnel who were granted a valid medical or religious exemption?**

The weekly certification to use can be found here:

[http://file.lacounty.gov/SDSInter/isd/dbw/1118779\\_WeeklyComplianceNotice1\\_2022\\_fillable.pdf](http://file.lacounty.gov/SDSInter/isd/dbw/1118779_WeeklyComplianceNotice1_2022_fillable.pdf)

#### **43. The U.S. Supreme Court enjoined the Biden Administration's efforts to enforce a vaccine-or-testing mandate for large employers, but allowed a limited mandate requiring health care workers at facilities receiving federal money to be vaccinated. Does that impact the County Ordinance in any way?**

No, it does not. The County Ordinance is still valid and effective and is not impacted by the recent U.S. Supreme Court decision. Contractors should continue to comply with the requirements of the County Ordinance.

#### **44. What services provided by Contractors qualifies as de minimis, so that the County Ordinance does not apply to the Contractor's services in a County Contract?**

The County Ordinance does not apply to Contractors whose contracted services are de minimis in scope. As such, if the interactions with County Workforce Members or the public are non-existent or so minimal in duration over a given day, then such interactions result in the services being de minimis in scope and the Ordinance does not apply to such Contractors. This would be the case for street sweepers and residential/commercial trash haulers who do not leave their vehicles or engage with the public or County Workforce Members while performing their duties. A Contractor who believes its services are de minimis in scope, should discuss with and receive confirmation from their County Departments that the Ordinance does not apply to Contractor. As guidance to Contractors and County Departments, the Department of

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Public Health has stated that a close contact can occur with someone who has COVID-19 if they are within 6 feet of another for a total of 15 minutes or more over a 24-hour period. As such, if it is possible that Contractor Personnel may engage with County Workforce Members and/or the public for 15 minutes or more over any work day, then those services are **not** de minimis in scope and the Contractor is covered by the County Ordinance.

**45. With respect to a County Contract for construction, is there an exemplar form the prime Contractor can use to confirm compliance of the Ordinance with its subcontractors and that the prime Contractor has received and reviewed these certifications?**

Yes. Prime Contractors with County Contract(s) for construction can use a more tailored version of the Certification of Compliance (Prime Contractor) on Construction Contracts, and have their subcontractors turn into the prime Contractor a Certification of Compliance (Subcontractor) on Construction Contracts. Both forms can be found here:

[https://file.lacounty.gov/SDSInter/isd/dbw/1116608\\_Vaccine\\_Mandate\\_Notice\\_Contractors.docx](https://file.lacounty.gov/SDSInter/isd/dbw/1116608_Vaccine_Mandate_Notice_Contractors.docx)

**46. Does the Ordinance apply to leases and real property County Contracts?**

Yes, depending on what type of contract it is and whether services are being provided to the County. For example, if County is a tenant and the lease agreement requires the lessor to provide housekeeping, cleaning, or landscaping services to the County, then the Ordinance will apply to lessor's personnel (i.e. Contractor Personnel) who (1) interact with County Workforce Members; (2) work on County owned or controlled property while performing services under a Contract with the County; and/or (3) come into contact with the public while performing services under a Contract with the County. The same is true where the County is the lessor and the tenant is providing some type of service to or for the County, the Ordinance will apply to tenant's personnel (i.e. Contractor Personnel) under the same circumstances described above.