



## **Update: COVID-19 Vaccine and Testing Mandates**

October 28, 2021

Two White House actions aimed at increasing COVID-19 vaccination rates have the potential to impact NATA member businesses: an Executive Order directed at federal contractors and an impending OSHA ETS directed at private companies with 100 or more employees.

### **Federal Contractor COVID-19 Vaccine Mandate:**

- Requires companies holding a contract with a federal agency to mandate vaccination for their employees by December 8. There is NO option for weekly testing in lieu of vaccination.
- The White House has clarified that contractors do not need to take immediate action against unvaccinated employees by December 8; they may follow standard HR processes that include “education, counseling, accommodations, and then enforcement.”
- Contracts that fall under the Simplified Acquisition Threshold of \$250,000 are exempt from the executive order. Contracts related to manufacturing or provision of products may also be exempt.
- Government agencies bear the responsibility of modifying existing contracts to include the new vaccination requirement. Businesses holding a contract instrument with a federal agency should contact that agency to see if the agency plans to modify said contract.

### **OSHA ETS COVID-19 Vaccine or Weekly Testing Mandate:**

- The ETS has not been released, but it will require private companies with 100 or more employees to mandate either COVID-19 vaccination or weekly testing for employees.
- The 100-employee threshold includes both full and part-time workers at all locations. Companies whose payroll nears 100 employees should consider preparing for compliance.
- Employers must provide time off for vaccination and recovery time; it is not yet clear if employers will have to provide time off for testing.
- Although numerous states intend to challenge the ETS, businesses should still develop plans to comply, as courts often grant federal standards precedence over state.

NATA recommends that businesses with the potential to fall within the scope of either mandate work with a legal and/or human resource professional to develop a plan for compliance, keeping in mind that employee vaccine and testing records must remain confidential. As a first step, Alison Squicciarro of the Law Offices of Paul Lange suggests conducting an employee survey to determine the number of unvaccinated workers and need for accommodations. Learn more about how to prepare in NATA’s series of short, informative Real Talk Q&A videos at [www.youtube.com/nataaero](http://www.youtube.com/nataaero).