



STATE OF WASHINGTON
OFFICE OF GOVERNOR JAY INSLEE

PROCLAMATION 21-14, et seq.

COVID-19: GOVERNOR'S VACCINATION PROCLAMATION: CONTRACT MANAGEMENT TOOLS

DISCLAIMER. *This toolkit is meant to be a reference for private Washington employers implementing Proclamation 21-14, et seq. The state makes no representation that reliance on this toolkit will satisfy an employer's legal obligations or shield any employer from legal challenges. Every employment setting is unique, and you should carefully review your accommodation policies with legal counsel. In providing this toolkit, the state is not requiring its use by private employers; rather, it is intended for Washington state agencies and is offered for general informational purposes only. State contractors performing work on state property will be subject to the protocols described here.*

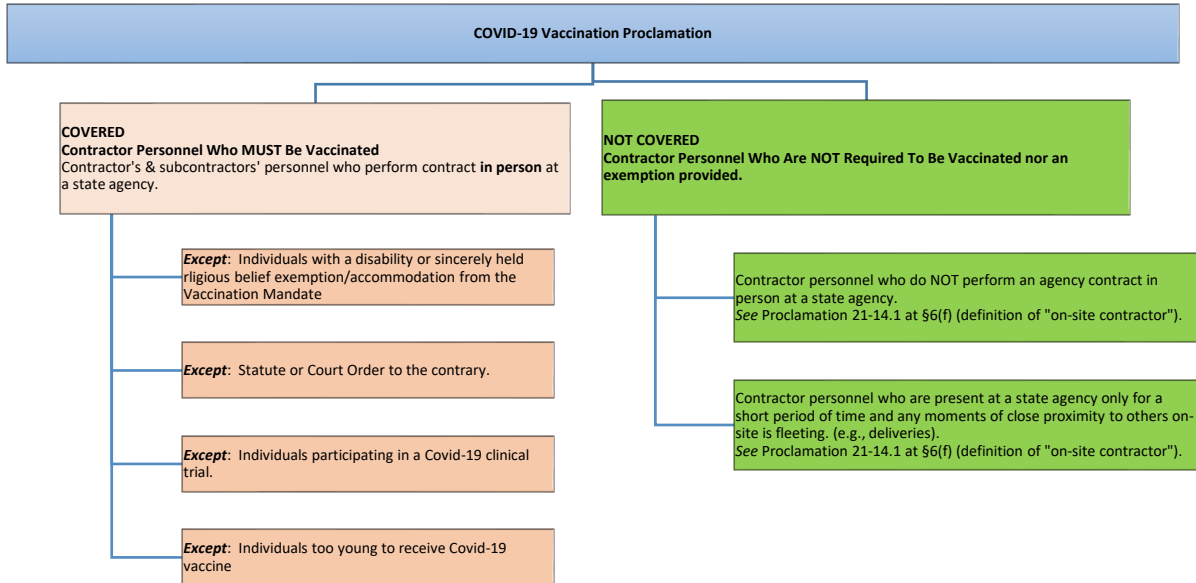
Dated August 31, 2021

EXECUTIVE SUMMARY

This document is divided into five sections. Section 1 provides a brief overview of the Proclamation by the Governor 21-14.1 Covid-19 Vaccination Requirement as it applies to state agency contracts for goods, services or public works services. Section 2 describes the two different vaccination verification approaches that the Proclamation authorizes state agencies to utilize. Section 3 provides a template for a Contractor notification letter for each of the two verification approaches. Section 4 sets forth example contractor certification provisions for each of the two verification approaches. Section 5 sets forth sample contract provisions for each of the two verification approaches.

SECTION 1: GOVERNOR'S COVID-19 VACCINATION PROCLAMATION & STATE AGENCY CONTRACTS

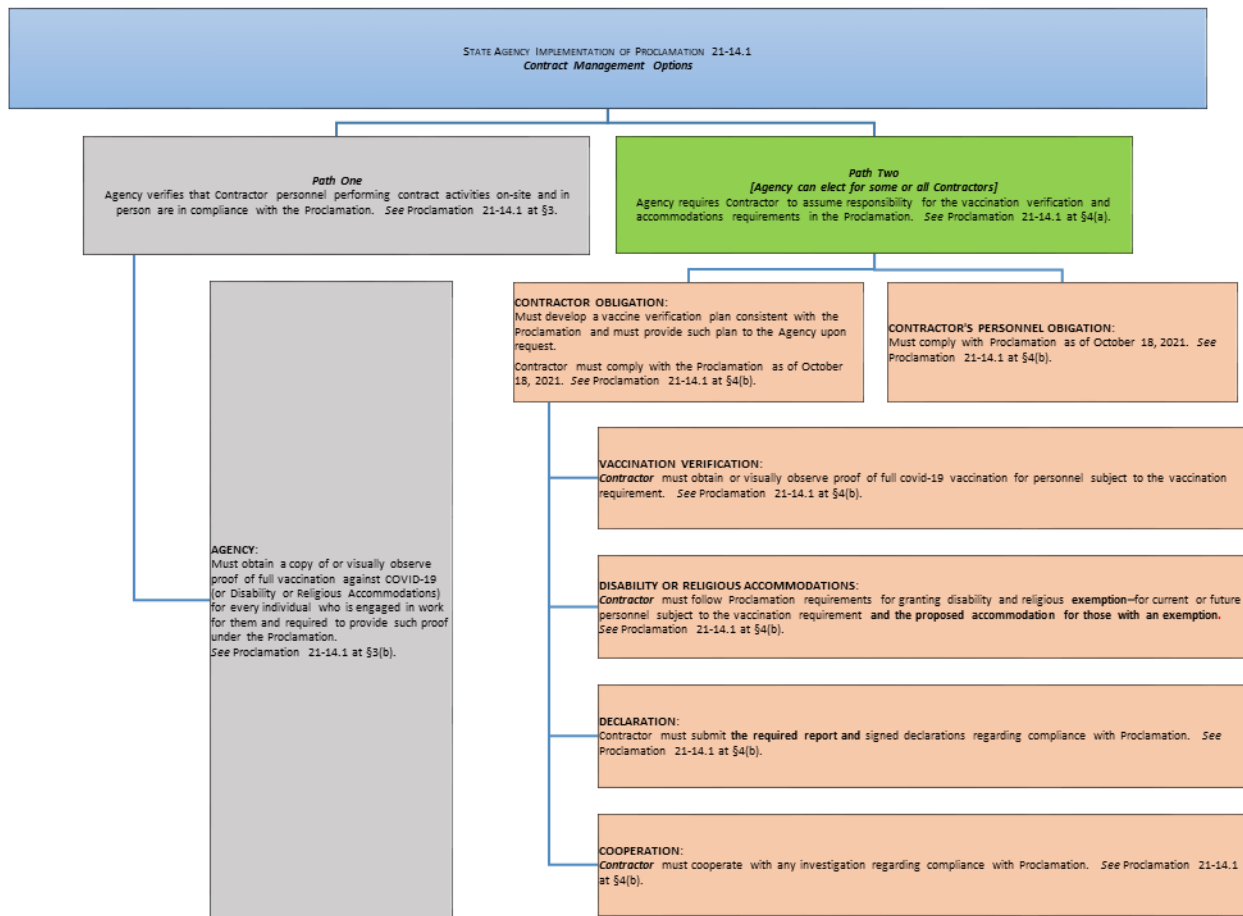
To reduce the spread of COVID-19, Washington state Governor Jay Inslee, pursuant to emergency powers authorized in [RCW 43.06.220](#), issued [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021), as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021) ("Proclamation"). The Proclamation requires contractors who have goods, services, or public works services contracts with a Washington state agency to ensure that their personnel (including subcontractors) who perform contract activities on-site comply with the COVID-19 vaccination requirements, by requiring such personnel to be fully vaccinated, unless properly exempted for disability or sincerely held religious beliefs, as set forth in the Proclamation.



Pursuant to statute, the Proclamation is a legal requirement, having the force and effect of law. Any person who willfully violates the Proclamation is guilty of a gross misdemeanor. See [RCW 43.06.220\(5\)](#).

SECTION 2: STATE AGENCY CONTRACT MANAGEMENT OBLIGATIONS PURSUANT TO THE PROCLAMATION

The Proclamation enables state agencies that contract for goods, services, or public works services in which the contract will be performed on-site to implement the Proclamation in either of two ways.



SECTION 3: CONTRACTOR NOTIFICATION – CURRENT CONTRACTS

Specific content of the notification will depend upon which implementation path the agency is utilizing for the particular contract. Appendix A to these instructions is a sample notification letter that includes language for either (A) Path One or (B) Path Two. Agencies should modify the notification letter to fit the method required for each of its current contracts where contractors and any of their employees and/or subcontractors who provide contracted services will do so in person or on-site.

SECTION 4: CONTRACTOR CERTIFICATIONS-SOLICITATIONS

Washington state agencies who seek to contract for goods, services or public works services where the performance of the contract falls under the vaccine mandate should seek a bidder/contractor certification that demonstrates compliance with or ability to comply with the Proclamation. The specific certification will depend upon which implementation path the agency is utilizing for the particular contract. Set forth below are two samples: (A) Path One; and (B) Path Two.

**Return to Procurement Coordinator with bid response.
Failure to submit will result in disqualification.**

EXHIBIT __
Contractor Certification
Proclamation 21-14 - COVID-19 Vaccination Certification

To reduce the spread of COVID-19, Washington state Governor Jay Inslee, pursuant to emergency powers authorized in [RCW 43.06.220](#), issued [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021), as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021) and as may be amended thereafter. The Proclamation requires contractors who have goods, services, or public works contracts with a Washington state agency to ensure that their personnel (including subcontractors) who perform contract activities on-site comply with the COVID-19 vaccination requirements, unless exempted as prescribed by the Proclamation.

[Agency] Procurement Number: _____

I hereby certify, on behalf of the firm identified below, as follows (check one):

- BIDDER/CONTRACTOR HAS A COVID-19 CONTRACTOR VACCINATION VERIFICATION PLAN THAT COMPLIES WITH THE VACCINATION PROCLAMATION.* Bidder/Contractor:
1. Has reviewed and understands Contractor’s obligations as set forth in [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021), as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021);
 2. Has developed a COVID-19 Vaccination Verification Plan for Contractor’s personnel (including subcontractors) that complies with the above-referenced Proclamation;
 3. Has obtained a copy or visually observed proof of full vaccination against COVID-19 for Contractor personnel (including subcontractors) who are subject to the vaccination requirement in the above-referenced Proclamation;
 4. Complies with the requirements for granting disability and religious accommodations for Contractor personnel (including subcontractors) who are subject to the vaccination requirement in the above-referenced Proclamation;
 5. Has operational procedures in place to ensure that any contract activities that occur in person and on-site at Agency premises (other than only for a short period of time during a given day and where any moments of close proximity to others on-site will be fleeting – e.g., a few minutes for deliveries) that are performed by Contractor personnel (including subcontractors) will be performed by personnel who are fully vaccinated or properly exempted as required by the above-referenced Proclamation;
 6. Has operational procedures in place to enable Contractor personnel (including subcontractors) who perform contract activities on-site and at Agency premises to provide compliance

SECTION 5: CONTRACT PROVISIONS

The specific contract provision will depend in significant part upon which implementation path the agency is utilizing for the particular contract. Set forth below are two samples: (A) Path One; and (B) Path Two.

SECTION 5A: CONTRACT PROVISION FOR *PATH ONE*

COVID VACCINATION CERTIFICATION

Pursuant to [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021) as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021) (“Proclamation”) all contractors and any of their employees and/or subcontractors who provide contracted services on-site must certify that they are fully vaccinated against the COVID-19 virus, unless properly excepted or exempted for disability or sincerely held religious beliefs as set forth in the Proclamation. Contractors who cannot so certify are prohibited from contracting with the state.

CONTRACTOR represents and warrants that should their responsibilities to the AGENCY involve on-site services as of October 18, 2021, CONTRACTOR’s personnel (including subcontractors) providing such services will be fully vaccinated against the COVID-19 virus unless properly excepted or exempted for disability or sincerely held religious beliefs as set forth in the Proclamation. CONTRACTOR further understands that, upon request, CONTRACTOR personnel must provide to AGENCY proof of vaccination, in a manner established by the AGENCY. Failure to meet these requirements may result in the immediate termination of this AGREEMENT.

SECTION 5B: CONTRACT PROVISION FOR *PATH TWO*

COVID-19 CONTRACTOR VACCINATION VERIFICATION PLAN. Contractor represents and warrants that Contractor has a current COVID-19 Contractor Vaccination Verification Plan to ensure that Contractor’s personnel (including subcontractors) who perform this Contract on-site at Agency premises, unless properly excepted or exempted by the Proclamation, are fully vaccinated for COVID-19 as of October 18, 2021 as set forth in the Governor’s Proclamation, [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021) as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021). Contractor further represents and warrants that Contractor:

1. Has reviewed and understands Contractor’s obligations as set forth in [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021), as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021);
2. Has developed a COVID-19 Vaccination Verification Plan for Contractor’s personnel (including subcontractors) that complies with the above-referenced Proclamation;

3. Has obtained a copy or visually observed proof of full vaccination against COVID-19 for Contractor personnel (including subcontractors) who are subject to the vaccination requirement in the above-referenced Proclamation;
4. Complies with the requirements for granting disability and religious accommodations for Contractor personnel (including subcontractors) who are subject to the vaccination requirement in the above-referenced Proclamation;
5. Has operational procedures in place to ensure that any contract activities that occur on-site at Agency premises (other than only for a short period of time during a given day and where any moments of close proximity to others on-site will be fleeting – e.g., a few minutes for deliveries) that are performed by Contractor personnel (including subcontractors) will be performed by personnel who are fully vaccinated or properly excepted or exempted as required by the above-referenced Proclamation;
6. Has operational procedures in place to enable Contractor personnel (including subcontractors) who perform contract activities on-site and at Agency premises to provide compliance documentation that such personnel are in compliance with the above-referenced Proclamation
7. Will provide to Agency, upon request, Contractor's COVID-19 Vaccination Verification Plan and related records, except as prohibited by law, and will cooperate with any investigation or inquiry pertaining to the same.

[Month Day, 2021]

[Contractor
Address]

Subject: Agreement No. KXXXX

Dear Contractor:

On August 9, 2021, pursuant to the governor's emergency powers authorized in [RCW 43.06.220](#), Washington Governor Jay Inslee issued [Proclamation 21-14 – COVID-19 Vaccination Requirement, which was amended on August 20, 2021, by Proclamation 21-14-1 – COVID-19 Vaccination Requirement](#) (“Proclamation”). Effective October 18, 2021, the Proclamation prohibits state agencies from permitting contractors to engage in work for the agency if the personnel performing the contract (including subcontractor personnel) have not been fully vaccinated against COVID-19 as set forth in the Proclamation. The only two exemptions from the vaccination requirement are if such individual is unable to be vaccinated due to a disability or the requirement conflicts with their sincerely held religious beliefs, practice, or observance (in either case, the Proclamation requires confirmation).

You are receiving this letter because your firm has a contract with (AGENCY) and, as part of the performance of that contract, certain of your firm's personnel (including any subcontractor personnel) are required to or likely will provide contracted goods or services in person and on-site. Therefore, as a contractor, your firm is subject to the vaccination requirements set forth in the Proclamation.

PARAGRAPH IF AGENCY WILL CONDUCT VERIFICATION

As such, to keep the above-referenced contract, you must ensure that you and your personnel (including subcontractors) who perform on-site contract activities are able to provide to (AGENCY) proof of full COVID-19 vaccination. For personnel who seek an exemption for a disability or sincerely held religious belief as set forth in the Proclamation, you are required to review and approve the request, provide a reasonable accommodation, and provide to (AGENCY) a certification for all exemptions granted and reasonable accommodations provided. It is also your responsibility to contact any subcontractors you may have and inform them of the Proclamation requirements and that (AGENCY) will be requiring the same proof from them.

PARAGRAPH IF AGENCY ELECTS TO HAVE EMPLOYER VERIFY

As permitted by the Proclamation, (AGENCY) has elected to require you, as its contractor, to assume responsibility for verification of full COVID-19 vaccination, approving all exemptions for disability and sincerely held religious beliefs and determining any accommodations needed for such exemptions. You will be receiving a follow-up letter describing the required procedures for vaccination verification and the specific documentation to provide to (AGENCY). Please be aware that the (AGENCY) retains the right to inquire into compliance with the verification

requirements at any time, to include requesting a copy of the verification plan, spot-checking with such personnel and reviewing your company's vaccination verification records.

Full vaccination is defined as two (2) weeks after a person has received the second dose in a two-dose series of a COVID-19 vaccine (e.g., Pfizer-BioNTech or Moderna) or a single-dose COVID-19 vaccine (e.g., Johnson & Johnson (J&J)/Janssen) authorized for emergency use, licensed, or otherwise approved by the FDA or listed for emergency use or otherwise approved by the World Health Organization.

The state of Washington values your firm as a contract partner to deliver needed goods or services. Accordingly, we are hopeful that your firm will comply with the Proclamation and help the state reduce the spread of the virus. To that end, (AGENCY) will be sending you additional information regarding the next steps required to ensure compliance with the Proclamation. If, however, your firm does not intend to comply with the Proclamation, please contact _____ so we can determine next steps, which may include starting the process to terminate the above-referenced contract or invoking other remedies. In addition, if we do not hear from you by October 18, 2021, we will be providing notice that your personnel may not come on site and perform the work of the contract, and that the contract may be terminated or other remedies invoked.

If you have any questions, please contact XXXXX at _____@_____

Sincerely,