



NECA Legal/Safety Alert

New Information for Federal Contractors Engaged in Utility Areawide Agreements

What is the Coronavirus?

Coronavirus Disease 2019 (COVID-19) is a respiratory disease caused by the Severe Acute Respiratory Syndrome (SARS)-CoV-2 virus. The current mutation is a new strain of the SARS virus and no individual has any immunity prior to an exposure. The CDC has reported that testing has begun on a vaccine but for now, everyone should prepare and plan for possible impacts resulting from COVID-19. It has spread from China to many other countries around the world, including the United States.

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On November 16th, 2021, the U.S. General Services Administration, (GSA) updated the FAQs on its website to address utility contractors and the federal vaccine mandates concerning Area-Wide Agreements. The information provided appears to clarify that the inclusion of vaccine mandates for Federal Contractors is not required under these area-wide agreements but may still be subject to other provisions of the OSHA Emergency Temporary Standard should it survive the court challenges currently underway.

Questions and Answers

Are utility contractors required to sign the modification to incorporate FAR clause 52.223-99?

Answer: GSA contracts for utility supply are not required to include the clause. If the contract is for a service or is otherwise covered (e.g., ESPCs), and the contract is above the SAT, the clause is required for new contracts, as well as for options, renewals, or extensions of existing contracts. Otherwise, GSA Cos should strongly encourage contractors to sign the modification.

If utilities do not agree to incorporate this clause on a bilateral basis, does GSA expect to issue a unilateral modification incorporating it into the Areawide Agreement? Does GSA expect that the clause will be included in specific Authorizations ordered under an Area-wide Agreement (e.g., Exhibits A-D for connection of gas or electric service or for energy management services)?

Answer: GSA does not intend to issue unilateral modifications to incorporate the clause into GSA Areawide Public Utility Contracts. Federal ordering agencies utilizing the GSA Areawide Public Utility Contracts may have specific requirements regarding implementation of Executive Order 14042 for authorizations entered into under these contracts. Please see the Chairperson of the Civilian Agency Acquisition Council (CAAC) Letters for agency-specific guidance.

For more information, please visit the GSA COVID-19 Coronavirus webpage at: <https://www.gsa.gov/governmentwide-initiatives/emergency-response/covid19-coronavirus>

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