

Insights: Alerts

Federal Government Enjoined From Enforcing the Vaccine Mandate Against Federal Contractors and Subcontractors in Kentucky, Ohio, and Tennessee

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Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Resource Center page](#) and/or your email for updates.

If you are a federal contractor or subcontractor you have likely spent much of the fall following and preparing for (or fretting) the federal contractor vaccine mandate. We provided details about the mandate back in September when President Biden issued the Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors. You can find our summary [here](#). Not surprisingly, the Executive Order caused much concern for contractors and subcontractors that had employees or lower-tier vendors that did not want to abide by the mandate. A number of states took up legal challenges against the Executive Order (just as they did against the OSHA Executive Order, which also resulted in an injunction). Yesterday, the Eastern District of Kentucky issued an injunction against the Government, enjoining it from enforcing the vaccine mandate against federal contractors and subcontractors in three states: Kentucky, Ohio, and Tennessee.

The decision issuing the injunction addresses a number of constitutional and statutory issues but ultimately concluded that a narrow injunction barring enforcement against contractors in Kentucky, Ohio, and Tennessee was appropriate in the face of the legal challenges. The obvious question on the mind of contractors and subcontractors now is what does this mean for me? Well, if you are in Kentucky, Ohio, or Tennessee, it means that there is a court order barring the federal government from enforcing the vaccine mandate against you. If you are a contractor outside these states, then the vaccine mandate remains intact for you and the January 4, 2022, compliance date (which we discuss [here](#)) looms. If you operate in Kentucky, Ohio, or Tennessee and outside of these states as well, you are faced with dueling scenarios of an injunction and application of the vaccine mandate by the January 4, 2022 deadline.

We had received reports of the Government stopping ordering from contractors that were refusing to accept the COVID FAR clause in existing agreements and this may prevent the Government from continuing with that posture for contractors in these three states.

A close second question is whether other injunctions are close behind. That is something that remains to be

seen but it is possible other courts will use this decision as a roadmap to issue their own injunctions. Another possibility is that the Administration appeals this injunction, and it is overturned. While only time will tell which way the winds blow, one thing is certain—this saga is far from over. We will continue to monitor these issues but if you have questions about how this decision may impact your business, please reach out to one of the authors or your regular Kilpatrick Townsend contact.

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