



Department of Energy

Office of Science
Brookhaven Site Office
P.O. Box 5000
Upton, New York 11973

August 27, 2021

Dr. Doon Gibbs, Director
Brookhaven National Laboratory
40 Brookhaven Avenue
Upton, New York 11973

Dear Dr. Gibbs:

**SUBJECT: TRANSMITTAL OF OFFICE OF SCIENCE, HEAD OF CONTRACTING
ACTIVITY MEMORANDUM - CONTRACTOR HEALTH AND SAFETY
DECISIONS RELATED TO COVID-19 VACCINATIONS**

Attached, please find Mr. Fontaine's memorandum on contractor health and safety decisions related to COVID-19 vaccinations. The memorandum makes costs related to mandating the COVID-19 vaccination allowable, including contractor employee's vaccination, testing, time off to get vaccinated, employee engagement and communications costs, and potential litigation. Additionally, to ensure mutual understanding of the COVID-19 impact on the contract and mission performance, BSA is directed to develop a process that provides written notification to the Contracting Officer of any expected cost increase, schedule, or performance impacts to the contract as soon as potential impacts are identified. BSA should continue to ensure that costs related to COVID-19 and the CARES Act are tracked and accounted for adequately to meet the contract's assurance and audit requirements.

This memorandum, signed by the Office of Science's Head of the Contracting Activity, is considered supplemental guidance to BNL's Prime Contract.

If you have any questions, please feel free to contact me at Fausto.Fernandez@science.doe.gov.

Sincerely,

Attachment:

SC HCA Memo on Contractor Health and Safety Decisions Related to COVID-19 Vaccinations

cc:

R. Gordon, SC-BHSO
G. Olson, SC-BHSO
C. Polanish, SC-BHSO
J. Serra, SC-BHSO
J. Loh, SC-BHSO
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R. Tribble, BSA
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Department of Energy
Office of Science
Washington, DC 20585

August 27, 2021

MEMORANDUM FOR OFFICE OF SCIENCE CONTRACTING OFFICERS

FROM: JUSTON K. FONTAINE
HEAD OF CONTRACTING ACTIVITY
OFFICE OF SCIENCE

SUBJECT: Contractor Health and Safety Decisions Related to COVID-19
Vaccinations

The Department of Energy (DOE) and the Office of Science (SC) are fully committed to the health and safety of its entire workforce, including its contractors, and to halting the spread of COVID-19 by relying on the best available data and science-based public health measures. Vaccines are the best line of defense in combating COVID-19 and ending the pandemic. Vaccines are now widely accessible throughout the United States, and the Food and Drug Administration recently granted full approval to the Pfizer vaccine for individuals over the age of 16.

Considering these developments and in accordance with the Department's recently issued COVID-19 Workplace Safety Framework, all Federal employees and contractors are strongly encouraged to get vaccinated against COVID-19. The vaccination of our federal employees and contractor employees will better protect our workforce and allow DOE to collectively move towards a safe and responsible reentry to the workplace.

Vaccines have also proven to be highly effective in protecting against severe disease and death from COVID-19 and known variants of the virus, including the Delta variant. DOE strongly supports contractors that decide to mandate that its employees receive COVID-19 vaccinations. Costs resulting from such a mandate are allowable in accordance with the terms and conditions of the contract. Such allowable costs may include the costs of a contractor employee's vaccination; testing; time off to get vaccinated; or costs for employee engagement and communications. In addition, the Department recognizes that the contractor may assume some increased costs and litigation risk in taking actions that it determines it needs to take to protect its workforce. Costs associated with potential litigation risk due to a contractor mandating that its employees receive the COVID-19 vaccine would also be allowable subject to the terms and conditions of its contract and, applicable law.

To ensure there is a thorough understanding of the impact on the contract, mission performance, the availability of funds to accommodate changes, and to determine the most effective approach for DOE's contractors and the Department, the Contracting Officer should work closely with cognizant program officials and the contractor to ensure the parties' mutual understanding of any

changes to their obligations, such as possible effects on cost, delivery dates, and quality of performance. Contractors should be directed to provide written notification to contracting officers of any expected cost increase, schedule, or performance impacts to their contracts as soon as potential impacts are identified and to provide updated information as more detailed estimates of those impacts become available.

If you have any questions, please contact Steven C. Jones, Director, Office of Acquisition Management, Office of Science, at steven.jones@science.doe.gov

cc:

SC Site Managers