

COMMERCIAL REAL ESTATE INSIGHT & NEWS

The Bowditch & Dewey Real Estate Blog

Client Alert: Federal Contractor Vaccine Mandate Temporarily Blocked Nationwide

BY TRACY THOMAS BOLAND • DECEMBER 9, 2021

On December 7, 2021, the U.S. District Court for the Southern District of Georgia issued a nationwide injunction temporarily barring the federal government from enforcing the Biden Administration's COVID-19 vaccine mandate for federal contractors and subcontractors.

The Court's ruling follows a lawsuit and motion for preliminary injunction brought by seven states and a trade organization, who have argued that the President exceeded the authority given to him by Congress when he issued Executive Order 14042, which requires federal contractors to mandate COVID-19 vaccinations and provide certain other COVID-19 safeguards. The ruling prohibits the federal government from enforcing the vaccine mandate contained in Executive Order 14042 (the "Order") and the related Guidance for Federal Contractors and Subcontractors issued by the Safer Federal Workforce Task Force (the "Guidance"), which is summarized in our client alert dated September 27, 2021, and as noted above, the prohibition applies nationwide. Accordingly, at the moment, federal contractors and subcontractors are not required by law to comply with the vaccine mandate contained in the Order and the Guidance. However, for now, the prohibition is only temporary: the Court issued a preliminary injunction, which means that the federal government can continue to defend the vaccine mandate in court, and can also file an appeal with the U.S. Court of Appeals for the Eleventh Circuit to overturn the temporary ban.

White House Press Secretary Jen Psaki has reported that the federal government will continue to "vigorously defend the [federal contractor vaccine mandate] in court". We believe an appeal of this preliminary injunction is likely, but the government has not yet filed an appeal and has not yet definitively indicated whether it will appeal. The deadline for the government to file an appeal is February 5, 2022.

We will continue to monitor the progress of this litigation and the status of the federal contractor vaccine mandate (as well as the other mandates that are temporarily stayed). In the meantime, federal contractors and subcontractors who wish to voluntarily implement a mandatory vaccination policy may continue to do so, so long as it complies with applicable federal, state, and local law.

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