

Guidance on application of [HR/LR Policy # 1446 COVID-19 Proof of Vaccination and Testing to Vendors and Contractors](#)

[HR/LR Policy # 1446 COVID-19 Proof of Vaccination and Testing](#) (“the Policy”) was adopted for the purpose of responding to the safety threat the COVID-19 virus poses when unvaccinated staff members interact in-person in the workplace with State agency employees or Minnesotans receiving State services (“State stakeholders”).

The Policy applies to contractors and vendors, which includes but is not limited to individuals who are or work on State contracts for general contractors, subcontractors, or independent contractors. Landlords of buildings in which State agencies lease space are not considered contractors or vendors under the Policy.

While the Policy applies to contractors and vendors, the State has a different legal relationship to its contractors and vendors than it has to its own employees. Furthermore, not all contract work has the same type of access to State stakeholders. This memo provides guidance to State agencies to: 1) identify certain situations in which the Policy does and does not generally apply; and 2) assist agencies in determining whether particular vendors or contractors are or are not subject to the Policy in other situations.

Outdoor Construction, Building and Grounds Services, and Maintenance Contracts: Policy Does Not Apply

Outdoor construction, building and grounds services, and maintenance contracts typically involve little to no in-person interaction between the contractor/vendor and Minnesotans receiving State services. Additionally, the in-person interaction between the contractor/vendor and State agency employees is minimal and often of short duration (less than 10 minutes). Because of this lack of in-person interaction with State stakeholders, combined with the decreased likelihood of transmission in outdoor environments, outdoor construction, building and grounds services, and maintenance contracts generally are not subject to the Policy. However, agencies should communicate to these contractors/vendors that they are expected to wear face coverings when engaging in in-person interactions with State stakeholders if social distancing is not able to be maintained per [HR/LR Policy # 1442, Face Coverings Policy for Agency Staff](#).

Indoor Contracts in Unoccupied Spaces: Policy Does Not Apply

Unoccupied spaces may include spaces that are new or in process of being built and uninhabited by State stakeholders, or because the work is occurring after hours when State stakeholders are not present. Indoor contracts in unoccupied spaces typically involve little to no in-person interaction between the contractor/vendor and Minnesotans receiving State services. Additionally, the in-person interaction between the contractor/vendor and State agency employees is minimal and often of short duration (less than 10 minutes).

Because of this lack of in-person interaction with State stakeholders, indoor contracts in unoccupied spaces generally are not subject to the Policy. Agencies should communicate to these contractors/vendors, however, that they are expected to wear face coverings when engaging in in-person interactions with State stakeholders per [HR/LR Policy # 1442, Face Coverings Policy for Agency Staff](#). In addition, if the unoccupied space is conjoined with space occupied by State stakeholders, the contractors/vendors are expected to wear face coverings per [HR/LR Policy # 1442, Face Coverings Policy for Agency Staff](#).

Indoor Work With Regular or Extended In-Person Contact with State Stakeholders: Policy Applies

Contractors and vendors whose work is indoors with in-person interaction with State stakeholders for more than 10 minutes at a time generally are covered under the Policy. Examples include contract work in occupied agency office environments; contract inspectors inspecting Minnesota businesses; contract interpreters providing in-person interpretation services for State stakeholders; a single instance where a vendor visits the agency but spends all day inside working alongside State agency employees.

Outdoor Work With Substantial and/or Regular In-Person, Non-Socially Distanced Contact with State Stakeholders: Policy Applies

Some contractors and vendors work outdoors but have substantial and/or regular in-person contact with State stakeholders that exceeds 10 minutes at a time and cannot be socially distanced. Because of the risk of transmissibility of the virus and the substantial interaction with State stakeholders, these situations generally are covered under the Policy. Examples include contract veterinarians at the Minnesota Zoo (there, the State stakeholder may be vulnerable animals) and contract State Park workers.

Other Situations: Agencies Must Evaluate

Because of the diversity of State contracts, this guidance memo cannot cover all situations. For situations not covered by this memo, State agencies must evaluate questions about whether particular vendor/contractor situations are or are not covered under the Policy by analyzing: 1) the extent of the in-person interaction between the contractor/vendor and State stakeholders; 2) the ability to minimize risk of transmission through social distancing, mask wearing, shortening in-person interactions to being less than 10 minutes, or use of outdoor environments (recognizing, however, that the Delta variant is more transmissible potentially even outside); and 3) other factors as dictated by the situation.

Additionally, even in the situations considered not covered by the Policy above, if the underlying assumptions are not accurate, or if there are special circumstances increasing the risk to State stakeholders, agencies may determine the situation to be covered under the Policy.

Contacts

Minnesota Management and Budget and Minnesota Department of Administration are available resources to State agencies making these determinations.

MMB: Send questions to the COVID-19 email box: covid19.mmb@state.mn.us.

Admin: For general questions contact Betsy Hayes at betsy.hayes@state.mn.us or 651-201-2400, or Luke Jannett (regarding commodity and general service contracts) at luke.jannett@state.mn.us or 651-201-2446, Rachel Dougherty (regarding professional/technical contracts) at rachel.dougherty@state.mn.us or 651-201-3115, or Wayne Waslaski (regarding RECS managed projects) at wayne.waslaski@state.mn.us or 651.201.2548.