



# THE SMALL BUSINESS LEGISLATIVE COUNCIL ALERT

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### WHAT PRESIDENT BIDEN'S RECENT COVID ANNOUNCEMENTS MEANS FOR BUSINESSES

Yesterday (September 9, 2021), the White House unveiled its latest COVID-19 Action Plan, which it has titled "Path Out of the Pandemic." While many of the developments were expected, there were a number of surprises in the Action Plan which will have important implications for many businesses big and small.

As was anticipated, in rolling out the Action Plan, the President signed a pair of Executive Orders requiring that all federal employees and contractors (with the exception of those who qualify for an accommodation) must be vaccinated against COVID-19. At the end of July 2021, the Administration announced that federal employees or contractors would be required to be vaccinated or submit to regular testing in lieu of vaccination. The latest Executive Order eliminates the testing option. Each individual agency will be responsible for rolling out the requirement for its employees and contractors.

In a more unexpected turn, the Administration also announced that Department of Labor's Occupational Safety and Health Administration (OSHA) will be issuing an Emergency Temporary Standard (ETS) requiring that private employers with 100 or more employees "ensure their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work." The White House estimates that this new directive will cover more than 80 million private sector workers. In conjunction with the ETS, OSHA will also be developing rules to require that employers with more than 100 employees provide their employees with paid time off to receive or recover from a COVID vaccine. Of course for businesses that have 100 or more employees this is a major development, though the precise details of the requirement are still to be determined. Also unknown is the timeline for OSHA to issue the ETS. The last COVID-related ETS that OSHA was tasked with took nearly five months to complete. However, that was at the beginning of the Administration and in the midst of the vaccine rollout so we would anticipate this ETS to be issued much more quickly. Businesses that will be covered by the new requirements should start taking initial steps to prepare themselves and their workforces so that they are in a position to move quickly once the ETS is released.

The President also announced that the Centers for Medicare & Medicaid Services (CMS) will also be implementing rules to require vaccines for employees that work in health care settings that receive Medicare or Medicaid reimbursements. Accordingly, any business in the health fields that receive Medicare or Medicaid reimbursements should be on the lookout and prepared to implement the new CMS rules.

Finally, on the vaccination front, the President urged entertainment venues (such as sports arenas and concert venues) to require attendees to provide proof of vaccination or a negative test as a condition of entering the venue.

In addition to those provisions targeted at increasing national vaccinations rates, the Action Plan also includes a handful of economic recovery provisions. Most notably, the Administration announced that the Small

Business Administration (“SBA”) will be making changes to the COVID Economic Injury Disaster Loan (EIDL) program to increase the amount that businesses can borrow, ease repayment terms and make it easier for the hardest hit businesses to take advantage of the program. The Action Plan also reiterated the process that the SBA has been implementing to streamline forgiveness applications for those businesses with PPP loans under \$150,000.

The Action plan also includes policies on vaccine boosters, COVID testing, care for those with COVID 19 and school safety.

As a bottom line, the Action Plan will have a direct impact on businesses that do business with the federal government, that receive Medicare or Medicaid reimbursements or that have 100 or more employees. For businesses that fall below or outside these thresholds, these new developments may still influence the public pressures and expectations that the businesses are facing when it comes to handling the issue of vaccines amongst employees.