

September 27, 2021

To: Contractors and Vendors

**Re: COVID-19 Proof of Vaccination and Testing**

**Purpose**

The COVID-19 pandemic continues to bring unprecedented challenges to our State and region. The ongoing community transmission of the Delta variant of COVID-19, especially among those who are unvaccinated, presents a continuous risk of infection. The information below sets forth requests that are intended to protect the health and safety of our respective employees and members of the public from the spread of COVID-19 in the workplace and other Metropolitan Council facilities and job locations.

**New Metropolitan Council procedure**

The Metropolitan Council has a new Covid-19 Vaccine and Testing Emergency Procedure requiring employees who are assigned to work in-person, or who wish to access the workplace for **more than 10 minutes**, to demonstrate proof of full vaccination against COVID-19 by October 11, 2021. Those who are assigned to work on-site and do not submit proof of COVID-19 vaccination must undergo mandatory testing for COVID-19 at least weekly. The Metropolitan Council strongly encourages contractors, vendors and their subcontractors to implement consistent protocols as it relates to their employees accessing Metropolitan Council facilities to perform contractual services. A copy of the new vaccination and testing procedure is enclosed.

**Request for compliance**

For existing contractors, the Metropolitan Council is requesting that you comply with the procedure. The procedure covers all your employees or subcontractors who are performing contracted work in the following types of project settings:

- Indoor settings where individuals have regular, in-person contact with Metropolitan Council employees or members of the public;
- Outdoor settings with substantial or regular in-person, non-socially distanced contact with Metropolitan Council employees or members of the public.

Effective November 1, 2021, you are asked to track and maintain data regarding these employees' proof of COVID-19 vaccination. Alternatively, for employees who choose not to submit proof of full vaccination against COVID-19, you are requested to have those individuals tested on a weekly basis and ensure those with positive test results do not report to a Metropolitan Council worksite to perform contracted work. Those who show proof of full vaccination against COVID-19 are not required to submit to COVID-19 testing and may access the workplace to perform contractual services. Future contracts may include these protocols as required contractual obligations. The Metropolitan Council requests that you maintain a list of all contractor and subcontractor employees who have completed testing or vaccination and may access Metropolitan Council facilities and provide it to the Metropolitan Council if requested.

## **Federal mandate**

On September 9, 2021, President Biden released a Covid-19 Action Plan directing OSHA to implement an Emergency Temporary Standard requiring vaccination or testing for employers with 100 or more employees. President Biden also issued Executive Order 14042, which will mandate vaccination for certain federal contractors. If your employees and subcontractors working at Metropolitan Council facilities are covered by a federal vaccination or testing mandate, the federal mandate supersedes the Metropolitan Council procedure. Please inform the Metropolitan Council within 14 days after a federal mandate goes into effect, whether you and your subcontractors are covered by a federal mandate. If you are subject to a mandate, please affirm that you will comply with the mandate.

If a federal mandate that applies to you does not go into effect or is enjoined after it goes into effect, the Metropolitan Council requests that you comply with the vaccination and testing procedure outlined in this letter.

## **Impact on contract**

If protocols that meet the Metropolitan Council procedure are not already in place in your organization or required by federal or other mandates and will result in new costs that you would not otherwise incur, you are instructed to contact the project manager or Council authorized representative listed in your contract to discuss options, including potential modification of your contract.

## **Rights and implications**

Note that the Metropolitan Council vaccination and testing procedure does not require that your employees and subcontractors receive a COVID-19 vaccination. However, if your employees and subcontractors are not fully vaccinated against COVID-19, and work in a covered project setting, they are subject to testing. Those who are subject to testing will not be permitted to access Metropolitan Council worksites in covered project settings to perform work under your contract if they refuse testing.

In closing, we want to acknowledge this is a challenging time for all of us as we navigate conditions in our communities. We have created this procedure because our employees – many of whom will be working alongside your employees – are being held to these same expectations. We are following guidance and leadership from the State of Minnesota, in an effort to keep our workforces safe, and to do our part to limit the continued spread and persistence of the COVID-19 virus.

If you have more general questions, please direct your questions to [procurement@metc.state.mn.us](mailto:procurement@metc.state.mn.us). We ask that you limit your questions to specific procedural and logistical concerns or difficulties you might have as a result of this request. We will not expend staff resources responding to comments related to your views and frustrations with this procedure or your views on the state's approach to managing the COVID-19 pandemic. Thank you in advance for your cooperation with this important procedure.

Sincerely,



Jody Jacoby (Sep 27, 2021 09:57 CDT)

Jody Jacoby, NIGP-CPP, CPPO

Director, Procurement Department

## EMERGENCY PROCEDURE

### COVID-19 Vaccine and Testing Requirement Procedure

C1c

**Category:** Human Resources

**Business Unit Responsible:** RA: Human Resources

**Procedure Owner & Contact:** Marcy Syman, Director of Human Resources

**Synopsis:** A procedure for employees to provide proof of vaccination against the COVID-19 virus or submit to weekly COVID-19 testing.

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## GOVERNING POLICY

- [\*HR 9-1 Safety and Health Policy\*](#)

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## PROCEDURE

To protect the health and safety of our employees and customers from the threat of COVID-19, employees (including interns) who are assigned to work at the workplace (rather than at-home telework), are assigned to provide Council services outside of their home, need to access the workplace for more than 10 minutes, or otherwise provide Council services outside of their home, must provide proof of their COVID-19 vaccination status. Any employee who does not submit proof of full COVID-19 vaccination must complete mandatory COVID-19 testing and must continue testing at least weekly.

This procedure is effective Monday October 11, 2021, and is subject to change at the Council's discretion, including based on public health guidance. Employees may be subject to additional requirements under division policy or state or federal law.

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## PURPOSE & SCOPE

- The Metropolitan Council is committed to preventing the transmission of COVID-19.
- This procedure applies to all employees of the Metropolitan Council who are assigned to work at the workplace for more than 10 minutes, who need to access the workplace for more than 10 minutes, or who otherwise provide Council services outside of their home.
- For the purposes of this procedure, the "workplace" is any location outside of an employee's home where Council work is performed, or any location visited by the employee for more than 10 minutes while on work time.
- This procedure does not apply to employees who have an approved telework arrangement and solely telework from home, do not access the workplace for more than 10 minutes, and do not otherwise provide Council services outside the employee's home.

- The Council may apply this procedure to onsite contractors. For purposes of this procedure “onsite contractor” is any contractor, vendor, or other person performing services on behalf of the Council who is required to perform job duties onsite at a Council facility for more than 10 minutes or in the community. The Council will notify contractors of this procedure and the timeline for any implementation.

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## PROVIDING PROOF OF VACCINATION STATUS

1. Council employees who are assigned to work at the workplace (rather than at-home telework), need to access the workplace for more than 10 minutes, or otherwise provide Council services outside their home, must submit to Human Resources proof of being fully vaccinated.
  - A. Employees are considered fully vaccinated against COVID-19:
    - i. 2 weeks after their second dose in a 2-dose COVID-19 vaccination series approved by the U.S. Food and Drug Administration (“FDA”) or the World Health Organization (“WHO”); or
    - ii. 2 weeks after a single-dose COVID-19 vaccine approved by the FDA or WHO.
  - B. Proof of full vaccination against COVID-19 must legibly show, at a minimum:
    - i. Name of the individual vaccinated,
    - ii. Date of birth of the individual vaccinated,
    - iii. The manufacturer of the vaccine, and
    - iv. The date(s) on which the vaccine was administered.
  - C. Employees who are not fully vaccinated or who do not provide proof that they are fully vaccinated will be considered unvaccinated for the purposes of this policy.
2. Employees will submit a copy of their proof of vaccination via Employee Self Service (ESS). Employees will add information to the ESS page and upload a scanned or photographic image of their vaccination card that clearly shows the criteria from 1(B) above, and Human Resources staff will review the document for eligibility. If the proof is not legible or verifiable in the form presented, the employees may be asked to present the original document.
3. Once approved, employees will be notified that they are considered fully vaccinated for the purposes of this procedure and will be allowed to report to the workplace starting Monday October 11, 2021.
4. The documentation collected for the purposes of this policy will be treated as confidential medical records under applicable law. Information regarding whether an employee has shown proof of full vaccination, and information on whether the employee must submit to mandatory COVID-19 testing, will be provided to Human Resources staff, Council staff with a business need to know, and others authorized by law.
5. Employees who telework and who are not required to work in the workplace or provide Council services outside of their home are not subject to this procedure. However, in the event an employee has a business need to enter the workplace, they must comply with this procedure, including providing proof of vaccination or submitting a COVID-19 test.
6. New employees hired on or after October 1, 2021 will be notified of this procedure and the requirement to adhere to it.

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## COVID-19 TESTING PROCEDURE FOR UNVACCINATED COUNCIL EMPLOYEES

Unvaccinated employees must undergo mandatory testing for COVID-19 at least weekly. COVID-19 tests and results must be conducted and handled in compliance with all applicable rules and laws. Due to the pandemic and employees' job-related interaction with others, COVID-19 testing is job-related and consistent with business necessity.

An employee may submit proof of being fully vaccinated at any time, according to the procedures in *I. Providing Proof of Vaccination Status* above.

1. Employees will be provided COVID-19 tests from Council-approved vendors.
2. Testing may occur at home, at the workplace (if the division has appropriate facilities), or at a testing site.
  - A. To take a test at-home or at a workplace facility (if available), the employee will contact their supervisor or designee for a test kit and will follow the vendor's instructions for submitting the test. The vendor will update the Council, the employee, and local public health official (if applicable) about the status and results of the test.
  - B. To take a test at a testing site, the employee will contact the vendor either online or by phone, schedule the appointment, and follow the vendor's instructions for reporting to the testing site and submitting the test. The vendor will update the Council, the employee, and local public health official if applicable about the status and results of the test.
  - C. Testing may occur during work hours or outside of work hours, per approval from an employee's supervisor or manager. Time to test is expected to take no more than 30 minutes and will be considered work time. Travel time to or from a testing site may be compensable according to the Fair Labor Standards Act (FLSA).
  - D. Time required to test with, and travel time to or from a testing site operated by, non-Council approved vendors will not be compensable.
3. Employees must complete testing by 11:59 PM on Thursday October 7, 2021, in order to be cleared to work any shift at the workplace that starts or ends on Monday October 11, 2021, through Friday October 15, 2021. Subsequently, employees must complete a test no later than Thursday at 11:59 PM every week in order to be cleared to work any shift at the workplace that starts or ends the proceeding Saturday through Friday.
4. The vendor will update Human Resources indicating an employee's testing status. An employee's testing status need only show that a test has been taken. Employees will be allowed to work at the workplace while their test results are pending, so long as the employee continues to follow all other site-specific precautions (including wearing a mask and screening for symptoms) as applicable.
5. COVID-19 test results are communicated as follows:
  - A. The vendor will communicate the COVID-19 test results to the employee and Human Resources as soon as they are known.
  - B. The vendor may also report positive test results to Minnesota Department of Public Health (MDH) and/or local public health. State and federal laws may authorize or require MDH to share an employee's health information with others without the employee's consent.

- C. Employees who test positive are subject to the division’s procedures regarding COVID-19 absence management. Employees with positive test results must contact their supervisor, must isolate according to current MDH Guidelines, and must not report to the workplace. The employee’s supervisor and/or manager will determine whether the employee’s job duties can be performed through telework.
- 6. Employees may also submit a copy of their proof of testing and/or results via Employee Self Service (ESS). Employees will add information to the ESS page and upload a scanned or photographic image of official proof of being tested and/or test results. If the proof is not legible or verifiable in the form presented, the employees may be asked to present the original document.
- 7. Employees whose test status is not known by Fridays at 12:00 PM and who either do not submit to a COVID-19 test or who do not provide documentation of having taken a test at another facility, will not be permitted to report to the workplace and may be subject to disciplinary action, up to and including discharge.
  - A. These employees may be sent home and placed on unpaid leave until they have notified Human Resources that they have been tested for COVID-19, or until management, in its sole discretion, determines they no longer require COVID-19 testing. The employee’s supervisor may offer to meet with the employee to learn the reasons for the employee being unable to complete a COVID-19 test and obtain any additional information needed before disciplinary action is taken. If applicable, the employee may have union representation at the meeting.
  - B. Employees placed on unpaid leave who later determine they wish to be tested may obtain a COVID-19 test on their own time at their own expense and submit proof of test completion to Human Resources with prior management approval.
- 8. Employees may request a reasonable accommodation by following the steps in [HR2-1a Disability and Accommodation Procedure](#).

## CONFIDENTIALITY

The Metropolitan Council will maintain the confidentiality of employee COVID-19 test results and vaccination status as provided by law.

Employees will be provided a Tennessean advisory upon submitting documentation in compliance with this procedure.

## ROLES & RESPONSIBILITIES

Role	Responsibilities
Employees	Employees are responsible for ensuring their compliance with this procedure dependent upon their individual work arrangements.
Division Leaders and their designees	Division Leaders and their designees will be responsible for ensuring compliance with this procedure.
Managers and Supervisors	Managers and Supervisors will be responsible for ensuring employees working on site comply with this procedure.

Human Resources	Human Resources will be responsible for data, record keeping, and communications related to this procedure.
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## DEFINITIONS

**Workplace:** any location outside of an employee’s home where Council work is performed, or any location visited by the employee for more than 10 minutes while on work time.

**COVID-19 test:** a diagnostic test showing whether an employee has a current infection. Two types of tests can be used: molecular (polymerase chain reaction or “PCR”) and antigen (rapid) tests. Tests are typically taken using swab or saliva samples.

**Onsite contractors:** any contractor, vendor, or other person performing services on behalf of the Council who is required to perform job duties onsite at a Council facility or in the community.

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## RESOURCES

### Related Policies

- [\*HR 2-1 Disability Management and Reasonable Accommodation Policy\*](#)
- [\*HR 4-1 Benefits Policy\*](#)
- [\*OEO 1-1 Equity Policy\*](#)
- [\*OEO 2-1 Affirmative Action and Equal Opportunity Policy\*](#)
- [\*OEO 3-1 Accessibility Policy\*](#)

### Related Procedures

- [\*HR 2-1a Disability and Accommodation Procedure\*](#)
- [\*HR 4-1a Vacation/Annual Leave Procedure\*](#)
- [\*HR 4-1b Sick Leave and Income Protection Procedure\*](#)
- [\*HR 4-1c Leaves of Absence Procedure\*](#)
- [\*HR 4-1e Family Medical Leave Act Procedure\*](#)

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## HISTORY

### Version 1 – Approval Date

9/16/2021

### Last Reviewed Date

09/16/2021

### Next Content Review Date

12/16/2021

### Version

1