Executive Order No. 271 – Vaccination or Testing Requirement for Employees of State Contractors

October 22, 2021

Porzio Client Alert

Governor Phil Murphy signed Executive Order No. 271 (the "Order") on October 20, 2021, which requires new and potential state contractors to demonstrate that all of their employees (whether full-time or part-time) who enter, work at, or provide services in any state agency location are fully vaccinated or otherwise undergo weekly testing. Pursuant to the Order, each executive department and agency must ensure that the contracts or agreements that it enters into include a clause that the contractor or any subcontractors, at any tier, that is party to the contract, must maintain a COVID-19 vaccination/testing policy.

The Order will apply to any new contract, new solicitation for a contract, extension or renewal of an existing contract, and exercise of an option on an existing contract, if the contract price is to be paid in whole or in part with state agency funds. Bidders for contracts are required to certify at the time of bid or proposal or prior to executing a contract, that if awarded the contract, the bidder will have the required policies and practices in place and will collect all data necessary for compliance with the Order.

Employees are considered fully vaccinated for COVID-19 two weeks or more after they have received the second dose in a two-dose series or two weeks or more after they have received a single-dose vaccine. Proof of full vaccination status includes:

- The CDC COVID-19 Vaccination Card issued to the vaccine recipient by the vaccination site, or an electronic or physical copy of the same;
- Official record from the New Jersey Immunization Information System (NJIIS) or other State immunization registry;
- A record from a health care provider's portal/medical record system on official letterhead signed by a licensed physician, nurse practitioner, physician's assistant, registered nurse or pharmacist;
- A military immunization or health record from the United States Armed Forces; or
- Docket mobile phone application record or any state specific application that produces a digital health record.

The Order mandates that unvaccinated workers must undergo screening testing at minimum one to two times weekly. Note, if the worker is not working on-site during a week where testing would otherwise be required, the contractor need not require the worker to submit to testing for that week. The contractor must have a policy for tracking test results and must report results to local public health departments.

A copy of Executive Order No. 271 can be found at https://nj.gov/infobank/eo/056murphy/pdf/EO-271.pdf.