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To: NJBIA Members

From: Alexis Bailey, NJBIA Director of Government Affairs

Date: November 9, 2021

RE: Clarification on Executive Order No. 271

We recently received the following information from the Governor's Office regarding [Executive Order No. 271](#) which requires state contractors to be fully vaccinated or submit to weekly COVID-19 testing.

First, the Executive Order does **not** apply to existing contracts. Rather, the EO applies to new solicitations and contracts, as well as contract renewals and extensions. The Governor's office has been providing guidance on enforcement and compliance to departments. If you are aware of an issue with a specific department not properly enforcing this mandate or applying it to existing contracts, please let me know and we will bring it to the front office's attention.

The EO requires unvaccinated individuals to be tested once or twice per week. The minimum requirement is once per week testing. The Department of Health recommends that testing frequency should be based on the extent of the virus in the community, and when the COVID-19 Activity Level Index (CALI) Weekly Report shows the region to be high/very high (in red) that testing should occur twice a week. The CALI Weekly Report can be found [here](#).

This EO does not address the costs of testing or the administrative burden of compliance. Because the provisions of the EO only apply prospectively, the Administration believes those issues will be built into bids and negotiations.

When asked for clarity on what levels of government are captured by this Executive Order, the Governor's Office clarified that the Executive Order only applies to new, renewed, or extended contracts with executive departments, agencies and independent authorities where the contractor has "covered workers" that requires such worker to enter, work at, or provide services in any place, site, installation, building, room, or facility in which any executive department or agency conducts official business or is within an executive department or agency's jurisdiction, custody, or control, or that relates to offering services for State employees, their dependents, or the general public. The type of contracts included are contracts "for services, construction, including demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, or a leasehold interest in real property through which covered workers have access to State property, and the cost or contract price thereof is to be paid, in whole or in part, with or out of executive department or agency funds.

If you have any further questions or have faced any challenges with a specific department or agency, please let me know.

