

Title: U.S. PERSONAL SERVICES CONTRACTOR REQUEST FOR A MEDICAL EXCEPTION TO THE COVID-19 VACCINATION REQUIREMENT

Form names and numbers: U.S. PERSONAL SERVICES CONTRACTOR REQUEST FOR A MEDICAL EXCEPTION TO THE COVID-19 VACCINATION REQUIREMENT

OMB Control Number: 0412-xxxx

PART A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This information is being collected and maintained to promote the safety of Federal workplaces and the Federal workforce consistent with Executive Order 14042, Executive Order 13991, Protecting the Federal Workforce and Requiring Mask-Wearing (Jan. 20, 2021), the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from Centers for Disease Control and Prevention and the Occupational Safety and Health Administration. Government-wide policy requires all USAID Personal Services Contractors (PSCs) to be vaccinated against COVID-19, with exceptions only as required by law. United States PSCs (USPSCs) may seek a legal exception to the vaccination requirement due to a medical disability.

As required, USAID is implementing the federal COVID-19 vaccination mandate and is simultaneously considering USPSCs' requests for legally-required exceptions or delays to the vaccination mandate. Requests for "medical accommodation," "medical exceptions," or "medical delays" are treated as requests for a disability accommodation and as such must be evaluated and decided under applicable Rehabilitation Act standards for reasonable accommodation absent undue hardship to the agency. In order to determine an appropriate and effective accommodation, USAID proposes to collect medical information necessary for case processing using the form under review.

In determining whether documentation is necessary to support a request for reasonable accommodation and whether an individual has a disability within the meaning of the Rehabilitation Act, the USAID is guided by the principles in the ADA Amendments Act of 2008. Specifically, the ADA Amendments Act directs that the definition of "disability" be construed broadly and that the determination of whether an individual has a "disability" generally should not require extensive analysis. Supporting medical documentation must describe the impairment; the nature, severity, and duration of the impairment; the activity or activities that the impairment limits; the extent to which the impairment limits the individual's ability to perform the activity or activities; and/or the nexus between the impairment and the requested accommodation. The proposed form follows these guidelines and requests applicant's obtain the following from their medical provider:

1. The applicable contraindication or precaution for COVID-19 vaccination, and for each contraindication or precaution, indicate: (a) whether it is recognized by the CDC pursuant to its guidance; and (b) whether it is listed in the package insert or Emergency Use Authorization fact sheet for each of the COVID-19 vaccines authorized or approved for use in the United States;
2. A statement that the individual's condition and medical circumstances relating to the individual are such that COVID-19 vaccination is not considered safe, indicating the specific nature of the medical condition or circumstances that contraindicate immunization with a COVID-19 vaccine or might increase the risk for a serious adverse reaction; and
3. Any other medical condition that would limit the contractor from receiving any COVID-19 vaccine.

The collection of this medical information is necessary to sufficiently evaluate and make determinations on medical exception or delay requests to the COVID-19 vaccine requirement. Please note, the proposed USAID form for information collection is based directly on the template form provided by the Safer Federal Workforce Task Force and contains no substantive material changes from the template.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

In accordance with Executive Order 14042 (Ensuring Adequate COVID Safety Protocols for Federal Contractors), USAID is implementing the federal vaccine mandate for its USFSC workforce and reviewing contractors requests for medical exceptions or delays to the requirement because of a temporary condition or medical circumstance. For USAID USFSCs who believe they are not able to get vaccinated because of a qualifying medical condition and submit an exception request, USAID must evaluate the medical conditions on a case-by-case basis. The Office of Civil Rights and Diversity (OCD), Reasonable Accommodation Manager (RAM) may request medical information to identify an individual's functional limitations or to determine whether the applicable condition meets the definition of a "disability" pursuant to the Rehabilitation Act, as amended, except when the disability and need for accommodation are reasonably obvious (e.g., blindness) or the individual has already provided sufficient, up-to-date medical information documenting the propriety of the accommodation.

The standards and process below apply to all requestors (e.g., Civil Service and Foreign Service employees, Direct-Hire applicants or PSC offerors, and other staff to the extent applicable). The RAM may also request medical information to determine an appropriate and effective accommodation. In determining whether documentation is necessary to support a request for reasonable accommodation and whether an individual has a disability within the meaning of the Rehabilitation Act, the RAM is guided by the principles in the ADA Amendments Act of 2008. Specifically, the ADA Amendments Act directs that the definition of "disability" be construed broadly and that the determination of whether an individual has a "disability" generally should not require extensive analysis. Supporting medical documentation must describe the impairment; the nature, severity, and duration of the impairment; the activity or activities that the impairment limits; the extent to which the impairment limits the individual's ability to perform the activity or activities; and/or the nexus between the impairment and the requested accommodation.

For reasonable accommodations pursuant to internal USAID policy ([ADS 111](#)), only the RAM may request supporting medical documentation of the individual's disability, limitations, and restrictions, and the RAM may only request relevant information. The RAM requires that an appropriate, licensed professional, such as a doctor, social worker, or rehabilitation counselor, provide the medical documentation concerning the disability. When the requestor provides sufficient information that can substantiate the existence of a disability, functional limitations, workplace limitations, or barriers and the need for a particular reasonable accommodation, additional medical information may not be required. The RAM may make further inquiries where such information is not clear or if it does not make sufficiently clear whether a possible alternative accommodation will be effective.

When an individual has already submitted medical documentation in connection with a previous request for accommodation, the individual must immediately inform the RAM. The RAM must determine whether additional medical information is needed for the new request. When the RAM determines that the initial information provided by the health professional or the requestor is insufficient to a) determine whether the individual has a “disability”; b) identify the limitations; or c) determine that a particular accommodation is needed, the RAM must explain what additional information is required. The RAM may require that the individual’s healthcare professional provide additional information that: Describes the nature, severity, and duration of the individual's impairment; Describes the activity that the impairment limits, and the extent of the limitation on the individual’s ability to perform necessary activities; Substantiates why the requested accommodation is needed and how the reasonable accommodation will assist the individual to perform the essential functions of the job, or equally enjoy a benefit or privilege of the workplace; or Invites the medical provider to offer or opine on alternative accommodations that may be effective under the circumstances. Supporting medical documentation may also be deemed insufficient if: The health care professional does not have the expertise to give an opinion about the medical condition and the limitations imposed by it; The information does not specify the functional limitations currently due to the disability; or Other factors indicate that the information provided is not credible.

The RAM may provide information to the healthcare professional concerning the nature of the position, essential functions of the position, and other relevant information. If the medical information is insufficient for the reasons stated above, the RAM can request the U.S. Department of Health and Human Services’ Program Support review the medical information at the Agency's expense, if such review is job-related and consistent with business necessity. The individual requesting the accommodation can also sign a limited release allowing the RAM to communicate directly with the health care professional. Failure of requesting individual to provide appropriate documentation or to cooperate with the Agency may result in the delay of or inability to grant the reasonable accommodation request.

Disability-Related Inquiries and Medical Exams:

<https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#A>

Specifically for the medical exception on vaccine requirements - the RAM will consult with the respective groups as needed, as outlined in Primary Responsibilities of the ADS-111 (Human Capital Talent Management’s Employee Labor Relations and the Office of General Counsel), for additional guidance to grant or deny the exception request.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The form is in electronic fillable PDF format. Users have the option to fill out the form electronically or to print, fill out the information on paper, and scan the paper document to an electronic system for submission. All forms must be submitted electronically via email to the Office of Civil Rights and Diversity. Given the U.S. Agency for International Development’s continued mandatory telework status, in-person paper submissions or mailing to Agency headquarters are not possible. Moreover, electronic submission is an improved form of information technology that reduces the burden on users.

The form is a part of an internal process to process contractor's exception or delay to the COVID-19 vaccine requirement requests and as such, is not available to the general public. Additionally, due to the nature of the collected material, results of the information collected will not be made available to the public.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

As outlined in item 2 above, the Office of Civil Rights and Diversity (OCRD), Reasonable Accommodation Manager (RAM) may request medical information to identify an individual's functional limitations or to determine whether the applicable condition meets the definition of a "disability" pursuant to the Rehabilitation Act, as amended, except when the disability and need for accommodation are reasonably obvious (e.g., blindness) or the individual has already provided sufficient, up-to-date medical information documenting the propriety of the accommodation. Given the COVID-19 vaccine requirement was mandated on September 9, 2021, the OCRD does not already have up-to-date medical information on contractors related to the COVID-19 vaccine that is sufficient to move forward with an accommodation, without additional information requests.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The collection of information may impact medical providers' offices who qualify as small businesses because the form requires medical information to be submitted directly from respondents' medical providers. In order to minimize the burden on these entities, the form can be completed and submitted electronically. Additionally, the form only requires the medical provider to include statements on the respondents' applicable medical conditions, it does not require additional medical documentation.

The collection should not impact other small businesses or other small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

If the medical information is not collected, contractors requests for an exception or delay to the COVID-19 vaccination requirement cannot be processed. The Agency would be unable to do its due diligence when evaluating requests. If requests are not processed and individuals who should qualify are not able to receive an exception or delay, illegal discrimination may inadvertently occur as the Agency enforces the federal vaccination mandate, pursuant to Executive Order 14042.

Additionally, the proposed form allows for the uniform collection of information predetermined to be necessary for case processing. Uniform collection is critical to ensure all cases are evaluated and processed in the same way. Please note, the proposed form is built directly off of the template provided by the Safer Federal

Workforce Task Force and has no substantive material changes from the template.

Collection is only required once and as such, cannot be conducted less frequently.

7. Special Circumstances

There are no special circumstances that would cause the information collected to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law. Please see item 10 for information on how the agency has instituted procedures to protect respondents' information.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB.

In the Justification Statement included in this emergency approval request, USAID is requesting OIRA approval to not publish a Federal Register notice in association with this form.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Payment or gifts will not be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The Privacy Act (5 U.S.C. 552a) applies to this collection and is used as a statutory authority for confidentiality. The authorities for the system of records notices (SORNs) associated with this collection of information are [USAID-32, Reasonable Accommodation Records, 81 FR 70085 \(October 11, 2016\)](#) and [USAID-34, Personal Services Contracts Records, 80 FR 11391 \(March 3, 2015\)](#).

While the information requested is intended to be used primarily for internal purposes, in certain

circumstances it may be necessary to disclose this information externally, for example to disclose information to: a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease or other laws concerning health and safety in the work environment; to adjudicative bodies (e.g., the Merit System Protection Board), arbitrators, and hearing examiners to the extent necessary to carry out their authorized duties regarding Federal employment; to contractors, grantees, or volunteers as necessary to perform their duties for the Federal Government; to other agencies, courts, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf. A complete list of the routine uses can be found in the SORN associated with this collection of information, USAID-32, Reasonable Accommodation Records, 81 FR 70085 (October 11, 2016) and USAID-34, Personal Services Contracts Records, 80 FR 11391 (March 3, 2015).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

As outlined in Section E. (Pandemic-Related Harassment Due to National Origin, Race, or Other Protected Characteristics) of the U.S. Equal Employment Opportunity Commission's [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#), it is against the federal Equal Employment Opportunity laws to harass or otherwise discriminate against coworkers based on race, national origin, color, sex, religion, age (40 or over), disability, or genetic information. For contractors requesting medical exceptions or delays to the federal COVID-19 vaccine requirement, it is necessary to request contractors medical condition information in order to assess eligibility for the requested exceptions or delays and prevent disability-related harassment. Medical information obtained will be used by USAID's Office of Civil Rights and Diversity (OCD), Reasonable Accommodation Manager (RAM) to help determine whether the contractor is entitled to an exception or delay.

The form includes the following information, informing people from whom the information is requested on why the information is being requested, how it will be used, and consequences for not providing the information:

Purpose: This information is being collected and maintained to promote the safety of Federal workplaces and the Federal workforce consistent with the above-referenced authorities, Executive Order 13991, Protecting the Federal Workforce and Requiring Mask-Wearing (Jan. 20, 2021), the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from Centers for Disease Control and Prevention and the Occupational Safety and Health Administration.

Routine Uses: While the information requested is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally, for example to disclose information to: a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease or other laws concerning health and safety in the work environment; to adjudicative bodies, arbitrators, and hearing examiners to the extent necessary to carry out their authorized duties regarding covered Federal contractors; to other agencies, courts, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf. A complete list of the routine uses can be found in the SORN associated with this collection

of information, USAID-32, Reasonable Accommodation Records, 81 FR 70085 (October 11, 2016) and USAID-34, Personal Services Contracts Records, 80 FR 11391 (March 3, 2015).

Consequence of Failure to Provide Information: Providing this information is mandatory. Unless granted a legally required exception, all covered Federal contractors are required to be vaccinated against COVID-19 and to provide documentation concerning their vaccination status to their employing agency. Unless you have been granted a legally required exception, failure to provide this information may result in the termination of your contract or other remedies.

12. Provide estimates of the hour burden of the collection of information.

The hour burden is not expected to vary widely. The amount of requested information from each individual is the same.

Form Name	Form Number	No. of Respondents	No. of Responses per Respondent	Average Burden per Response (in hours)	Total Annual Burden (in hours)
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13. Provide an estimate for the total annual cost burden to respondents or record-keepers resulting from the collection of information.

A total capital and start-up cost component (annualized over its expected useful life): none.
A total operation and maintenance and purchase of services component: none.

Contractors may have a copay related to the doctor's visit. The average copay is \$35. If so, the annual cost burden is \$1,400.

14. Provide estimates of annualized costs to the Federal Government.

There will be no costs beyond the normal labor costs for staff.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

This is a new program.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Results will not be published.

17. If you are seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not seeking approval to not display the expiration date for OMB approval of the information collection.

18. Explain each exception to the topics of the certification statement identified in Certification for Paperwork Reduction Act Submissions.

There are no requested exceptions to the topics of the certification statement identified in the Certification for Paperwork Reduction Act Submissions section of OMB form 83-I.

PART B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection does not employ statistical methods.