



USAID
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PROCUREMENT EXECUTIVE'S BULLETIN (PEB) No. 23-02, Revision 2

SUBJECT: "No TikTok on Government Devices" Implementation

1. Scope: The requirements in this PEB are applicable to **all solicitations and contracts as outlined in Attachments A and B**, including personal services contracts (PSCs), institutional support contracts (ISCs), contracts at or below the simplified acquisition threshold (SAT), and contracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items. This PEB does not apply to assistance awards (e.g., grants, cooperative agreements, or grants under contracts).

2. Purpose: The purpose of this PEB is to inform acquisition professionals of required actions to implement Office of Management and Budget (OMB) [Memorandum No. M-23-13](#) ("No TikTok on Government Devices" Implementation Guidance), issued on February 27, 2023, and [FAR Subpart 4.22](#) ("Prohibition on a ByteDance Covered Application"), established on June 2, 2023.

3. Responsibilities and Requirements: As required by the OMB Memorandum M-23-13 and FAR Subpart 4.22, Contracting Officers (COs) must conduct the required actions listed in Attachments A and B, which are organized in accordance with the timelines stated in Section III of OMB Memorandum M-23-13:

- **Immediate Actions for Solicitations and Contracts:** By May 28, 2023, COs should have completed reviews of their portfolios and, if necessary, amended solicitations and modified existing contracts in accordance with **Attachment A** ("Required Actions for Immediate Review of Solicitations and Contracts") to fulfill the requirements of the 90-day deadline described in Section III.B of OMB Memorandum M-23-13. Any actions required by Attachment A that have not yet been finalized must be completed as soon as possible in accordance with the revised guidance.

Note: If a CO completed the actions in Attachment A prior to the May 28, 2023 deadline, only the revised guidance in Attachment B applies moving forward.

- **New FAR Clause:** To implement the requirements of the 120-day deadline described in Section III.C of the OMB Memorandum M-23-13, the Federal Acquisition Regulatory Council (FAR Council) developed a new FAR clause to be used in solicitations and

contracts. COs must amend existing solicitations, modify existing contracts, and issue new solicitations and contracts in accordance with **Attachment B** (“Required Actions for New FAR 52.204-27 Clause”). There are various timelines outlined in Attachment B, depending on the specific action.

In addition, GSA has issued [Smart Bulletin No. 037](#) to provide guidance regarding the impact of OMB Memorandum M-23-13 on micro-purchases and procurements made using [purchase cards](#). Purchases made at or below the micro-purchase threshold are subject to the prohibitions described in M-23-13 and FAR Subpart 4.22. Purchase cardholders may not acquire media services or make purchases through “TikTok” (i.e., the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited). The GSA guidance also notes that “purchase cards shall not be used for purchases that require the use of TikTok or require vendor use of IT that contains TikTok, unless an exception is granted.” For more information on exceptions, see Section III of Attachment B.

5. Background: TikTok is a software application owned and operated by ByteDance Limited, a privately held company headquartered in Beijing, China. The [Consolidated Appropriations Act, 2023 \(Pub. L. 117-328\)](#), enacted the [No TikTok on Government Devices Act](#), which instructs the Director of OMB, in consultation with the Administrator of General Services, the Director of the Cybersecurity and Infrastructure Security Agency, the Director of National Intelligence, and the Secretary of Defense, to develop standards and guidelines for agencies requiring the removal of TikTok from Federal information technology.

OMB Memorandum M-23-13 fulfills the requirement of Section 102 of Division R (“No TikTok on Government Devices”) of Pub. L. 117-328 by directing agencies to remove TikTok from Federal devices and providing instructions and deadlines for that removal. M-23-13 outlines a phased implementation timeline.

On June 2, 2023, the FAR Council published an [interim rule](#) to implement the No TikTok on Government Devices Act and its implementing guidance under OMB Memorandum M-23-13. This rule adds a new FAR Subpart 4.22 (“Prohibition on a ByteDance Covered Application”), with a corresponding new contract clause at 52.204-27 (“Prohibition on a ByteDance Covered Application”).

6. Inquiries: COs may direct their questions about this PEB to the ["Ask M/OAA Policy"](#) Google Group.

7. Effective Date: This PEB was originally issued and effective on April 28, 2023. **Revision No. 1 replaced the original PEB on June 9, 2023. This Revision No. 2 replaces the PEB Revision No. 1** effective immediately and shall remain in effect until canceled by the Procurement Executive.

Deborah Broderick
Acting Procurement Executive

Attachments:

Attachment A: Required Actions for Immediate Review of Solicitations and Contracts

Attachment B: Required Actions for New FAR 52.204-27 Clause

Attachment A: Required Actions for Immediate Review of Solicitations and Contracts

Note: If a CO completed the actions in Attachment A prior to the May 28, 2023 deadline, only the revised guidance in Attachment B applies moving forward.

I. Introduction

For purposes of this PEB, “**covered application**” means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

OMB Memorandum M-23-13 prohibits contracts from containing requirements that may include the use of a covered application in performance of the contract.

II. Required Actions

No later than **May 28, 2023**, COs must complete the following tasks:

- (1) **Review portfolio.** COs must review their portfolios to determine if any existing contracts or solicitations contain requirements – such as in the statement of work – that may include the use of a covered application in the performance of the contract. Illustrative activities that could include such requirements are: educational campaigns, public outreach, advertising, or promotional communications on social media.
- (2) **Modify or terminate contracts.** If any of the contracts in the CO’s portfolio contain requirements that may include the use of a covered application in performance of the contract, the CO must work with the Contracting Officer’s Representative (COR) to determine if the contract can be modified to remove the use of the covered application, unless an exception has been approved (see Section III below).

(a) *For contracts that include an explicit reference to a covered application:*

- If the contract can be modified to remove the use of the covered application, the CO must process a bilateral modification in accordance with FAR Part 43 to (1) remove the requirement for the use of the covered application, and (2) insert the following language into the contract’s statement of work:

“None of the activities under this contract may include the use of the social networking service TikTok or any successor application or service of TikTok developed or provided by ByteDance Limited or an entity owned by ByteDance Limited, including any parent, subsidiary, affiliate or successor to ByteDance Limited.”

- If the contract contains a requirement to use a covered application and cannot be modified to remove the use, the CO must terminate the contract for convenience in accordance with FAR Part 49.

(b) *For contracts that do not have an explicit reference to a covered application, but may indirectly involve the use of a covered application:* If the contract includes a requirement that *may* include the use of a covered application, the CO can consider modifying the contract’s statement of work to include the following language:

“None of the activities under this contract may include the use of the social networking service TikTok or any successor application or service of TikTok developed or provided by ByteDance Limited or an entity owned by ByteDance Limited, including any parent, subsidiary, affiliate or successor to ByteDance Limited.”

(3) **Amend or cancel solicitations.** If any of the open or closed solicitations in the CO’s portfolio contain requirements that may include the use of a covered application in performance of the resulting contract, the CO must work with the COR to determine if the solicitation can be modified to remove the use of the covered application, unless an exception has been approved (see Section III below).

(a) *For solicitations that include an explicit reference to a covered application:*

- If the solicitation can be amended to remove the use of the covered application, the CO must process an amendment to ~~(1) remove the requirement for the use of the covered application, and (2) insert the following language into the solicitation’s statement of work:~~

~~“None of the activities under this contract may include the use of the social networking service TikTok or any successor application or service of TikTok developed or provided by ByteDance Limited or an~~

~~entity owned by ByteDance Limited, including any parent, subsidiary, affiliate or successor to ByteDance Limited.”~~

- If the solicitation cannot be amended to remove the use of the covered application, the CO must cancel the solicitation.

~~(b) For solicitations that do not have an explicit reference to a covered application, but may indirectly involve the use of a covered application: If the solicitation includes a requirement that may include the use of a covered application, the CO can consider modifying the solicitation’s statement of work to include the following language:~~

~~“None of the activities under this contract may include the use of the social networking service TikTok or any successor application or service of TikTok developed or provided by ByteDance Limited or an entity owned by ByteDance Limited, including any parent, subsidiary, affiliate or successor to ByteDance Limited.”~~

~~For closed solicitations, the CO has the discretion to amend or cancel the solicitation following the same procedures as for open solicitations. Alternatively, the CO may address this issue as part of final negotiations during the award of the contract.~~

COs must ensure that no new solicitations or contracts are issued that contain requirements that may include the use of a covered application in the performance of the contract, unless an exception has been approved (see Section III below).

III. Exceptions

OMB Memorandum M-23-13 allows for limited exceptions to the restrictions on the covered application for certain law enforcement activities, national security interests and activities, and security research. Agencies must limit the use of exceptions. M/CIO manages USAID’s procedures for processing exceptions, which adhere to the requirements in M-23-13. In limited circumstances, when a CO believes an exception may be justified, the CO may contact cyberrisk@usaid.gov for details regarding the exception process and consultation of whether an exception can be considered. COs may request exceptions from M/CIO by completing the [Prohibited Technology Exception Request form](#); instructions for completing and submitting the request are included in the form.

Attachment B: Required Actions for New FAR 52.204-27 Clause

I. Introduction

The new **FAR 52.204-27** clause (“Prohibition on a ByteDance Covered Application”) is applicable to **all solicitations and contracts** as outlined in Section II below, unless an exception has been approved (see Section III below).

This FAR 52.204-27 clause is available in GLAAS, and the PSC solicitation and contract templates have been updated to include the FAR 52.204-27 clause.

II. Required Actions

COs must include the new FAR 52.204-27 clause in solicitations and contracts as follows:

- **New Solicitations and Contracts**: COs must ensure that the new FAR 52.204-27 clause is included in all new solicitations and contracts issued on or after **June 2, 2023**.
- **Existing Solicitations**: For any open or closed solicitation issued before June 2, 2023 with a resulting contract to be awarded on or after June 2, 2023, the CO must amend the solicitation to add the FAR 52.204-27 clause by **July 3, 2023**.
- **Existing Indefinite-Delivery Contracts**: For indefinite-delivery contracts awarded prior to June 2, 2023, COs must issue bilateral modifications to these contracts to include the FAR 52.204-27 clause by **July 3, 2023**.
- **Existing Contracts and Orders**: For any contract and order awarded prior to June 2, 2023, in the event that a CO **exercises an option or modifies it to extend the period of performance**, the CO must issue a bilateral modification to include the FAR 52.204-27 clause. When exercising an option, the CO should consider modifying the existing contract to add the clause in a sufficient amount of time before exercising the option to provide contractors with adequate time to comply with the clause.

COs do not need to add the FAR 52.204-27 clause into existing contracts/orders that will not have an option exercised or their period of performance extended.

In addition to including the FAR 52.204-27 clause in solicitations and contracts as outlined above, **COs must ensure that no new solicitations or contracts are issued that contain**

requirements that may include the use of a covered application (as defined in FAR 52.204-27) in the performance of the contract, unless an exception has been approved (see Section III below).

III. Exceptions

OMB Memorandum M-23-13 allows for limited exceptions to the restrictions on the covered application for certain law enforcement activities, national security interests and activities, and security research. Agencies must limit the use of exceptions. M/CIO manages USAID’s procedures for processing exceptions, which adhere to the requirements in M-23-13. In limited circumstances, when a CO believes an exception may be justified, the CO may contact cyberrisk@usaid.gov for details regarding the exception process and consultation of whether an exception can be considered. COs may request exceptions from M/CIO by completing the [Prohibited Technology Exception Request form](#); instructions for completing and submitting the request are included in the form.