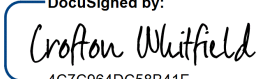




GSA Public Buildings Service

June 14, 2023

MEMORANDUM FOR: REGIONAL COMMISSIONERS, PBS  
REGIONAL LEASING DIRECTORS  
REGIONAL LEASE ACQUISITION OFFICERS

FROM: CROFTON WHITFIELD   
ASSISTANT COMMISSIONER FOR OFFICE OF LEASING  
– PR

SUBJECT: LEASING ALERT (LA-23-04) FAR Clause 52.204-27,  
PROHIBITION ON A BYTEDANCE COVERED  
APPLICATION (JUNE 2023)

1. **Purpose.** This Leasing Alert issues specific leasing guidance regarding the new FAR clause 52.204-27, Prohibition on a ByteDance Covered Application (June 2023), issued via [Federal Acquisition Regulation \(FAR\) Case 2023-010](#).
2. **Background.**
  - a. On June 2, 2023, FAR Case 2023-010, Prohibition on a ByteDance Covered Application, was issued as an interim FAR rule. This interim rule implements section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328), the No TikTok on Government Devices Act, and its implementing guidance under [OMB Memorandum M–23–13](#), dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance. The rule revises the FAR to implement the prohibition on having or using the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited (“covered application”). This prohibition applies to the presence or use of any covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the contractor under a contract, including equipment provided by the contractor's employees, unless an exception is granted in accordance with Office of Management and Budget (OMB) Memorandum M–23–13.

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- b. This FAR rule established a new FAR clause 52.204–27, Prohibition on a ByteDance Covered Application, which must be included:
        - i. In solicitations issued on or after June 2, 2023;
        - ii. In solicitations issued before the effective date (June 2, 2023), provided award of the resulting contract(s) occurs on or after the effective date. The amendment of the solicitation must be accomplished by July 3, 2023; and
        - iii. If exercising an option or modifying an existing contract or task or delivery order to extend the period of performance.
3. **Effective Date.** This Leasing Alert is effective as of issuance, unless modified, canceled, or reissued.
4. **Applicability.** This Leasing Alert and its attachment are mandatory for new, new/replacing, succeeding, superseding, extension, and renewal lease actions and apply to GSA real property leasing activities and activities delegated by GSA to other Federal agencies.
5. **Cancellation.** None
6. **Instructions and Procedures.** Additional guidance concerning the implementation of [FAR Case 2023-010](#) is as follows:
  - a. For RLP packages issued on or after June 2, 2023:
    - i. Until the Office of Leasing can update its General Clauses templates (GSA 3517A and 3517B), Lease Contracting Officers (LCOs) must include FAR clause 52.204-27, Prohibition on a ByteDance Covered Application (Attachment 1), as a separate attachment in all Request for Lease Proposals (RLP) packages. Note that inclusion of 52.204-27 as a separate clause will not be necessary once the Office of Leasing issues updated General Clauses containing this new FAR clause. These updated General Clauses will be issued later this fiscal year under a separate leasing alert.
    - ii. LCOs must include the FAR clause 52.204-27 in the resulting awarded lease contract.
  - b. For lease projects where GSA has issued the RLP package but has not issued a request for Final Proposal Revisions (FPR):
    - i. The LCO must issue an RLP amendment transmitting FAR clause 52.204-27 (Attachment 1).

- ii. All offerors must acknowledge receipt of the RLP amendment, by signing it and returning it.
- c. For lease projects where GSA has issued the RLP package and the date for FPR has passed:
  - i. The LCO is not required to amend the RLP package and reopen negotiations. However, the LCO must transmit to the apparent successful offer the FAR clause 52.204-27.
  - ii. The apparent successful offeror must acknowledge receipt of FAR clause 52.204-27.
- d. For offers received through the Automated Advanced Acquisition Program (AAAP) procurements:
  - i. LCOs must transmit FAR clause 52.204-27 to the apparent successful offeror, as part of the due diligence phase, until the FAR clause 52.204-27 can be incorporated into the AAAP RLP package.
- e. For extensions and renewal actions:
  - i. FAR clause 52.204-27 must be included in Lease Amendments for extensions.
  - ii. FAR clause 53.304-27 must be incorporated into the lease prior to exercising a renewal option. LCOs should consider modifying the existing lease contract to add the clause in a sufficient amount of time before exercising the option and to provide contractors with adequate time to comply with the clause.

**Attachment:**

- **Attachment 1**, FAR Clause 52.204-27, Prohibition on a ByteDance Covered Application (June 2023)

## ATTACHMENT 1 LA-23-04

### ACTION REQUIRED:

Per Leasing Alert LA-23-04, use the following FAR clause 52.204-27, Prohibition on a ByteDance Covered Application, in solicitations and resulting contracts. Also required for extensions and renewals.

**NOTE:** Office of Leasing will be incorporating this clause into the General Clauses (GSA 3517s) sometime in FY23. Do not add this clause if using an updated GSA 3517 that already contains this clause.

#### FAR 52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)

(a) *Definitions.* As used in this clause—

*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.

*Information technology*, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition.* Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum

M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)