

# FAR Council Bans TikTok from Federal Contractor Devices

**Government Contractor Compliance & Regulatory Update** on July 24, 2023

On June 2, 2023, the Federal Acquisition Regulation (FAR) Council published an [interim rule](#) which requires contracting officers to insert a [new clause](#) – FAR 52.204-27 – in solicitations after June 2, 2023 or when exercising an option or modifying an existing task or delivery order after that date.

The new provision prohibits federal contractors and subcontractors from having or using TikTok or successor applications on “on any information technology owned or managed by the Government, or any information technology used or provided by the Contractor under th[e] contract, including equipment provided by the Contractor’s employees.” The interim rule states that by July 3, 2023, contracting officers will modify all indefinite-delivery contracts to apply the prohibition to future orders.

Contractors covered by the new clause must include its substance in all subcontracts, “including subcontracts for the acquisition of commercial products or commercial services.” The prohibition applies to all devices used in relation to a government contract, including “employee-owned devices that are used as part of an employer’s bring your own device (BYOD) program.” In addition, the interim rule is applicable to acquisitions at or below the Simplified Acquisition Threshold (SAT) and Commercially Available Off-the-Shelf (COTS) Items. However, a “personally-owned cell phone that is not used in the performance of the contract is not subject to the prohibition,” nor is equipment that is “incidental to a federal contract.”

Pursuant to the FAR, and in accordance with [Office of Management and Budget \(OMB\) Memorandum M-23-13](#), exceptions to the prohibition may be granted “for law enforcement activities, national security interests and activities, and security research” if the “use of a covered application is critical to [a federal agency’s] mission and alternative approaches are not viable.” Exceptions to the restriction “must be granted by an agency head or designee of the agency head” and can last up to one year before they must be reevaluated for renewal or termination.

[FAR 52.204-27](#) implements Section 102 of the [No TikTok on Government Devices Act](#) (2022), which “require[es] the removal of TikTok from Federal information technology,” and OMB Memorandum [M-23-13](#), “No TikTok on Government Devices” Implementation Guidance. The interim rule states that the prohibition “is a national security measure to protect Government information and information and communication technology systems.”

The interim rule contends that the prohibition “is not expected to have a significant economic impact on businesses” because the changes “do not require a contractor to review its supply chain” and there is no reporting requirement. In addition, the FAR council expects that “contractors already have technology in place to block access to prohibited applications.”

Members of the public may submit written comments to the interim rule on or before August 1, 2023. In the meantime, contractors should consider how this new requirement will apply to them, their employees, and their IT infrastructure, and consult with counsel on how to comply with the requirement when they become subject to the new FAR.

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