

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1**

[Docket No. FAR–2023–0051, Sequence No. 3]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2023–04;
Introduction**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of an interim rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2023–04. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: *Farpolicy@gsa.gov* or call 202–969–4075 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*. Please cite FAC 2023–04, FAR Case 2023–010.

Rule Listed in FAC 2023–04

Subject: Prohibition on a ByteDance Covered Application.

Far Case: 2023–010.

ADDRESSES: The FAC, including the SECG, is available at <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR rule, refer to the specific subject set forth in the document following this summary. FAC 2023–04 amends the FAR as follows:

Prohibition on a ByteDance Covered Application (FAR Case 2023–010)

This interim rule amends the Federal Acquisition Regulation 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”). The rule prohibits the presence or use of a covered application on information technology, including certain equipment used by Federal contractors. This prohibition applies to devices regardless of whether the device is owned by the Government, the contractor, or the contractor’s employees (e.g., employee-owned devices that are used as part of an employer bring your own device (BYOD) program). A personally-owned cell phone that is not used in the performance of the contract is not subject to the prohibition.

This 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 Office of Management and Budget Memorandum M–23–13, “No TikTok on Government Devices” Implementation Guidance. This rule applies to all contracts, including contracts at or below the simplified acquisition threshold, contracts for commercial products (including commercially available off-the-shelf items), and for commercial services. The change is not expected to have a significant economic impact on a substantial number of small entities. This interim rule is being implemented as a national security measure to protect Government information and communication technology systems.

Janet Fry,

Deputy Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Federal Acquisition Circular (FAC) 2023–04 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2023–04 is effective June 2, 2023.

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Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

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[FR Doc. 2023–11755 Filed 6–1–23; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 4, 13, 39 and 52**

[FAC 2023–04; FAR Case 2023–010; Docket No. 2023–0010, Sequence No. 1]

RIN 9000–AO58

**Federal Acquisition Regulation:
Prohibition on a ByteDance Covered Application**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement a section of the Consolidated Appropriations Act, 2023, and its implementing guidance.

DATES: Effective June 2, 2023.

Applicability:

Contracting officers shall include the clause at FAR 52.204–27, Prohibition on a ByteDance Covered Application—

○ In solicitations issued on or after June 2, 2023; and

○ In solicitations issued before the effective date, 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.

• For existing indefinite-delivery contracts only, contracting officers shall modify them, in accordance with FAR 1.108(d)(3), to include the FAR clause at 52.204–27, Prohibition on a ByteDance Covered Application, by July 3, 2023, to apply to future orders.

• If exercising an option or modifying an existing contract or task or delivery order to extend the period of performance, contracting officers shall include the clause. When exercising an option, agencies should consider modifying the existing 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.

Agencies whose mission or operational posture prevents