



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

PROCUREMENT MEMORANDUM 2023-07

ACTION

MEMORANDUM FOR: Senior Bureau Procurement Officials

FROM: Olivia J. Bradley
Senior Procurement Executive and
Director for Acquisition Management

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Date: 2023.04.06
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André V. Mendes
Chief Information Officer

SUBJECT: "No TikTok on Government Devices" Implementation Guidance

Background

On February 27, 2023, the Office of Management and Budget (OMB) issued M-23-13, "*No TikTok on Government Devices*" *Implementation Guidance*, which outlines actions for agencies to implement requirements of the Consolidated Appropriations Act, 2023, ("the Act") to remove TikTok and other covered applications¹ from Federal information technology (IT)². Per Section II of M-23-13, this is not restricted to only IT owned or operated by agencies but IT "used by a contractor under a contract with the executive agency that requires the use of that IT, whether expressly or to a significant extent in the performance of a service or the furnishing of a product." This definition does not include "any equipment acquired by a federal contractor incidental to a federal contract."

Purpose

This procurement memorandum provides Department of Commerce-wide direction to contracting officers to implement the actions required within the first 90 days of issuance of M-23-13.

Required Actions

No later than May 28, 2023, Contracting Officers shall:

1. Ensure that any new contracts³ issued do not contain requirements that may include the use of a covered application in the performance of the contract, except in cases of approved exceptions;

¹ "Covered application" includes 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."

²Pub. L. No. 117-328, div. R, §§ 101-02

³ For purposes of this Procurement Memorandum the term "contract" has the meaning as defined in section 2.101 of the FAR and includes orders under indefinite delivery, indefinite quantity contracts and blanket purchase agreements.

2. Cease use of contracts that contain requirements that may include use of a covered application in performance of the contract or modify those contracts to conform with the prohibition on covered applications, except in cases of approved exceptions; and
3. When reporting modifications issued in response to this memorandum to the Federal Procurement Data System (FPDS), enter "M2313" (with no spaces or punctuation breaking up the identifier) at the beginning of the Description of Requirement data field on the contract action report (CAR). Additional information shall be entered into the Description of Requirement field after the identifier with no further restrictions on spaces or punctuation to provide the actual description of the requirement.

Exceptions

The Act permits limited exceptions to the restrictions outlined in this memorandum for law enforcement activities, national security interests and activities, and security research. Exceptions will be managed through the Department of Commerce Office of the Chief Information Officer's Cybersecurity Policy Waiver process maintained by the Office of Cybersecurity and IT Risk Management. Instructions on the process may be found on Commerce Connection [here](#). Documentation of the approved exception shall be provided by the cognizant program office and retained in the contract file.

Notifications

If a contract is terminated due to use of a covered application in performance of a contract Senior Bureau Procurement Officials shall follow the requirements for notification of contract termination found in Appendix B of Commerce Acquisition Manual 1301.7 and note that the termination is due to the requirements of this Procurement Memorandum. A notification shall also be made for modifications executed due to use of a covered application in performance of a contract by emailing the following information to OAM_Mailbox@doc.gov: procurement instrument identifier and the date of the action.

Effective Date

This procurement memorandum is effective immediately and remains in effect until rescinded.

Questions

Please direct any questions regarding this Procurement Memorandum to OAM_Mailbox@doc.gov.