

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **The Internal Revenue Service Is Not Fully Complying With the 90- and 120-Day Requirements of the “No TikTok on Government Devices” Implementation Guidance**

July 22, 2024

Report Number: 2024-IE-R016

### **Notice**

This report may be subject to section 5274 of the National Defense Authorization Act Fiscal Year 2023, 117 Pub. L. 263.

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# HIGHLIGHTS: The Internal Revenue Service Is Not Fully Complying With the 90- and 120-Day Requirements of the “No TikTok on Government Devices” Implementation Guidance

Final Evaluation Report issued on July 22, 2024

Report Number 2024-IE-R016

## Why TIGTA Did This Evaluation

The Consolidated Appropriations Act, 2023, included the No TikTok on Government Devices Act (the Act). TikTok is a software application owned and operated by a privately held company headquartered in Beijing, China. The Act requires agencies to remove the social networking service TikTok from Government devices.

On February 27, 2023, the Office of Management and Budget (OMB) issued implementation guidance for the removal of TikTok from Government devices. The guidance requires actions and deadlines within the following calendar days: 30, 90, and 120 days from the date of implementation.

This evaluation was conducted to assess the IRS’s actions to timely address the requirements within 90 and 120 calendar days in the Act.

## Impact on Tax Administration

The IRS is not in compliance with the OMB guidance as contracting officers did not put the required Federal Acquisition Regulation (FAR) clause into all required contract actions.

## What TIGTA Found

The IRS Office of the Chief Procurement Officer (OCPO) is not in compliance with OMB and FAR guidance because the contracting officers did not always include the required clause in solicitations, contracts, and contract modifications to extend the period of performance. Specifically, our review of contract actions signed between June 2 and August 16, 2023, found that contracting officers omitted the FAR clause in the following:

- 68 of 163 contracts or solicitations. Contracting officers are required to include the FAR clause for prohibition on TikTok or TikTok’s parent company in all solicitations and contracts unless an exception is granted in accordance with the OMB guidance.
- 50 of 53 contract modifications. Contracting officers are required to input the FAR clause for contracts that will be modified to extend the period of performance, which also includes the exercise of an option period.

The FAR clause states that contractors are prohibited from using TikTok or a subsidiary of TikTok’s parent company during the performance of a contract.

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

Contracting officers were not inserting the above FAR language into all required solicitations and contracts.

In addition, TIGTA identified social media and recruiting contracts, which were not identified by the OCPO, that could potentially involve the use of TikTok.

## What TIGTA Recommended

TIGTA made five recommendations in this report. Specifically, the OCPO should ensure that IRS contracting officers are inserting the required FAR clause into all applicable contracts and solicitations. In addition, work with the contractor to modify the contract to include the required FAR clause into the seven contracts TIGTA identified and consider reviewing all contracts to determine whether they need to be modified to include the required FAR clause.

IRS management agreed with four of the five recommendations. The IRS disagreed with one recommendation, however they agreed to address this action as part of two other recommendations.



# TREASURY INSPECTOR GENERAL

## for Tax Administration

**DATE:** July 22, 2024

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:** Russell P. Martin   
Deputy Inspector General for Inspections and Evaluations

**SUBJECT:** Final Evaluation Report – The Internal Revenue Service Is Not Fully  
Complying With the 90- and 120-Day Requirements of the “No TikTok  
on Government Devices” Implementation Guidance  
(Evaluation No.: IE-23-020.02)

This report presents the results of our evaluation to assess the Internal Revenue Service’s (IRS) actions to timely address the 90- and 120-day requirements in the Office of Management and Budget M-23-13, “No TikTok on Government Devices” Implementation Guidance. This review was initiated in response to the Consolidated Appropriations Act, 2023,<sup>1</sup> which enacted the No TikTok on Government Devices Act in December 2022.

Management’s complete response to the draft report is included as Appendix III. If you have any questions, please contact me or Frank O’Connor, Director, Inspections and Evaluations.

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<sup>1</sup> Pub. L. No. 117-328, 136 Stat. 4459 (2022).

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## **Background**

The Consolidated Appropriations Act, 2023,<sup>1</sup> included the No TikTok on Government Devices Act (the Act). TikTok is a software application owned and operated by a privately held company headquartered in Beijing, China. The Act instructs the Director of the Office of Management and Budget (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 the social networking service TikTok. The removal also includes any successor application or service of TikTok developed or provided by its parent company or an entity owned by its parent company (hereafter referred to as TikTok) from Federal information technology.<sup>2</sup>

### **The OMB issued specific guidance and time frames for agencies to comply with the Act**

On February 27, 2023, the OMB issued M-23-13, “No TikTok on Government Devices” Implementation Guidance, which outlined the time frame and steps to be taken to remove TikTok from Federal Government devices. Specifically, this guidance required agencies to perform the following actions within 30 calendar days<sup>3</sup> from the issuance date of this OMB guidance:

- Identify the use or presence of TikTok on information technology.
- Remove and disallow installations of TikTok on information technology owned or operated by agencies, except in cases of approved exceptions.
- Prohibit Internet traffic to TikTok from information technology owned by agencies, except in cases of approved exceptions.

The OMB guidance also required agencies to perform additional actions related to solicitations and contracts within 90 and 120 days of the issuance of the guidance. Figure 1 summarizes the additional actions agencies are required to take.

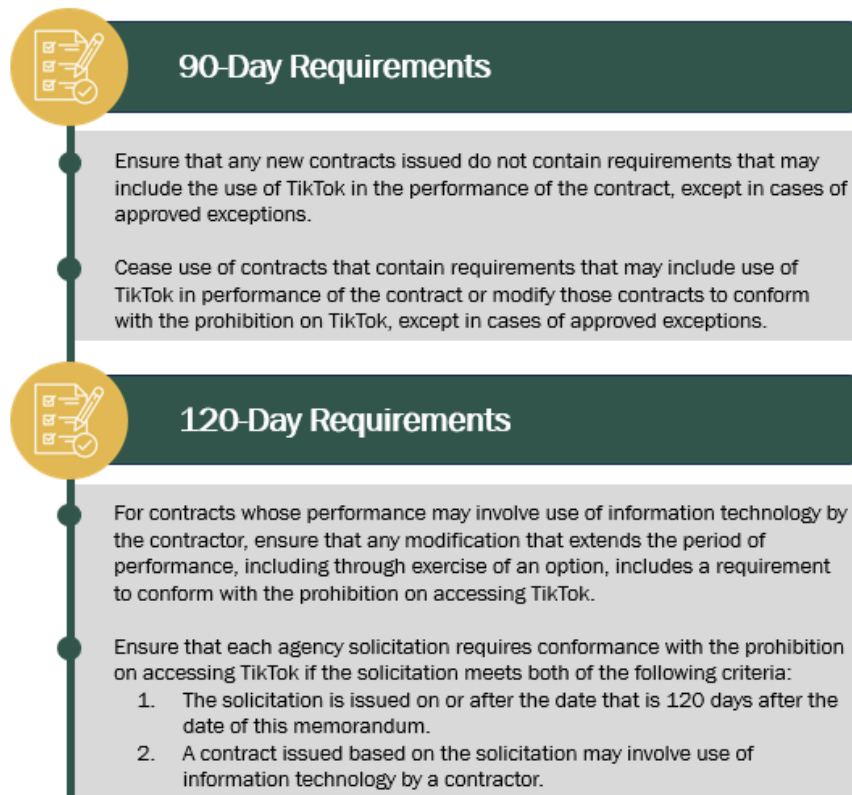
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<sup>1</sup> Pub. L. No. 117-328, 136 Stat. 4459 (2022).

<sup>2</sup> For the purpose of this report, and the definition used in OMB M-23-13, the requirements of the OMB guidance apply to information technology used by the executive agency directly or used by a contractor under a contract with the executive agency. Information technology does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

<sup>3</sup> Throughout the report, all references to days refer to calendar days.

**Figure 1: OMB 90- and 120-Day Requirements  
for Solicitations and Contracts**



*Source: OMB-issued M-23-13, “No TikTok on Government Devices” Implementation Guidance.*

## **The Federal Acquisition Regulation (FAR) issued guidance on solicitations and contracts**

In response to the Act and Implementation Guidance, the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration issued an interim rule<sup>4</sup> in June 2023. The interim rule amended the FAR to address the provision in the Consolidated Appropriations Act, 2023, by including specific implementation guidance. Specifically, the amending language requires a standard clause<sup>5</sup> to be inserted into solicitations<sup>6</sup> and modifications that extend the period of performance or to exercise an option year. In addition to the interim guidance issued, FAR issued additional guidance<sup>7</sup> that requires the standard clause to be included in new contract awards. This clause details the prohibition of the presence or use of TikTok on information technology equipment used by Government contractors and contractor personnel. Figure 2 details the FAR clause required to be included in applicable contract actions.

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<sup>4</sup> 88 Fed. Reg. 36430 - Federal Acquisition Regulation: Prohibition on a ByteDance Covered Application. The final rule has not been published as of March 19, 2024.

<sup>5</sup> FAR 52.204–27.

<sup>6</sup> FAR 2.101 defines a solicitation as “any request to submit offers or quotations to the Government.”

<sup>7</sup> FAR 4.2203.

**Figure 2: FAR Clause Required for Contract Actions**

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

Source: FAR-issued Guidance 52.204-27 Prohibition on TikTok or TikTok’s parent company.<sup>8</sup>

**The Department of the Treasury issued guidance for Contracting Personnel**

On May 16, 2023, the Department of the Treasury issued additional guidance in a memorandum that included an aid to use to identify contracts that may potentially include the use of TikTok or a subsidiary of TikTok’s parent company.<sup>9</sup> This aid included a list of possible North American Industry Classification System (NAICS) codes.<sup>10</sup> An example of a NAICS code is for *Media Streaming Distribution Services, Social Networks, and Other Media Networks and Content Providers*. The Department of the Treasury’s memorandum states that the list of NAICS *codes is not meant to be all-inclusive*, and contracting officers still must assess each contract based on individual contractual requirements.

**The Treasury Inspector General for Tax Administration (TIGTA) issued a report on the Internal Revenue Service’s (IRS) compliance with the OMB’s 30-day guidance**

In December 2023, TIGTA reported that the IRS took steps to comply with the OMB requirement to remove TikTok from IRS devices.<sup>11</sup> However, the IRS did not update its *Bring Your Own Device* policies to comply with the OMB guidance. Specifically, IRS policies were not updated to inform participants in the *Bring Your Own Device* program that the TikTok prohibition also relates to their personally owned devices. Finally, the IRS continues to not comply with the OMB guidance as computers and mobile devices assigned to Criminal Investigation employees continue to have the functionality to access TikTok and other related websites.

TIGTA made six recommendations in this report. Specifically, the IRS should remove and/or prohibit access to TikTok on the 23 unmanaged devices to ensure compliance with the OMB guidance in the Act. In addition, the IRS should work with the OMB to update the *Bring Your Own Device* program’s policies and procedures to ensure that IRS participants are in compliance with the Act. Furthermore, Criminal Investigation should ensure that access to TikTok is blocked on mobile devices and work with the OMB to determine whether an exception process is needed for the approximately 900 Criminal Investigation employees who can access TikTok on their computers. IRS management agreed with five recommendations. The IRS disagreed with our recommendation to block access to TikTok on more than 2,800 mobile devices used by Criminal Investigation.

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<sup>8</sup> For the language in the clause – see Appendix II.

<sup>9</sup> The Department of the Treasury, Office of the Senior Procurement Executive, Information and Guidance regarding OMB M-23-13, “No TikTok on Government Devices” Implementation Guidance, dated February 27, 2023.

<sup>10</sup> NAICS codes are a standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

<sup>11</sup> TIGTA, Report No. 2024-IE-R003, *The Internal Revenue Service Is Not Fully Complying With the No TikTok on Government Devices Implementation Guidance* (Dec. 2023).

## **Results of Review**

On June 21, 2023, officials from the IRS’s Office of the Chief Procurement Officer (OCPO)<sup>12</sup> met with their procurement staff to discuss the new FAR requirements, which includes inserting the required clause into all applicable contract actions. The OCPO also sent an alert to contracting officers outlining their responsibility to insert the required FAR clause into applicable contracts. However, despite these efforts, our evaluation of 216 contract actions during the period June 2, 2023 to August 16, 2023, found that 118 (55 percent) did not include the required FAR clause. Additionally, not all social media and recruiting contracts were identified for review to determine if the required FAR clause should be included in the contract.

### **The Required Federal Acquisition Regulation Clause Was Not Always Included in Applicable Contracts**

Our evaluation identified that the IRS is not in compliance with the OMB and FAR requirements. Specifically, contracting officers did not always include the required FAR clause<sup>13</sup> in solicitations, contracts, and contract modifications to extend the period of performance or when exercising an option year on a contract by the OCPO. For example, our review of 216 contract actions between June 2 and August 16, 2023, found that 118 (55 percent) did not include the required FAR clause. These include:

- 68 of 163 contracts or solicitations.<sup>14</sup> Contracting officers are required to include the FAR clause for prohibition on TikTok or TikTok’s parent company in all solicitations<sup>15</sup> and contracts unless an exception is granted in accordance with the OMB guidance.
- 50 of 53 contract modifications. Contracting officers are required to insert the FAR clause for contracts that will be modified to extend the period of performance, which also includes the exercise of an option period.

OCPO officials agreed that 98 (83 percent) of the 118 contract actions identified should have included the required FAR clause. OCPO officials noted that the clause was not included in the contracts because it was either a timing issue of when the guidance became effective and when the contract was awarded, or it was more than likely due to an omission by the contracting officer. As previously noted, the contracting officer is responsible for inserting the required clause. For the remaining 20 contract actions identified, the OCPO disagreed because the contract’s NAICS code was not included in the Department of the Treasury’s guidance.

Four of the 151 contracts reviewed exceeded \$10 million. Internal guidelines require a second-level review for contracts over \$10 million to ensure that they contain all applicable clauses. As such, neither the first-level nor the second-level review identified that the required

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<sup>12</sup> Policy Alert 23-06.

<sup>13</sup> FAR 52.204-27.

<sup>14</sup> Of the 151 contracts reviewed, 111 were from the National Headquarters and 50 did not contain the required FAR clause. The other 40 were from the Area Field Offices and 14 did not contain the required FAR clause. In addition, we reviewed 12 solicitations, three were from the National Headquarters and all three did not contain the required FAR clause, and the other nine were from the Area Field Offices and one did not contain the required FAR clause.

<sup>15</sup> FAR 2.101 defines a solicitation as “any request to submit offers or quotations to the Government.”



FAR clause was not included for these contracts. When we discussed contracts without the required FAR clause with OCPO officials, they stated that this was due to a timing issue of when the guidance became effective and when the contract was awarded. However, two of the contracts were dated almost a month after the FAR clause was required to be added to contracts.

The Chief Procurement Officer should:

**Recommendation 1:** Ensure that the required FAR clause is added to the contracts we found that did not include the clause.

**Management’s Response:** IRS management agreed with the recommendation. The Office of Procurement staff will insert FAR clause 52.204-27, Prohibition on a ByteDance Covered Application, in the identified contracts. The Operations and Management Branches within Procurement Operations will track the execution of all modifications. They will also provide monthly updates to the Procurement Operations Director.

**Recommendation 2:** Develop processes and procedures to ensure that contracting officers comply with adding the required FAR clause to applicable contracts.

**Management’s Response:** IRS management agreed with the recommendation. In addition to steps that they have already taken, the following steps will be implemented by the OCPO: (1) The identified contracts during this audit will be reviewed and modified to ensure that the FAR clause has been included; (2) A mandatory provision and clause checklist will be circulated amongst procurement personnel and included in the internal policy framework for future reference; and (3) Other policy review memos regardless of dollar value will be updated as a reminder for inclusion of the FAR provision and clause.

### **Existing Social Media and Recruiting Contracts Were Not Identified to Determine Whether the Required Federal Acquisition Regulation Clause Should Be Added to the Contract**

In our discussion with OCPO officials, they stated that they reviewed all contracts with NAICS codes that the Department of the Treasury identified (such as software, media, public relations, other marketing services, *etc.*), and they did not find any contracts that involve TikTok or a subsidiary of TikTok’s parent company. However, we identified the following contracts that were not identified that potentially involve TikTok or a subsidiary of TikTok’s parent company:

- Three social media contracts. The statement of work on one of these contracts<sup>16</sup> mentions that the IRS will work with the contractor to retain and archive all records of the IRS’s activity on social media sites. The types of records include posts, tweets, replies, comments, direct messages, images, gifs, and videos. Although this contract does not specifically say it will use TikTok because there is a “but not limited to” statement, there is a possibility that the contractor could still use the TikTok platform in

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<sup>16</sup> Contract Number 2032H5-22-P-00038.

the future. As such, in our opinion, the required FAR clause should be added to these contracts.

- Four recruiting contracts. We reviewed the statement of work on these contracts and found that it was open to interpretation on how the contractor was going to recruit for the IRS. Specifically, in one of the contracts,<sup>17</sup> the language stated that, “The Contractor shall fully support the IRS recruiting presence in the full range of social media networks. This may include but not limited to strategies and services to increase visibility, the number of followers, and the providing of performance measurement services.” As such, in our opinion, the required FAR clause should be added to these contracts.

**Recommendation 3 (E-Mail Alert No. 1):** On October 19, 2023, we notified OCPO officials of our concerns with ensuring that contracting officers are inserting the FAR clause into the contracts we identified. Additionally, we brought to their attention our identification of seven social media and recruiting contracts that we believe could potentially be affected.

**Management’s Response to E-Mail Alert No. 1:** IRS officials disagreed with some of the contracts we identified as potentially requiring the FAR clause. Specifically, they disagreed that contracts with NAICS codes outside of the ones in the Department of the Treasury issued guidance require the FAR clause. Management’s position is that only those contracts with NAICS codes in the Department of the Treasury’s guidance requires the FAR clause.

IRS officials stated that they will consider the three social media contracts, which are covered by one of the NAICS codes in the Department of the Treasury’s guidance. However, they disagreed with the four recruiting contracts we identified.

**Office of Inspections and Evaluations Comment:** We disagree with management’s position that only those contracts with specific NAICS codes identified by the Department of the Treasury should include the required FAR clause. In fact, the Department of the Treasury’s memorandum states that the list of NAICS codes *is not meant to be all-inclusive*, and contracting officers still must assess each contract based on individual contractual requirements. In addition to our disagreement with the IRS’s interpretation of the Department of the Treasury’s memorandum, we found that the IRS is inconsistent with inserting the required FAR clause. Specifically, we identified contracts in which contracting officers added the clause that did not have a NAICS code identified by the Department of the Treasury.

Finally, the FAR supersedes the Department of the Treasury’s guidance and requires the clause to be inserted into applicable contract actions to prohibit the presence or use of TikTok on information technology equipment used by Government contractors and contractor personnel regardless of NAICS codes.

**Management’s Response:** IRS management disagreed with our recommendation. They stated that Recommendation 3 appears to be a comment/statement for which a corrective action cannot be provided.

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<sup>17</sup> Order Number 2043FY-23-F-00012 under Contract Number 47QTCB-22-D-0588.

**Office of Inspections and Evaluations Comment:** Although IRS management disagreed with this recommendation, they agreed to address this action in Recommendations 1 and 4. We believe there is no further action that needs to be taken.

The Chief Procurement Officer should:

**Recommendation 4:** Coordinate with the contracting officers to modify the contracts to include the FAR clause in the seven contracts we identified.

**Management’s Response:** IRS management agreed with the recommendation. Contracting Officers will be directed to modify the seven contracts identified by TIGTA, to include the FAR clause 52.204-27.

**Recommendation 5:** Require contracting officers, regardless of NAICS code, to assess each contract and add the required FAR clause when appropriate. Performing these reviews will ensure compliance with the Department of the Treasury’s memorandum that states that the list of NAICS codes provided by the Department of the Treasury *is not meant to be all-inclusive*, and contracting officers still must assess each contract based on individual contractual requirements.

**Management’s Response:** IRS management agreed with the recommendation. Contracting Officers will be directed to assess each contract and include the required FAR clause when appropriate based on the contract requirement.

## **Appendix I**

### **Detailed Objective, Scope, and Methodology**

The overall objective of this evaluation was to assess the IRS’s actions to timely address the 90- and 120-day requirements in the OMB M-23-13, “No TikTok on Government Devices” Implementation Guidance. To accomplish our objective, we:

- Reviewed the applicable Federal, Department of the Treasury, and IRS guidelines related to the Act.
- Interviewed IRS, OMB, and Department of the Treasury personnel to obtain an understanding of the Act and the requirements.
- Interviewed IRS personnel to determine actions they planned to exclude requirements for the use of TikTok or related entities in the performance of new contracts.
- Ensured that any modification that extends the period of performance, including through exercise of an option, includes a requirement to conform with the prohibition on accessing TikTok or related entities.
- Ensured that each solicitation requires conformance with the prohibition on covered applications.
- Determined if the IRS documented any exceptions in compliance with the Act.

#### **Performance of This Review**

This review was performed with information obtained from the IRS OCPO, located in Lanham-Seabrook, MD, and Washington, DC, during the period May 2023 through January 2024. We conducted this evaluation in accordance with the Quality Standards for Federal Offices of Inspector General.

Major contributors to the report were Frank O’Connor, Director; Jeff Stieritz, Supervisory Evaluator; and Margarita Golden, Lead Evaluator.

#### **Data Validation Methodology**

We performed tests to assess the reliability of data from the IRS’s procurement system. We evaluated the data by 1) performing electronic testing of required data elements and 2) reviewing existing information about the data and the system that produced them. We determined that the data were sufficiently reliable for purposes of this report.

## Appendix II

### **Federal Acquisition Regulation Clause Required for Contract Actions**

#### **52.204-27 Prohibition on a ByteDance Covered Application.**

As prescribed in [4.2203](#), insert the following clause:

##### 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 provision)

*Source: FAR-issued Guidance 52.204-27 Prohibition on a ByteDance Covered Application.*

## Appendix III

### Management’s Response to the Draft Report



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

June 11, 2024

MEMORANDUM FOR RUSSELL P. MARTIN  
DEPUTY INSPECTOR GENERAL FOR INSPECTIONS AND  
EVALUATIONS

FROM: Todd A. Anthony  
Chief Procurement Officer (CPO)

Digitally signed by Todd A. Anthony  
Date: 2024.06.11 14:54:55  
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SUBJECT: Draft Report – *Management Response* to Inspection &  
Evaluation #IE-23-020.02, The Internal Revenue Service Is Not  
Fully Complying With the 90 and 120-Day Requirements of the  
No TikTok on Government Devices Implementation Guidance.

Thank you for the opportunity to review and comment on the subject draft report and address the observations with the audit team. The Internal Revenue Service (IRS) appreciates all opportunities to improve internal controls and processes related to procurement activities.

The Department of the Treasury issued additional guidance through the Senior Procurement Executive's (SPE) *Memo Prohibition of TikTok* (5/16/23) that included an aid to use to identify contracts that may potentially include the use of TikTok or a subsidiary of TikTok's parent company. This aid included a list of possible North American Industry Classification System (NAICS) codes but was not meant to be all-inclusive, and the contracting officers would need to assess each contract based on individual contractual requirements.

The Office of the Chief Procurement Officer (OCPO) agrees with TIGTA's findings that 118 Internal Revenue Service's (IRS) identified contract actions (68 of 163 contracts or solicitations; and 50 of 53 contract modifications) didn't include the required FAR clause 52.204-27. The OCPO indicated that during the Fieldwork/ Discovery Phase, this clause was inadvertently excluded in the contract actions due to the timing of guidance and/or when the contract actions were established.

OCPO's corrective action plan is included below; we are committed to accomplishing our part in maintaining the integrity of the contract process and value TIGTA's continued support and assistance provided to procurement.

Attached is our response to your recommendation(s). If you have any questions, please contact our office.



Attachment

**RECOMMENDATION 1**

The CPO should ensure that the required FAR clause is added to the contracts we found that did not include the clause.

**CORRECTIVE ACTION**

The CPO agrees with this Recommendation. Our procurement staff will insert FAR clause 52.204-27, Prohibition on a ByteDance Covered Application in the identified contracts. The Operations and Management Branches (OMBs) within Procurement Operations will track the execution of all modifications. The OMBs will provide a monthly update to the Procurement Operations Director beginning June 14, 2024. All modifications will be completed by December 30, 2024.

**IMPLEMENTATION DATE**

December 30, 2024

**RESPONSIBLE OFFICIAL**

Office of the Chief Procurement Officer

**CORRECTIVE ACTION MONITORING PLAN**

Peer and management reviews will continue to ensure that the appropriate clause is included in the identified solicitations/contracts.

**RECOMMENDATION 2**

Develop processes and procedures to ensure that contracting officers comply with adding the required FAR clause to applicable contracts.

**CORRECTIVE ACTION**

The CPO agrees with this Recommendation. During May 2023, the Department of the Treasury distributed the Office of Management and Budget (OMB) Memorandum M-23-13 entitled, “No TikTok on Government Devices Implementation Guidance” and during June 2023, a FAR Interim Rule - Prohibition on a ByteDance Covered Applications guidance was also issued.

In accordance with the above guidance from the department, the following steps were and will be taken to ensure that the OCPO procurement staff complies with adding the required FAR clause 52.204-27, Prohibition on a ByteDance Covered Application to applicable contracts. The following steps that were taken in June and July 2023:

1. Policy Alert PA 23-06 - Information and guidance regarding Office of Management and Budget (OMB) Memorandum M-23-13 entitled, “No TikTok on Government Devices Implementation Guidance”.
2. The Procurement Lessons Learned Forum was held that included guidance regarding the Prohibition on a ByteDance (TikTok) Covered Applications “Update” to Policy Alert #2306 - FAR 52.204–27.

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3. Policy Update PU-43 Federal Acquisition Circular (FAC) 2023-04, FAR Case 2023-010, Item I – Prohibition on a ByteDance Covered Application was also issued.
4. The policy pre-solicitation and pre-award review memos for contracts above \$10M were updated to verify compliance with FAR clause inclusion.

In addition to the above guidance the following steps will be implemented:

1. The identified contracts during this audit will be reviewed and modified to ensure that the FAR clause has been included.
2. A mandatory provision and clause checklist will be circulated amongst procurement personnel and included in the internal policy framework for future reference.
3. Other policy review memos regardless of dollar value will be updated as a reminder for inclusion of the FAR provision and clause.

**IMPLEMENTATION DATE**

December 30, 2024

**RESPONSIBLE OFFICIAL**

Office of the Chief Procurement Officer

**CORRECTIVE ACTION MONITORING PLAN**

Peer and management reviews will continue to ensure that the appropriate clause is included in the identified solicitations/contracts.

**RECOMMENDATION 3**

On October 19, 2023, we notified OCPO officials of our concerns with ensuring that contracting officers are inserting the FAR clause into the contracts we identified. Additionally, we brought to their attention our identification of seven social media and recruiting contracts that we believe could potentially be affected.

**CORRECTIVE ACTION**

The CPO does not agree with this recommendation. This appears to be a comment/statement for which a corrective action cannot be provided. We request that Recommendation 3 be deleted or moved to the footnotes in the Draft Report.

**IMPLEMENTATION DATE**

N/A

**RESPONSIBLE OFFICIAL**

Office of the Chief Procurement Officer

**CORRECTIVE ACTION MONITORING PLAN**

N/A

**RECOMMENDATION 4**



The CPO should coordinate with the contracting officers to modify the contracts to include the FAR clause in the seven contracts we identified.

**CORRECTIVE ACTION**

The CPO agrees with this Recommendation. Contracting Officers will be directed to modify those seven contracts, identified by TIGTA, to include the FAR clause 52.204-27.

**IMPLEMENTATION DATE**

December 30, 2024

**RESPONSIBLE OFFICIAL**

Office of the Chief Procurement Officer

**CORRECTIVE ACTION MONITORING PLAN**

Once all seven identified contracts have been modified to include the FAR clause 52.204-27, a monitoring plan is not needed.

**RECOMMENDATION 5**

The CPO should require contracting officers, regardless of NAICS code, to assess each contract and add the required FAR clause when appropriate. Performing these reviews will ensure compliance with the Department of the Treasury’s memorandum that states that the list of NAICS codes provided by the Department of the Treasury is not meant to be all-inclusive, and contracting officers still must assess each contract based on individual contractual requirements.

**CORRECTIVE ACTION**

The CPO agrees with this Recommendation. Contracting Officers will be directed to access each contract and include the required FAR clause when appropriate based on the contract requirement.

**IMPLEMENTATION DATE**

December 30, 2024

**RESPONSIBLE OFFICIAL**

Office of the Chief Procurement Officer

**CORRECTIVE ACTION MONITORING PLAN**

Peer and management reviews will continue to ensure that the appropriate clause is included in our existing contracts.

## Appendix IV

### Abbreviations

FAR	Federal Acquisition Regulation
IRS	Internal Revenue Service
NAICS	North American Industry Classification System
OCPO	Office of the Chief Procurement Officer
OMB	Office of Management and Budget
TIGTA	Treasury Inspector General for Tax Administration



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