**BYTEDANCE/TIKTOK MEMORANDUM**

**To:** UMBC Researchers

**From:** Office of Research & Creative Achievement (ORCA) and Department of Information Technology (DoIT)

**Re**: Implementation of FAR 52.204-27

There has been a growing call for restrictions and regulations, on both the State and Federal levels, in regards to some social media and digital content applications, specifically (but not limited to) TikTok. In some instances, restrictions on usage of TikTok and some of its affiliated/associated “apps” have, in fact, been implemented.

In December 2022, the No TikTok on Government Devices Act that was included in the Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328) and addressed in Office of Management and Budget Memorandum M–23–13 was passed and became federal law.

In June 2023, the Federal Acquisition Regulation (FAR) Council published an interim rule, effective as of June 2, 2023, that implemented a new FAR contract clause -- [FAR 52.204-27. Prohibition on a ByteDance Covered Application[[1]](#footnote-1)](https://www.acquisition.gov/far/52.204-27%22%20%5Ct%20%22_blank)

The rule prohibits the use of TikTok or other applications by ByteDance on contractors’ information technology, including employee-owned devices that are used as part of a bring-your-own-device (BYOD) program. The interim rule adds a new contract clause at FAR 52.204-27, Prohibition on a ByteDance Covered Application, which states: “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.”

Thus far, there is NOT a state ban on using TikTok or ByteDance. There is an Executive Order (under then-Governor Larry Hogan) which bans their use that applies to State departments, but does not apply, per the State Attorney General and USM, to institutions in the USM.

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***UMBC has not yet seen the new FAR clause incorporated into a federal contract. However, we highly expect to see that clause appear in contracts moving forward. Therefore, UMBC is advising and highly encouraging that anyone in a department/unit who handles sensitive material/information NOT install TikTok on UMBC/State-owned computers and machines. If a researcher uses any personal devices for their research, UMBC also advises and highly encourages to NOT have TikTok or other noted program applications installed on those machines as well.***

This regulation is very new. As such, there are indeed many open questions about the breadth of the restrictions. Public comment on the clause can be made up until August 1, 2023 and thus changes to the clause could theoretically occur as well, as is the nature of an interim rule. We certainly will know more as well once we see it incorporated into a new award or issued as part of an award modification.

Please see the list below on current companies (as of June 2023) whose programs and applications should not be installed on devices –University or personal- that are being used for UMBC research. Do note that TikTok is just one example and the list is far more extensive. For example, ByteDance is a conglomerate of companies that operate a vast array of applications and websites. Beyond TikTok, the following are examples of the websites and applications operated by companies associated with ByteDance:

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| **ByteDance Ltd.****CapCut** – Video Editing Software **Douyin** – Chinese Version of TikTok **Lark** – Enterprise Collaboration Tool **TikTok** – Video Social Media Network **Toutaio** – News Aggregation tool**Xigua Video** – Short and Mid Length Video / TV Content**Nuverse** – Video Game Company* Warhammer 40,000: Lost Crusade in 2021
* Marvel Snap

**Gogokid** – English Language Training Tool**Moonton** - Mobile eSports game* Magic Rush: Heroes
* Mobile Legends: Bang
* Mobile Legends: Adventure
* Mobile Legends: Pocket
* Sweet Crossing: Snake.io

**Party Island** – Social Media App**Resso** – Social Music Streaming App* Music by Warner Music Group, Sony Music Entertainment, Merlin and Beggars Group, and others.
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1. Interim final rules (IFRs) are rules issued by federal agencies that become effective upon publication without first seeking public comment on the rules' substance. Instead, federal agencies solicit public comment at the time of publication and may make changes to the rules depending upon that feedback. Public comments on FAR 204-27 an be submitted up until August 1, 2023. (from <https://www.americanactionforum.org/insight/interim-final-rules-a-primer/>) [↑](#footnote-ref-1)