



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE CHIEF FINANCIAL OFFICER

ACQUISITION ALERT 2016-02

TO: Contracting Officers and Contract Specialists

FROM: Nicole Evans
Director, Enterprise Procurement Initiatives

N. Evans
Digitally signed by
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Date: 2016.04.29
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SUBJECT: Senior Procurement Executive (SPE) Approval to Supplement Federal Acquisition Regulation (FAR) Part 12 Provisions and Clauses with Department of Education Acquisition Regulation (EDAR) clause 3452.243-70

1. **Purpose:** This approval allows Contracting Officers (COs) to include EDAR 3452.243-70 KEY PERSONNEL in all solicitations and contracts that require it, rather than limiting the application of the clause to non-commercial contracts only.
2. **Relevant language:** FAR 12.301(d), 12.301(f), and EDAR 3443.107.
3. **Applicability:** All commercial contracts in which it will be essential for the CO to be notified that a change of designated key personnel is to take place by the contractor.
4. **Effective Date:** May 1, 2016.
5. **Expiration Date:** Effective until incorporated in the FAR, EDAR, or otherwise rescinded.
6. **Guidance:**
 - a. *Current Policy:* The language in FAR 12.301(d) requires that only clauses prescribed in FAR Part 12 be included in commercial contracts. EDAR 3443.107 prescribes EDAR 3452.243-70 KEY PERSONNEL for use in cost reimbursement contracts, but does not prohibit its use in other contract types.
 - b. *Need for Approval:* Many of the Department's contracts require consistent project management and other key positions to maintain quality supervision, administration of contract performance, and subject matter expertise. COs must be granted the flexibility to approve key personnel changes in commercial and non-commercial contracts, regardless of cost/pricing structure. FAR Part 12 does not allow for the Key Personnel clause to be included in Part 12 contracts without SPE approval under FAR 12.301(f).
 - c. *New Policy:* This approval allows COs in Department to use EDAR 3452.243-70 KEY PERSONNEL in all contracts as applicable.
 - d. *Procedures:* COs will include EDAR 3452.243-70 KEY PERSONNEL in all applicable contracts.
7. **Attachments:**
 - A. SPE Approval dated April 28, 2016
8. **Additional Information:**

Direct questions about this alert to Jessalyn Lord at 202-245-6482 or jessalyn.lord@ed.gov.

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