Counterfeit Mitigation

Parts Standardization & Management Committee (PSMC)
LMI – Tysons, VA

Defense Contract Management Agency (DCMA)
Technical Directorate - Engineering
25 - 27 April 2017
COUNTERFEIT MITIGATION

• DCMA Counterfeit Mitigation Status
• DCMA Training
• OSD – DFARS and FAR regulations changes
• Legislative Requirements
• Counterfeit Detection Checklist
• Supporting CPSR
• DFARS CLAUSES
• Discovery / Reporting – Suspect Counterfeit
• GIDEP
• Takeaways
May 1, 2015
DCMA issued TASKING
MEMO 15 - 078 – Mandatory
Counterfeit Mitigation
Training (Webcasts) The
Counterfeit Mitigation Training
consists of a two part series:
Part I – MDA Counterfeit Part
Training – Missile Defense
Agency
Part II – Government
Contract Oversight,
Counterfeit Mitigation – DCMA

April 26, 2013
DoDI 4140.67 DoD
Counterfeit Prevention
Policy published. Established
DoD policy to prevent the
introduction of counterfeit
materiel at any level of the
DoD supply chain, including
special requirements prescribed
by FY12 NDAA SEC. 818.

September 15, 2014
DCMA issued TASKING
MEMO 14-272 -
Counterfeit Detection
Checklist Procedures
based on DFARS
252.246-7007(C)
twelve (12) System
Criteria for Materiel and
Electronics.

September 21, 2012
DCMA issued TASKING
MEMO 12-297 - “Facility
Surveillance of Contractors
for Counterfeit Part
Mitigation Processes”
Counterfeit Checklist
based on FAR 52.246-11
and FAR 52.246-2
Criteria for Counterfeit
Materiel and
Electronics.

May 6, 2014
DFARS Case 2012-D055 -
Detection and Avoidance of
Counterfeit Electronic
Parts: Established
DFARS 252.246-7007
requires a CAS Covered
Contractor to have a
Counterfeit Electronic
Detection and Avoidance
System based on twelve (12)
System Criteria.

August 2, 2016
DFARS Case 2014-D005,
Detection and Avoidance
of Counterfeit Parts -
Further Implementation:
Established
DFARS 252.246-7008
“Sources of Electronic
Parts.” This rule requires
DoD contractors and
subcontractors, except in
limited circumstances, to
acquire electronic parts from
contractor-approved
suppliers in order to further
address the avoidance of
counterfeit electronic parts.

December 15, 2016
DCMA published
Q-TIP 16-017 “Detection
& Avoidance of
Counterfeit Electronic
Parts - Further
Implementation”
- DCMA Counterfeit
Detection and Avoidance
System Checklist (REVISED)

December 31, 2011
The President signed into Law FY12
National Defense Authorization Act
(NDAA), Section 818 “Detection and avoidance of
counterfeit electronic parts”.

November 8, 2011
Senate Armed Services
Committee holds
hearings exposed a
million $$ counterfeit
electronic parts in the
military supply chain.

2011
2012
2013
2014
2015
2016
2017
DCMA is following OSD/DPAP’s lead in addressing DFARS 252.246-7007 “System Criteria” utilizing the DCMA Counterfeit Checklist, (DFARS 252.246-7008 “Sources of Electronic Parts” required under para. (c) 4 & 5).

DFARS 252.246-7008 “Sources of Electronic Parts” is required in all solicitations and contracts when procuring Electronics, or services and COTS items that contain electronic parts.

A holistic approach to counterfeit mitigation, not just for Electronics IAW DoDI 4140.67 “DoD Counterfeit Prevention Policy”

DCMA’s Counterfeit Mitigation Strategic Reliability Goals are composed of the following:
- Training
- Policy
- Operational Tools
- Communications/Awareness

DCMA has developed a Counterfeit Mitigation policy (INST-1205) as well as an internal training package which includes theory and practical applications.
DCMA Implementation of DFARS 252.246-7007 “Contractor Counterfeit Electronic Part Detection and Avoidance System:” Published on 6 May 2014.

- DCMA tasking memo 14-272 Counterfeit Mitigation Checklist: Issued 15 September 2014
  - The checklist assesses risk and identifies areas that might require increased surveillance for both Electronics and Materiel.

  - This Multifunctional policy addresses Counterfeit for both Electronics and Materiel.

DCMA Implementation of DFARS 252.246-7008, “Sources of Electronic Parts:” Published 2 August 2016

- Q-TIP 16-017 “Detection & Avoidance of Counterfeit Electronic Parts - Further Implementation” issued 15 December 2016 addressed —
  - DFARS 252.246-7008, “Sources of Electronic Parts” requires contractors to obtain electronic parts from the original manufacturer (OM) or in limited circumstances, from contractor-approved suppliers.
  - DCMA Counterfeit Mitigation Checklist revised to address DFARS 252.246-7008 requirements.

- DCMA Risk Assessment Process
  - Currently updating the DCMA Risk Assessment process to include performance factors to address “Sources of Electronic Parts.”
Counterfeit Mitigation Training

DAU CLL032 - Preventing Counterfeit Electronic Parts from Entering the DoD Supply System

DAU CLL062 - Counterfeit Prevention Awareness

DCMA HQ – QA developed counterfeit training, delivered in two parts. Addresses the proliferation of counterfeits, where they can be found and what to do when it is encountered. REF: Task MEMO # 15-087, May 11, 2015.

1. The “Voice of the Customer” MDA Counterfeit Part Training Webcast – A webcast presenting the voice of our customer on issues they have seen with counterfeit electronic items.

2. Counterfeit Mitigation Training Webcast – A webcast providing details on DCMA policy on surveilling contractors system to detect and avoid counterfeit parts. The process is not limited to electronics.
# OSD Sec 818 Implementation Plan
(as of 14APR17)

- Issued DODI 4140.67 DoD Counterfeit Prevention Policy
- Sponsored cases to amend the FAR and DFARS

<table>
<thead>
<tr>
<th>Case #</th>
<th>Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>DFARS 2012-D055</td>
<td>Detection and Avoidance of Counterfeit Electronic Parts</td>
<td>DFARS 252.246-7007 final rule published 05/06/2014. Effective upon publication.</td>
</tr>
<tr>
<td>FAR 2012-032</td>
<td>Higher-Level Contract Quality Requirements</td>
<td>FAR 46.311 (a), 44.303 (k) final FAR rule published 11/25/2014. Effective 12/26/2014</td>
</tr>
<tr>
<td>DFARS 2014-D005</td>
<td>Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation</td>
<td>DFARS 252.246-7008 final rule published 08/02/2016. Effective upon publication.</td>
</tr>
<tr>
<td>DFARS 2016-D010</td>
<td>Costs Related to Counterfeit Electronic Parts</td>
<td>DFARS 231.205-71 final rule published 08/30/2016 Effective upon publication.</td>
</tr>
<tr>
<td>FAR 2013-002</td>
<td>Expanded Reporting of Nonconforming Items</td>
<td>04/05/2017 DARC Director tasked DARS Staff to review public comments, draft final FAR rule. Report due 05/31/2017.</td>
</tr>
<tr>
<td>DFARS 2017-D023</td>
<td>Suppliers that Meet Anticounterfeiting Requirements</td>
<td>02/02/2017 Case transferred to Holding File 2017-H011, pending further input from PDI.</td>
</tr>
<tr>
<td>DFARS 2016-D013</td>
<td>Amendments Related to Sources of Electronic Parts</td>
<td>02/08/2017 Case manager forwarded draft final DFARS rule to DAR editor. DAR editor reviewing.</td>
</tr>
</tbody>
</table>

DAR – Defense Acquisition Regulation
DFARS – Defense Federal Acquisition Regulation Supplement
OIRA – Office of Information and Regulatory Affairs
FAR – Federal Acquisition Regulation
CAAC - Civilian Agency Acquisition Council
PDI - Program Development and Implementation
### Legislative Requirements:

Are met by GCQA and Industry Standards

<table>
<thead>
<tr>
<th>Government Contract Quality Assurance Surveillance</th>
<th>DFARS 252.246-7007 (c) System Criteria (DFARS 252.246-7008 required under Para. 4 &amp; 5)</th>
<th>AS5553B</th>
<th>AS9100D</th>
<th>DCMA Counterfeit Checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Training</strong></td>
<td>the training of personnel</td>
<td>3.1.1</td>
<td>8.1.4</td>
<td>1</td>
</tr>
<tr>
<td><strong>Receiving &amp; Inspection</strong></td>
<td>the inspection and testing of electronic parts;</td>
<td>3.1.3.d.</td>
<td>8.1.4</td>
<td>2</td>
</tr>
<tr>
<td><strong>Nonconforming material / Reporting</strong></td>
<td>processes to abolish counterfeit parts proliferation;</td>
<td>3.1</td>
<td>8.1.4</td>
<td>3</td>
</tr>
<tr>
<td><strong>Subcontract Management/ Purchase Order System</strong></td>
<td>Suppliers that have risk-based processes that enable traceability from acceptable sources of electronic parts, (IAW 252.246-7008 (c), Sources of Electronic Parts).</td>
<td>3.1.4</td>
<td>8.1.4</td>
<td>4</td>
</tr>
<tr>
<td><strong>Nonconforming material / Reporting</strong></td>
<td>the reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts;</td>
<td>3.1.7.c</td>
<td>8.1.4</td>
<td>4.a. 4.b</td>
</tr>
<tr>
<td><strong>Receiving &amp; Inspection</strong></td>
<td>methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit;</td>
<td>3.1.3.d</td>
<td>8.1.4</td>
<td>5</td>
</tr>
<tr>
<td><strong>Subcontract Management/ Purchase Order System</strong></td>
<td>the design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and</td>
<td>3.1</td>
<td>8.1.4</td>
<td>5.a. 5.b. 5.c. 5.c.1</td>
</tr>
<tr>
<td><strong>Training</strong></td>
<td>Processes to keep informed on counterfeiting trends</td>
<td>3.1</td>
<td>8.1.4</td>
<td>6</td>
</tr>
<tr>
<td><strong>Subcontract Management/ Purchase Order System</strong></td>
<td>Process for screening GIDEP reports and other credible sources to avoid the purchase of counterfeit parts</td>
<td>3.1.3</td>
<td>8.1.4</td>
<td>7</td>
</tr>
<tr>
<td><strong>Subcontract Management/ Purchase Order System</strong></td>
<td>Control of obsolete electronic parts</td>
<td>3.1.2.b</td>
<td>8.1.4</td>
<td>8</td>
</tr>
<tr>
<td><strong>SUMMARY:</strong></td>
<td>Does the Contractor have an acceptable (Risk-Based) operational system(s) to detect and avoid counterfeit parts and suspect counterfeit parts?</td>
<td>-----</td>
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</tr>
</tbody>
</table>
DCMA ensures contractors have the proper controls and inspection/quality management systems in place to mitigate counterfeit parts.

Government Contract Quality Assurance (GCQA) surveillance policy was updated to add requirements for review of supplier counterfeit detection and avoidance systems.

Checklist is used by the Technical Specialist to determine if a contractor's counterfeit detection and avoidance systems and processes are in control.

Non-compliance is handled through normal DCMA corrective action processes.

Implemented on all suppliers with contracts containing FAR 52.246-11 or -2 clause.
Counterfeit Detection and Avoidance System Checklist

DCMA-INST 326 Risk Assessment

Risk Profile and Plan, “Performance Factors All suppliers” TAB

Question #8a: To answer this question, use the Counterfeit Detection and Avoidance System Checklist located on the DCMA-INST 1205 Resource page.

Question #8b: To determine contractor compliance with DFARS 252.246-7008 “Source of Electronic Parts” use the Counterfeit Detection and Avoidance System Checklist located on the DCMA-INST 1205 Resource page. (Contractor must obtain electronic parts from sources IAW requirements identified in DFARS 252.246-7008)

Question #18: "Electronic counterfeit material" should be addressed under Performance Factor question number (8a) when the DFARS clause 252.246-7007 is included in the contract, or question number (8b) when DFARS clause 252.246-7008 is on contract. However, all Counterfeit Material is considered to be a subset of Non-Conforming Material and should be treated as such.

When DFARS 252.246-7007 and or DFARS 252.246-7008 are NOT on contract, utilize the Counterfeit Detection and Avoidance System Checklist to determine Counterfeit (CF) risk IAW DCMA-INST 326 and DCMA-INST 1205. If there is a risk of CF material consider issuing a CAR for failure of the contractor’s non-conforming material controls (CF as a subset of NCM).
CAS – Cost Accounting Standards, FAR -- Part 30

Counterfeit Checklist Results

as of JULY 2015

CAS Electronics contractors best prepared (DFARS 252.246-7007 contractually required).
  - 88% complying with all twelve DFARS 252.246-7007 requirements.

- Non-CAS Electronics contractors are doing well (No contractual requirement).
  - 67% complying with all twelve DFARS 252.246-7007 requirements.

- Non Electronics contractors lagging (No contractual requirement).
  - 40% complying with all twelve DFARS 252.246-7007 requirements.

(DFARS 252.246-7007 twelve System Criteria not on contract).

as of DEC 2016

CAS Electronics contractors best prepared (DFARS 252.246-7007 contractually required).
  - 96% complying with all twelve DFARS 252.246-7007 requirements.

- Non-CAS Electronics contractors are doing well (No contractual requirement).
  - 86% complying with all twelve DFARS 252.246-7007 requirements.

- Non Electronics contractors lagging (No contractual requirement).
  - 60% complying with all twelve DFARS 252.246-7007 requirements.

DFARS 252.246-7008 applies as of 2AUG16.
• During annual surveillance, the ACO may request assistance from a Technical Specialist (TS), typically a QAS, to assist in evaluation of the contractors “Counterfeit Electronic Parts Avoidance and Detection System.”

• The counterfeit mitigation system will be evaluated against the criteria of DFARS 252.246-7007(C). DFARS 252.246-7008 applies under DFARS 252.246-7007(c) 4 & 5.

• DCMA INST-1205 “Counterfeit Mitigation” para. 3.1, requires the TS to provide the Counterfeit Detection Checklist results to the ACO when requested or event driven (when system deficiencies are of a concern).

• DFARS 231.205-71 “Costs related to counterfeit electronic parts and suspect counterfeit electronic parts” are allowable under certain conditions, i.e. Must be CAS Covered, Must have an approved Counterfeit Electronic Parts Avoidance and Detection System pursuant to DFARS 244.303.

• The DCMA Counterfeit Checklist is used to identify any deficiencies in the counterfeit avoidance and detection system.
DFARS 252.246-7007

- DFARS 252.246-7007 Contractor “Counterfeit Electronic Part Detection and Avoidance System” required in solicitations and contracts when procuring:
  - Electronic parts
  - End items, components, parts, or assemblies containing electronic parts
  - Services where the contractor will supply electronic parts or components, parts, or assemblies containing electronic parts
  - DFARS 252.246-7008 is addressed under DFARS 252.246-7007(c) 4 & 5.

- This clause is not used in solicitations and contracts that are set-aside for small business.

- The requirements of the clause do not apply unless the Contractor is subject to Cost Accounting Standards (CAS).

- Commercial items are subject to the requirements of the clause.

- Flowdown is required to subcontractors at all levels.

- If 7007 is not on contract consider issuing a CDR.

CDR – Contract Deficiency Report
• **DFARS 252.246-7008** “Sources of Electronic Parts” is required in all solicitations and contracts when procuring:
  - Electronic parts,
  - End items, components, parts, or assemblies containing electronic parts or services.
  - Included in solicitations and contracts for commercial items (i.e. COTS).

• **DFARS 252.246-7008**, is summarized as follows:
  - **Para. (b)(1):** Requires contractors to obtain electronic parts that are in production by the original manufacturer (OM) or an Authorized Aftermarket Manufacturer or currently available in stock from —
    1) the OM of the parts;
    2) their Authorized Suppliers; or
    3) Suppliers that obtain parts exclusively from the OM or their Authorized Suppliers.
  - **Para. (b)(2): Contractor-Approved Suppliers:** If the part cannot be obtained from the OM, an Authorized Aftermarket Manufacturer or in stock as provided in para. (b)(1), the contractor may identify contractor-approved suppliers.
    • The contractor’s selection of contractor-approved suppliers are subject to review and audit by the contracting officer. The contractor must use established counterfeit prevention industry standards and processes to identify and approve their contractor-approved suppliers.
  - **Para. (b)(3): Other Than A Contractor-Approved Supplier:** If the contractor cannot obtain electronic parts from an OM or Authorized Aftermarket Manufacturer, due to nonavailability or the subcontractor refuses to accept flowdown, or the contractor cannot confirm the electronic part is new and has not been comingled, then the contractor may rely on other than a contractor-approved supplier.
    • Contractors and subcontractors are required by this rule to notify the contracting officer if it is not possible to obtain an electronic part from their contractor-approved supplier. Under Para. (b)(3)(ii)(B), the contractor is responsible for inspection, testing, and authentication of such electronic parts to be used in accordance with existing applicable industry standards.
Concerns:

Comingled Parts — Para. (3)(i)(B), states “Cannot confirm that an electronic part is new or previously unused and that it has not been comingled in supplier new production or stock with used, refurbished, reclaimed, or returned parts.”

- In general terms most if not all OM’s and Authorized Suppliers comingle returns with new stock. There is an economic impact to Authorized Suppliers (Distributors), that keep “returned” inventory separate from “new” inventory.

- Also Authorized Suppliers (Distributors) buy and sell to/from each other and will have difficulty providing traceability.

Applicability — Para. (e), states “The Contractor shall include the substance of this clause, including this paragraph (e), in subcontracts, including subcontracts for commercial items that are for electronic parts or assemblies containing electronic parts, unless the subcontractor is the original manufacturer.”

- “Original manufacturer” means the original component manufacturer, the original equipment manufacturer, or the contract manufacturer.
  - "Original component manufacturer" means an organization that designs and/or engineers a part and is entitled to any intellectual property rights to that part.
  - “Original equipment manufacturer” means a company that manufactures products that it has designed from purchased components and sells those products under the company’s brand name.
  - “Contract manufacturer” means a company that produces goods under contract for another company under the label or brand name of that company.
Contract Integrity Center (CIC)

The CIC is a component of DCMA’s General Counsel.

DCMA employees shall report any and all suspicions of counterfeit to the CIC.

If suspect counterfeit is identified, the Technical Specialist shall:

• Immediately contact the CIC and the chain of command as appropriate.

• The CIC will provide appropriate guidance for path forward.
  • Acceptance of suspect counterfeit product may be required to support a criminal investigation.

• In no case will the Technical Specialist independently initiate a fraud/counterfeit investigation.

• The CIC will provide direction when the Technical Specialist is to submit a suspect counterfeit report in GIDEPI.
GIDEP

• GIDEP is a cooperative activity between government and industry seeking to reduce or eliminate expenditures of resources by sharing technical information essential during the life cycle of systems, facilities and equipment.

• DCMA-INST 301, “GIDEP and DCMA Forum Regarding Defective/Nonconforming Product and Process Notifications” provides specific details.

• GIDEP is the required reporting mechanism for Suspect Counterfeit. (Required by NDAA12 Sec 818, DoDI 4140.67 and DFARS 252.246-7007 (6))
DCMA Forum Topics:
• 190 Suspect Counterfeit - DCMA Forum Topics have been transmitted to DCMA personnel and cognizant CMO’s by DCMA-QAE.

GIDEP Notices:
* GIDEP Interim Policy change
15 Sep - 15 Dec 2010
- Allowed Originator to withhold supplier name.
- 677 GIDEP reports issued from FY2011 through 2017 (YTD).
• Counterfeit is a Subset of NCM. A Non-compliance is handled through normal DCMA corrective action processes.

• It is DoD policy to not knowingly procure counterfeit materiel. The DCMA Counterfeit Checklist is *not just for Electronics* and *is* part of the overall Risk Assessment. *(REF DoDI 4140.67, Para. 3.a., INST 1205, Para. 3.1 & 3.6)*

• If DFARS 252.246-7007 or DFARS 252.246-7008 are “NOT” on contract for Electronics, use the DCMA Counterfeit Mitigation Checklist to determine your level of Counterfeit Risk.

• A Contractor’s “Counterfeit Electronic Detection and Avoidance System” is evaluated, and when requested by the ACO, results summarized and provided to support CPSR at all levels in the supply chain. *(REF: DFARS 252.246-7007(c)(9), INST 1205, Para. 3.1.2. & 3.1.3.2.)*

• Costs related to counterfeit / suspect electronic parts are allowable if a **CAS Covered** contractor has an **approved System** and meets other criteria. *(REF: DFARS 231.205-71)*

• Does the contractor validate **traceability** throughout their supply-chain? When Traceability to the OM cannot be established, are risk-based processes in place that include part **inspection, testing, and authentication**? *(REF: DFARS 252.246-7008(c)(2))*
Questions?