



DEFENSE CONTRACT MANAGEMENT AGENCY
AERONAUTICAL SYSTEMS DIVISION
Defense Contract Management Agency
NORTHROP GRUMMAN-BALTIMORE
PO BOX 1693, MS 1285
BALTIMORE, MD 21203-1693



IN REPLY REFER TO: DCMAA-AGBF

August 10, 2007

Mr. Ivory Tucker
Vice President & Deputy
Northrop Grumman Corporation
Electronic Systems
Supply Chain Management & Compliance
Post Office Box 746
Baltimore, MD 21203

REFERENCES:

- (A) NGES Specialty Metals Corrective Action Plan (CAP), for Hardware Fasteners, dated October 5, 2006
- (B) NGES CAP for Hardware Fasteners, dated October 12, 2006
- (C) NGES CAP for Radio Frequency (RF) Devices, dated October 5, 2006
- (D) NGES CAP for Semiconductor Devices, dated October 5, 2006
- (E) NGES CAP for Commercial Off the Shelf (COTS) Test Equipment (TE), dated October 5, 2006
- (F) NGES CAP Update & Addendum for Fasteners, dated April 27, 2007
- (G) NGES CAP Update & Addendum for Hardware, dated May 1, 2007
- (H) NGES CAP Update & Addendum for COTS TE, dated May 18, 2007
- (I) NGES CAP Addendum Update for Semiconductors and Electronic Components, date May 18, 2007
- (J) NGES CAP Update for RF Devices, dated July 10, 2007
- (K) NGES One-Time Waiver (OTW) Request, dated January 8, 2007
- (L) NGES OTW Request Update, dated July 11, 2007
- (M) NGES CAP Update and Addendum for RF Devices, dated July 24, 2007
- (N) NGES OTW Request Update, dated July 24, 2007

Mr. Tucker,

DCMA has evaluated and approved Northrop Grumman Corporation, Electronic Systems' (NGES) CAPs and OTW request referenced above.

Based on the evaluation, I have determined that NGES has effective CAPs in place for achieving compliance for items provided the Government by both NGES and its subcontractors in accordance with Section 842(b)(1)(A)(ii) of the FY 2007 John Warner National Defense Authorization Act. Continued approval of NGES' CAPs is conditioned on the company complying with the initiatives it

has established for ensuring its suppliers provide compliant product and meeting or showing adequate progress against all associated milestone dates. Accordingly, and on a periodic basis, NGES will provide my office with information sufficient to measure compliance with the CAP and associated milestones.

Under the approved CAP and OTW, and as shown below, it is NGES' intent to use approved Domestic Non-Availability Determinations (DNADs) to request release of withholds associated with conditional acceptances of non-compliant items. In addition, NGES will rely on DNADs to make current and future deliveries of non-compliant parts for final acceptance by the Government without withholds. Where parts are not covered by approved DNADs, and where the specialty metal was incorporated into items produced, manufactured or assembled (PMA'd) in the United States prior to October 17, 2006, NGES will use the approved OTW to request withhold releases for parts that were conditionally accepted. Further, and in the absence of a DNAD, NGES will use the OTW to deliver product out to September 29, 2010. In addition, NGES will use the exception for commercially available electronic components whose specialty metal value is *de minimis* for applicable items on contracts awarded on/after November 16, 2006. NGES understands that the requirements of the clause/deviation apply specifically to the six types of end items and components of those end items. As such, the parts and assemblies that are not incorporated into end items are not subject to the requirements in contained in the clause/deviation under Section 2533b.

- **Fasteners**: NGES will use the Fastener DNAD to request release of withholds where parts were conditionally accepted. In addition, NGES will use the Fastener DNAD to deliver parts containing non-compliant specialty metal on current and future contracts where the Government can final accept without withholds. Compliance with 10 USC 2533b for items PMA'd in the USA or a qualifying country after October 17, 2006 is estimated to be November 30, 2008.
- **Small Hardware**: NGES will use the OTW to request release of withholds where small hardware parts, including electronic mounting hardware, were conditionally accepted into items PMA'd in the USA prior to October 17, 2006 and delivery of the product containing the non-compliant specialty metal takes place on/before September 29, 2010. However, if the pending DNAD on Small Hardware is approved, NGES will use the DNAD to request release of withholds where parts were conditionally accepted as well as using the DNAD for current and future deliveries. Compliance with 10 USC 2533b for items PMA'd in the USA after October 17, 2006 is estimated to be November 30, 2008.
- **COTS Test Equipment**: NGES will use the OTW to request release of withholds where parts were conditionally accepted. For contracts awarded on/after November 16, 2006, NGES will use the exception noted in the December 6, 2006 Class Deviation for parts

and assemblies not incorporated into end items. Parts and assemblies falling under this exception do not require compliance with 10 USC 2533b.

- **Semiconductor and Electronic Components:** NGES will use the Populated Circuit Card Assembly (PCCA) DNAD to recover withholds associated with contracts awarded prior to November 16, 2006. For contracts awarded on/after November 16, 2006, NGES will claim the exception for commercially available electronic components whose specialty metal content (value) is *de minimis* and/or the PCCA DNAD. Items that fall under these exceptions do not require compliance with 10 USC 2533b.
- **RF Devices:** The Contractor will use the PCCA DNAD to request withhold releases where parts were conditionally accepted and the specialty metal was incorporated into items PMA'd in the USA prior to October 17, 2006, and delivery of the product will take place before September 30, 2010. For contracts awarded on/after November 16, 2006, NGES will use the exception for commercially available electronic components whose specialty metal content (value) is *de minimis* and/or the PCCA DNAD. Items falling under these exceptions do not require compliance with 10 USC 2533b.
- **All Other Parts:** At this time, NGES has not identified any parts that do not fall under one of the categories listed above and consequently are not included in the updated parts' list. If "other parts" are subsequently identified, NGES will use the OTW, where appropriate, to request release of withholds where parts were conditionally accepted and do not fall under a DNAD. Contract specific DNADs may be required if the OTW is not applicable. Compliance dates for these parts will be established when re-procured and the dates provided to the contracting officer during NGES' periodic updates. For items on contracts awarded before November 16, 2006 that fall outside the OTW (PMA'd after October 17, 2006, delivered after September 29, 2010, and do not fall under a DNAD or other exception) NGES must notify the PCO of such deliveries containing non-compliant items, request conditional acceptance and establish a withhold amount per the DCMA Interim Instruction, dated March 10, 2006.

Non-compliant parts that fall under an approved DNAD may be final accepted by the Government without withholds under contracts awarded prior to November 16, 2006. DNAD covered parts are exempt from the specialty metals restrictions and may also be final accepted under contracts awarded on/after that date. If a DNAD is reduced in scope or canceled, contracts awarded while the DNAD was in effect continue their exception to the specialty metal restrictions. However, non-compliant parts on hand or on order that no longer fall within an approved DNAD will not be acceptable for use on contracts awarded after the DNAD's scope is reduced or canceled.

If, on contracts awarded before November 16, 2006, NGES finds itself in a situation where non-compliant parts are not subject to a DNAD, another exception or the OTW, and the non-compliant parts have been or will be incorporated into items for delivery to the Government, NGES shall inform the Procuring Contracting Officer (PCO) and request conditional acceptance and withhold. NGES must also submit a separate CAP or a supplement to their approved broad-based CAP informing the Government how and when it will be able to provide compliant product. Such CAP may also provide market research conducted by NGES to support a DNAD request. If a similar situation occurs on a contract awarded on/after November 16, 2006, conditional acceptance and withhold will not be an available option. NGES must notify the PCO, and either provide a CAP with market research and documentation necessary to support a DNAD, or obtain compliant alternative parts.

In addition, and in accordance with Section 842(b)(1)(B) of the FY 2007 National Defense Authorization Act, NGES' request for an OTW has been approved and notice posted in FedBizOpps.gov on August 10, 2007. The approval is applicable to those contracts and non-compliant parts identified by NGES and provided to me as part of its CAPs and OTW request as well as future contracts with the same or new non-compliant parts. For both current and future contracts, the specialty metal must have been incorporated into items that were PMA'd in the United States before October 17, 2006. NGES will identify these additional contracts and parts and provide this information in their periodic updates to me that are required for monitoring CAP milestones progress. Congress has determined that the Department of Defense may relieve contractors of their contractual compliance with specialty metal restrictions. It must not be practical or economical to replace or substitute parts, the items must be produced, manufactured or assembled in the United States before October 17, 2006, final acceptance must occur after that date and before September 30, 2010, and the non-compliances must not be knowing or willful. Where those conditions are met, and the DCMA Executive Director or Deputy Executive Director for Contract Operations & Customer Relations approves the OTW, items subject to the OTW may be final accepted without further analysis or the application of consideration. However, if NGES fails to demonstrate compliance with its CAPs and/or fails to show adequate progress against the CAP milestones, I will consider disapproving the CAP, revoking the OTW approval, suspending the release of withholds, stopping the conditional acceptance of non-compliant items, and/or seeking other consideration that I deem appropriate.

Because the company's CAP is approved and the OTW granted, and because NGES has a process in place to verify that the non-compliant specialty metal was incorporated into items that were produced, manufactured or assembled in the United States before October 17, 2006, I will, within a few days, issue a separate letter authorizing release of withholds associated with conditional acceptances of non-compliant specialty metals.

On a periodic basis, NGES will provide me with information sufficient for me to determine whether NGES is complying with the terms of its CAP and showing adequate progress implementing specific actions per established milestone dates. In addition, NGES will provide information showing how the company is verifying that items subject to the OTW comply with the pre-October 17, 2006 requirement.

In addition to the above, I would like to inform you that during DCMA's market research of Domestic Non-Availability Determinations (DNADs), it was noted that prime contractors are not taking actions to ensure that DPAS Rated Orders are flowed down to the lowest level in the supply chain. Because DPAS Rated Orders impact the availability of items containing specialty metal, please take steps to ensure that NGES is properly administering DPAS and its flow down provisions.

If you have any questions, or need further assistance in this matter, please feel free to contact Theresa Davis, (410) 765-4358 or myself at (410) 765-3479 at your earliest convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeanette A. Coleman".

JEANETTE A. COLEMAN
Divisional Administrative Contracting Officer

David Ricci, DCMA-OC
John Deas, DCMA-OCT
John McGrath, DCMA-OCT
Jack Olson, DCMAG-MCG
David Riley, DCMAM-GC