



DFARS 2012-D055 - Detection and Avoidance of Counterfeit Electronic Parts – Proposed Rule

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Defense Procurement and Acquisition Policy (DPAP)



Counterfeit Prevention Policy



Purpose:

- Establishes policy
- Assigns responsibilities
- Provides definitions

It is DoD Policy to:

- Employ a risk-based approach
- Apply early prevention and detection procedures
- Document all occurrences in GIDEP
- Notify criminal investigative organizations
- Seek restitution when confirmed
- Provide education and training



Department of Defense INSTRUCTION

NUMBER 4140.67

USD(AT&L)

SUBJECT: DoD Counterfeit Prevention Policy

References: See Enclosure 1

1. **PURPOSE.** In accordance with the authority in DoD Directive (DoDD) 5134-01 (Reference (a)), this instruction:

- a. Establishes policy and assigns responsibilities necessary to prevent the introduction of counterfeit materiel at any level of the DoD supply chain, including specific requirements prescribed by section 818 of Public Law 112-81 (Reference (b)) related to electronic parts.
- b. Provides direction for anti-counterfeit measures for DoD weapon and information systems acquisition and sustainment to prevent the introduction of counterfeit materiel.
- c. Assigns responsibilities for prevention, detection, remediation, investigation, and restitution to defend the DoD against counterfeit materiel that poses a threat to personnel safety and mission assurance.
- d. Incorporates and cancels US DoD (AT&L) Memorandum (Reference (c)).

2. **APPLICABILITY.** This instruction applies to:

- a. OSD, the Joint Staff, the Department of Defense, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this instruction as the "DoD Components").

Counterfeit Materiel Defined as:

"An item that is an unauthorized copy or substitute that has been identified, marked, or altered by a source other than the item's legally authorized source and has been misrepresented to be an authorized item of the legally authorized source."

<http://www.dtic.mil/whs/directives/corres/pdf/414067p.pdf>

Responsibilities:

- ASD(L&MR):
 - Principal point of contact for anti-counterfeit improvements
- ASD(R&E):
 - Risk-based procedures to identify critical materiel
 - Quality assurance policy
 - Supplier qualification criteria
 - GIDEP management
- DPAP
 - Procurement policies
- DoD Components
 - Identify critical materiel
 - Procure from suppliers meeting appropriate criteria
 - Conduct materiel testing
 - Report in GIDEP



Proposed Acquisition Rule Changes



- **DFARS case (2012-D055) “Detection and Avoidance of Counterfeit Electronic Parts”**
 - Implements provisions of both FY12 NDAA §818 and FY13 NDAA §833
 - Published as a proposed rule May 16, 2013 with a 60 day comment period
- **FAR case (2013-002) “Expanded Reporting of Non-conforming Items”**
 - Increases and improves the reporting of non-conforming items (including suspected and confirmed counterfeit) into the GIDEP
- **FAR case (2012-032), “Higher Level Contract Quality Requirements”**
 - Provides for increased contract quality standards





Implement Higher Level Quality Requirements

400 contractors
subject to
Contractor
Purchasing
System Review
(CPSR)

1,200 flexibly/cost based
contractors possibly subject to
modified CPSR based on
counterfeit escape

Supplies/services contractors
subject to "Higher Level Quality
Requirements"





DoD Component Anti-Counterfeit Initiatives

- **Updating internal instructions and policies**
 - Restrict dealings with unauthorized suppliers
 - Follow Program Protection Plan and document risks in Systems Engineering Plan
 - Document all occurrences of suspect and confirmed counterfeit materiel in the Government-Industry Data Exchange Program (GIDEP)
- **Improving technical processes for counterfeit prevention**
 - Conduct internal materiel inspection programs; assess depot inventory, types of item counterfeited, and supplier profiles
 - Use Decision Support Capability to obtain and analyze data from multiple sources
 - Conduct on-site assessments and audits of contractors
 - Leverage existing quality assurance processes to document suspect counterfeits
- **Implementing training**
 - Defense Acquisition University on-line counterfeit awareness training courses
 - Depot-level training courses to detect and test for counterfeits





DoD Counterfeit Prevention Framework

Implementation of Sec. 818 FY 2012 NDAA

DFARS case, 2012-D055 “Detection and Avoidance of Counterfeit Electronic Parts”

Use Existing Quality Inspection Clauses

- 52.246-1 Contractor Inspection Requirements
- 52.246-2 Inspection of Supplies—Fixed-Price
- 52.246-3 Inspection of Supplies—Cost-Reimbursement
- 52.246-11, Higher-Level Contract Quality Requirement

Enable Enhanced Contract Quality Requirements

- FAR case (2012-032), “Higher Level Contract Quality Requirements” – to be published

Report Nonconformances Impacting Safety

- DFARS 252.246-7003, Notification of Potential Safety Issues

Example Higher Level Quality Requirements for Combating Counterfeits

- AS6174, Counterfeit Materiel; Assuring Acquisition of Authentic and Conforming Materiel, current version – **DoD Adopted 17 Jun 2013**
- AS5553, Counterfeit Electronic Parts; Avoidance, Detection, Mitigation and Disposition, current version – **DoD Adopted 31 Aug 2009**
- AS6081, Distribution Counterfeit Electronic Parts; Avoidance Protocol, Distributors, current version – **DoD Adopted 10 Jun 2013**
- EPRI TR-1019163, Counterfeit, Fraudulent and Substandard Items, Mitigating the Increasing Risk
- IDEA STD-1010-A, Acceptability of Electronic Components Distributed in the Open Market, current version
- JEDEC Standard, General Requirements for Distributors of Commercial or Military Semiconductor Devices, current version
- SEMI T20, Specification for Authentication of Semiconductors and Related Products, current version

Improve Reporting of Nonconforming Items

- FAR case (2013-002) “Expanded Reporting of Non-conforming Items” – to be published

