



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Overarching DoD Counterfeit Prevention Guidance

References: (a) PDUSD(AT&L) Memorandum, "Document Streamlining - Program Protection Plan (PPP)," July 18, 2011
(b) Defense Federal Acquisition Regulations Supplement, clause 252.246-7003, Notification of Potential Safety Issues, current edition


Counterfeit items are a serious threat to the safety and operational effectiveness of Department of Defense (DoD) systems. The Department is developing, with the participation of your staffs, policy and strategies designed to detect and prevent the introduction of counterfeit materiel. The policy and strategies will focus on those items that affect system performance or operation, the preservation of life, or safety of operating personnel. While we establish new DoD policy and procedures along with appropriate changes to the Defense Federal Acquisition Regulation Supplement (DFARS), this memorandum provides a broad framework and emphasizes the importance of taking action now to apply existing policy and procedures. This memorandum directs specific actions to prevent, detect, remediate, and investigate counterfeiting in the DoD supply chain. For purposes of this memorandum, counterfeit materiel is defined as "an item that is an unauthorized copy or substitute that has been identified, marked, and/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." Additionally, a used item represented as a new item may also be subject to fraudulent representation procedures.

While the Department is concerned about counterfeits in all supply classes, particular focus is required for mission critical components, critical safety items, electronic parts, and load-bearing mechanical parts. DoD Components should immediately take action to decrease the probability of counterfeit items across the Department to include the following:

1. Ensure program managers are notified by their suppliers and contractors when critical items are not obtained from the original equipment manufacturer, original component manufacturer, or an authorized distributor, particularly where electronic parts are included. This requirement should apply to suppliers below the prime contract as well.
2. Require program managers to follow the Program Protection Plan Outline and Guidance (Reference (a)), which includes the requirement to evaluate counterfeit risk and implement countermeasures for mission critical components.
3. For other than mission-critical components, where the program or item manager has determined there is counterfeit risk that warrants action, the program manager or item manager must document risk mitigation within the program risk management plan or systems engineering plan.

4. Reaffirm the requirement to include DFARS clause 252.246-7003, "Notification of Potential Safety Issues" (Reference (b)) in solicitations and contracts for the acquisition of: (1) repairable or consumable parts identified as critical safety items; (2) systems and subsystems, assemblies, and subassemblies integral to a system; or (3) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system. This clause directs actions to be taken concerning non-conformances and deficiencies that could result in a critical safety impact to parts or to systems or subsystems, assemblies, subassemblies, or parts integral to a system. Follow the procedures at section 246.371 of "Procedures, Guidance, and Information" for the handling of notifications received under the clause.
5. Participate in a Department-level review to identify appropriate industry standards for anti-counterfeiting and address those standards in contracting requirements as appropriate. In addition, ensure that any such requirements flow down to appropriate lower-tier subcontracts.
6. Establish testing and verification requirements for items not received from an original equipment manufacturer, original component manufacturer, or authorized distributor that are identified as having high risk for counterfeit potential. These requirements apply to prime contracts, and to subcontracts or suppliers below the prime contracts.
7. Ensure contractors and subcontractors reports of suspected or confirmed counterfeit items are entered into the Government-Industry Data Exchange Program (GIDEP) system, which will serve as the DoD central reporting repository.
8. Report suspected or confirmed counterfeit items discovered by DoD activities in GIDEP using the Product Quality Deficiency Reporting process as appropriate.
9. Investigate suspected counterfeit incidents discovered or reported, and report incidents confirmed as counterfeit to the appropriate criminal authorities. In the case of suspect counterfeits, the parts should be held until resolution of the potential non-conformance is complete. If items are confirmed to be counterfeit, they should not be returned to the actual or a potential supplier at any time prior to criminal authorities' release for disposition.
10. Develop and provide training to DoD personnel involved with the development, acquisition and procurement, supply, maintenance, and protection of weapon systems on proper measures to address counterfeiting.

Your support in this critical area will ensure the safety and mission performance of our warfighting systems. My point of contact is Mr. Gerry Brown, ODASD(SCI), at 571-372-5259.



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