



**AIA Public Meeting Testimony**  
**Detection and Avoidance of Counterfeit Electronic Parts**  
**Further Implementation**  
**“Trusted Supplier”**

**March 27, 2014**

**Presented by: Rusty Rentsch**  
**Assistant Vice President, Technical Operations**

**Aerospace Industries Association**  
**703-358-1054**  
**[Rusty.Rentsch@aia-aerospace.org](mailto:Rusty.Rentsch@aia-aerospace.org)**

THE VOICE OF AMERICAN AEROSPACE AND DEFENSE



## AIA's Interest

- AIA was founded in 1919 and is the premier U.S.-based trade association representing more than 350 major aerospace and defense manufacturers and suppliers and approximately 844,000 aerospace and defense workers. Our members represent the leading manufacturers and suppliers of civil, military and business aircraft, helicopters, unmanned aircraft systems, missiles, space systems, aircraft engines, materiel and related components, equipment services and information technology.
- *AIA and its member companies are committed in the fight to detect and avoid the proliferation of counterfeit electronic parts sold on the global market and those potentially in the aerospace and defense supply chain.*
- *AIA advocates for fair and balanced acquisition policy and sustainable regulations. The aerospace and defense industry independently establishes and maintains processes and policies dedicated to these initiatives in an effort to ensure civil aviation safety and tactical military superiority remains uncompromised.*
- *Successful counterfeit risk mitigation requires partnership between government and industry, including balanced risk sharing.*



## AIA Defines “Trusted Suppliers”

*“A Trusted Supplier should include OEM/OCM or their authorized distributors, resellers and sales agents and other distributors of diminishing manufacturing sources and material shortage (DMSMS) items that are vetted within a well established protocol defined by DoD.”*

**Note:** AIA provided this definition in the July 15, 2013 Comment Letter for DFARs Case, 2012-D055, Counterfeit Electronics Parts Detection and Avoidance

### Acronyms:

- OCM – Original Component Manufacturers
- OEM – Original Equipment Manufacturers
- DMSMS – Diminishing Manufacturing Sources & Material Shortages
- NDAA – National Defense Authorization Act
- COTS – Commercial Off The Shelf



## FY12 NDAA Section 818 (c)(3)(A)(i)

### **FY12 NDAA Sec. 818 (c)(3):**

*“TRUSTED SUPPLIERS.—The revised regulations issued pursuant to paragraph (1) shall—*

- *(A) require that, whenever possible, the Department and Department contractors and subcontractors at all tiers—
  - *(i) obtain electronic parts that are in production or currently available in stock from the original manufacturers of the parts or their authorized dealers, or from trusted suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers....”**

### **The consensus of AIA and its member companies:**

- *AIA and its member companies support this policy.*
- *Given that DoD will assess contractor counterfeit mitigation practices, AIA strongly recommends that safe harbors be applied and remedy costs made allowable when contractors follow their established and approved practices and, notwithstanding this contractor diligence, an electronic part is later found to be counterfeit.*



## Additional Language – Sec. 818 (A)(ii), (B), (C), & (D)

The language provided below is excerpted verbatim from Section 818 of FY12 NDAA. This does NOT constitute AIA endorsement of this legislation. Rather, when defining trusted suppliers, AIA strongly recommends that the Government consider the elements presented in the next chart.

### **Excerpt of FY12 NDAA Sec. 818 (c)(3) (continued):**

- (A)(ii) obtain electronic parts that are not in production or currently available in stock from trusted suppliers;
- (B) establish requirements for notification of the Department, and inspection, testing, and authentication of electronic parts that the Department or a Department contractor or subcontractor obtains from any source other than a source described in subparagraph (A);
- (C) establish qualification requirements, consistent with the requirements of section 2319 of title 10, United States Code, pursuant to which the Department may identify trusted suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and
- (D) authorize Department contractors and subcontractors to identify and use additional trusted suppliers, provided that—
  - (i) the standards and processes for identifying such trusted suppliers comply with
  - (ii) established industry standards;
  - (ii) the contractor or subcontractor assumes responsibility for the authenticity of parts provided by such suppliers as provided in paragraph (2); and
  - (iii) the selection of such trusted suppliers is subject to review and audit by appropriate Department officials



## Industry comments Related to Sec 818, (Aii) – (D)

### The consensus of AIA and its member companies:

- Obsolete electronic parts are generally not available through the OEM/OCM or their franchised/authorized distributors:
  - There must be a mechanism to use properly reviewed and controlled sources
  - These controls should be risk-based and cannot be defined by any single standard
- Buyers should develop applicable processes to select their sources and use these, in combination with other controls such as inspection and testing, to assure authenticity of procured items
- We believe that DoD's oversight of the "trusted supplier" process should focus on the robustness of the processes used by buyers to assure material authenticity
- We do not believe it is prudent for DoD to approve specific suppliers since much of the acceptability of a supplier is risk- and application-specific
- It is not reasonable or practical for contractors to notify DoD when these types of sources are used. It is expected that DoD will have previously reviewed and approved contractor counterfeit risk mitigation practices. Given that DoD will assess contractor counterfeit risk mitigation practices, AIA strongly recommends that safe harbors shall be applied and remedy costs made allowable when contractors follow their established and approved practices and an electronic part is later found to be counterfeit



## Industry Consensus of Overarching Concerns

- **Scope creep / Lack of risk-based approach**
  - Proposed rules extend counterfeit mitigation regulation beyond the mandate of Sec. 818, which addressed electronics, demonstrated to be the area of highest risk.
  - Extending policy developed for this high-risk area to areas of less risk could drive costs without the associated risk reduction benefits.
  - Draft rules addressing electronics do not include a risk-based approach, which is foundational to industry standards in this arena and within the Sec. 818 mandate.
- **Commercial Items and COTS exemption lacking**
  - Proposed rules are silent in their treatment of commercial items and COTS items generally, despite Senate report language specifically indicating that a COTS exemption should be considered during implementation of Sec. 818.
  - As most COTS / commercial manufacturers reject government-unique clauses and will not offer more than their standard warranties, this lack of exemption poses undue risk on Aerospace, Space and Defense contractors.
  - We believe commercial items and COTS electronics should be exempted from the rules being contemplated, consistent with Sec. 818.



## Industry Consensus of Overarching Concerns

- **Unbalanced risk sharing:**
  - Contemplated policy imposes all risk for mitigating and remedying counterfeit parts on industry
  - We believe a balanced approach to risk sharing is appropriate, especially when contractors demonstrate good faith efforts to mitigate counterfeits
  - In many cases, fielded systems contain obsolete components, which are no longer available from a source with traceability to the manufacturer. Thus, industry must procure these parts through open market distributors, which despite enhanced controls, pose some level of risk
  - DoD, as a stakeholder, should collaborate with industry to develop an electronic parts obsolescence policy, since obsolescence is a root cause of counterfeit parts
- **Non-conforming items:**
  - Based on draft rules, the Government appears to be contemplating inclusion of all or many nonconforming goods in the definition of “counterfeit parts”. This creates an additional layer of reporting/ processing for most non-conforming items and is duplicative of long-established Quality Management Systems successfully used for decades to ensure higher levels of quality for systems