



**AIA Public Meeting Presentation
Detection and Avoidance of Counterfeit Electronic Parts
Further Implementation**

June 16, 2014

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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:

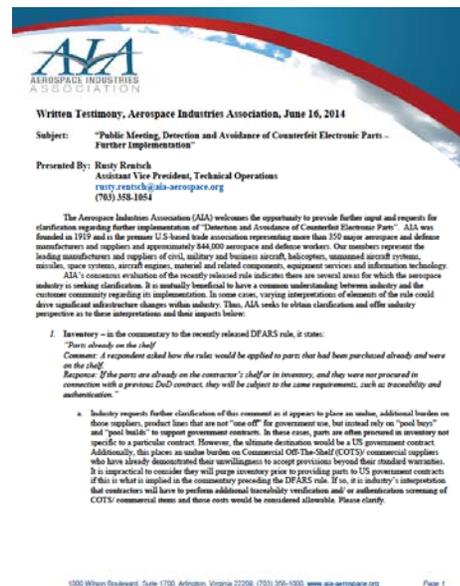
- *AIA and its member companies are committed in the fight to detect and avoid the proliferation of counterfeit electronic parts sold on the global market and those potentially in the aerospace and defense supply chain.*
- *AIA advocates for fair and balanced acquisition policy and sustainable regulations. The aerospace and defense industry independently establishes and maintains processes and policies dedicated to these initiatives in an effort to ensure that civil aviation safety and tactical military superiority remain uncompromised.*
- *Successful counterfeit risk mitigation requires partnership between government and industry, including balanced risk sharing.*



AIA record of written testimony

AIA and their member companies have submitted to the Defense Procurement and Acquisition Policy written testimony in response the Federal Register Document 2014-10680 on June 11, 2014.

The submitted written testimony title: “Written Testimony, Aerospace Industries Association, June 16, 2014” is imbedded below and shall be considered AIA’s official record of response.





Topic 1: Inventory

Inventory – in the commentary to the recently released DFARS rule, it states:
“Parts already on the shelf

Comment: *A respondent asked how the rules would be applied to parts that had been purchased already and were on the shelf.*

Response: *If the parts are already on the contractor’s shelf or in inventory, and they were not procured in connection with a previous DoD contract, they will be subject to the same requirements, such as traceability and authentication.”*

The consensus of AIA and its member companies:

- Industry requests further clarification of this comment as it appears to place an undue, additional burden on volume production environments reliant upon “pool buys” and “pool builds” to support government contracts:
 - In these cases, parts are often procured in inventory not specific to a particular (pending) contract. However, the ultimate destination would be a US government contract
 - This places an undue burden on Commercial Off-The-Shelf (COTS)/ commercial suppliers who have already demonstrated their unwillingness to accept provisions beyond their standard warranties:
 - It is impractical to consider they will purge inventory prior to providing parts to US government contracts if this is what is implied in the commentary preceding the DFARS rule
 - If so, please clarify if it is industry’s interpretation that contractors will have to perform additional traceability verification and/ or authentication screening of COTS/ commercial items and those costs would be considered allowable



Topic 1: Inventory (continued)

- Comingled inventories and grouped purchases are common procurement and inventory management practices.
 - These practices help manage cost savings on government programs
 - The following are considerations regarding contractors who use comingled inventory for the types of parts in consideration, and do not serialize each component issued from inventory (peg) for specific programs and contracts:
 - This provision is likely impractical and unenforceable in these circumstances.
 - The processes required to meet the expectations outlined in the DFARS could require a strict allocation approach and segregated inventories by program. Such approaches would increase costs to the government if implementable at all throughout the supply chain.
- What are the specific requirements for traceability and authentication that on-the-shelf inventory will be subject to?
- Industry requests considerations whether exceptions to the rule will exist for residual inventory:
 - Will inventory procured in connection with a DoD contract be exempt?
 - Will inventory not procured exclusively for a DoD contract, but were procured for use in multiple applications including DoD contracts be exempt?
 - Will inventory not procured exclusively for a DoD contract, but were procured for another government end-use be exempt?



Topic 2: Supplier Governance and Purchasing System Approvals

Industry requests further clarification as to how the government intends to implement the oversight provisions of this rule as it applies to Contractor Purchasing:

System Reviews (CPSR) approvals: *Given the significant liability imposed on contractors, it is likely that contractors will continue, or likely increase, their duplicative oversight of the supply base related to counterfeit mitigation. This is in addition to the planned/ongoing oversight on the part of Defense Contract Management Agency (DCMA) and other government agencies.*

Allowable costs and oversight: *Duplicative oversight is considered an allowable expense, and impactful to the affordability of systems provided to the government. Could the government consider providing a process/schedule for implementation of supply base oversight? This would allow contractors to plan their oversight accordingly.*

The consensus of AIA and its member companies:

- Industry offers to partner with DCMA as their processes/ instructions for inclusion of counterfeit detection and avoidance systems are incorporated into their CPSR instructions:
 - This would ensure such instructions are understood by the contractors being reviewed and would eliminate inefficiencies in the oversight process
 - Industry has been addressing counterfeit detection processes and standards for several years and has input that could benefit government and industry as such oversight is formulated
- AIA recommends for the government to consider providing “safe harbor” if a contractor utilizes a supplier whose purchasing/ counterfeit avoidance system has been approved by DCMA or has been reviewed and approved by a 3rd party:
 - 3rd party review processes (AS9100 certifications) could be subjected to DCMA oversight
 - Provision of “safe harbor” in these circumstances would alleviate contractors (and in particular , suppliers at lower tiers of the supply chain) the unnecessary burden of duplicative oversight



Topic 3: Availability of Electronic Parts & Associated Governance Process

The DFARS instructs:

“Use of suppliers that are the original manufacturer, sources with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer or suppliers that obtain parts exclusively from one or more of these sources.”

The consensus of AIA and its member companies:

- Electronic parts are not always available from these sources:
 - “Availability” can be influenced by factors such as: obsolescence, schedule (i.e. supporting a critical operational need in theatre) and minimum buys from an Original Equipment Manufacturer (OEM) or authorized source:
 - Is it the government’s intent to provide further guidance for these circumstances?
 - Considerations with regard to the associated governance practice contemplated:
 - Is it the responsibility of the Procuring Contracting Officer (PCO) or Administrative Contracting Officer (ACO) to direct procurement from an alternate source in these instances?
 - Will that provide risk relief to contractors?
 - Will the Defense Logistics Agency (DLA) supply parts in these circumstances and if so, will DLA supplied parts be considered under the safe harbor rules as Government Furnished Equipment (GFE)?



Topic 4: Commercial Items & Small Business Impact Verification

The consensus of AIA and its member companies:

Commercial Items:

- AIA recommends for the government to consider the adoption of a waiver process for COTS and commercial items:
 - It is anticipated that many provisions of this DFARS will not be accepted by such suppliers who tend to provide their standard terms and warranties
 - What is the government's intended approach for its own procurements?

Small Business Impact Verification:

- Could the government provide clarification/ guidance for industry as to how to address the inevitable situation that will occur when Non-Cost Accounting Standards (CAS) covered suppliers reject flow down of these requirements?
- The process developed to address this should consider the likely rejection of these requirements by many COTS and commercial suppliers, who, as a matter of practice, provide standard warranties for commercial products but tend to reject further flow down of requirements such as these:
 - Is it contemplated that waivers will be required in each of these circumstances?
 - How will these circumstances impact CPSR approvals for the buying contractor?



Topic 5: Supplier Risk & Safeguarding Unclassified Information

The consensus of AIA and its member companies:

- AIA desires to understand government's interpretation of the rule regarding the relationship between the intended oversight of "supplier risk" and the provisions of DFARS Clause 252.204.7012, "Safeguarding Unclassified Technical Information" (issued Nov '13):
 - Industry requests additional information regarding the expectations and scope related to counterfeit detection and prevention with regard to embedded software and firmware:
 - Industry recognizes that embedded software and firmware represents a risk in certain electronic parts and assemblies that contain electronic parts
 - The detection of the electronic hardware portion of electronic parts is very different from the software and firmware portion of the same potential devices
- Clarification of expectations from the government could help reduce costs associated with testing and verification of embedded software and firmware:
 - How is "intent" proven?
 - How is inspection and test to be performed?
 - What is the government's intended approach for its own procurements?



Topic 6: Traceability Documentation Requirements & Verification

The consensus of AIA and its member companies:

- Industry seeks clarification of the DFARS as it relates to traceability, as there could be varying interpretations with widely different impacts
- Typical traceability processes employed generally by industry may not meet some DFARS expectations, and there could be considerable cost/ feasibility implications depending on the specific interpretation of DFARS “traceability” requirements. Specific areas of concern include:
 - Current industry processes generally do not include the name and location of all of the supply chain intermediaries between the part manufacturer and the seller:
 - Commercial suppliers have already demonstrated their unwillingness to accept provisions beyond their standard practices because of low volume revenue streams the aerospace and defense industry provides the electronic components industry
 - Documentation is limited to procurement history versus Certificate of Compliance’s or other documentation
 - Parts received in stores are typically co-mingled after inspection and are considered acceptable for use without any further tracking/ consideration:
 - Specific traceability from component to end item is not a standard practice within industry
 - Space / nuclear applications may be the exceptions, with additional traceability, albeit at significant cost



Topic 6: Traceability Documentation Requirements & Verification

The consensus of AIA and its member companies:

- The language within the DFARS regarding traceability implies the expectation to have traceability information for electronic parts and assemblies which contain electronic parts procured from “non-authorized” sources. This includes Commercial items and COTS. Industry would like confirmation on the interpretation of this rule as follows:
 - Electronic parts or assemblies that contain electronic parts from authorized sources do not require internal traceability by contractors. Instead, contractors should rely on the existing processes of those authorized sources.
 - The DFARS appears to imply that electronic parts or assemblies that contain electronic parts from “non-authorized sources” will require the full chain of custody/ traceability outlined in the DFARS. If the interpretation outline above is correct, particularly as it applies to item #2, industry would like to highlight the following significant impact/ questions:
 1. Documentation is limited to procurement history versus Certificate of Compliance’s or other documentation.
 2. Parts received in stores are typically co-mingled after inspection and are considered acceptable for use without any further tracking/ consideration (space/ nuclear applications may be the exceptions, with additional traceability, albeit at significant cost). Thus, specific traceability from component to end item is not a standard practice within industry:



Topic 6: Traceability Documentation Requirements & Verification

The consensus of AIA and its member companies:

- Is it correct to interpret that in cases where this traceability is not available during the procurement process but the procurement is required to support government contracts, the contractor may apply a risk based approach, including authentication testing in order to procure the parts?
- Would the execution of this logic be subject to review and approval under the CPSR?
- If traceability is required for electronic parts in completed assemblies delivered to the government, the additional scope to inventory and manufacturing processes will drive significant cost growth for DoD programs:
 - As described in Chart 1 (Page 13), common practice in industry is to maintain traceability up through receipt/ inspection, at which time, parts are placed in secured inventory with other parts and such traceability is not maintained
 - This change affects inventory and manufacturing practices throughout industry if the above interpretation reflects DoD's intent
 - Industry recommends that the traceability requirement be limited to procurement history records to authorized sources and that traceability requirements end upon receipt in stores
- If industry receives parts or assemblies as GFE from DLA or other government agencies, will such traceability be provided for authorized and non-authorized sources?
- When the acceptance of such provisions with commercial/ COTS suppliers is unlikely, will there be a waiver process in these circumstances?



Topic 6: Traceability Documentation Requirements & Verification

Typical Traceability Processes

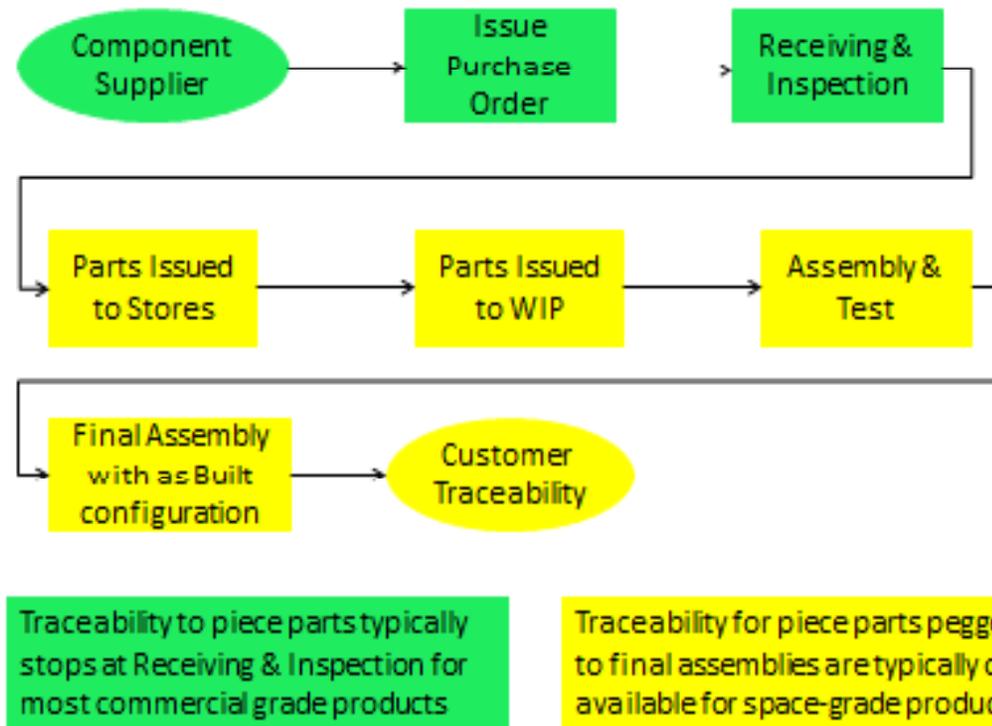


Chart 1 – Typical traceability/ inventory practices employed by industry



Topic 7: Additional Clarifications (Timing & Triggers)

The consensus of AIA and its member companies:

- The following provisions of the rule are opportunities for Industry to partner with the government, helping to further clarify the government's intent and planned oversight:
 - Processes to abolish counterfeit parts proliferation
 - Design operation and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts
 - Industry requests clarification of the government's role to mitigate the risks associated with the control of obsolete electronic parts (i.e. funding, redesigns, etc.)
 - Reporting and Quarantining:
 - DFARS 252.246-7007(c)(6) prescribes reporting requirements for when the contractor knows or suspects that any electronic part purchased by or for the DoD is counterfeit or suspect counterfeit:
 - Due to the rule's flow-down requirement, the prime contractor, its subcontractors, and any service organization (e.g. a test laboratory) all have requirements to report and quarantine the parts
 - Which of these is the party intended to report and quarantine?
 - Is it the party with title to the material, or the prime contractor if the subcontractor holding title does not submit a GIDEP within a reasonable period of time (which is in alignment with industry standards, AS6081)?
 - Clarification of the timing and triggers to determine unallowable costs associated with remedying a counterfeit electronic part escape is requested by industry. Industry assumes costs to prevent counterfeit parts proliferation are allowable as has been standard practice



Continued Dialog

The consensus of AIA and its member companies:

- We would like to continue the dialog with the government to understand the reconciliation/ alignment of this rule with other proposed/ contemplated rules in this arena
- AIA desires for alignment between:
 - FAR Case 2012-032 “Higher Level Quality Requirements”
 - AS5553, “Counterfeit Electronic Parts; Avoidance, Detection, Mitigation, and Disposition”
 - DFAR 252-246-7007, “Contractor Counterfeit Electronic Part Avoidance and Detection System”
 - FAR Case 2013-002 “Expanded Reporting of Non-Conforming Items”

Questions?