



DEPARTMENT OF DEFENSE
Defense Contract Management Agency

INSTRUCTION

Counterfeit Mitigation

Multifunctional Instruction
LEAD: Quality Assurance Directorate

DCMA-INST 1205
July 6, 2015

1. PURPOSE. This multifunctional Instruction is in accordance with (IAW) the authority in Department of Defense Directive (DoDD) 5105.64, “Defense Contract Management Agency (DCMA)” (Reference (a)); DoD Instruction (DoDI) 4140.67, “DoD Counterfeit Prevention Policy” (Reference (b)); DCMA-INST 501, “Policy Publications Programs” (Reference (c)); and all references listed. This Instruction:

a. Establishes DCMA policy, assigns responsibilities, and provides procedures for all DCMA functional elements that oversee contractors’ processes to prevent the introduction of counterfeit materiel in the customer’s supply chain, including special requirements prescribed by Section 818, Public Law 112-81 of the “National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012,” (Reference (d)). While Section 818, Public Law 112-81 (Reference (d)) is focused on electronic parts, the processes outlined in this Instruction are to be used for any materiel where counterfeit is a threat.

b. Provides direction for the surveillance of the contractor’s counterfeit mitigation processes within the DCMA customer; e.g., DoD, National Aeronautics and Space Administration (NASA), supply chain.

c. Assigns responsibilities for oversight, surveillance, and detection to mitigate the risk of introducing counterfeit materiel into the DCMA customer supply chain that poses a threat to personnel safety and mission assurance.

2. APPLICABILITY. This multifunctional Instruction applies to all DCMA personnel performing administration and surveillance activities on Government contracts. DCMA functional elements having unique surveillance requirements shall maintain and follow their supplemental instructions that meet the intent of this Instruction. Oversight and administration of highly sensitive, classified, cryptologic, and intelligence projects and programs shall follow this Instruction to the extent practicable.

3. MANAGERS’ INTERNAL CONTROL PROGRAM. This Instruction is subject to evaluation and testing IAW DCMA-INST 710, “Managers’ Internal Control Program” (Reference (e)). The counterfeit policy process flowcharts and key controls are located at the Resource Web page.

4. RELEASABILITY – UNLIMITED. This Instruction is approved for public release.

5. PLAS CODES. All DCMA personnel must enter time into the Performance Labor Accounting System (PLAS) as follows:

- 085A, SQA- Surveillance - Customer Requirements
- 085B, SQA - Surveillance – Key Processes
- 085C, SQA - Surveillance - Risk Handling Methods
- 069A, SPRDE – ID Contract Systems Engineering Requirements
- 089D, Manufacturing System Surveillance – Manufacturing. Program/Contract Surveillance
- 092B, Supply Chain Management Risk Assessment
- 157A, Fraud and Other Irregularities
- 071D – Software Surveillance Planning
- 071E – Execute Program/Facility Software

6. POLICY RESOURCE WEB PAGE. <https://home.dcma.mil/POLICY/1205r/>

7. EFFECTIVE DATE. This Instruction is effective July 6, 2015 and all applicable activities shall be fully compliant within 60 days of this date.

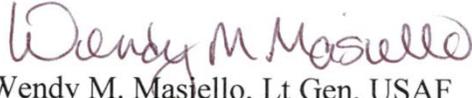

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TABLE OF CONTENTS

REFERENCES.....4

CHAPTER 1 – POLICY

1.1. Policy6

1.2. Order of Precedence.....7

1.3. Waiver/Deviation Authority7

CHAPTER 2 – ROLES AND RESPONSIBILITIES

2.1. Director, DCMA8

2.2. Executive Director, Quality Assurance (QA)8

2.3. Contract Management Office (CMO) Commander/Director.....8

2.4. Preaward Survey Manager (PASM)8

2.5. Administrative Contracting Officer (ACO)8

2.6. Technical Specialist (TS).....8

2.7. Contract Integrity Center (CIC).....10

CHAPTER 3 - PROCEDURES

3.1. DCMA Counterfeit Detection and Avoidance System Checklist
(DCMA Counterfeit Checklist).....11

3.2. Preaward Survey11

3.3. Contract Receipt and Review (CRR).....12

3.4. Contract Technical Review (CTR)12

3.5. Postaward Orientation Conference (PAOC)13

3.6. Counterfeit Risk Assessment13

3.7. Surveillance Planning15

3.8. Delegation15

3.9. Surveillance Execution15

3.10. Data Collection and Analysis.....17

3.11. Product Acceptance17

3.12. Commercial Off-the-Shelf (COTS)17

FIGURE

Figure 1. Counterfeit Risk Cause Likelihood14

GLOSSARY

Definitions.....18

Acronyms21

REFERENCES

- (a) DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)," January 10, 2013
- (b) DODI 4140.67, "DoD Counterfeit Prevention Policy," April 26, 2013
- (c) DCMA-INST 501, "Policy Publications Programs," May 12, 2014
- (d) Section 818, Public Law 112-81, "National Defense Authorization Act for Fiscal Year 2012," December 31, 2011
- (e) DCMA-INST 710, "Managers' Internal Control Program," April 21, 2014
- (f) FAR 52.246-2, "Inspection of Supplies – Fixed-Price," August 15, 1996
- (g) FAR 52.246-11, "Higher-Level Contract Quality Requirements," February 15, 1999
- (h) DCMA-INST 301, "GIDEP and DCMA Forum Regarding Defective/Nonconforming Product and Process Notifications," January 2006
- (i) DCMA-INST 1206, "First Level Supervisor Review," July 24, 2014
- (j) DCMA-INST 209, "Preaward Surveys," February 2012
- (k) DFARS 252.244-7001, "Contractor Purchasing System Administration," May 6, 2014
- (l) DFARS 252.246-7007, "Contractor Counterfeit Electronic Part Detection and Avoidance System," May 6, 2014
- (m) DCMA-INST 118, "Contract Receipt and Review," June 25, 2013
- (n) DCMA-INST 314, "Product Acceptance and Release – QA," January 17, 2013
- (o) DCMA-INST 321, "Nonconforming Material," September 2011
- (p) DCMA-INST 324, "Product Examination," July 26, 2013
- (q) DCMA-INST 109, "Contractor Purchasing System Reviews," November 28, 2012
- (r) DCMA-INST 325, "Contract Technical Review," January 23, 2014
- (s) DCMA-INST 326, "Risk Assessment - QA," February 2012
- (t) DCMA GC, "Raising the Red Flag; Fraud Indicators; Counterfeit Parts," February 16, 2011
- (u) DCMA GC, "Raising the Red Flag; Fraud Indicators; For DCMA Quality Assurance Personnel; Electronic Parts/Supplies," June 28, 2007
- (v) DCMA-INST 327, "Postaward Orientation Conference – QA," April 26, 2013
- (w) DCMA-INST 219, "Supplier Risk Management through Standard Contract Surveillance," May 22, 2013
- (x) DCMA-INST 309, "Government Contract Quality Assurance (GCQA) Surveillance Planning," January 27, 2014
- (y) DCMA-INST 316, "Delegate Surveillance – Quality Assurance," September 2010
- (z) DCMA-INST 1201, "Corrective Action Process," September 23, 2013
- (aa) DCMA-INST 906, "Fraud, Waste and Abuse," October 29, 2014
- (ab) DCMA-INST 323, "Data Collection and Analysis," May 15, 2013
- (ac) DCMA-INST 203, "Software Acquisition Management," June 25, 2013
- (ad) SAE AS6174 (Revision A), "Counterfeit Materiel: Assuring Acquisition of Authentic and Conforming Materiel," July 2014
- (ae) SAE AS5553 (Revision A), "Fraudulent/Counterfeit Electronic Parts; Avoidance, Detection, Mitigation, and Disposition," January 21, 2013
- (af) DFARS, Part 202, "Definition of Words and Terms"
- (ag) SAE AS6081, "Fraudulent/Counterfeit Electronic Parts: Avoidance, Detection, Mitigation, and Disposition – Distributors," November 7, 2012
- (ah) 48 Code of Federal Regulations (CFR), Part 9, Subpart 9.203(a) "Qualifications Requirements"

- (ai) Defense Logistics Agency (DLA) “Qualified Suppliers List of Distributors (QSLD),”
April 8, 2009
- (aj) Defense Logistics Agency “Qualified Testing Suppliers List (QTSL),” December 13, 2012

CHAPTER 1

POLICY

1.1. POLICY.

1.1.1. In compliance with DoDI 4140.67, “DoD Counterfeit Prevention Policy” (Reference (b)) and Section 818, Public Law 112-81 of the “National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012” (Reference (d)), DCMA has developed this Counterfeit Mitigation Instruction to enhance surveillance activities. The Federal Acquisition Regulation (FAR) 52.246-2 “Inspection of Supplies – Fixed-Price” (Reference (f)), requires contractors to have an inspection system acceptable to the Government and to only present supplies to the Government that conform to contract requirements. A contractor is required to have a Quality Management System (QMS) when FAR 52.246-11, “Higher-Level Contract Quality Requirements” (Reference (g)) and/or contractually specified higher level quality requirements are included in the contract.

1.1.2. This Instruction documents DCMA procedures in performing oversight of the contractor’s policies and procedures to prevent the introduction of counterfeit parts into the DCMA customer supply chain. While it is the contractor’s responsibility to mitigate the risk of receiving any suspect counterfeit item, it is DCMA policy to:

1.1.2.1. Not knowingly accept counterfeit materiel.

1.1.2.2. Employ a risk-based approach to reduce the likelihood of counterfeit materiel within DoD acquisition system and life cycle sustainment processes by:

1.1.2.2.1. Applying contract administration oversight to verify the contractor’s prevention and early detection procedures to minimize counterfeit materiel within the DCMA customer supply chain as the primary strategy in eliminating counterfeit materiel.

1.1.2.2.2. Strengthening the oversight and surveillance procedures for critical materiel IAW DoDI 4140.67 (Reference (b)).

1.1.2.2.3. Validating all occurrences of suspect and confirmed counterfeit parts or end items, components, parts, or assemblies and ensure they are documented in the appropriate reporting systems and the Government-Industry Data Exchange Program (GIDEP) (or a similar program as designated by the Secretary of Defense).

1.1.2.2.4. Submitting a contract deficiency report (CDR) into the Electronic Document Access (EDA) when a contract deficiency for counterfeit mitigation is identified.

1.1.2.3. Making information about counterfeiting accessible to all levels of the DCMA customer supply chain IAW DCMA-INST 301, “GIDEP and DCMA Forum Regarding Defective/Nonconforming Product and Process Notifications,” (Reference (h)) as defined in

DoDI 4140.67 (Reference (b)) as a method to prevent further counterfeit from entering the supply chain.

1.1.3. DCMA personnel shall contact the Contract Integrity Center (CIC) when any suspicion of fraud or counterfeit is encountered. The CIC shall provide guidance to DCMA personnel on how to proceed (including but not limited to) when or if to notify chain of command and/or the contractor and what data is to be collected prior to DCMA issuing any GIDEP/Agency Action Notices (AAN)/Problem Advisories (PA).

1.1.4. When surveillance of counterfeit mitigation is required at the subcontract level, DCMA personnel of the cognizant contract management office (CMO) for the prime contractor, shall issue a delegation that includes all counterfeit mitigation requirements. Customer and commercial counterfeit standards present in the contract will be noted on the delegation.

1.2. ORDER OF PRECEDENCE. In the event of conflicts between this DCMA Instruction and the contract, the contract takes precedence.

1.3. WAIVER/DEVIATION AUTHORITY. Approval of waiver/deviation to this Instruction is not authorized at the Operations level. Waiver/deviations are processed IAW DCMA-INST 501 (Reference (c)).

CHAPTER 2

ROLES AND RESPONSIBILITIES

2.1. DIRECTOR, DCMA. The DCMA Director establishes Counterfeit Mitigation Instruction to enhance surveillance activities throughout the Agency IAW DoDI 4140.67 (Reference (b)) and Section 818, Public Law 112-81 (Reference (d)).

2.2. EXECUTIVE DIRECTOR, QUALITY ASSURANCE (QA). The QA Executive Director develops and maintains the Counterfeit Mitigation Instruction.

2.3. CONTRACT MANAGEMENT OFFICE (CMO) COMMANDER/DIRECTOR. CMO Commander/Directors resource, assign, and execute counterfeit surveillance responsibilities to the technical specialist (TS) and provide timely reporting of issues. IAW DCMA-INST 1206, “First Level Supervisor Review” (Reference (i)), CMO Commander/Directors must ensure all required personnel receive training and understand the requirements of this Instruction.

2.4. PREAWARD SURVEY MANAGER (PASM). The PASM determines if the contractor’s processes and procedures include counterfeit mitigation utilizing the DCMA Counterfeit Checklist. IAW DCMA-INST 209, “Preaward Surveys” (Reference (j)), an onsite visit is typical on a formal preaward survey (PAS) but not required if the TS has recent and complete data on hand. The TS will obtain current information from the contractor depending on the procurement or specific item. The PASM must determine the appropriate factors, as provided from the requesting activity to be surveyed, that address counterfeit mitigation IAW DCMA-INST 209 (Reference (j)) when Defense Acquisition Regulation Supplement (DFARS) 252.244-7001, “Contractor Purchasing System Administration” (Reference (k)) and/or DFARS 252.246-7007, “Contractor Counterfeit Electronic Part Detection and Avoidance System” (Reference (l)) is contractually required.

2.5. ADMINISTRATIVE CONTRACTING OFFICER (ACO). The ACO will identify all applicable clauses for the detection and avoidance of counterfeit parts are on contract IAW DCMA-INST 118, “Contract Receipt and Review” (Reference (m)). Recommendations include, but are not limited to, Counterfeit Mitigation Standards and Guidance listed on the Resource Web page for this Instruction.

2.6. TECHNICAL SPECIALIST (TS). The term technical specialist, used in this Instruction, refers to personnel assigned responsibilities for counterfeit mitigation at the CMO, in the field, or executing oversight at the contractor’s facility. The TS shall perform counterfeit mitigation IAW applicable DCMA Instructions, FAR/DFARS counterfeit clauses, cited industry standards, and customer contract requirements for the following:

2.6.1. DCMA Instructions for DCMA-INST 301 (Reference (h)), product acceptance IAW DCMA-INST 314, “Product Acceptance” (Reference (n)), nonconforming material IAW DCMA-INST 321, “Nonconforming Material” (Reference (o)), and product examination IAW DCMA-INST 324, “Product Examination” (Reference (p)).

2.6.2. Quality Management Systems (QMS). Performs QMS audits to assess the contractor's supply chain oversight and determine if the contractor has effective counterfeit mitigation processes and procedures, including flow down requirements for the detection and avoidance of counterfeit parts throughout the supply chain.

2.6.3. Work closely with other DCMA personnel who provide contractual oversight of Contractor Purchasing System Reviews (CPSR) and purchasing process surveillance on an as needed basis. Purchasing process surveillance is required to ensure a contractor is executing to the processes and procedures in place to mitigate counterfeit risk; i.e., receipt and inspection of purchased items. If additional support is required to support a CPSR, quality assurance personnel will be notified IAW DCMA-INST 109, "Contractor Purchasing System Reviews" (Reference (q)).

2.6.4. Perform contract receipt and review (CRR) and contract technical review (CTR) IAW DCMA-INST 118 (Reference (m)); DCMA-INST 325 (Reference (r)); and/or applicable functional instruction to identify all relevant clauses for the detection and avoidance of counterfeit parts. The contract should reference the applicable documents to include, but not limited to, Counterfeit Mitigation Industry Standards and utilize the guidance listed on the Resource Web page for this Instruction.

2.6.5. Responsibilities include:

2.6.5.1. Performing risk assessment, and other contract surveillance functions.

2.6.5.2. Sending CDR to the assigned ACO for validation/approval.

2.6.5.3. Utilizing a variety of administrative, analytical, technical methods, and techniques to ensure the quality of products.

2.6.5.4. Determining conformance of product to drawings and/or technical specifications; reporting defects encountered.

2.6.5.5. Providing objective evidence as to the effectiveness of procedures and controls.

2.6.5.6. Identifying potential problem areas which may be found in the technical data, materials, or manufacturing processes.

2.6.5.7. Utilizing all surveillance procedures and inspection data as a basis for adjusting surveillance.

2.6.5.8. Assessing the contractor's production, planning, and control processes to ensure there is a system for the detection and avoidance of counterfeit parts.

2.6.5.9. Identifying supply chain counterfeit risks.

2.6.5.10. Assessing the contractor's production, planning, and control processes to ensure there is a system for the detection and avoidance of counterfeit parts.

2.6.5.11. Immediately contact the CIC for direction on how to proceed when suspect counterfeit is discovered.

2.6.5.12. Ensure documents and/or information associated with counterfeit or suspect counterfeit items are maintained and properly marked as For Official Use Only (FOUO). This information may include commercial and financial information, opinions concerning contractor performance, technical data, and related applications that are proprietary, sensitive, and/or confidential. DCMA personnel/recipients and users of this information are advised that such material may be exempt from disclosure under federal law, DoD issuances, guidance, and other policy. Distribution is authorized to DoD components only and to DoD persons who have a need to know or who have authorization to access the source information. Other requests; i.e., program office inquiries, will be referred to the appropriate authority within DCMA.

2.7. CONTRACT INTEGRITY CENTER (CIC). The CIC reviews all reports of suspect counterfeit parts and when appropriate, coordinates investigations among appropriate stakeholders (including but not limited to DCMA personnel, criminal investigative organizations, intelligence authorities, and/or those who use the suspect or confirmed counterfeit materiel). Upon notification of suspect counterfeit materiel, CIC will provide guidance on the appropriate path forward.

CHAPTER 3

PROCEDURES

3.1. DCMA COUNTERFEIT DETECTION AND AVOIDANCE SYSTEM CHECKLIST (DCMA COUNTERFEIT CHECKLIST). The TS utilizes the DCMA Counterfeit Checklist, to include the Counterfeit Checklist Standard Operating Procedures, located on the Resource Web page for this Instruction, as part of the performance factors assessment for all suppliers IAW DCMA-INST 326, “Risk Assessment” (Reference (s)).

3.1.1. The DCMA Counterfeit Checklist is used to evaluate a contractor’s Counterfeit Mitigation efforts during:

- Preaward surveys
- Risk assessment to establish surveillance method and frequency
- Support CPSR and process reviews

3.1.2. A report summarizing the Counterfeit Checklist results is developed on an annual basis and as events/risks occur IAW DCMA-INST 109 (Reference (q)). The Counterfeit Checklist report supports a CPSR being performed or when scheduled, and is a basis for purchasing process surveillance to ensure contractor execution.

3.1.3. When requested to support a CPSR, the TS will evaluate and provide information specific to the contractor’s Counterfeit Electronic Part Detection and Avoidance System IAW DCMA-INST 109 (Reference (q)) and DFARS 252.244-7001 (Reference (k)).

3.1.3.1. The contractor’s system(s) should include risk-based policies and procedures that address at a minimum, the system criteria per DFARS 252.246-7007 (Reference (l)).

3.1.3.2. The TS will provide Counterfeit Checklist results, to include a brief report summarizing the results of the contractor’s Counterfeit Part Detection and Avoidance System, to DCMA personnel providing contractual oversight when DFARS 252.244-7001 (Reference (k)) and/or DFARS 252.246-7007 (Reference (l)) are on contract. The template of the report, which summarizes the Counterfeit Checklist, can be found on the Resource Web page for this Instruction.

3.2. PREAWARD SURVEY. The TS provides preaward survey support at the request of the PASM specific to addressing contractors’ counterfeit mitigation processes and procedures. The PASM and TS determine the appropriate factors of the counterfeit mitigation system to be evaluated IAW DCMA-INST 209 (Reference (j)). If required by the ACO and to determine counterfeit risk (as part of the quality assurance capability assessment for preaward survey), the TS utilizes the DCMA Counterfeit Detection and Avoidance System Checklist (as provided on the Resource Web page for this Instruction) to evaluate the contractor’s ability to reduce the likelihood of their failure to detect counterfeit.

3.3. CONTRACT RECEIPT AND REVIEW (CRR).

3.3.1. The TS must review the contract to identify counterfeit mitigation clauses and standards IAW their functional element instructions to include the following additional requirements, when applicable:

3.3.1.1. Counterfeit Mitigation Industry Standards and Guidance. The ACO identifies the presence of DFARS clauses and industry standards within the contract. See document listing as provided on the Resource Web page for this Instruction.

3.3.1.2. If the counterfeit mitigation clauses are missing, conflicting, and/or ambiguous, the TS (as assigned) will submit a CDR requesting appropriate counterfeit mitigation clause(s) be added to the contract. The ACO will validate the CDR and contact the procurement contracting officer (PCO) as applicable.

3.3.2. If software requirements are (to include software embedded in end items or systems and standalone software products) in the contract, coordinate with DCMA-certified software professional to ensure further software requirements review is performed. The TS should contact the DCMA Software Engineering and Acquisition Management Center if a local DCMA-certified software professional is not available.

3.4. CONTRACT TECHNICAL REVIEW (CTR). The TS identifies areas of elevated counterfeit risk utilizing the CIC published guidance titled, “Raising the Red Flag; Fraud Indicators; Counterfeit Parts” (Reference (t)) and “Raising the Red Flag; Fraud Indicators; For DCMA Quality Assurance Personnel; Electronic Parts/Supplies” (Reference (u)) found on the Resource Web page for this Instruction. The indicators listed in these documents note areas at higher risk for counterfeit which require mitigation. The TS evaluates the contract utilizing DCMA-INST 325 (Reference (r)) and/or applicable functional instruction.

3.4.1. The TS identifies counterfeit mitigation requirements found in the contract, technical data package (contract specifications), quality assurance letter of instruction (QALI) and/or letter of delegation (LOD). The TS will identify all applicable contract clauses for the detection and avoidance of counterfeit parts. These requirements include customer clause/requirements, industry standards, or flowed down business process requirements. Examples of counterfeit mitigation contract requirements are located on the Resource Web page for this Instruction.

3.4.2. When a contract deficiency is identified (i.e., no counterfeit mitigation clauses or industry standards that address known counterfeits), the TS will discuss the deficiencies with the cognizant ACO prior to issuing the CDR.

3.4.2.1 CDR notifications are as administered IAW the appropriate functional elements unique requirements.

3.4.2.2. For DoD customers, the TS creates the CDR within the EDA System.

3.4.2.3. For non-DoD customers, the TS creates the CDR by using DD Form 1716, "Contract Data Package Recommendation/Deficiency Report" in lieu of the EDA/CDR System.

3.4.2.4. For DCMA Special Programs, the TS creates the CDR by using DD Form 1716, "Contract Data Package Recommendation/Deficiency Report" in lieu of the EDA/CDR System and transmits it via secure channels.

3.5. POSTAWARD ORIENTATION CONFERENCE (PAOC).

3.5.1. If required or determined by counterfeit risk, the TS may be required to participate in a PAOC. IAW DCMA-INST 118 (Reference (m)) or DCMA-INST 327, "Postaward Orientation Conference – QA" (Reference (v)), the ACO and/or the TS may conduct a PAOC. The PAOC meeting agenda topics will include counterfeit mitigation strategies as applicable to the contract.

3.5.2. The TS may provide available suspect or confirmed counterfeit risk information; e.g., GIDEP reports to the ACO, if and when necessary, to support the need to conduct a PAOC.

3.6. COUNTERFEIT RISK ASSESSMENT. The intent is to identify the risks associated with suspect counterfeit parts. The TS will assign a risk likelihood rating based on the source assessment (Figure 1) of the purchased material IAW DCMA INST 326 (Reference (s)) or applicable functional instructions as developed IAW DCMA-INST 219, "Supplier Risk Management Through Standard Contract Surveillance" (Reference (w)).

3.6.1. Counterfeit Risk Cause Likelihood. The risk of purchasing counterfeit part/material is based on the contractor's source (see Figure 1). The TS determines the likelihood ratings for each risk cause and documents these ratings in the Risk Profile and Plan (RP&P) or as detailed within the applicable functional instruction. The source column, in Figure 1, is specific to counterfeit and helps guide the decision.

3.6.2. The DCMA Counterfeit Checklist is utilized as part of the performance factor/indicators assessment and identifies processes with performance problems. Surveillance processes identified are added to the TS surveillance plan to be monitored during their execution of functional surveillance. Any counterfeit mitigation process at risk would be associated with a risk statement generated from question(s) on the risk statement generator.

3.6.2.1. The TS should review the contractor's execution of processes and procedures on an annual basis; however, if a high risk is assigned to a contractor's process, or a risk event occurs, surveillance is performed at an appropriate frequency. The TS assigns in part, a surveillance frequency based on the source assessment of the purchased material. The recommended surveillance frequency is as shown in Figure 1. For additional guidance to determine surveillance frequency, see DCMA-INST 309, "Government Contract Quality Assurance (GCQA) Surveillance Planning" (Reference (x)) or applicable functional instruction.

3.6.2.2. During the risk assessment process, all TS responsible for contract administration performs periodic re-evaluations of the identified counterfeit risks that were added to their surveillance plan as risk events or changes in performance occur. This includes

performing the DCMA Counterfeit Checklist as part of the performance factors assessment to determine if the supplier's processes remain in control. The DCMA Counterfeit Checklist may be used as an extension of the performance factors assessment.

Figure 1. Counterfeit Risk Cause Likelihood

Counterfeit Risk Cause Likelihood	How Likely is the Risk Cause to Occur?	Source	Recommended Surveillance Frequency
High	It is highly likely to occur.	Distributor with a history of providing suspect counterfeit parts, fraudulent activity	Quarterly
	Performance data shows evidence of an inability to meet the contractual requirements.		
	The materiel is extremely difficult to obtain.		
Moderate	It is probable or likely to occur.	Open Market Purchase	Semiannually
	No data available to show the suppliers' ability to meet contractual requirements.	Non-Authorized/ Non-Franchised Distributor	Semiannually
	The materiel is somewhat difficult to obtain.	Non-Authorized/ Non-Franchised Distributor with a proven track record Qualified Testing Suppliers List (QTSL) Qualified Suppliers List of Distributors (QSLD)	Semiannually
Low	It is unlikely that the risk will occur.	Authorized or Franchised Distributors	Annually
	Performance data shows evidence that the contractual requirements will be met.	Qualified Manufacturers List (QML) Manufacturer on the Qualified Products List (QPL) Original Equipment Manufacturers (OEM)	Annually
	It is a common materiel and not difficult to obtain.	Original Component Manufacturers (OCM) Original Manufacturers (OM)	Annually

3.6.3. Obsolescence. If a part (whether hardware/software) is determined to be obsolete or out of production, the TS elevates surveillance (method and frequency) to address the elevated risk of suspect counterfeit. An item purchased from sources **other** than the OM/OCM or authorized/franchised distributor is an indicator of potential suspect counterfeit.

3.6.4. Level of Counterfeit Risk Cause Likelihood. The level of counterfeit risk cause likelihood indicates the extent of surveillance needed.

3.6.5. Procurement Contracting Officer Notification. If during or after performing CTR, the TS determines the contract is deficient (i.e., no contract clauses/specifications or no requirement for a contractor to have internal documented processes and procedures that specifically govern counterfeit mitigation) as based on counterfeit risk, notify the ACO/PCO (as applicable) to request contract modification.

3.7. SURVEILLANCE PLANNING. The TS will develop a surveillance plan and make adjustments IAW all applicable instructions for each applicable surveillance activity.

3.8. DELEGATION. When a prime contractor subcontracts for supplies, the CMO cognizant of the prime contractor may delegate counterfeit surveillance to the CMO cognizant of the subcontractor IAW DCMA-INST 316, “Delegate Surveillance – Quality Assurance” (Reference (y)).

3.8.1. The prime contractor is responsible for monitoring incoming parts (whether hardware/software) during receipt and inspection. If the TS identifies counterfeit risk associated with a prime contractor’s sub-tier supplier, a delegation must be issued to address counterfeit mitigation based on risk further down the supply chain to the fullest extent possible, to protect the Government’s interest.

3.8.2. When delegating, the delegator will notify the delegatee in advance to communicate counterfeit requirements and risks.

3.8.3. The delegatee will evaluate contractor performance through surveillance activities identified IAW the delegation or surveillance plan. The DCMA Counterfeit Checklist can be utilized to support this activity.

3.9. SURVEILLANCE EXECUTION. The TS will execute, maintain, and adjust surveillance IAW the developed surveillance plan and all applicable instructions. Surveillance of the contractor’s purchasing process is required to ensure the contractor’s Counterfeit Part Detection and Avoidance System is in compliance with DFARS 252.246-7007 (Reference (l)). The results of the surveillance effort/activities are documented IAW the instruction for each applicable surveillance activity.

3.9.1. Contractor has a Counterfeit Detection and Avoidance System (required by contract or by contractors’ business process). Utilizing the Counterfeit Checklist, the TS will verify that all incidents of counterfeit or suspect counterfeit materiel have been handled IAW the contractor’s counterfeit mitigation process. A sample “Contractor’s Suspect Counterfeit Notification Process” is located on the Resource Web page for this Instruction.

3.9.1.1. If the contractor is not following an internal Counterfeit Detection and Avoidance System, the TS will:

- Issue a Level II corrective action request IAW DCMA-INST 1201, “Corrective Action Process” (Reference (z))
- Perform a counterfeit risk assessment
- Revise their surveillance plan as necessary
- Perform the appropriate surveillance (method and frequency) as determined by risk

3.9.2. Contractor Does Not Have a Counterfeit Detection and Avoidance System (not required by contract). The TS, utilizing the DCMA Counterfeit Checklist, will:

- Perform a counterfeit risk assessment based upon contract requirements
 - Higher-Level Quality or Inspection System
 - Control of nonconforming materiel is adequate to mitigate the risk of counterfeit
- Revise their surveillance (method and frequency) to mitigate counterfeit risk

3.9.3. A Suspect Counterfeit is Identified.

3.9.3.1. If the TS identifies or has reason to believe that items in the supply chain might contain suspect counterfeit parts, the TS shall:

3.9.3.1.1. Immediately notify the CIC with chain of command and investigative agencies as appropriate IAW DCMA-INST 906, “Fraud, Waste and Abuse” (Reference (aa)) to determine the appropriate path forward. In no case will the TS independently initiate a fraud/counterfeit investigation. The suspect counterfeit item(s) discovered may be associated with an ongoing investigation.

3.9.3.1.2. Follow CIC guidance.

3.9.3.1.3. After coordination with the CIC, submit appropriate GIDEP notifications IAW DCMA-INST 301 (Reference (h)) as defined in DoDI 4140.67 (Reference (b)).

3.9.3.1.4. If the TS receives DoD IG Notice of Suspected Defective Product, contact CIC for guidance IAW DCMA-INST 301 (Reference (h)).

3.9.3.2. If the contractor discloses a discovery of suspect counterfeit item(s), the TS shall:

3.9.3.2.1. Immediately notify the CIC with chain of command and investigative agencies as appropriate IAW DCMA-INST 906 (Reference (aa)), to determine appropriate path forward.

3.9.3.2.2. If reporting to GIDEP is not contractually required, encourage the contractor to self-report a suspect counterfeit to GIDEP.

3.9.3.2.2.1. If the contractor does not report suspect counterfeit to GIDEP, the TS shall in coordination with CIC, submit the appropriate GIDEP notifications IAW DCMA-INST 301 (Reference (h)) as defined in DoDI 4140.67 (Reference (b)).

3.9.4. Counterfeit Investigations. The TS shall coordinate with CIC for guidance IAW DCMA-INST 906 (Reference (aa)).

3.9.5. Suspect and Confirmed Counterfeit Material. The TS will review the contractor’s processes for control of nonconforming material, suspect, and confirmed counterfeit materiel. After the contractor has received final disposition approval and/or direction from the appropriate authority, the TS shall confirm that the material has been rendered unusable to prevent reentry into the supply chain.

3.9.6. If the TS has reason to believe that the contractor is engaged in providing counterfeit parts/material, whether by forging documentation or by providing substandard material, they are to contact the CIC immediately for direction on how to proceed. TS are not to inform the contractor that they are aware of the potential fraud being perpetrated.

3.9.7. If the TS believes that counterfeit parts have been provided to the prime contractor by a subcontractor and are being included in the final product supplied to the Government, the TS shall contact the CIC.

3.10. DATA COLLECTION AND ANALYSIS. The TS performs data collection and analysis IAW DCMA-INST 323, “Data Collection and Analysis” (Reference (ab)) and/or applicable functional instruction.

3.10.1. Re-evaluation of Counterfeit Risk: The re-evaluation of counterfeit is risk-based and event driven. The DCMA Counterfeit Checklist will be used to guide the process review to re-evaluate contractor controls IAW DCMA-INST 326 (Reference (s)) and/or applicable functional instruction.

3.11. PRODUCT ACCEPTANCE. The TS accepts product IAW DCMA INST 314, “Product Acceptance and Release” (Reference (n)).

3.11.1. Embedded Software/Firmware. To mitigate the risk of counterfeit when electronic equipment includes any embedded software or firmware, product acceptance must be IAW DCMA-INST 203, “Software Acquisition Management” (Reference (ac)).

3.12. COMMERCIAL OFF-THE-SHELF (COTS) ITEM. The TS will include a review of counterfeit detection and avoidance requirements flowed down to subcontractors at all levels in the supply chain that is responsible for buying or selling assemblies containing electronic parts and/or software.

GLOSSARY

DEFINITIONS

Aftermarket Manufacturer. A manufacturer that meets one or both of the following criteria:

- The manufacturer is authorized by the OM to produce and sell replacement materiel, usually due to an OM decision to discontinue production of materiel. Materiel supplied is produced from dies, molds, or other manufacturing equipment that has been:
 - Transferred from the OM to the aftermarket manufacturer,
 - Produced by the aftermarket manufacturer using OM tooling and intellectual property, or
 - Produced by the aftermarket manufacturer through redesign to match the OM specifications without violating the OM intellectual property rights (IPR), patents, or copyrights.
- The manufacturer produces materiel by emulating or reverse-engineering obsolete materiel to satisfy continuing customer needs without violating the OM IPR, patents, or copyrights. (SAE AS6174 (Reference (ad)))

Authorized or Franchised Distributors. A distributor with which the OCM has a contractual agreement to buy, stock, repackage, sell, and distribute its product lines. When a distributor does not provide products in this manner, then for the purpose of this Instruction, the distributor is considered an independent distributor for those products. Franchised distributors normally offer the product for sale with full manufacturer flow through warranty. Franchising contracts may include clauses that provide for the OCM marketing and technical support inclusive of, but not limited to, failure analysis and corrective action, exclusivity of inventory, and competitive limiters. (SAE AS5553 (Reference (ae)))

Authorized Supplier. Aftermarket manufacturers as defined above, and suppliers authorized by the current design activity or the OM to produce and/or sell materiel (i.e., franchised distributors). (SAE AS6174 (Reference (ad)))

Counterfeit Electronic Part. An unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified electronic part from the OM, or a source with the express written authority of the OM or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics. (DFARS, PART 202 (Reference (af)))

Counterfeit Part. A fraudulent part **that has been confirmed** to be a copy, imitation, or substitute that has been represented, identified, or marked as genuine, and/or altered by a source without legal right with intent to mislead, deceive, or defraud. (SAE AS5553 (Reference (ae)))

Electronic Part.

- An Integrated Circuit

- A discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode)
- Or a circuit assembly (Section 818(f)(2) of Pub. L. 112–81). The term “electronic part” includes any embedded software or firmware. (DFARS, PART 202 (Reference (af)))

Non-Authorized/ Non-Franchised Distributor. A broker or broker distributor:

- **broker.** In the independent distribution market, brokers are professionally referred to as independent distributors. See definitions for “**broker distributor**” and “**independent distributor.**” (SAE AS6174 (Reference (ad)))
- **broker distributor.** A type of independent distributor that works in a “just in time” (JIT) environment. Customers contact the broker distributor with requirements identifying information such as the part number, quantity, target price, and date required. The broker distributor searches the industry and locates parts or other materiel that meet the target price and other customer requirements. (SAE AS6174 (Reference (ad)))
- **independent distributor.** A distributor that purchases new materiel with the intention to sell and redistribute it back into the market. Purchased materiel may be obtained from original manufacturers or contract manufacturers (typically from excess inventories), or from other independent distributors. Resale of the purchased materiel (re-distribution) may be to original manufacturers, contract manufacturers, or other independent distributors. Independent distributors do not have legally binding relationships with current design activities or original manufacturers. (SAE AS6174 (Reference (ad)))

Obsolete Electronic Part. An electronic part that is no longer in production by the OM or an aftermarket manufacturer that has been provided express written authorization from the current design activity or OM. (DFARS 252.246-7007 (Reference (l)))

Open Market. The trading market that buys or consigns primarily OEM and contract manufacturers’ excess inventories of new electronic parts and subsequently utilizes these inventories to fulfill supply needs of other OEMs and contract manufacturers, often due to urgent or obsolete part demands. (SAE AS5553 (Reference (ae)))

Original Component Manufacturers (OCM). An organization that designs and/or engineers a part and is pursuing or has obtained the IPRs to that part.

(NOTE:)

- The part and/or its packaging are typically identified with the OCM trademark.
- OCM may contract out manufacturing and/or distribution of their product.
- Different OCM may supply product for the same application or to a common specification. (SAE AS5553 (Reference (ae)))

Original Equipment Manufacturers (OEM). A company that manufactures products that it has designed from purchased components and sells those products under the company’s brand name. (SAE AS6081 (Reference (ag)))

Original Manufacturer (OM). An organization that designs and/or engineers a part and has obtained the IPR to that part. The part and/or its packaging are typically identified with the OM

trademark. OM may contract out the manufacturing, test, and/or distribution of their product. (SAE AS5553 (Reference (ae)))

Qualified Products List (QPL), Qualified Manufactures List (QML), and Qualified Bidders List (QBL). Qualification and listing in a QPL, QML, or QBL is the process by which products are obtained from manufacturers or distributors, examined and tested for compliance with specification requirements, or manufacturers or potential offerors, are provided an opportunity to demonstrate their abilities to meet the standards specified for qualification. The names of successful products, manufacturers, or potential offerors are included on lists evidencing their status. Generally, qualification is performed in advance and independently of any specific acquisition action. After qualification, the products, manufacturers, or potential offerors are included in a Federal or Military QPL, QML, or QBL. (48 CFR Part 9, Subpart 9.203 (a) - Qualifications Requirements (Reference (ah)))

Qualified Suppliers List of Distributors (QSLD). The purpose of the QSLD Program is to establish and maintain a list of pre-qualified sources for certain electronic components that are purchased and managed by DLA Land and Maritime. QSLD products are provided by suppliers that combine accepted commercial practices, quality assurance procedures that are consistent with industry and international quality standards, and tailored when necessary to product-unique requirements that can take the place of provisions traditionally stated in DLA Land and Maritime solicitations. (QSLD-5961/5962 A (Reference (ai)))

Qualified Testing Suppliers List (QTSL). Qualification for placement on the QTSL, and the maintenance of QTSL status, requires the distributor to demonstrate that it has in place, and uses on a continuous basis: a QMS that meets the criteria set forth in JESD31; a Counterfeit Mitigation Program per AS6081; and complies with the provisions and clauses of each solicitation and purchase order/contract for items in FSC 5961 and 5962, and complies with all of the criteria and provisions of QTSL-5961/5962 (Reference (aj)).

Supplier. Within the context of this document, a blanket description of all sources of supply for a materiel (e.g., OM, franchised distributor, independent distributor, broker distributor, stocking distributor, aftermarket manufacturer) who may or may not have a legally binding relationship with the legally authorized source. This relationship generally includes direct product support, training and marketing support from the legally authorized source and provides direct product support to the customer. (SAE AS6174 (Reference (ad)))

Suspect Counterfeit Electronic Part. An electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic. (DFARS, PART 202 (Reference (af)))

Suspect Counterfeit Part. A part in which there is an indication that it may have been misrepresented by the supplier or manufacturer and may meet the definition of fraudulent part or counterfeit part. (SAE AS5553 (Reference (ae)))

Technical Specialist. Technical specialist refers to personnel with the appropriate technical competencies to perform activities supporting counterfeit mitigation.

GLOSSARY

ACRONYMS

ACO	administrative contracting officer
CDR	contract deficiency report
CIC	Contract Integrity Center
CMO	contract management office
CPSR	Contractor Purchasing System Review
COTS	commercial off-the-shelf
CRR	contract receipt and review
CTR	contract technical review
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency
DoDD	Department of Defense Directive
DoDI	Department of Defense Instruction
EDA	electronic document access
FAR	Federal Acquisition Regulation
GIDEP	Government-Industry Data Exchange Program
IAW	in accordance with
IPR	intellectual property rights
LOD	letter of delegation
OCM	original component manufacturer
OEM	original equipment manufacturer
OM	original manufacturer
PAOC	postaward orientation conference
PASM	preaward survey manager
PCO	procurement contracting officer
PLAS	Performance Labor Accounting System
QBL	Qualified Bidders List
QML	Qualified Manufacturers List
QMS	Quality Management System
QPL	Qualified Products List
QSLD	Qualified Suppliers List of Distributors
QTSL	Qualified Testing Suppliers List

RP&P	risk profile and plan
SAE	Society of Automotive Engineers
TS	technical specialist