



Department of Defense

INSTRUCTION

NUMBER 4140.67

April 26, 2013

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 special 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 USD(AT&L) Memorandum (Reference (c)).

2. APPLICABILITY. This instruction applies to:

- a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint 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").
- b. All phases of materiel management, from identifying and defining an operational requirement to an item's introduction into the DoD supply chain through weapon and information system phase-out and retirement, including operation and maintenance, materiel disposition, and the materiel management data systems.

3. POLICY. It is DoD policy to:

a. Not knowingly procure counterfeit materiel.

b. Employ a risk-based approach to reduce the frequency and impact of counterfeit materiel within DoD acquisition systems and DoD life-cycle sustainment processes by:

(1) Applying prevention and early detection procedures to minimize the presence of counterfeit materiel within the DoD supply chain as the primary strategy in eliminating counterfeit materiel within the DoD.

(2) Strengthening the oversight and surveillance procedures for critical materiel.

c. Document all occurrences of suspect and confirmed counterfeit materiel in the appropriate reporting systems including the Government-Industry Data Exchange Program (GIDEP).

d. Make information about counterfeiting accessible at all levels of the DoD supply chain as a method to prevent further counterfeiting.

e. Investigate, analyze, and assess all cases of suspected counterfeit materiel.

f. Seek restitution when cases are confirmed and obtain remedies prescribed by relevant authority including DoDI 7050.05 (Reference (d)) and part 46 of the Federal Acquisition Regulation (Reference (e)).

g. Notify DoD criminal investigative organizations, or intelligence authorities, and those who use the suspect and confirmed counterfeit materiel, of incidents at the earliest opportunity.

h. Align DoD anti-counterfeit processes to support the DoD supply chain goals for:

(1) Weapon systems availability.

(2) Weapon systems support effectiveness and efficiency.

i. Provide DoD workforce with anti-counterfeit education and training.

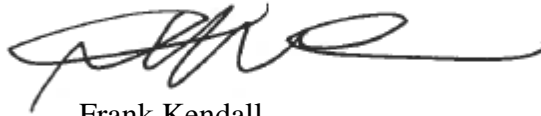
4. RESPONSIBILITIES. See Enclosure 2.

5. RELEASABILITY. **Unlimited**. This instruction is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

6. EFFECTIVE DATE. This instruction:

a. Is effective April 26, 2013.

b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoD Instruction (DoDI) 5025.01 (Reference (f)). If not, it will expire effective April 26, 2023 and be removed from the DoD Issuances Website.



Frank Kendall
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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5134.01, "Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L))," December 9, 2005 , as amended
- (b) Section 818, Public Law 112-81, "National Defense Authorization Act for Fiscal Year 2012," December 31, 2011
- (c) Under Secretary of Defense for Acquisition, Technology, and Logistics Memorandum, "Overarching DoD Counterfeit Prevention Guidance," March 16, 2012 (hereby cancelled)
- (d) DoD Instruction 7050.05, "Coordination of Remedies for Fraud and Corruption Related to Procurement Activities," June 4, 2008
- (e) Federal Acquisition Regulation Volume I, parts 9.2¹ and 46,² March 2005
- (f) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012
- (g) DoD 4140.1-R, "DoD Supply Chain Materiel Management Regulation," May 23, 2003
- (h) DoD Instruction 4140.01, "DoD Supply Chain Materiel Management Policy," December 14, 2011
- (i) DoD 4160.21-M, "Defense Materiel Disposition Manual," August 18, 1997
- (j) DoD Instruction 5000.02, "Operation of the Defense Acquisition System," December 8, 2008
- (k) DoD Instruction 8320.04, "Item Unique Identification (IUID) Standards for Tangible Personal Property," June 16, 2008
- (l) DoD Instruction 4151.19, "Serialized Item Maintenance (SIM) for Materiel Maintenance," December 26, 2006
- (m) DoD Directive 5134.12, "Assistant Secretary of Defense for Logistics and Materiel Readiness (ASD(L&MR))," May 25, 2000, as amended
- (n) Defense Acquisition Guidebook, January 10, 2012
- (o) Program Protection Plan Outline and Guidance, Deputy Assistant Secretary of Defense for Systems Engineering, July 2011
- (p) DoD Instruction 5000.64, "Accountability and Management of DoD Equipment and Other Accountable Property," May 19, 2011
- (q) DoD Instruction 5200.39, "Critical Program Information (CPI) Protection Within the Department of Defense," July 16, 2008
- (r) Section 254 of Public Law 110-417, "Duncan Hunter National Defense Authorization Act for Fiscal Year 2009," October 14, 2008
- (s) DoD Instruction O-5240.24, "Counterintelligence (CI) Activities Supporting Research, Development, and Acquisition (RDA)," June 8, 2011
- (t) DoD Directive 5000.01, "The Defense Acquisition System," May 12, 2003
- (u) SECNAVINST 4140.2, AFI 20-106, DA Pam 95-9, DLAI 3200.4, DCMA INST CSI (AV), "Management of Aviation Critical Safety Items," January 25, 2006
- (v) DoD Instruction 5200.44, "Protection of Mission Critical Functions to Achieve Trusted Systems and Networks (TSN)," November 5, 2012
- (w) Defense Federal Acquisition Regulation Supplement, current edition

¹ "Qualification Requirements"

² "Contract Quality Requirements"

ENCLOSURE 2

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS (USD(AT&L)). In accordance with References (a) and (b), and in addition to the responsibilities in section 8 of this enclosure, the USD(AT&L):

a. Establishes integrated DoD policy and develops implementing guidance in appropriate issuances, including DoD 4140.01-R (Reference (g)), DoDI 4140.01 (Reference (h)), DoD 4160.21-M (Reference (i)), DoDIs 5000.02, 8320.04, and 4151.19 (References (j), (k), and (l)), and Defense logistics manuals on all matters relating to anti-counterfeiting.

b. Maintains DoD enterprise focus on counterfeit materiel risk reduction as the designated office of primary responsibility for coordinating the development and implementation of an integrated DoD enterprise anti-counterfeit strategy.

c. Develops acquisition and procurement policies, procedures, regulations, and guidance to prevent, detect, remediate, and seek restitution for the procurement and delivery of counterfeit materiel. Implements acquisition procedures for weapon systems program managers to:

(1) Prevents the acquisition of counterfeit materiel in the DoD supply chain.

(2) Protects the DoD supply chain prior to delivery.

(3) Remediates for counterfeit materiel discovered after delivery.

(4) Seeks restitution and recovers costs incurred from critical failures and damages caused by counterfeit materiel.

d. Develops and implements workforce education and training programs to deter, detect, analyze, report, and manage the disposition of counterfeit materiel.

e. Ensures collaboration and consultation with other federal agencies and international coalition partners on anti-counterfeit measures.

f. Coordinates with DoD Components to establish a risk-based approach to identify materiel susceptible to counterfeiting and to procure authentic materiel.

g. Avoids establishing DoD-unique anti-counterfeiting procedures.

h. Identifies and establishes standardized guidelines for contractors to employ in their processes for the detection and avoidance of counterfeit materiel into the DoD supply chain.

2. ASSISTANT SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS (ASD(L&MR)). Under the authority, direction, and control of the USD(AT&L), and in accordance with DoDD 5134.12 (Reference (m)), the ASD(L&MR):

- a. Acts as the principal point of contact for DoD procedures for the prevention, detection, reporting, and disposition of counterfeit materiel in the DoD supply chain.
- b. Aligns and maintains DoD materiel and maintenance management issuances to implement the policies contained in this instruction. This includes but is not limited to intensive item management, critical item traceability, counterfeit reporting, supply chain materiel management, and materiel disposition decisions.
- c. Monitors the overall effectiveness and efficiency of the DoD logistics system and continually develops anti-counterfeit improvements.

3. ASSISTANT SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING ASD(R&E). Under the authority, direction, and control of the USD(AT&L), the ASD(R&E):

- a. Coordinates with DoD Components to develop and implement risk-based procedures to identify critical materiel. Aligns these procedures with existing processes such as those used to identify critical components and critical safety items.
- b. Leads the development and modification of quality assurance policy, procedures, and standards to support the policies in this instruction.
- c. Incorporates anti-counterfeiting design considerations in the Defense Acquisition Guidebook (Reference (n)), the Program Protection Plan Outline and Guidance (Reference (o)), and other guidance as appropriate.
- d. Collaborates with DoD Components to establish technical anti-counterfeit qualification criteria for suppliers.
- e. Acts as the principal point of contact for GIDEP. Determines and implements enhancements to GIDEP to expand its usefulness and robustness in anti-counterfeiting efforts in the DoD global supply chain.
- f. Provides appropriate research and development support tools and techniques to deter and defeat counterfeits.

4. DIRECTOR, DEFENSE PROCUREMENT, ACQUISITION POLICY, AND STRATEGIC SOURCING. Under the authority, direction, and control of the USD(AT&L), the Director, Defense Procurement, Acquisition Policy, and Strategic Sourcing develops and modifies procurement policies, procedures, regulations, and guidance to support the policies in this instruction.

5. DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS. Under the authority, direction, and control of the USD(AT&L), to ensure alignment with developing anti-counterfeit policies and programs, the Director, Acquisition Resources and Analysis, acts as the principal point of contact for collaboration on accountable equipment policy pursuant to DoDI 5000.64 (Reference (p)).

6. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE (USD(I)). In accordance with DoDI 5200.39 (Reference (q)) and section 254 of Public Law 110-417 (Reference (r)), and in addition to the responsibilities in section 8 of this enclosure, the USD(I):

a. Advises the USD(AT&L) of counterfeiting risks in the DoD supply chain that may impact weapon system operation in accordance with DoDI O-5240.24 (Reference (s)).

b. Provides assistance in the implementation of risk assessment authorized by References (a) and (s).

7. DoD CHIEF INFORMATION OFFICER (DoD CIO). In addition to the responsibilities in section 8 of this enclosure, the DoD CIO:

a. Assists the DoD Component heads in the development and governance of an integrated strategy for anti-counterfeiting for information systems and information and communications technology.

b. Integrates anti-counterfeiting policy prescribed by this instruction into information assurance and other relevant policies and processes.

8. DoD COMPONENTS HEADS. DoD Components heads:

a. Integrate DoD anti-counterfeiting policy into all relevant issuances, regulations, guidance, contract requirements and procedures to comply with this instruction.

b. Implement DoD anti-counterfeiting policies, procedures, practices and contract requirements for prevention, detection, disposition, remediation, investigation, reporting, and restitution remedies.

c. Identify and document throughout the acquisition life-cycle:

(1) Critical materiel with procedures in DoDI 5000.01 (Reference (t)) and SECNAVINST 4140.2, AFI 20-106, DA Pam 95-9, DLAI 3200.4, DCMA INST CSI (AV) (Reference (u)) and DoDI 5200.44 (Reference (v)).

(2) Materiel that is susceptible to counterfeiting as determined by either the cognizant engineering support activity or by the program management office.

d. Implement anti-counterfeiting measures, strategies, plans, and programs that balance the risks caused by materiel identified in paragraph 8c of this enclosure with the impact to readiness and cost of the measures.

e. Procure critical materiel from suppliers that meet appropriate counterfeit avoidance criteria. Apply additional counterfeit risk management measures when such suppliers are not available.

f. Incorporate DoD anti-counterfeiting procedures in established quality assurance and quality deficiency reporting programs throughout the DoD supply chain in accordance with federal and DoD statutes and issuances.

g. Apply item unique identification (IUID) using unique item identifier (UII) in accordance with Reference (k) for critical materiel identified as susceptible to counterfeiting to enable authoritative life-cycle traceability and authentication.

h. Detect counterfeit materiel using sampling techniques, materiel testing, and auditing in accordance with Reference (t).

i. Investigate the occurrence of suspect and confirmed counterfeit materiel. Report results of investigations regarding counterfeit materiel to appropriate authorities, deficiency reporting systems, and GIDEP.

j. Report all occurrences of suspect and confirmed counterfeit materiel:

(1) To appropriate authorities, deficiency reporting systems, and GIDEP within 60 calendar days.

(2) To DoD criminal investigative organizations, and other DoD law enforcement authorities at the earliest opportunity.

k. When critical materiel is identified as suspect counterfeit, expeditiously disseminate a notification to other DoD Components to maintain weapons systems operational performance and preserve life or safety of operating personnel.

l. Remedy the consequences of counterfeit materiel in the DoD supply chain following existing processes and procedures for non-conforming materiel described in References (p) and (t) and the Defense Federal Acquisition Regulation Supplement (Reference (w)).

m. In coordination with USD(AT&L) and DoD CIO, implement workforce education and training programs according to DoD policy to prevent, detect, dispose, remediate, investigate, report, and recover losses incurred from counterfeiting in the DoD supply chain.

n. Develop, establish, and maintain performance metrics to assess the risks posed by counterfeit materiel and monitor the effectiveness and efficiency of anti-counterfeit measures and actions.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AFI	Air Force Instruction
ASD(L&MR)	Assistant Secretary of Defense for Logistics and Materiel Readiness
ASD(R&E)	Assistant Secretary of Defense for Research and Engineering
AV	aviation
CAI	critical application item
CII	critical inventory item
CSI	critical safety items
DA PAM	Department of the Army Pamphlet
DCMA INST	Defense Contract Management Agency Instruction
DLAI	Defense Logistics Agency Instruction
DoD CIO	DoD Chief Information Officer
DoDD	DoD Directive
DoDI	DoD Instruction
GIDEP	Government-Industry Data Exchange Program
IUID	item unique identification
SECNAVINST	Secretary of the Navy Instruction
UII	unique item identifier
USD(AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics
USD(I)	Under Secretary of Defense for Intelligence

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this instruction.

authentic materiel. Made from the proper materials using the proper processes with required testing.

critical application item (CAI). Defined in Reference (u).

critical inventory item (CII). Defined in Reference (g).

counterfeit materiel. 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.

critical component. Defined in Reference (v).

critical materiel. Includes critical components as described in Reference (v), CII as described in Reference (g), CAI as described in Reference (w), critical safety items (CSI) as described in Reference (u), and other materiel identified by the cognizant Service engineering support activity prior to initial supportability analysis during the initial provisioning and cataloging or approval of a design change notice, and documented by the cognizant Service logistics organization.

CSI. Defined in Reference (u).

electronic part. Defined in section 818, paragraph (f) (2) of Reference (b).

engineering support activity. The Military Department organization assigned responsibility and authority to perform and approve engineering and quality assurance actions necessary to evolve detail design disclosures for systems, subsystems, equipment, and components exhibiting attributes essential for products to meet specific military requirements. During the operational phase, it includes any engineering activity, the results of which would add to or alter the design of equipment in such a manner, or to such an extent, as to change its operational capabilities or its design attributes of performance, reliability, maintainability and parts interchangeability, or to render it capable of alternative or additional use.

GIDEP. A cooperative activity between government and industry participants seeking to reduce or eliminate expenditures of resources by sharing technical information essential during research, design, development, production and operational phases of the life-cycle of systems, facilities, and equipment.

intensive item management. A system that establishes varying levels of item management facilitated by the use of a UII ranging from the use of existing receipt and acceptance regulations to providing a detailed chain of custody involving strict accountability and tracking, by UII, of these items while in receipt, physical inventory, and issue.

materiel. Includes materiel as defined in Reference (g), system components, sub-components, software, information and communications technology as described in Reference (v), support equipment and systems purchased, procured or contracted or incorporated into the DoD supply chain for weapon and information systems, DoD business processes and DoD operational support.

qualified supplier. A commercial business that has completed the formal process for requesting, evaluating, and approving the capability of a supplier and has met the qualification requirements

stated in the applicable military, federal or non-government specification for testing or other quality assurance demonstration that must be completed by an offer or before award of a contract.

remediation. The process of determining the cause and effects of counterfeit items on personnel safety and materiel readiness, the assessment of damages incurred, and the estimate of the costs to cure the effects incurred.

restitution. The process of determining the parties accountable to counterfeiting, the judicial penalties available against the parties accountable, and the financial redress required.

risk-based approach. An analytical strategy to focus attention on areas or applications where failure will produce higher severity of consequences and trigger impacts to the overall mission objectives and human safety.

supply chain. The linked activities associated with providing materiel from a raw materiel stage to an end user as a finished product or system, including design, manufacturing, production, packaging, handling, storage, transport, mission operation, maintenance, and disposal.

suspect counterfeit. Materiel, items, or products in which there is an indication by visual inspection, testing, or other information that it may meet the definition of counterfeit materiel provided herein.

traceability. The process that connects the requirement to design implementation in parallel with life-cycle management events related to systems development, acquisition, property accountability, storage, operation, maintenance, safety, physical security, retirement, and disposal by commodity, e.g., a stock numbered product, a lot or batch of a product, a single instance of a stock numbered product, a single assembly or sub-assembly, an end item type, or a single instance of an item.

UII. The formatted data derived from the encoded in an IUID compliant data matrix bar code symbol used by IUID. The UII is intended to be a permanent mark placed on a single instance of an item of materiel and cannot be changed over the life of that item.