



## MARKET INSIGHTS

### Final DFARS Rule Improves Anti-Counterfeit Efforts

*The Final Defense Federal Acquisition Regulation Supplement, issued by the Defense Department over the summer, further clarifies procedures for sourcing electronic parts and emphasizes authorized sources, industry leaders say.*

Victoria Fraza Kickham | Sep 06, 2016

Electronics industry representatives were praising new efforts to clarify certain government anti-counterfeiting provisions over the summer, as a final Defense Federal Acquisition Regulation Supplement (DFARS) was released. The U.S. Department of Defense published its final DFARS addressing required sources of electronic parts for defense contractors and subcontractors in August, addressing

issues surrounding terminology, traceability, and flow-down requirements, among others.

The final rule emphasizes a preference for purchasing parts from original manufacturers or their authorized sources, and leaves the onus on contractors when it comes to identifying and buying from trusted suppliers.

The rule clarifies provisions outlined in the National Defense Authorization Acts of 2012 and 2015, which issued new guidelines for government contractors that procure electronic parts—essentially telling them what they need to do to detect and keep counterfeit parts out of the defense supply chain. The newest update addresses key issues identified by the authorized electronic components industry: it clarifies definitions of the term “supplier,” establishes traceability requirements for contractors, and notes that flow-down requirements do not apply to the original component manufacturer.

The Electronic Components Industry Association (ECIA), which represents component manufacturers and their authorized distributors, was among the authorized channel sources weighing in on the final rule. ECIA participated in the industry comment process regarding the rules, suggesting changes in key areas: use and definition of the terms “authorized dealer” and “trusted supplier”; procurement policy; traceability; and flow-down requirements. ECIA’s COO and general counsel Robin Gray said he was satisfied with the final rule, and the association pointed to the following changes specifically in a statement issued in early August:

The term “authorized dealer” was deleted and replaced with the term “authorized supplier.” Authorized supplier means a supplier, distributor, or an aftermarket manufacturer with a contractual arrangement with, or express written authority of, the original manufacturer or current design activity to buy, stock, repackage, sell, or distribute the part.

The term “trusted supplier” was deleted and replaced with the term “contractor-approved supplier.” Contractor-approved supplier means a supplier that does not

have a contractual agreement with the original component manufacturer for a transaction, but has been identified as trustworthy by a contractor or subcontractor.

The rule establishes a strict, three-tiered approach to the procurement of electronics parts; it provides that the contractor is responsible for inspection, testing and authentication if the contractor cannot establish traceability from the original manufacturer for a specific part; and it clarifies that the flow-down requirements do not apply to the original component manufacturer.

“It isn’t perfect, but we believe that the DoD listened to the industry and we think this rule goes a long way toward making it clear that all DoD contractors and subcontractors at all tiers are responsible for detecting and avoiding counterfeit electronic parts. The DoD also determined that commercial items (COTS) are not exempt from the applicability of this rule,” he continued. “The final rule is a clear affirmation by the DoD of the importance of procuring parts from authorized sources. It reflects the years of effort by NEDA, and subsequently by ECIA, to promote the advantages of the authorized supply chain.”

The counterfeit component problem continues to be a key issue across the electronics supply channel, especially among buyers at manufacturing organizations. In a recent Global Purchasing survey of more than 700 purchasing professionals, 34% listed counterfeit components as one of the major issues that “keep them up at night,” and 47% said that keeping up with government regulations surrounding anti-counterfeit efforts is one of their major workforce challenges. Those with management titles were more likely to list counterfeit issues as a concern (36%) than those who identified themselves as buyers (25%). Executive-level buyers—vice presidents of purchasing and chief procurement officers, for example—expressed the most concern about quality/counterfeit parts (40%).

The questions about quality and counterfeit parts were part of Global Purchasing’s annual Salary & Career Survey; results will be published online in October at [www.sourcetoday.com](http://www.sourcetoday.com) .



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