

ASCDI ANTI-COUNTERFEIT SESSION

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COMMITTEE
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AGENDA

- Review of recent history
 - Government and industry developments
 - Legal aspects of counterfeit
 - Manufacturers' positions
 - ASCDI San Francisco meeting
 - Watershed event
 - Refer to full presentation on www.ascdi.com
- ASCDI Anti-Counterfeit Policy
- Next Steps
- Discussion Forum

Government and Industry Developments

- FAR Case 2008-019
- AS5553 – adopted by NASA, DOD
 - International participation as well
- AS6081 proposed for distributors
- ARP6178 – Distributor Assessment Tool
- SAE G-19 Counterfeit Electronic Parts Committee
- “Flow-down” to suppliers (including IT hardware)
- Raids & investigations of independent resellers

FAR Case - Content

- Suppliers must represent that the hardware/software being procured by the U.S. Government is genuine/authentic
- No limitation on their liability if the products are not genuine/authentic.
- Resellers/distributors must represent that they are authorized by the original equipment manufacturer (OEM) to sell the hardware/software

FAR Case – ASCDI Response

- Participation and presentations in public hearings conducted by GSA
- Comments filed by ASCDI and member companies
 - Limits competition
 - Raises costs
 - Does not solve the counterfeit problem
 - FBI investigation and Dept. of Commerce report indicate counterfeit gear sourced from authorized resellers

SAE G-19 Committee

- SAE – Society of Automotive Engineers, now applies to “mobility,” including Aerospace
- Relevance to ASCDI members
 - Very stringent standards; sets a high bar
 - Adopted by NASA & DOD in August, 2009
 - Applied to IT equipment as well as aerospace

SAE AS5553 Requirements



SAE AS5553 Implementation

Counterfeit Parts Control Plan:

In Process Investigation

Shall address the detection, verification, and control of ... counterfeit parts.

Material Control

Shall control ... nonconforming parts from entering supply chain

Shall control counterfeit parts to preclude their use ...

Reporting

Shall assure that all occurrences of counterfeit parts are reported...

SAE AS5553 Implementation

Example Procurement Clause

D.3.1 Test and Inspection Requirements

"The seller shall establish and implement test and inspection activities to assure the authenticity of purchased product, including:

- Traceability and documentation verification,
- Visual examination
- [see Appendix E of this Aerospace Standard for example inspection activities]

Tests and inspections shall be performed in accordance with clearly delineated accept/reject criteria provided or approved by <BUYER>. The seller shall prepare and provide to the <BUYER> records evidencing tests and inspections performed and conformance of the product to specified acceptance criteria.

Tests and inspections shall be performed by persons that have been trained and qualified concerning types and means of electronic parts counterfeiting and how to conduct effective product authentication."

“...The seller shall **establish and implement test and inspection activities** necessary to assure the authenticity ...”

SAE AS6081 Requirements



SAE AS6081 Requirements

QMS & Counterfeit Parts Control Plan:

“...The organization shall **develop and implement a quality management system** (e.g, ISO 9001, SAE AS9120 ...

“... The organization **shall develop and implement a counterfeit electronic parts control plan** that documents its processes used for risk mitigation, disposition, and reporting of counterfeit parts...”

4.1 Quality Management System

The organization shall develop and implement a quality management system standard acceptable to the customer (e.g., ISO 9001, SAE AS9120). In the absence of a customer-specified system standard, the organization shall comply with SAE AS9120.

4.2 Counterfeit Electronic Parts

The organization shall develop and implement a counterfeit electronic parts control plan that documents its processes used for risk mitigation, disposition, and reporting of counterfeit parts. The plan shall include the processes described in 4.1.7 below.

SAE AS6081 Requirements

Counterfeit Parts Control Plan: *Verification of Purchased Product*

4.2.1.3 Verification of Purchased Product

The documented processes shall specify test and inspection methods for the detection of counterfeit parts prior to forming the purchase order. The process shall be commensurate with the risk of the verification of counterfeit parts, prior supplier performance, and the type of the verification device type. Acceptance and rejection criteria shall be defined.

Results of each inspection and test shall be documented and traceable to product identification information, purchase order, invoice, and inspection/testing information. Authenticity inspection/testing shall be performed in accordance with section D.1.4. Documentation shall be maintained for a minimum of 10 years.

All personnel performing inspection and testing shall be trained and qualified for the specific inspections and test that they perform based on the requirements.

Product test and inspection requirements are provided in Appendix C, Product Assurance.

“...The documented processes shall **specify test and inspection methods** for the detection of counterfeit parts...**Results** of each inspection and test performed **shall be documented, retained, and traceable to product information** ...”

Framework of Distributor Process Rating

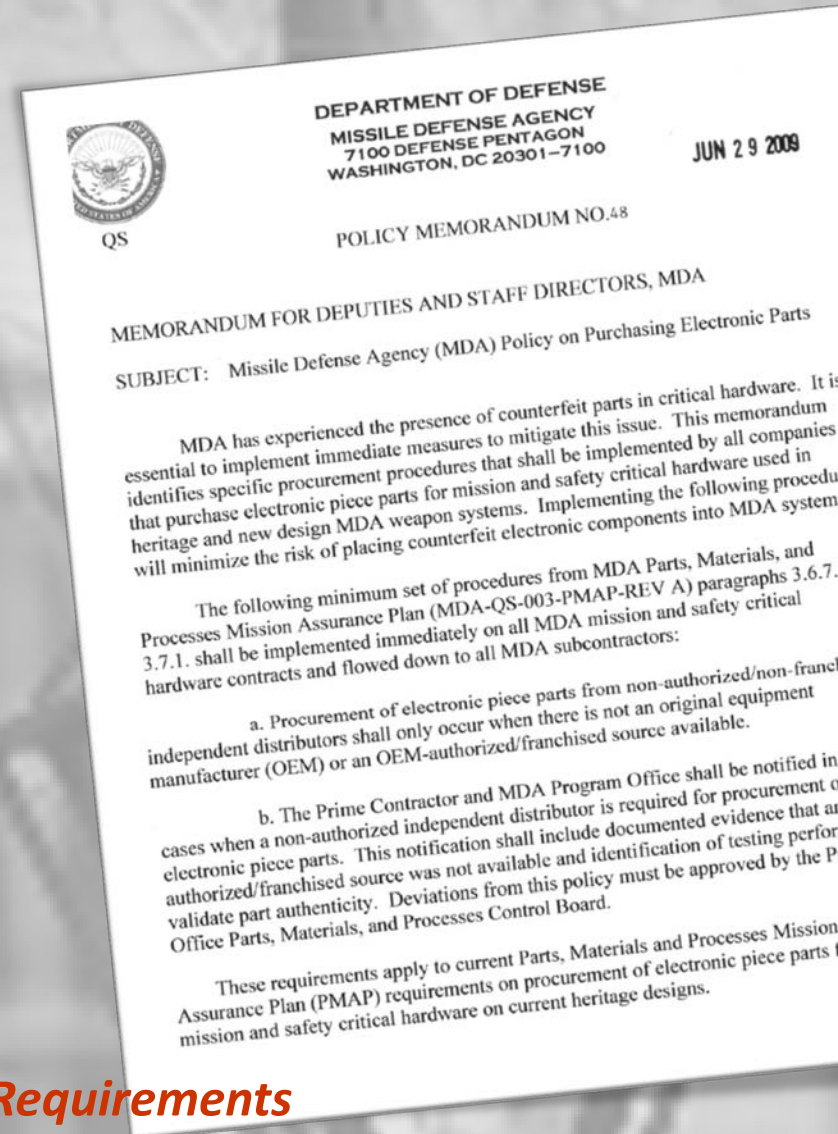


Counterfeit Parts Control Plan Organizations Adopting Policies:

- **NASA Policy Directive 8730.2C**
- **MDA Policy Memo and PMAP**
- **DOD adopts AS5553 August 2009**
- **Other companies with plans:**
 - **BAE Systems**
 - **Orbital Sciences Corp.**
 - **Lockheed Martin**
 - **Honeywell**
 - **Ball Aerospace**



Flow Down will Invoke Requirements



Government and Industry Developments - Summary

- Increased requirements for scrutiny and prevention regarding counterfeit electronic components and systems
- Some of the solutions represent a threat to the independent reseller
 - Preference/requirement to buy from authorized resellers only – independents have been hurt (WSJ Article)
 - Attempts to conflate counterfeit and gray market (AGMA)
- We must raise our game to protect our customers and ourselves
 - Utilize tough SAE standards as requirements/guidelines for our own activities

LEGAL ASPECTS OF COUNTERFEIT

- Statutes
- Requirements vs. Best Practices
 - Handling of suspect and/or confirmed counterfeit goods
 - Reporting
- Penalties

Legal Aspects - Statutes

- Lanham Act
- Tariff Act
- 1984 Federal Counterfeiting Act
- State statutes

Legal Requirements vs. Best Practices

- Handling of Counterfeit Goods
 - Return, quarantine or destroy?
 - Issues:
 - Return = trafficking in counterfeit goods?
 - Quarantine = violating rights of supplier?
 - Destroy = tampering with evidence?
- Reporting of Counterfeit Goods
 - Report to OEM, law enforcement, and/or government database (e.g., GIDEP)? Or report nothing at all?
- Do requirements differ for Suspect vs. Confirmed?
- Best Practices might not be the same as Legal Requirements; ASCDI members need guidance

MANUFACTURER - ROLE

- Holder of intellectual property and trademark
- Will not share methods or data needed for independent reseller to make definitive determination of counterfeit in non-obvious cases
 - Note – this is also true in the aerospace industry
- Potential solutions:
 - Evaluation service run by the manufacturer
 - Independent evaluation service

PROPOSED ASCDI POLICY AND STANDARD

- Two-tier program proposed:
 - ASCDI Anti-Counterfeit Policy
 - ASCDI Anti-Counterfeit Standard
- Why two-tier?
 - Policy will be mandatory for all ASCDI members
 - Some members might not be able to adopt the Standard (e.g., technical and/or financial issues)
- ASCDI Anti-Counterfeit Enforcement (ACE) Program
 - Certification program for adoption of Standard

ASCDI SAN FRANCISCO MEETING – October 8, 10

- Attendees included ASCDI members, FBI, representatives from IBM, HP and Cisco
- Acknowledgement of the seriousness of the problem and ASCDI members' commitment to take action
- Set the stage for next steps by the ASCDI Anti-Counterfeit Committee
- Truly a watershed event

ANTI-COUNTERFEIT COMMITTEE ACTIVITIES – TIMELINE

- Committee comprises more than 25 ASCDI members, plus Joe Marion, Bob Boyle and Jake Manahan
- Decided to focus on the ASCDI Policy first, and tackle the more detailed and stringent Standard next
- ASCDI Policy draft finalized February 8
 - Internal member policy also drafted
- Member comment period – February 9-28

ANTI-COUNTERFEIT COMMITTEE ACTIVITIES – TIMELINE (2)

- Final revisions made March 8
- Anti-Counterfeit Committee recommended to ASCDI board on March 9
- Policy approved by ASCDI Board of Directors in UNANIMOUS vote on March 15
- Policy to be endorsed and ratified by ASCDI membership during Friday's business meeting
- Announcement & press release March 28

ASCDI ANTI-COUNTERFEIT POLICY – OVERVIEW (1)

- Objective: Eliminate, or mitigate the impact of, counterfeit IT goods and adopt best practices and strategies to identify, inspect, test, properly dispose of and report encounters with counterfeit product
- Reflects the dedication of ASCDI Members to maintain the highest level of integrity and responsibility
- Enforced through the ASCDI Ethics Committee and existing Ethics process

ASCDI ANTI-COUNTERFEIT POLICY – OVERVIEW (2)

- ASCDI will maintain a Counterfeit Database to:
 - Identify known or admitted individuals and companies that originate or traffic in counterfeit products
 - Track known counterfeiting techniques and methods
 - Track known sales transactions and ASCDI ethics matters involving counterfeit products
 - Be made available to all Members, law enforcement and other reporting entities

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 1

- Zero tolerance against knowing and intentional trafficking in counterfeit products
- Any owner, director, officer, employee or contractor found to be knowingly and intentionally trafficking in counterfeit products will be subject to immediate termination

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 2

- Member agrees that if they have supplied a counterfeit product, they will immediately replace the product with a genuine product or refund payment of the purchase price to the customer
 - Determination of counterfeit will be by agreement between the supplier and customer, or by competent authority as recognized by ASCDI

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 3

- No claim or demand will be made seeking return of a counterfeit product
- Any counterfeit product coming into Member's possession will be quarantined pending proper disposal

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 4

- Members agree that even if they do not take physical possession of the products, they fully agree to and adopt this Policy and acknowledge that they are bound by its terms

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 5 – MEMBERS PLEDGE (1)

- Ban counterfeit products from their premises (except as necessary to quarantine)
- Adopt and enforce internal anti-counterfeit protocols and report all encounters with suspected anti-counterfeit products as prescribed by ASCDI

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 5 – MEMBERS PLEDGE (2)

- Participate in ASCDI Ethics Process
 - Respond to Ethics Complaints and participate in proceedings
 - Cooperate in attempting to determine if product is counterfeit
 - Cooperate in identifying the ultimate supplier of counterfeit product and file ASCDI Ethics Complaint against the ultimate supplier

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 5 – MEMBERS PLEDGE (3)

- Provide written communication to all employees advising of the adoption of the ASCDI Anti-Counterfeit Policy
 - Details and requirements of the Policy
 - Direction to report all evidence of suspected or confirmed counterfeit products to their immediate supervisor, who will in turn notify management and commence the quarantine process
 - Obtain and report all evidence of suspected supply of counterfeit product
 - Specific actions be taken re: quarantine process and reporting to supplier, ASCDI and law enforcement

ASCDI ANTI-COUNTERFEIT POLICY – ARTICLE 5 – MEMBERS PLEDGE (4)

- Respond promptly to any notice provided by any customer of a suspected counterfeit product supplied by Member
- Cooperate with any reasonable request for information related to a specific suspected counterfeit product
- Agree that, if in violation of the Policy, they are subject to disciplinary action consistent with the ASCDI Code of Ethics remedies, which may include suspension and/or expulsion from ASCDI and/or ATN

ASCDI ANTI-COUNTERFEIT POLICY – CONCLUDING SECTION

- The ASCDI Ethics Committee reviews infractions of the Policy by Members, ATN Subscribers and Non-members
- Members found in violation of the Policy will be subject to disciplinary action as set forth in the ASCDI Procedure for Filing and Processing Complaints

INDIVIDUAL MEMBER ANTI-COUNTERFEIT POLICY

- Format developed to facilitate Members' compliance to the ASCDI Policy
- Requirements mirror those of the Policy
- Makes it easier for members to implement

QUESTIONS/DISCUSSION REGARDING THE POLICY

NEXT UP FOR THE COMMITTEE

- ASCDI Anti-Counterfeit Standard
- ASCDI Anti-Counterfeit Enforcement (ACE) Program

ASCDI ANTI-COUNTERFEIT STANDARD - OVERVIEW

- Objectives:
 - Compliance to a rigorous level of inspection, testing, quality and material control procedures designed to detect, identify and eliminate counterfeit IT products
 - Adoption of best practices identified by worldwide standard-setting organizations and key customer groups (among others)

ASCDI ANTI-COUNTERFEIT STANDARD

GENERAL REQUIREMENTS

- Adoption of recognized Quality Management System such as ISO9001
- Counterfeit Mitigation Policy
- Counterfeit Product Control Plan
- Specify contractual requirements with Suppliers
- List of approved suppliers (with criteria)
- List of “un-approved” suppliers
- Required Purchase Order elements
- Supply Chain Traceability
- Product Acceptance Criteria
- Reporting (to customer, law enforcement, government bodies, OEMs, etc.)

ASCDI ANTI-COUNTERFEIT STANDARD

KEY ELEMENTS

- Supply Chain Requirements
- Product Traceability Requirements
- Product Inspection Requirements
- Product Testing Requirements (Internal, Third-Party, Manufacturer)
- Guidance re: Specific Response Strategies
 - Internal Reporting
 - External Reporting
 - Material Control and Disposition

ASCDI ANTI-COUNTERFEIT ENFORCEMENT (ACE) PROGRAM

- Objective: Provide ability for independent IT resellers to demonstrate compliance with a higher standard of prevention of counterfeit product
- Requires a process to independently verify/endorse/certify compliance with the ASCDI Anti-Counterfeit Standard

SUMMARY

- ASCDI is raising the bar for counterfeit product detection and prevention
 - Protect our customers and ourselves
- Anti-Counterfeit Committee will begin work on the Standard and ACE Program
 - Process and dates to be determined
- Additional Committee volunteers welcome (especially International members)

DISCUSSION FORUM