246.870-2 Policy.

(a) *Sources of electronic parts.*

(1) Except as provided in paragraph (a)(2) of this section, the Government requires contractors and subcontractors at all tiers, to—

(i) Obtain electronic parts that are in production by the original manufacturer or an authorized aftermarket manufacturer or currently available in stock from—

(A) The original manufacturers of the parts;

(B) Their authorized suppliers; or

(C) Suppliers that obtain such parts exclusively from the original manufacturers of the parts or their authorized suppliers; and

(ii) Obtain electronic parts that are not in production by the original manufacturer or an authorized aftermarket manufacturer, and that are not currently available in stock from a source listed in paragraph (a)(1)(i) of this section, from suppliers identified by the Contractor as contractor-approved suppliers, provided that—

(A) For identifying and approving such contractor-approved suppliers, the contractor uses established counterfeit prevention industry standards and processes (including inspection, testing, and authentication), such as the DoD-adopted standards at https://assist.dla.mil;

(B) The contractor assumes responsibility for the authenticity of parts provided by such contractor-approved suppliers (see 231.205-71); and

(C) The selection of such contractor-approved suppliers is subject to review, audit, and approval by the Government, generally in conjunction with a contractor purchasing system review or other surveillance of purchasing practices by the contract administration office, or if the Government obtains credible evidence that a contractor–approved supplier has provided counterfeit parts. The contractor may proceed with the acquisition of electronic parts from a contractor-approved supplier unless otherwise notified by DoD.

(2) The Government requires contractors and subcontractors to comply with the notification, inspection, testing, and authentication requirements of paragraph (b)(3)(ii) of the clause at 252.246-7008, Sources of Electronic Parts, if the contractor—

(i) Obtains an electronic part from—

(A) A source other than any of the sources identified in paragraph (a)(1) of this section, due to nonavailability from such sources; or

(B) A subcontractor (other than the original manufacturer) that refuses to accept flowdown of this clause; or

(ii) Cannot confirm that an electronic part is new or not previously used and that it has not been comingled in supplier new production or stock with used, refurbished, reclaimed, or returned parts.

(3) Contractors and subcontractors are still required to comply with the requirements of paragraphs (a)(1) or (2) of this section, as applicable, if—

(i) Authorized to purchase electronic parts from the Federal Supply Schedule;

(ii) Purchasing electronic parts from suppliers accredited by the Defense Microelectronics Activity; or

(iii) Requisitioning electronic parts from Government inventory/stock under the authority of the clause at 252.251-7000 , Ordering from Government Supply Sources.

(A) The cost of any required inspection, testing, and authentication of such parts may be charged as a direct cost.

(B) The Government is responsible for the authenticity of the requisitioned electronic parts. If any such part is subsequently found to be counterfeit or suspect counterfeit, the Government will—

(*1*)Promptly replace such part at no charge; and

(*2*)Consider an adjustment in the contract schedule to the extent that replacement of the counterfeit or suspect counterfeit electronic parts caused a delay in performance.

(b) *Contractor counterfeit electronic part detection and avoidance system.*

(1) Contractors that are subject to the cost accounting standards and that supply electronic parts or products that include electronic parts, and their subcontractors that supply electronic parts or products that include electronic parts, are required to establish and maintain an acceptable counterfeit electronic part detection and avoidance system. Failure to do so may result in disapproval of the purchasing system by the contracting officer and/or withholding of payments (see 252.244-7001 , Contractor Purchasing System Administration).

(2)*System criteria*. A counterfeit electronic part detection and avoidance system shall include risk-based policies and procedures that address, at a minimum, the following areas (see the clause at 252.246-7007 , Contractor Counterfeit Electronic Part Detection and Avoidance System):

(i) The training of personnel.

(ii) The inspection and testing of electronic parts, including criteria for acceptance and rejection.

(iii) Processes to abolish counterfeit parts proliferation.

(iv) Processes for maintaining electronic part traceability.

(v) Use of suppliers in accordance with paragraph (a) of this section.

(vi) The reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts.

(vii) Methodologies to identify suspect counterfeit electronic parts and to rapidly determine if a suspect counterfeit electronic part is, in fact, counterfeit.

(viii) Design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts.

(ix) Flow down of counterfeit detection and avoidance requirements.

(x) Process for keeping continually informed of current counterfeiting information and trends.

(xi) Process for screening the Government-Industry Data Exchange Program (GIDEP) reports and other credible sources of counterfeiting information.

(xii) Control of obsolete electronic parts.

Parent topic: 246.870 Contractors Counterfeit Electronic Part Detection and Avoidance.