SPECIAL PROVISION—DOMESTIC SPECIALTY METALS

DFARS 252.225-7014, Preference for Domestic Specialty Metals—Alternate 1 or Preference for Domestic Specialty Metals Alternate 1 and the attached DNADs are applicable to this order. If not exempted by any of the listed waivers or DNADs, any specialty metals used in any deliverable products must be melted in the United States or a qualifying country which includes the following:

Australia, Belgium, Canada, Denmark, Egypt, Federal Republic of Germany, France, Greece, Israel, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, Austria and Finland.

Copies of the Class Determinations of Domestic Non-Availability (DNAD) issued by the Office of the Under Secretary of Defense are attached. In the event that any of the items being purchased are covered by any waiver or DNADs those items are considered compliant with the Domestic Specialty Metals provision, regardless of where the metals are obtained.

If the items ordered contain specialty metal and either is not already compliant or cannot be considered compliant based on any of the waivers or DNADs contained herein, the supplier must immediately provide notice and impact if required compliance causes any cost or schedule impact or cannot be compliant.

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PREFERENCE FOR DOMESTIC SPECIALTY METALS (JUN 2005)

(a) Definitions. As used in this clause—

(1) “Qualifying country” means any country listed in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.

(2) “Specialty metals” means—

(i) Steel—

(A) With a maximum alloy content exceeding one or more of the following limits:

- manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or
- (B) Containing more than 0.25 percent of any of the following elements:

  - aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(ii) Metal alloys consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 percent;

(iii) Titanium and titanium alloys; or

(iv) Zirconium and zirconium base alloys.

(b) Any specialty metals incorporated in articles delivered under this contract shall be melted in the United States or its outlying areas.

(c) This clause does not apply to specialty metals melted in a qualifying country or incorporated in an article manufactured in a qualifying country.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts for items containing specialty metals.

Attachments:

1. Class Determination of Domestic Non-Availability(DNAD) for Populated Circuit Card Assemblies, 4 January 2007
2. Class Determination of Domestic Non-Availability(DNAD) for Populated CCAs Based on 10 USC 2533a, 7 February 2007
3. Class Determination of Domestic Non-Availability(DNAD) for Fasteners, 10 April 2007
4. Class Determination of Domestic Non-Availability(DNAD) for Needle Roller Bearings, 7 June 2007
CLASS DETERMINATION OF DOMESTIC NON-AVAILABILITY (DNAD) FOR POPULATED CIRCUIT CARD ASSEMBLIES

After considering the recommendation of the Defense Contract Management Agency (DCMA), in accordance with the specialty metals restrictions in title 10 of the United States Code\(^1\), I make the following findings and determination concerning the domestic non-availability of specialty metals in circuit card assemblies populated with commercial components (i.e., populated circuit card assemblies).

Findings

Populated circuit card assemblies are used in almost every piece of military hardware and electronic items. They are used by all Services, and the need for these items is increasing over time.

Most populated circuit card assemblies contain microcircuits or other commercial electronic parts that contain specialty metals. The lids and leads on these microcircuits are generally made of either ASTM F15 (Kovar\textsuperscript{TM}) or Alloy 42 specialty metals. DCMA conducted an in-depth study of these items. They are predominantly commercial off-the-shelf (COTS) items. Globalization has pushed most manufacturing for the electronics industry to the Pacific Rim. The U.S. Government makes up less than 2 percent of the semiconductor/microcircuit customer base and, therefore, does not have the buying power to require that the specialty metals contained in these items be produced domestically.

Most of the populated circuit card assemblies contain specialty metals that either did not or do not comply with the specialty metals restrictions in title 10 of the United States Code. In many other cases, it is extremely difficult to determine whether they comply. Unless a waiver is approved, the Department of Defense will not be able to acquire items and systems containing populated circuit card assemblies.

The value of the specialty metals contained in most populated circuit card assemblies is significantly less than 10 percent of the value of the circuit card assembly. Thus, pursuant to 10 U.S.C. 2533b(g), most populated circuit card assemblies are not covered because the specialty metal content is de minimis in value compared to the overall value of the circuit card assembly (i.e., the lowest level electronic component produced that contains specialty metal).

\(^1\) The specialty metals restriction is subsection (b) of 10 U.S.C. 2533b. Prior to November 16, 2006, a similar specialty metals restriction was in subsection (c) of 10 U.S.C. 2533a (a.k.a. "the Berry Amendment").
Determination

For those populated circuit card assemblies that are not excepted from coverage by 10 U.S.C. 2533b(g), I hereby determine that satisfactory quality and sufficient quantity of compliant specialty metals in the form of lids and leads in populated circuit card assemblies cannot be procured as and when needed.

As a result, contracting officers may procure end items, and components thereof, containing populated circuit card assemblies notwithstanding the country where the specialty metals contained in such items were melted or produced.

This determination will be effective until DCMA notifies me that populated circuit card assemblies that comply with 10 U.S.C. 2533b are available.

Date: 1/4/07

Kenneth J. Rod
Under Secretary of Defense
for Acquisition, Technology and Logistics
MEMORANDUM FOR COMMANDER, U.S. SPECIAL OPERATIONS COMMAND
(ATTN: ACQUISITION EXECUTIVE)
SERVICE ACQUISITION EXECUTIVES
DIRECTORS OF THE DEFENSE AGENCIES

Subject: Class Determination of Domestic Non-Availability (DNAD) for Populated Circuit Card Assemblies for Contracts Entered into Prior to November 16, 2007

The DNAD that I signed on January 4, 2007, (attached) concerning populated circuit card assemblies was based on the new 10 U.S.C. §2533b. The rationale of that DNAD is also applicable to existing contracts that are subject to the old specialty metal restriction under 10 U.S.C. §2533a. For the same reasons detailed in that DNAD, I hereby determine that satisfactory quality and sufficient quantity of compliant specialty metals in the form of lids and leads in populated circuit card assemblies cannot be or could not have been procured “as and when needed at United States market prices.” Therefore, the restriction in 10 U.S.C. §2533a, and the clause that implemented it, do not apply to populated circuit card assemblies (including those contained in end items) that were, or will be, procured under contracts entered into prior to November 16, 2006, notwithstanding the country where the specialty metals contained in such items were melted or produced.

Kenneth T. Krieg

Attachment:
As stated
CLASS DETERMINATION, DOMESTIC NON-AVAILABILITY (DNAD)
FOR FASTENERS INCLUDING ALL ITEMS IN
FEDERAL STOCK CLASSES 5305, 5306, 5307, 5310,
5320 and 5325, or NAICS code 332722
(excluding cotter pins, dowel pins, hose clamps,
spring pins and turnbuckles)

After considering the recommendation of the Defense Contract Management Agency
(DCMA), in accordance with the specialty metals restrictions in section 2533b of title 10
of the United States Code (and the former restriction at 10 U.S.C. § 2533a), I make the
following findings and determination concerning the domestic non-availability of
specialty metals in fasteners used to manufacture and repair Department of Defense
military aircraft, missile and space systems, ships, tank and automotive systems, weapon
systems, and ammunition. For this purpose, fasteners are all screws, nuts, bolts, washers,
rivets, studs and fastening devices. This includes parts in Federal Stock Classes (FSC)
5305, 5306, 5307, 5310, 5320 and 5325, or North American Industry Classification
System (NAICS) 2002 code 332722 but excludes cotter pins, dowel pins, hose clamps,
spring pins and turnbuckles. The findings below are based on an investigation and report

FINDINGS

Many fasteners are made of specialty metals, predominantly stainless steel, steel alloys
and titanium. The fastener industry estimates that 80-85% of all aerospace fasteners are
dual-use (commercial-off-the-shelf) fasteners, and are interchangeable between
commercial and military applications. They are used by all Services.

World-wide demand for these specialty metals is increasing due to increasing commercial
aerospace requirements (foreign and domestic) and, to a lesser extent, increasing defense
industry requirements. DCMA verified that lead times for compliant material is long,
ranging in length from 50 weeks for stainless steel to over 100 weeks for titanium.

The lead times for procuring compliant fasteners are similarly lengthy. Contributors to
these delays are the difficulty in finding and tracing the source of the metals used in
fasteners, the necessity to produce DoD-compliant fasteners using separate, small
production runs, and the refusal of some suppliers to agree to produce compliant
fasteners. These delays are impacting the Department’s ability to meet requirements.

In addition, many fastener manufacturers stated that the quality of U.S. domestic metal is
not adequate to produce defect-free fasteners. Domestic steel wire mills have not been
able to provide consistently seam and defect-free material. Defects and seams can cause
thread laps, head cracks and cracking under stress, which reduce fastener life and can
lead to safety risks. As a result, domestic material often requires additional shaving to eliminate seams and surface flaws. Costs for additional shaving are passed on to the Department.

A DCMA comparison of prices between compliant and noncompliant fasteners from 19 fastener manufacturers identified significantly higher prices for compliant fasteners. This difference in price is attributed to many factors including: costs of additional shaving referred to above, the effort required to trace/find compliant material at each level of the supply chain (fastener manufacturer, distributor, component manufacturer, and prime contractor); extra fees charged for processing smaller production runs, segregation of stock in order to ensure only compliant metal is used; and certification fees charged by some fastener manufacturers for orders requiring compliant metal.

The fastener industry is driven by the global commercial market. Most U.S. fastener manufacturers state that they do not have a constant supply of domestic raw materials, and that it is difficult to find compliant material in sufficient quantity to meet the demands of the Department of Defense. As a relatively minor consumer of fasteners, the Department of Defense does not have the market power to incentivize industry to tailor its business processes to meet the Department’s peculiar specialty metal restriction. Consequently, compliant fasteners are not currently available in the necessary quantities, satisfactory quality or in the required form to meet DoD’s needs.

**DETERMINATION**

I hereby determine that compliant specialty metal of satisfactory quality and sufficient quantity, in the required form of fasteners, cannot be procured as and when needed. This determination applies to all deliveries of end items, and components thereof, delivered under current and future contracts (including contracts that were entered into under the restriction in 10 U.S.C. §2533a and those that have been entered into under 10 U.S.C. 2533b).

As a result, contracting officers may procure end items, and components thereof, containing fasteners, notwithstanding the country where the specialty metals contained in such items were melted or produced.

This determination will remain in effect until DCMA notifies me that circumstances have changed and compliant specialty metal of satisfactory quality and sufficient quantity, in the required form (i.e., the form of fasteners), can be procured as and when needed.

This determination will cease to be effective for those commercial-off-the-shelf fasteners if subsequently an exemption is approved under Section 35 of the Office of Procurement Policy Act (41 U.S.C. §431).
CLASS DETERMINATION, DOMESTIC NON-AVAILABILITY (DNAD) FOR DUAL USE NEEDLE ROLLER BEARINGS IN FEDERAL STOCK CLASSES 3110, 3120 AND 3130, NAICS code 332991
(excluding ball bearings, bushing sleeves, bearing sleeves, rod ends, mounted bearings, and bearings built-to-print for military specific applications)

After considering the recommendation of the Defense Contract Management Agency (DCMA), in accordance with the specialty metals restriction in section 2533b of title 10 of the United States Code (and the former restriction at 10 U.S.C. 2533a), I make the following findings and determination concerning the domestic non-availability of specialty metals in needle roller bearings used in the manufacture and repair of Department of Defense (DoD) aircraft, ships, weapon systems, tank and automotive items, missile and space systems, and ammunition. Needle roller bearings are bearings that use small cylindrical rollers parallel to the axis of the shaft to reduce the friction of a rotating surface. This DNAD is applicable to all dual use (i.e. commercially available off-the-shelf items that are used for defense purposes) needle roller bearings and components thereof. This means parts in Federal Stock Classes (FSC) 3110, 3120 and 3130 under North American Industry Classification System (NAICS) code 332991. Excluded are ball bearings, bushing sleeves, bearing sleeves, rod ends, mounted bearings, and bearings built-to-print for military-specific applications. The findings below are based on an investigation and report forwarded by DCMA on April 4, 2007.

FINDINGS

Needle roller bearings are manufactured predominantly for commercial markets (automotive and industrial). The bearing manufacturers contacted during DCMA’s market research estimate that 99% of all needle roller bearings are produced for commercial-off-the-shelf use and do not comply with the specialty metals restrictions.

Because DoD represents approximately 1% of needle roller bearing industry’s sales, DoD’s ability to influence the market place and obtain compliant materials for the dual use applications is extremely limited.

DCMA found that none of the U.S. needle bearing manufacturers contacted were willing to use compliant specialty metals, either because of the prohibitive cost of maintaining dual inventories and supply chains, or because of prohibitive cost associated with producing small quantities. Consequently, I find that specialty metal in the required form of needle roller bearings are not available in sufficient quantities or satisfactory quality to meet DoD’s needs.
The DoD annual appropriation acts, most recently Section 8046 of the DoD Appropriation Act, 2007 (P.L. 109-676) require the procurement of domestically produced ball and roller bearings of domestic origin. Waiver is permitted on a case-by-case basis. This law is implemented at DFARS 225.7009. The applicability of this restriction is not affected by this determination.

DETERMINATION

I hereby determine that compliant specialty metals of satisfactory quality and sufficient quantity, in the required form of needle roller bearings, cannot be procured as and when needed. This determination applies to current and future contracts (including contracts that were entered into under the prior restriction in 10 U.S.C. 2533a and those that have been entered into under the new restriction in 10 U.S.C. 2533b).

As a result, contracting officers may procure end items, and components thereof, that contain needle roller bearings, notwithstanding the country where the specialty metals contained in such items were melted or produced.

This determination will remain in effect until DCMA notifies me that circumstances have changed and compliant specialty metal of satisfactory quality and sufficient quantity, in the required form (i.e., the form of needle roller bearings), can be procured as and when needed.

This determination will cease to be effective for commercially available off-the-shelf needle roller bearings if an exemption is approved under Section 35 of the Office of Procurement Policy Act (41 U.S.C. §431).

DATE: 7 June 2007

[Signature]

Under Secretary of Defense
(Acquisition, Technology & Logistics)