Governmental Procurement Strategies
Tools for National Preparedness

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International Titanium Association
Strategies Include

- Specialty Metals Amendment – Berry Amendment
- Defense Logistics Agency ... the DLA
- Defense Production Act Title III
- Strategic Metal Project
- Congressional Research Service & GAO
- STEM initiative

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Acknowledgements

Content
Larry Lasoff, Partner, Kelley Drye & Warren LLP
- Attorney and specialty metals industry lobbyist
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Content
Jeff Green, Principal, J.A. Green & Company
- Washington D.C. specialty metals industry lobbyist
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Sponsorship
Coogee Chemical, Kwinana Beach, Australia
- Commercializing titanium alloy powder

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**Berry Amendment** enacted into law in 1941
- Coverage limited to food and apparel
- Sponsored by South Dakota Congressional Representative Elias Y. Berry

**Specialty Metals added** in FY1973 DoD Appropriations Act
- Lead by Vice Admiral Eli T. Reich, submarine commander

**Law extended** as part of the annual DoD appropriations budget

**Codified** in 2002 as 10 USC 2533a
- Sponsored by North Carolina Congressional Representative Robin Hayes

**Amended and Re-codified** in 2007 as 10 USC 2533b
- Created a separate strategic materials section

**Amended** in 2008 as part of the FY 2008 NDAA.
DoD funds should be used to procure systems and components containing specialty metals *melted or produced* in the U.S.
- Previously stated grown, processed or produced

May be *waived*
- Compliant metal is not available
- Quality cannot be met
- Quantity, required form, or need cannot be met

*Flowed-down* to subcontractors

Does not prevent purchasing from non-U.S. sources where agreements exist

Combat or contingency operations are exempted

**Assure Availability and Performance in Times of National Emergency**

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Specialty Metals Included

Specialty Metals are:

• Titanium and titanium alloys
• Nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10%.
• Zirconium and zirconium base alloys.
• Specialty steels w/ max alloy content > one or more of the following
  • Mn 1.65%, Si .60%, Cu .60%
  • Containing more than 0.25% of any of the following elements:
    • Aluminum, Chromium, Cobalt, Columbium, Molybdenum
    • Nickel, Titanium, Tungsten, Vanadium

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Defense systems included are:

Aircraft

Missile and space systems

Ships

Tank and automotive

Weapon systems

Ammunition

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Strategic and Critical Materials

The Periodic Table of the Elements


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What is the **Required Form** for purposes of availability determinations
Melted or produced interpreted to include
- Quenching and tempering of armor plate
- Gas atomization or sputtering of titanium

Coverage of commercial-off-the-shelf Items (COTS)
COTS Dilemma – exception engulfs the rule
- Exception may apply even if COTS items are modified prior to delivery

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Required Form intended to be mill products not an entire system

Blanket waivers

Waivers without talking to industry

Enforcement became overly aggressive

Interpretations of the principles intended in the law

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Cost of materials – particularly titanium
Material availability
Quality
Traceability
Small components (electronics, fasteners)
Dual production lines – commercial and defense
Globalization of production, particularly commercial items
Compliance costs of segregation of military and commercial components
FY 2007 National Defense Authorization Act

- Codified definition of specialty metals
- Grown, processed, produced language to melted or produced
- Domestic source requirements in new strategic materials section
- Affirmed coverage of components
- Clarified waiver to requires mill product form
- Electronic component exception
- Strategic Materials Board
- **Rejected** commercial item exception, commingling and de minimis
- One-time waiver for items produced prior to enactment

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Multiple non-availability waivers issued without consulting with industry

- Fasteners – not by alloy
- Bearings
- COTS Hardware
- Allison Transmissions
- Caterpillar Engines Components
- CF6 Engine

Required form language ignored (e.g. fastener waiver).

Proposed rulemaking that would permanently exempt all COTS

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### Specialty Metals in Defense Platforms (aircraft)

**Problems**
- Small parts
- 100% compliance
- Use of COTS components
- DNADs

**Solutions**
- Exception for low value/low volume parts
- 2% allowance for COTS usage and margin of error
- Clarify applicability to COTS items
- Define required form
- Make DNAD process transparent
- Review current DNADs

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### Specialty Metals in Commercially Derivative Defense Platforms (aerial tankers)

**Problems**
- Common production lines
- Traceability
- DNADs

**Solutions**
- Gross minimum purchase requirement in Required Form or modified Market Basket
- Purchases for military unique articles excluded
- Clarify applicability to COTS items
- Define required form
- Make DNAD process transparent
- Review current DNADs

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Assess **investments** by U.S. producers in strategic materials for national defense

**Defines mill products** as the required form, *not* end items or components

2% **de minimis** requirement

Streamlined compliance for commercially derivative military articles

- Permits commingling of domestic and non-domestic metal if
  - 120% of defense quantity purchased from domestic sources or
  - 50% of total purchased from domestic sources (commercial and defense)

Review recent DNADS (e.g. fasteners) to assure compliance

Report in one year on the specific types of COTS items that are being excluded from SMA DNADs applying to more than one contract subject to public notice and comment

“and the beat goes on” Sonny and Cher

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America’s combat logistics support agency providing the Army, Marine Corps, Navy, Air Force, other federal agencies and partner nation armed forces with a full spectrum of logistics, acquisition and technical services

- Provides over $42B in goods and services annually
- 25,000+ civilians and military employees
- Supports > 2,300 weapon systems
- Manages nine supply chains and nearly 5.1 million items
- Operates in 48 states and 28 countries
- Manages 24 distribution centers worldwide
- Storage & disposal of strategic and critical materials to support national defense.
- Processes 100,000 orders; more than 9,000 procurement actions each day
• U.S. agency for the analysis, planning, procurement and management of materials critical to national security
• Implement strategic and critical materials policies as set forth by the National Defense Stockpile Mgr.
• Metals, non-metals, alloys, ores & compounds, rare earths and precious metals

For more information:  http://www.dla.mil/HQ/Acquisition/StrategicMaterials

International Titanium Association
Managed by the Office of the Assistant Secretary of Defense for Manufacturing & Industrial Base Policy

Mission
Assess industrial capacity to meet demand from the defense sector
Create assured, affordable, and commercially viable production capabilities and capacities for items essential for national defense

Title III
Leverage federal departments and cost-sharing with the private sector investing in capital expenditure
• Create, maintain, expand, protect, or restore the production capabilities of domestic suppliers whose technologies and products are critical to the nation’s security
• Increase supply, quality, and reduce cost of advanced materials and technologies

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Contract December 10, 2008; Value $59,167,711

New VIM and 5 VAR furnaces for specialty steels

Applications
- bearings for jet engines
- rotor shafts and heads for helicopters
- flap actuators for fighter jets
- gears in jet or helicopter transmissions
- mounts or fasteners for jet engines
- jet tail hooks

Accomplishments
- Reduced lead times to a competitive level
- Capable of producing multiple grades and various sizes of VIM VAR steels
- Addressing critical bottlenecks and single point of failure operations
- Continuing to address items to reduce the risk of lead time creep.

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DLA Warstopper Program Management Office (WPMO) developed process for establishing strategic material buffers to support wartime operations

2008 contract to provide two grades of specialty steel – 300M and M50
- 300M – landing gear and combat vehicle torsion bars
- M50 – bearings
- Ensure vendor-to-vendor availability and sales
- Enabled retaining prices per previously negotiated contracts with specialty steel producer

Report May 22, 2013  Warstopper Material Supply Chain Risk Assessments

When Capabilities are Taken for Granted They Can Evaporate

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Congressional Research Service
Library of Congress div. providing non-partisan research to Members of Congress
Complex topics from a variety of perspectives and examines all sides of an issue
Report February 6, 2014 titled *The Specialty Metal Clause: Oversight Issues and Options for Congress*

U.S. Government Accountability Office
Independent, nonpartisan agency that works for Congress
Congressional oversight, called the congressional watchdog, by:
• auditing agency operations; investigating allegations of illegal and improper activities
• reporting on how well government programs and policies are meeting their objectives
• performing policy analyses and outlining options for congressional consideration
• issuing legal decisions and opinions, such as bid protest rulings and reports on agency rules
Report July 2013 titled *DEFENSE SUPPLIERS Factors Affecting U.S. Titanium Aircraft Components’ Market of DOD Business*

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STEM – A Public/Private Initiative

Mission: Inform federal and state policymakers on the critical role that science, technology, engineering, and mathematics (STEM) education plays in U.S. competitiveness and future economic prosperity

Encourage students to take an interest in STEM subjects at an early age

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President Obama Signs the Every Student Succeeds Act

1/2 OF ALL STEM JOBS don't require a four-year degree and pay an average of $53,000, which is 10 percent higher than non-STEM jobs with similar education requirements.

U.S. Department of Education

Every Student Succeeds Act (ESSA)

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Thank You

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