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MARITIME ADMINISTRATION AUTHORIZATION AND ENHANCEMENT ACT FOR FISCAL YEAR 2018

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1096

JULY 24, 2017.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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MARITIME ADMINISTRATION AUTHORIZATION AND ENHANCEMENT ACT FOR FISCAL YEAR 2018

JULY 24, 2017.—Ordered to be printed

Mr. THUNE, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1096]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1096) to amend and enhance certain maritime programs of the Department of Transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1096 is to authorize appropriations for the Department of Transportation (DOT), including the following Maritime Administration (MARAD) activities: funding programs associated with maintaining the United States merchant marine industry; strengthening sexual assault and harassment prevention and response at the United States Merchant Marine Academy (USMMA); and providing the USMMA with tools to improve operational flexibility, faculty retention, and financial support.

BACKGROUND AND NEEDS

MARAD was established in 1950 to foster, promote, and develop the merchant marine industry of the United States. MARAD, an operating administration within the DOT, is tasked with the following: administering the Maritime Security Program (MSP) to support 60 U.S.-flag vessels in the movement of cargo on international waters, thereby supporting military sealift capacity in times of war or national emergency; managing the Ready Reserve Force, funded by the Department of Defense; managing disposal of the National Defense Reserve Fleet (NDRF) when ships are no longer deemed useful for defense or missions; promoting U.S.-flag vessels by monitoring cargo preference requirements; overseeing the U.S. Merchant Marine Academy (USMMA) to educate future U.S. mariners; administering loan and grant programs, including the Maritime Loan Guarantee Program (Title XI Program) and Assistance to Small Shipyards Program; promoting port infrastructure development and congestion mitigation in the transportation system through education and coordination; informing the Department of Homeland Security on the availability of coastwise-qualified vessels supporting State maritime academies; and other functions.

Overseen by MARAD, the USMMA is a Federal service academy that has been training merchant mariners for more than 70 years, offering baccalaureate degrees specializing in engineering and maritime transportation. In exchange for tuition assistance, graduates incur certain service obligations. In June, 2016, the Middle States Commission on Higher Education (MSCHE) placed USMMA's accreditation under warning status due to the USMMA's failure to meet several of MSCHE's accreditation standards.[1] One standard was related to sexual misconduct response provisions, and the remaining issues were related to independence in governance, budgeting, and administrative functions.

Sexual Assault and Sexual Harassment Prevention

The Committee included provisions in the National Defense Authorization Act (NDAA) for fiscal year (FY) 2009 provisions that required the Secretary of Transportation (Secretary) and the USMMA to implement policies that would address sexual assault and harassment at the USMMA.[2] An October 2014, DOT Inspector General (IG) report noted deficiencies in the USMMA's effort.[3] All nine of the report's recommendations have been resolved and closed, but recent student surveys, focus group results, and accreditation board findings have caused increased focus on these sexual assault and harassment issues at the USMMA.

In response, the Committee included provisions in the NDAA for FY 2017 requiring the USMMA to maintain at least one full-time Sexual Assault Response Coordinator (SARC), who would reside on or near the USMMA, and to designate at least one permanent employee as a sexual assault victim advocate.[4] The law also requires sexual assault victim advocates to receive training in the USMMA's comprehensive sexual assault and sexual harassment prevention policies. Victim advocate duties include identifying resources and informing victims of rights, while connecting with, or serving as, a companion in navigating investigative, medical, mental/emotional

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[1] The Middle States Commission on Higher Education (MSCHE), "Statement of Accreditation Status," at http://www.msche.org/Documents/SAS/494/Statement%20of%20Accreditation%20Status.htm.

[2] P.L. 110–417

[3] U.S. Department of Transportation, "Better Program Management and Oversight are Required for USMMA's Efforts to Address Sexual Assault and Harassment," 2014, at https://www.oig.dot.gov/sites/default/files/USMMA%20Sexual%20Assualt%20and%20Sexual%20Harassment%20Audit%20Report%5E10-23-14.pdf.

[4] P.L. 114–328

health, and recovery processes relating to sexual assault. In addition, the Committee included in the NDAA for FY 2017 a requirement for a 24-hour hotline through which the victim of a sexual assault can receive confidential victim support services. The Committee's addition to the NDAA for FY 2017 also enhanced sexual assault and harassment prevention and response training among cadets. Following passage of the NDAA for FY 2017, the USMMA created the Sexual Assault Prevention and Response Office, expanding the staff by hiring a director and two victim advocate-educator positions.[5]

To provide oversight of the USMMA's implementation of the new sexual assault and harassment prevention and response measures, and the USMMA's voluntary actions, the Committee included a provision in the NDAA for FY 2017 requiring the DOT IG to report on the effectiveness of the USMMA's prevention and response plan by March 31, 2018.[6]

Sea Year Stand Down

Sea Year is a collaborative effort between the USMMA, MARAD, and commercial carriers enabling midshipmen from the USMMA to sail aboard merchant vessels and gain real-world industry experience. Citing concerns of sexual assault aboard vessels participating in the program, former Secretary Foxx suspended Sea Year in June 2016 while MARAD examined ways to ensure that Sea Year training was conducted in a safe and respectful environment. During the suspension, MARAD – along with a consortium of industry and unions – brought forth a new proposal to address sexual assault and harassment prevention and response. This includes a zero tolerance policy, an electronic reporting system, vetted mentors, regular crew training, and a prohibition on fraternization between crew and midshipmen. Additionally, these requirements will be reviewed after 6 months and annually thereafter.[7] Further, the NDAA for FY 2017 requires a working group to report to Congress in September 2017 on efforts to further address prevention and reporting.

Authorization

This bill would authorize appropriations to the DOT for programs associated with maintaining the United States merchant marine industry. The authorized amounts are the following: $100,802,000 for the United States Merchant Marine Academy; $29,550,000 for State Maritime Academies; $36,000,000 for the National Security Multi-Mission Vessel Program; $58,694,000 for Maritime Administration Operations and Programs; $20,000,000 for the disposal of vessels in the National Defense Reserve Fleet; $33,000,000 for the Title XI Loan Guarantee Program; and $35,000,000 for the Assistance to Small Shipyards Program.

[5] U.S. Merchant Marine Academy, "Sexual Assault Prevention and Response Program," at https://www.usmma.edu/academy-life/sexual-assault-prevention/sexual-assault-prevention-and-response-program.

[6] P.L. 114–328

[7] Maritime Administration (MARAD), "Summary of Sea Year Criteria," at https://www.marad.dot.gov/criteria.

Summary of Provisions

S. 1096 would make improvements to the USMMA, largely modeled on authorities available to other Federal service academies. Major provisions include the following:

- Enhancing sexual assault prevention and response by ensuring each student participating in the Sea Year program has access to a functional satellite communication device, and ensuring the academy has sufficient resources.
- Creating more cost-effective options by removing the limit on contracting adjunct professors in one academic trimester at the USMMA.
- Boosting donations to the USMMA by allowing for the acceptance of partial project funding with qualified guarantees and authorizing expenditure.
- Improving USMMA faculty retention and maritime research and education by allowing faculty members to compete for grants that have scientific or educational value.
- Preventing potential educational disruption by allowing the USMMA to stay open in the event of a lapse in appropriations.

In addition, S. 1096 would reauthorize the assistance to small shipyards program on a 3-year basis, similar to the last authorization of the program, and allow for the reallocation of unused grant funds. It also would include provisions authorizing the Secretary to designate centers of excellence for domestic maritime workforce training and education. Finally, it would require a DOT IG study on certain aspects of the MSP.

Legislative History

On May 9, 2017, the Committee's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a maritime transportation oversight hearing entitled, "Opportunities and Challenges for the Maritime Administration and Federal Maritime Commission," that, among other topics, examined opportunities and challenges for MARAD and the USMMA. Joel Szabat, Executive Director of MARAD, and Rear Admiral James Helis, Superintendent of the USMMA, testified on the implementation of the NDAA for FY 2017 and efforts to improve sexual assault and harassment prevention and response at the USMMA.

On May 18, 2017, the Committee met in open Executive Session and, by voice vote, ordered S. 1096 to be reported favorably with an amendment (in the nature of a substitute). Senator Fischer offered a substitute amendment. Additional amendments were offered by Senators Schatz and Baldwin. These amendments were accepted.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1096—Maritime Administration Authorization and Enhancement Act for Fiscal Year 2018

Summary: S. 1096 would reauthorize programs administered by the Maritime Administration (MARAD), which operates the United States Merchant Marine Academy (USMMA) and oversees the Nation's merchant marine—the civilian mariners and fleet of U.S. vessels engaged primarily in waterborne commerce. The bill would provide mandatory funding for the USMMA to continue to operate in the event of a lapse of discretionary appropriations to MARAD. S. 1096 also would provide contract authority—a mandatory form of budget authority—for MARAD to pursue certain projects on the basis of agreements with nonfederal entities that commit to making future donations to the agency.

CBO estimates that enacting S. 1096 would increase direct spending by $1.1 billion over the 2018–2027 period. We also estimate that implementing the bill would cost $272 million over the 2018–2022 period, assuming appropriation of authorized and estimated amounts.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 1096 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2028.

S. 1096 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1096 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017–2022	2017–2027
						INCREASES IN DIRECT SPENDING							
USMMA Activities:													
Estimated Budget Authority	0	101	104	106	109	112	114	117	121	124	127	532	1,135
Estimated Outlays	0	76	93	103	108	111	113	116	120	123	126	491	1,089
						INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
MARAD Activities:													
Authorization Level [a]	0	212	35	35	0	0	0	0	0	0	0	282	282
Estimated Outlays	0	107	49	49	46	21	10	0	0	0	0	272	282

Note: USMMA = U.S. Merchant Marine Academy; MARAD = Maritime Administration.

[a] The authorization level for MARAD does not include the $101 million authorized for USMMA activities because CBO considers that to be direct spending under the bill.

Basis of estimate: For this estimate, CBO assumes that S. 1096 will be enacted near the end of fiscal year 2017 and that appropriations will be provided for each fiscal year. Estimates of outlays are based on historical spending patterns for the affected programs.

Direct spending

Under current law, funding for the USMMA, which trains officers for the country's marine transportation and defense needs, is provided in annual appropriation acts. S. 1096 would authorize the appropriation of $101 million for the USMMA in 2018, but starting in 2018, S. 1096 would provide mandatory funding for the USMMA to continue to operate for any period of time during which discretionary funds are not available to the academy. Because the bill would make amounts automatically available without further legislation, it would increase direct spending. Scorekeeping guidelines adopted by the Congress and the Administration require CBO to prepare cost estimates for bills without taking into account any possible future legislation. Based on the authorized level of funding and accounting for anticipated inflation, CBO estimates that enacting this provision would increase direct spending by $1.1 billion over the 2018–2027 period because CBO does not assume that subsequent appropriation bills would provide this funding. The Congress appropriated $83 million for the USMMA in 2017.

In addition, S. 1096 would provide contract authority—a mandatory form of budget authority—for MARAD to pursue certain projects on the basis of agreements with nonfederal donors that commit to making gifts to the agency. The bill would specify the types of agreements that would be considered "qualified guarantees" of donations, which would be paid over time, to support near-term spending for projects with costs of at least $1 million. Under S. 1096, such agreements would allow MARAD to incur obligations in advance of the gift being received (this type of spending authority is known as contract authority) and regardless of whether sufficient funds are available to complete the project.

The magnitude of contract authority stemming from qualified guarantees under S. 1096 is uncertain, but CBO estimates that any net change in direct spending resulting from MARAD's use of such guarantees probably would be insignificant over the 2018–2027 period. Under current law, the USMAA receives donations (which are recorded as reductions in direct spending) of between $1 million and $1.5 million annually and spends about the same amount. CBO expects that the new authority would not affect the timing, magnitude, or efforts supported by those routine donations and the subsequent spending.

According to MARAD, allowing donors to support major projects with donations that could be paid over several years could help the agency attract larger donations in the future. Any such increase in donations would be fully offset by a corresponding increase in mandatory outlays resulting from contract authority created by the qualified guarantees, which would occur sooner and over a shorter period of time than the associated offsetting receipts from donations. As a result of those potential timing lags, CBO expects that authorizing MARAD to incur upfront obligations on the basis of qualified donation guarantees could increase net direct spending in early years, but any such near term increases would be fully offset by subsequent reductions in net direct spending when donations are received. However, based on information about the relatively limited use of similar authorities by military academies, CBO expects that that any net changes in direct spending attributable to extending such authority to MARAD would not exceed $500,000 over the 2018–2027 period.

Spending subject to appropriation

S. 1096 would authorize appropriations for MARAD totaling $383 million, including $313 million for 2018 and $35 million in both 2019 and 2020. The agency received an appropriation of $223 million for those activities in 2017. The amount authorized for 2018 includes $101 million for the USMMA; however, as previously discussed, S. 1096 also would provide mandatory funding for the academy's operations. After accounting for that mandatory funding, CBO estimates that S. 1096 would authorize appropriations totaling $282 million over the 2018–2020 period for MARAD. The authorization includes:

- $59 million for operations and program support provided by MARAD's headquarters;
- $36 million for a program to build new vessels that could perform multiple missions related to national security;
- $35 million annually over the 2018–2020 period for assistance to support capital improvements and worker training programs at small shipyards and maritime communities;
- $33 million to guarantee loans to construct or modernize U.S. vessels or shipyards;
- $30 million to provide financial and other support to state maritime academies; and
- $20 million for disposal of vessels in the National Defense Reserve Fleet.

Based on historical spending patterns for activities administered by MARAD, CBO estimates that outlays would total $107 million in 2018 and $272 million over the 2018–2022 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1096, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON MAY 18, 2017

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017–2022	2017–2027
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	76	93	103	108	111	113	116	120	123	126	491	1,089

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: S. 1096 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit state maritime academies and other public institutions by authorizing federal financial and technical assistance for maritime education. Any costs incurred by those entities would result from voluntary commitments.

Estimate prepared by: Federal costs: Megan Carroll and Janani Shankaran; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Regulatory Impact

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

This measure, as reported, would not create any new programs or impose any new significant regulatory requirements, and, therefore, would not subject any individuals or businesses to new significant regulations.

This measure would require MARAD to ensure each student participating in the Sea Year program at the USMMA is provided or has access to a functional satellite communication device. Currently, there are nine companies participating in the Sea Year program.

This measure would set new Buy America requirements for the Assistance to Small Shipyards Program, though MARAD has included Buy America requirements in grant requirements prior to this statutory change. The program funds grants for an estimated 10 to 15 shipyards per year.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any significant adverse impacts on the Nation's economy.

PRIVACY

This measure would not impact the personal privacy of individuals.

PAPERWORK

This measure would not impose substantial paperwork burden on individuals or businesses.

Congressionally Directed Spending

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

Section-by-Section Analysis

Section 1. Short title; table of contents.

This section would provide a short title for the bill and list a table of contents.

Section 2. Authorization of the Maritime Administration.

This section would authorize appropriations for FY 2018 to the DOT for programs associated with maintaining the United States merchant marine, including the following: the USMMA; State maritime academies; National Security Multi-Mission Vessel Program; MARAD operations and programs; the ship disposal program; and the Title XI Program. This section also would authorize appropriations for FY 2018 to FY 2020 for the Assistance to Small Shipyards Program.

This section would authorize an increase in funding for the USMMA to ensure access to satellite communication devices and on-campus sexual assault and harassment prevention activities.

Section 3. Removal adjunct professor limit at United States Merchant Marine Academy.

This section would remove the limit on contracting adjunct professors in one academic trimester at the USMMA. Other Federal service academies do not have a limit on adjunct professors in one academic trimester. This change is intended to provide a cost-effective way to provide students with additional elective courses beyond the core curricula; some electives may be necessary to satisfy certain commissioning requirements.

Section 4. Acceptance of guarantees in conjunction with partial donations for major projects of the States Merchant Marine Academy.

This section would allow a donor of a gift to the USMMA to fund a substantial portion of a major project, if such donor provides a qualified guarantee he or she would make an additional gift sufficient to complete the project if other donors do not contribute the necessary additional funds. The United States Military Academy, United States Naval Academy, and United States Air Force Academy (USAFA) all have nearly identical authority.

Section 5. Authority to pay conveyance or transfer expenses in connection with acceptance of a gift to the United States Merchant Marine Academy.

This section would permit the USMMA to accept a gift, such as tangible property, that may require additional expenditures necessary for shipping or conveyance of the gift. This change is intended to prevent delays or denials in the acceptance of tangible property that has value to the USMMA.

Section 6. Authority to participate in Federal, State or other research grants.

This section would allow USMMA faculty members to participate in competitions for grants that have scientific or educational value to the USMMA. The USMMA currently does not have authority to comply with many terms and conditions of grants or to expend appropriated funds to submit applications. This section is modeled on the authority provided to the USAFA. This change is intended to improve faculty retention and benefit maritime scientific and educational research.

Section 7. Continuing funding for the United States Merchant Marine Academy.

This section would provide continuing funding for the USMMA in the event of a lapse in appropriations. The section is modeled on the authority provided to other Federal service academies.

Section 8. Access to satellite communication devices during Sea Year program.

This section would require MARAD to ensure each student participating in the Sea Year program is provided or has access to a functional satellite communication device. The section would prohibit the denial of the use of such device whenever the student determines that use is necessary to prevent or report sexual harassment or assault.

Section 9. Assistance for small shipyards and maritime communities.

This section would make changes to the Assistance to Small Shipyards Program. This section would provide for the reallocation of unused small shipyard grants to fund other qualifying grants. This section would establish certain Buy America requirements. MARAD has included a Buy America provision in recent grant agreements for this program.

Section 10. Domestic maritime centers of excellence.

This section would authorize the Secretary to designate certain community and technical colleges with a maritime training program or training center as a center of excellence for domestic maritime working force training and education. This section would authorize the Secretary to provide a designated center of excellence with technical assistance and surplus Federal equipment and assets.

Section 11. Determinations on the viability of vessels.

This section would require the DOT IG to audit the criteria used by the Secretary for determining the commercial viability of any MSP vessel that operates in competition with a domestic trade vessel documented under the laws of the United States. This section would apply to the criteria used for vessels with MSP operating agreements beginning after September 30, 2016.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART B. MERCHANT MARINE SERVICE

CHAPTER 513. UNITED STATES MERCHANT MARINE ACADEMY

§ 51301. Maintenance of the Academy

(a) IN GENERAL.—The Secretary of Transportation shall maintain the United States Merchant Marine Academy as an institute of higher education to provide instruction to individuals to prepare them for service in the merchant marine of the United States, to conduct research with respect to maritime-related matters, and to provide such other appropriate academic support, assistance, training, and activities in accordance with the provisions of this chapter as the Secretary may authorize.

(b) RECRUITMENT.—The Secretary of Transportation may, subject to the availability of appropriations, expend funds available for United States Merchant Marine Academy operating expenses for recruiting activities, including advertising, in order to obtain recruits for the Academy and cadet applicants.

(c) SUPERINTENDENT.—

(1) IN GENERAL.—The immediate command of the United States Merchant Marine Academy shall be in the Superintendent of the Academy, subject to the direction of the Maritime Administrator under the general supervision of the Secretary of Transportation.

(2) APPOINTMENT.—The Secretary of Transportation shall appoint as the Superintendent—

(A) an individual who has—

(i) attained a general or flag officer rank in the Navy, Army, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration; and

(ii) served at sea in any rank;

(B) an individual who has—

(i)(I) served at sea in the Navy, Army, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration; or

(II) held a valid Coast Guard merchant mariner credential; and

(ii) demonstrated exemplary leadership in the education of individuals in the Armed Forces or United States merchant marine; or

(C) if a qualified individual described in subparagraph (A) or (B) does not apply for the position, an individual who has—

(i) attained the grade of captain or above in the Navy, Coast Guard, or National Oceanic and Atmospheric Administration or colonel or above in the Army, Air Force, or Marine Corps; and

(ii) served at sea in any grade.

(3) RULE OF CONSTRUCTION.—Notwithstanding paragraph (2), the Secretary of Transportation may appoint an individual

who is the best qualified candidate, even if such individual does not fully meet the criteria described in paragraph (2).

(d) CONTINUING FUNDING.—

(1) IN GENERAL.—Out of any funds in the general fund of the Treasury not otherwise appropriated, there are hereby appropriated such sums as may be necessary for operations of the United States Merchant Marine Academy for any period during which interim or full-year appropriations are not in effect for the United States Merchant Marine Academy, for fiscal year 2018, and for each fiscal year thereafter.

(2) TERMINATION.—Amounts made available for a fiscal year under this subsection shall remain available until the earlier of—

(A) the enactment into law of an appropriation for such fiscal year (including a continuing appropriation) for such operations); or

(B) the enactment into law for the Maritime Administration of the applicable regular appropriation for such fiscal year, or continuing appropriations resolution for such fiscal year, without any appropriation for such operations.

§ 51315. Gifts to the Merchant Marine Academy

(a) IN GENERAL.—The Maritime Administrator may accept and use conditional or unconditional gifts of money or property for the benefit of the United States Merchant Marine Academy, including acceptance and use for non-appropriated fund instrumentalities of the Merchant Marine Academy. The Maritime Administrator may accept a gift of services in carrying out the Administrator's duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, in accordance with the terms of the gift.

(b) ESTABLISHMENT OF ACADEMY GIFT FUND.—There is established in the Treasury a fund, to be known as the "Academy Gift Fund". Disbursements from the Fund shall be made on order of the Maritime Administrator. Unless otherwise specified by the terms of the gift, the Maritime Administrator may use monies in the Fund for appropriated or non-appropriated purposes at the Academy. The Fund consists of—

(1) gifts of money;

(2) income from donated property accepted under this section;

(3) proceeds from the sale of donated property; and

(4) income from securities under subsection (c) of this section.

(c) INVESTMENT OF FUND BALANCES.—On request of the Maritime Administrator, the Secretary of the Treasury may invest and reinvest amounts in the Fund in securities of, or in securities the principal and interest of which is guaranteed by, the United States Government.

(d) DISBURSEMENT AUTHORITY.—There are hereby authorized to be disbursed from the Fund such sums as may be on deposit, to remain available until expended.

(e) DEDUCTIBILITY OF GIFTS.—Gifts accepted under this section are a gift to or for the use of the Government under the Internal Revenue Code of 1986.

§ 51317. Adjunct professors

(a) IN GENERAL.—The Maritime Administrator may establish a program for the purpose of contracting with individuals as personal services contractors to provide services as adjunct professors at the Academy, if the Maritime Administrator determines that there is a need for adjunct professors and the need is not of permanent duration.

(b) CONTRACT REQUIREMENTS.—Each contract under the program—

(1) must be approved by the Maritime Administrator; [and]

(2) shall be for a duration, including options, of not to exceed one year unless the Maritime Administrator finds that exceptional circumstances justify an extension of up to one additional year[.]*; and*

(3) shall be subject to the availability of appropriations.

[(c) LIMITATION ON NUMBER OF CONTRACTORS.—In awarding contacts under this section, the Maritime Administrator shall ensure that not more than 25 individuals actively provide services in any one academic trimester, or equivalent, as contractors under subsection (a).

[(d) REPORTING REQUIREMENTS.—When the authority granted by subsection (a) is used to hire an adjunct professor at the Academy in fiscal year 2010 or fiscal year 2011, the Administrator shall notify the Committee on Armed Services of the House of Representatives, the Committee on Armed Services of the Senate, and the Committee on Commerce, Science, and Transportation of the Senate, including the need for and the term of employment for the adjunct professor.]

§ 51320. Acceptance of guarantees with gifts for major projects

(a) DEFINITIONS.—In this section:

(1) MAJOR PROJECT.—The term "major project" means a project estimated to cost at least $1,000,000 for—

(A) the purchase or other procurement of real or personal property; or

(B) the construction, renovation, or repair of real or personal property.

(2) MAJOR UNITED STATES COMMERCIAL BANK.—The term "major United States commercial bank" means a commercial bank that—

(A) is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) is headquartered in the United States; and

(C) has total net assets of an amount considered by the Maritime Administrator to qualify the bank as a major bank.

(3) MAJOR UNITED STATES INVESTMENT MANAGEMENT FIRM.—The term "major United States investment management firm" means—

(A) any broker or dealer (as such terms are defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c));

(B) any investment adviser or provider of investment supervisory services (as such terms are defined in section 202

of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2)); or

(C) a major United States commercial bank that—

(i) is headquartered in the United States; and

(ii) holds for the account of others investment assets in a total amount considered by the Maritime Administrator to qualify the bank as a major investment management firm.

(4) QUALIFIED GUARANTEE.—The term "qualified guarantee", with respect to a major project, means a guarantee that—

(A) is made by 1 or more persons in connection with a donation for the project of a total amount in cash or securities that the Maritime Administrator determines is sufficient to defray a substantial portion of the total cost of the project;

(B) is made to facilitate or expedite the completion of the project in reasonable anticipation that other donors will contribute sufficient funds or other resources in amounts sufficient to pay for completion of the project;

(C) is set forth as a written agreement providing that the donor will furnish in cash or securities, in addition to the donor's other gift or gifts for the project, any additional amount that may become necessary for paying the cost of completing the project by reason of a failure to obtain from other donors or sources funds or other resources in amounts sufficient to pay the cost of completing the project; and

(D) is accompanied by—

(i) an irrevocable and unconditional standby letter of credit for the benefit of the United States Merchant Marine Academy that is in the amount of the guarantee and is issued by a major United States commercial bank; or

(ii) a qualified account control agreement.

(5) QUALIFIED ACCOUNT CONTROL AGREEMENT.—The term "qualified account control agreement", with respect to a guarantee of a donor, means an agreement among the donor, the Maritime Administrator, and a major United States investment management firm that—

(A) ensures the availability of sufficient funds or other financial resources to pay the amount guaranteed during the period of the guarantee;

(B) provides for the perfection of a security interest in the assets of the account for the United States for the benefit of the United States Merchant Marine Academy with the highest priority available for liens and security interests under applicable law;

(C) requires the donor to maintain in an account with the investment management firm assets having a total value that is not less than 130 percent of the amount guaranteed; and

(D) requires the investment management firm, whenever the value of the account is less than the value required to be maintained under subparagraph (C), to liquidate any noncash assets in the account and reinvest the proceeds in Treasury bills issued under section 3104 of title 31.

(b) ACCEPTANCE AUTHORITY.—Subject to subsection (d), the Maritime Administrator may accept a qualified guarantee from a donor or donors for the completion of a major project for the benefit of the United States Merchant Marine Academy.

(c) OBLIGATION AUTHORITY.—The amount of a qualified guarantee accepted under this section shall be considered as contract authority to provide obligation authority for purposes of Federal fiscal and contractual requirements. Funds available for a project for which such a guarantee has been accepted may be obligated and expended for the project without regard to whether the total amount of funds and other resources available for the project (not taking into account the amount of the guarantee) is sufficient to pay for completion of the project.

(d) NOTICE.—The Maritime Administrator may not accept a qualified guarantee under this section for the completion of a major project until 30 days after the date on which a report of the facts concerning the proposed guarantee is submitted to Congress.

(e) PROHIBITION ON COMMINGLING FUNDS.—The Maritime Administrator may not enter into any contract or other transaction involving the use of a qualified guarantee and appropriated funds in the same contract or transaction.

§51321. Grants for scientific and educational research

(a) DEFINED TERM.—In this section, the term "qualifying research grant" is a grant that—

(1) is awarded on a competitive basis by the Federal Government (except for the Department of Transportation), a State, a corporation, a fund, a foundation, an educational institution, or a similar entity that is organized and operated primarily for scientific or educational purposes; and

(2) is to be used to carry out a research project with a scientific or educational purpose.

(b) ACCEPTANCE OF QUALIFYING RESEARCH GRANTS.—Notwithstanding any other provision of law, the United States Merchant Marine Academy may compete for and accept qualifying research grants if the work under the grant is to be carried out by a professor or instructor of the United States Merchant Marine Academy.

(c) ADMINISTRATION OF GRANT FUNDS.—

(1) ESTABLISHMENT OF ACCOUNT.—The Maritime Administrator shall establish a separate account for administering funds received from research grants under this section.

(2) USE OF GRANT FUNDS.—The Superintendent shall use grant funds deposited into the account established pursuant to paragraph (1) in accordance with applicable regulations and the terms and conditions of the respective grants.

(d) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the United States Merchant Marine Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, a qualifying research grant.

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART C. FINANCIAL ASSISTANCE PROGRAMS

CHAPTER 541. MISCELLANEOUS

§ 54101. Assistance for small shipyards and maritime communities

(a) ESTABLISHMENT OF PROGRAM.—Subject to the availability of appropriations, the Administrator of the Maritime Administration shall execute agreements with shipyards to provide assistance—

(1) in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

(2) for maritime training programs to foster technical skills and operational productivity in communities whose economies are related to or dependent upon the maritime industry.

[(b) AWARDS.—In providing assistance under the program, the Administrator shall—

[(1) take into account—

[(A) the economic circumstances and conditions of maritime communities;

[(B) projects that would be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and

[(C) projects that would be effective in fostering employee skills and enhancing productivity; and

[(2) make grants within 120 days after the date of enactment of the appropriations Act for the fiscal year concerned.]

(b) AWARDS.—

(1) IN GENERAL.—In providing assistance under the program, the Administrator shall take into account—

(A) the economic circumstances and conditions of maritime communities;

(B) projects that would be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and

(C) projects that would be effective in fostering employee skills and enhancing productivity.

(2) TIMING OF AWARD.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator shall award grants under this section not later than 120 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

(B) REALLOCATION OF UNUSED FUNDS.—If a grant is awarded under this section and, for any reason, the grant funds are not used by the grantee—

(i) such funds shall remain available until expended; and

(ii) the Administrator may—

(I) use such unused funds to award another grant under this section in the fiscal year concerned; or

(II) reallocate such unused funds for grants in a subsequent fiscal year.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Assistance provided under this section may be used—

(A) to make capital and related improvements in small shipyards located in or near maritime communities;

(B) to provide training for workers in communities whose economies are related to the maritime industry; and

(C) for such other purposes as the Administrator determines to be consistent with and supplemental to such activities.

(2) ADMINISTRATIVE COSTS.—Not more than 2 percent of amounts made available to carry out the program may be used for the necessary costs of grant administration.

(3) BUY AMERICA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out this chapter unless the steel, iron, and manufactured products used in such project are produced in the United States.

(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply if the Secretary finds that—

(i) their application would be inconsistent with the public interest;

(ii) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) inclusion of domestic material will increase the cost of the overall project by more than 25 percent.

(d) PROHIBITED USES.—Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land unless such use is specifically approved by the Administrator in support of subsection (c)(1)(C).

(e) MATCHING REQUIREMENTS; ALLOCATION.—

(1) FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

(2) EXCEPTION.—If the Administrator determines that a proposed project merits support and cannot be undertaken without a higher percentage of Federal financial assistance, the Administrator may award a grant for such project with a lesser matching requirement than is described in paragraph (1).

(3) ALLOCATION OF FUNDS.—The Administrator may not award more than 25 percent of the funds appropriated to carry out this section for any fiscal year to any small shipyard in one geographic location that has more than 600 employees.

(f) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for assistance under this section, an applicant shall submit an application, in such form, and containing such information and assurances as the Administrator may require, within 60 days after the date of enactment of the appropriations Act for the fiscal year concerned.

(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application submitted under paragraph (1) shall include—

(A) a comprehensive description of—

(i) the need for the project;

(ii) the methodology for implementing the project; and

(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.[1]

(3) PROCEDURAL SAFEGUARDS.—The Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

(A) grant funds are used for the purposes for which they were made available;

(B) grantees have properly accounted for all expenditures of grant funds; and

(C) grant funds not used for such purposes and amounts not obligated or expended are returned.

(4) PROJECT APPROVAL REQUIRED.—The Administrator may not award a grant under this section unless the Administrator determines that—

(A) sufficient funding is available to meet the matching requirements of subsection (e);

(B) the project will be completed without unreasonable delay; and

(C) the recipient has authority to carry out the proposed project.

(g) AUDITS AND EXAMINATIONS.—All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator.

(h) SMALL SHIPYARD DEFINED.—In this section, the term "small shipyard" means a shipyard facility in one geographic location that does not have more than 1,200 employees.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Maritime Administration for each of fiscal years ⟦2015 through 2017⟧ *2018 through 2020* to carry out this section—

(1) ⟦$5,000,000⟧ *$7,500,000* for training grants; and

(2) ⟦$25,000,000⟧ *$27,500,000* for capital and related improvements.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2017

[Public Law 114–328; 130 Stat. 2000]

SEC. 3514. SEA YEAR COMPLIANCE.

⟦Not later than⟧

(a) VESSEL OPERATOR REQUIREMENTS.—Not later than 90 days after the date of the enactment of this Act, the Maritime Administrator, in consultation with operators of commercial vessels of the United States, shall establish—

(1) criteria that vessel operators must meet in order to participate in the Sea Year program of the United States Mer-

[1] So in original. There is no subparagraph (B).

chant Marine Academy that addresses sexual harassment, sexual assault, and other inappropriate conduct; and

(2) a process for verifying compliance with the criteria.

(b) SATELLITE PHONE ACCESS.—The Maritime Administrator shall ensure that each student participating in the Sea Year program is provided or has access to a functional satellite communication device. A student may not be denied from using such device whenever the student determines that such use is necessary to prevent or report sexual harassment or assault.

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