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1ST SESSION

H. R. 2722

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Commerce, Science, and
Transportation

AN ACT

To restructure the Coast Guard Integrated Deepwater
Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Integrated Deepwater
3 Program Reform Act”.

4 **SEC. 2. IMPLEMENTATION OF COAST GUARD INTEGRATED
5 DEEPWATER ACQUISITION PROGRAM.**

6 (a) USE OF PRIVATE SECTOR ENTITY AS A LEAD
7 SYSTEMS INTEGRATOR.—

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the Secretary may not use
10 a private sector entity as a lead systems integrator
11 for procurements under, or in support of, the Deep-
12 water Program beginning on the earlier of October
13 1, 2011, or the date on which the Secretary certifies
14 in writing to the Committee on Transportation and
15 Infrastructure of the House of Representatives and
16 the Committee on Commerce, Science, and Trans-
17 portation of the Senate that the Coast Guard has
18 available and can retain sufficient contracting per-
19 sonnel and expertise within the Coast Guard,
20 through an arrangement with other Federal agen-
21 cies, or through contracts or other arrangements
22 with private sector entities, to perform the functions
23 and responsibilities of the lead system integrator in
24 an efficient and cost-effective manner.

25 (2) COMPLETION OF EXISTING DELIVERY OR-
26 DERS AND TASK ORDERS.—The Secretary may use

1 a private sector entity as a lead systems integrator
2 to complete any delivery order or task order under
3 the Deepwater Program that was issued to the lead
4 systems integrator on or before the date of enact-
5 ment of this Act.

6 (3) ASSISTANCE OF OTHER FEDERAL AGEN-
7 CIES.—In any case in which the Secretary is the sys-
8 tems integrator under the Deepwater Program, the
9 Secretary may obtain any type of assistance the Sec-
10 retary considers appropriate, with any systems inte-
11 gration functions, from any Federal agency with ex-
12 perience in systems integration involving maritime
13 vessels and aircraft.

14 (4) ASSISTANCE OF PRIVATE SECTOR ENTI-
15 TIES.—In any case in which the Secretary is the sys-
16 tems integrator under the Deepwater Program, the
17 Secretary may, subject to the availability of appro-
18 priations, obtain by grant, contract, or cooperative
19 agreement any type of assistance the Secretary con-
20 siders appropriate, with any systems integration
21 functions, from any private sector entity with experi-
22 ence in systems integration involving maritime ves-
23 sels and aircraft.

24 (b) COMPETITION.—

16 (B) by not later than 30 days before the
17 date of the award of a contract for the procure-
18 ment, the Secretary submits to the Committee
19 on Transportation and Infrastructure of the
20 House of Representatives and the Committee
21 on Commerce, Science, and Transportation of
22 the Senate a report explaining why such pro-
23 curement is in the best interests of the Federal
24 Government.

11 (1) TECHNICAL REVIEWS.—A requirement that
12 the Secretary shall conduct a technical review of all
13 proposed designs, design changes, and engineering
14 changes, and a requirement that the contractor must
15 specifically address all engineering concerns identi-
16 fied in the technical reviews, before any funds may
17 be obligated.

22 (3) COST ESTIMATE OF MAJOR CHANGES.—A
23 requirement that an independent cost estimate must
24 be prepared and approved by the Secretary before
25 the execution of any change order costing more than

1 5 percent of the unit cost approved in the Deepwater
2 Program baseline in effect as of May 2007.

10 (5) EARLY OPERATIONAL ASSESSMENT.—For
11 the acquisition of any cutter class for which an
12 Early Operational Assessment has not been devel-
13 oped—

22 (B) a requirement that the Coast Guard
23 shall develop a plan to address the findings pre-
24 sented in the Early Operational Assessment.

1 (6) TRANSIENT ELECTROMAGNETIC PULSE
2 EMANATION.—For the acquisition or upgrade of air,
3 surface, or shore assets for which compliance with
4 transient electromagnetic pulse emanation (TEM-
5 PEST) is a requirement, a provision specifying that
6 the standard for determining such compliance shall
7 be the air, surface, or shore asset standard then
8 used by the Department of the Navy.

22 (d) LIFE CYCLE COST ESTIMATE.—

23 (1) IN GENERAL.—The Secretary shall develop
24 an authoritative life cycle cost estimate for the
25 Deepwater Program.

5 (3) SUBMITTAL.—The Secretary shall—

12 (B) submit updates of the life cycle cost
13 estimate to such Committees annually.

14 (e) CONTRACT OFFICERS.—The Secretary shall as-
15 sign a separate contract officer for each class of cutter
16 and aircraft acquired or rehabilitated under the Deep-
17 water Program, including the National Security Cutter,
18 the Offshore Patrol Cutter, the Fast Response Cutter A,
19 the Fast Response Cutter B, maritime patrol aircraft, the
20 aircraft HC-130J, the helicopter HH-65, the helicopter
21 HH-60, and the vertical unmanned aerial vehicle.

22 (f) TECHNOLOGY RISK REPORT.—The Secretary
23 shall submit to the Committee on Transportation and In-
24 frastructure of the House of Representatives and the Com-
25 mittee on Commerce, Science, and Transportation of the

1 Senate a report identifying the technology risks and level
2 of maturity for major technologies used on each class of
3 asset acquisitions under the Deepwater Program, includ-
4 ing the Fast Response Cutter A (FRC–A), the Fast Re-
5 sponse Cutter B (FRC–B), the Offshore Patrol Cutter
6 (OPC), and the Vertical Unmanned Aerial Vehicle
7 (VUAV), not later than 90 days before the date of award
8 of a contract for such an acquisition.

9 (g) SUBMISSION OF ASSESSMENT RESULTS AND
10 PLANS TO CONGRESS.—The Commandant of the Coast
11 Guard shall submit to the Committee on Transportation
12 and Infrastructure of the House of Representatives and
13 the Committee on Commerce, Science, and Transportation
14 of the Senate—

15 (1) the results of each Early Operational As-
16 sessment conducted pursuant to subsection (c)(5)(A)
17 and the plan approved by the Commandant pursuant
18 to subsection (c)(5)(B) for addressing the findings
19 of such assessment, within 30 days after the Com-
20 mandant approves the plan; and

21 (2) a report describing how the recommenda-
22 tions of each Early Operational Assessment con-
23 ducted pursuant to subsection (c)(5)(A) on the first
24 in class of a new cutter class have been addressed

1 in the design on which construction is to begin, with-
2 in 30 days before initiation of construction.

3 **SEC. 3. CHIEF ACQUISITION OFFICER.**

4 (a) IN GENERAL.—Chapter 3 of title 14, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 55. Chief Acquisition Officer**

8 “(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISI-
9 TION OFFICER.—The Commandant shall appoint or des-
10 ignate a career reserved employee as Chief Acquisition Of-
11 ficer for the Coast Guard, who shall—

12 “(1) have acquisition management as that offi-
13 cial’s primary duty; and

14 “(2) report directly to the Commandant to ad-
15 vise and assist the Commandant to ensure that the
16 mission of the Coast Guard is achieved through the
17 management of the Coast Guard’s acquisition activi-
18 ties.

19 “(b) AUTHORITY AND FUNCTIONS OF THE CHIEF
20 ACQUISITION OFFICER.—The functions of the Chief Ac-
21 quisition Officer shall include—

22 “(1) monitoring the performance of acquisition
23 activities and acquisition programs of the Coast
24 Guard, evaluating the performance of those pro-
25 grams on the basis of applicable performance meas-

1 urements, and advising the Commandant regarding
2 the appropriate business strategy to achieve the mis-
3 sion of the Coast Guard;

4 “(2) increasing the use of full and open com-
5 petition in the acquisition of property and services
6 by the Coast Guard by establishing policies, proce-
7 dures, and practices that ensure that the Coast
8 Guard receives a sufficient number of sealed bids or
9 competitive proposals from responsible sources to
10 fulfill the Government’s requirements (including per-
11 formance and delivery schedules) at the lowest cost
12 or best value considering the nature of the property
13 or service procured;

14 “(3) ensuring the use of detailed performance
15 specifications in instances in which performance-
16 based contracting is used;

17 “(4) making acquisition decisions consistent
18 with all applicable laws and establishing clear lines
19 of authority, accountability, and responsibility for
20 acquisition decisionmaking within the Coast Guard;

21 “(5) managing the direction of acquisition pol-
22 icy for the Coast Guard, including implementation of
23 the unique acquisition policies, regulations, and
24 standards of the Coast Guard;

1 “(6) developing and maintaining an acquisition
2 career management program in the Coast Guard to
3 ensure that there is an adequate professional work-
4 force; and

5 “(7) as part of the strategic planning and per-
6 formance evaluation process required under section
7 306 of title 5 and sections 1105(a)(28), 1115, 1116,
8 and 9703 of title 31—

9 “(A) assessing the requirements estab-
10 lished for Coast Guard personnel regarding
11 knowledge and skill in acquisition resources
12 management and the adequacy of such require-
13 ments for facilitating the achievement of the
14 performance goals established for acquisition
15 management;

16 “(B) in order to rectify any deficiency in
17 meeting such requirements, developing strate-
18 gies and specific plans for hiring, training, and
19 professional development; and

20 “(C) reporting to the Commandant on the
21 progress made in improving acquisition man-
22 agement capability.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of such chapter is amended by adding
25 at the end the following:

“55. Chief Acquisition Officer.”.

1 (c) SPECIAL RATE SUPPLEMENTS.—

2 (1) REQUIREMENT TO ESTABLISH.—Not later
3 than 1 year after the date of enactment of this Act
4 and in accordance with part 9701.333 of title 5,
5 Code of Federal Regulations, the Commandant of
6 the Coast Guard shall establish special rate supple-
7 ments that provide higher pay levels for employees
8 necessary to carry out the amendment made by this
9 section.

10 (2) SUBJECT TO APPROPRIATIONS.—The re-
11 quirement under paragraph (1) is subject to the
12 availability of appropriations.

13 SEC. 4. TESTING AND CERTIFICATION.

14 (a) IN GENERAL.—The Secretary shall—

1 tic and North Pacific sea conditions for a period of
2 at least 30 years;

3 (3) cause all electronics on all aircraft, surface,
4 and shore assets that require TEMPEST certifi-
5 cation and that are delivered after the date of enact-
6 ment of this Act to be tested and certified in accord-
7 ance with TEMPEST standards and communica-
8 tions security (COMSEC) standards by an inde-
9 pendent third party that is authorized by the Fed-
10 eral Government to perform such testing and certifi-
11 cation; and

12 (4) cause all aircraft and aircraft engines ac-
13 quired by the Coast Guard and delivered after the
14 date of enactment of this Act to be certified for air-
15 worthiness by an independent third party with ex-
16 pertise in aircraft and aircraft engine certification,
17 before acceptance of delivery.

18 (b) FIRST IN CLASS OF A MAJOR ASSET ACQUISI-
19 TION.—The Secretary shall cause the first in class of a
20 major asset acquisition of a cutter or an aircraft to be
21 subjected to an assessment of operational capability con-
22 ducted by the Secretary of the Navy.

23 (c) FINAL ARBITER.—The Secretary shall be the
24 final arbiter of all technical disputes regarding designs

1 and acquisitions of vessels and aircraft for the Coast
2 Guard.

3 **SEC. 5. NATIONAL SECURITY CUTTERS.**

4 (a) NATIONAL SECURITY CUTTERS 1 AND 2.—

5 (1) REPORT ON OPTIONS UNDER CONSIDER-
6 ATION.—The Secretary shall submit to the Com-
7 mittee on Transportation and Infrastructure of the
8 House of Representatives and the Committee on
9 Commerce, Science, and Transportation of the Sen-
10 ate—

11 (A) within 120 days after the date of en-
12 actment of this Act, a report describing in de-
13 tail the cost increases that have been experi-
14 enced on National Security Cutters 1 and 2
15 since the date of the issuance of the task orders
16 for construction of those cutters and explaining
17 the causes of these cost increases; and

18 (B) within 180 days after the date of en-
19 actment of this Act, a report on the options
20 that the Coast Guard is considering to
21 strengthen the hulls of National Security Cutter
22 1 and National Security Cutter 2, including—

23 (i) the costs of each of the options
24 under consideration;

1 (ii) a schedule for when the hull
2 strengthening repairs are anticipated to be
3 performed; and

4 (iii) the impact that the weight likely
5 to be added to each the cutter by each op-
6 tion will have on the cutter's ability to
7 meet both the original performance re-
8 quirements included in the Deepwater Pro-
9 gram contract and the performance re-
10 quirements created by contract Amend-
11 ment Modification 00042 dated February
12 7, 2007.

(2) DESIGN ASSESSMENT.—Not later than 30 days before the Coast Guard signs any contract, delivery order, or task order to strengthen the hull of either of National Security Cutter 1 or 2 to resolve the structural design and performance issues identified in the Department of Homeland Security Inspector General's report OIG-07-23 dated January 2007, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate all results of an assessment of the proposed hull strengthening design conducted by the Naval Surface Warfare

1 Center, Carderock Division, including a description
2 in detail of the extent to which the hull strength-
3 ening measures to be implemented on those cutters
4 will enable the cutters to meet a 185-underway-day
5 requirement under general Atlantic and North Pa-
6 cific sea conditions for a period of at least 30 years.

7 (b) NATIONAL SECURITY CUTTERS 3 THROUGH 8.—
8 Not later than 30 days before the Coast Guard signs any
9 contract, delivery order, or task order authorizing con-
10 struction of National Security Cutters 3 through 8, the
11 Secretary shall submit to the Committee on Transpor-
12 tation and Infrastructure of the House of Representatives
13 and the Committee on Commerce, Science, and Transpor-
14 tation of the Senate all results of an assessment of the
15 proposed designs to resolve the structural design, safety,
16 and performance issues identified by the Department of
17 Homeland Security Office of Inspector General report
18 OIG-07-23 for the hulls of those cutters conducted by the
19 Naval Surface Warfare Center, Carderock Division, in-
20 cluding a description in detail of the extent to which such
21 designs will enable the cutters to meet a 185-underway-
22 day requirement under general Atlantic and North Pacific
23 sea conditions.

1 **SEC. 6. MISCELLANEOUS REPORTS.**

2 (a) IN GENERAL.—The Secretary shall submit the
3 following reports to the Committee on Transportation and
4 Infrastructure of the House of Representatives and the
5 Committee on Commerce, Science, and Transportation of
6 the Senate:

7 (1) Within 4 months after the date of enact-
8 ment of this Act, a justification for why 8 National
9 Security Cutters are required to meet the oper-
10 ational needs of the Coast Guard, including—

11 (A) how many days per year each National
12 Security Cutter will be underway at sea;

13 (B) where each National Security Cutter
14 will be home ported;

15 (C) the amount of funding that will be re-
16 quired to establish home port operations for
17 each National Security Cutter;

18 (D) the extent to which 8 National Secu-
19 rity Cutters deployed without vertical un-
20 manned aerial vehicles (VUAV) will meet or ex-
21 ceed the mission capability (including surveil-
22 lance capacity) of the 12 Hamilton-class high
23 endurance cutters that the National Security
24 Cutters will replace;

1 (E) the business case in support of con-
2 structing National Security Cutters 3 through
3 8, including a cost-benefit analysis; and

4 (F) an analysis of how many Offshore Pa-
5 trol Cutters would be required to provide the
6 patrol coverage provided by a National Security
7 Cutter.

10 (A) the impact that deployment of a Na-
11 tional Security Cutter and other cutter assets
12 without the vertical unmanned aerial vehicle
13 (VUAV) will have on the amount of patrol cov-
14 erage that will be able to be provided during
15 missions conducted by the National Security
16 Cutter and all other cutters planned to be
17 equipped with a VUAV;

18 (B) how the coverage gap will be made up;
19 (C) an update on the current status of the
20 development of the VUAV; and

21 (D) the timeline detailing the major mile-
22 stones to be achieved during development of the
23 VUAV and identifying the delivery date for the
24 first and last VUAV.

20 (6) Not less than 60 days before signing a con-
21 tract to acquire any vessel or aircraft, a report com-
22 paring the cost of purchasing that vessel or aircraft
23 directly from the manufacturer or shipyard with the
24 cost of procuring it through the Integrated Coast
25 Guard System.

20 (A) a description of how the Coast Guard
21 will cultivate among uniformed personnel exper-
22 tise in acquisitions management and financial
23 management;

24 (B) a description of the processes that will
25 be followed to draft and ensure technical review

1 of procurement packages, including statements
2 of work, for any class of assets acquired by the
3 Coast Guard;

4 (C) a description of how the Coast Guard
5 will conduct an independent cost estimating
6 process, including independently developing cost
7 estimates for major change orders; and

(D) a description of how Coast Guard will strengthen the management of change orders.

15 (A) identification of all managerial posi-
16 tions proposed as part of the office, the func-
17 tions that each managerial position will fill, and
18 the number of employees each manager will su-
19 pervise; and

20 (B) a formal organizational chart and
21 identification of when managerial positions are
22 to be filled.

23 (10) Ninety days prior to the issuance of a Re-
24 quest for Proposals for construction of an Offshore
25 Patrol Cutter, a report detailing the service life, fa-

1 tigue life, maximum range, maximum speed, and
2 number of days underway under general Atlantic
3 and North Pacific Sea conditions the cutter shall be
4 built to achieve.

15 (A) A description of the mission performance gap detailing the geographic regions and
16 Coast Guard capabilities affected.
17

18 (B) An analysis of factors affecting the
19 mission performance gap that are unrelated to
20 the Deepwater Program, including deployment
21 of Coast Guard assets overseas and continuous
22 vessel shortages.

23 (C) A description of measures being taken
24 in the near term to fill the mission performance

1 gap, including what those measures are and
2 when they will be implemented.

3 (D) A description of measures being taken
4 in the long term to fill the mission performance
5 gap, including what those measures are and
6 when they will be implemented.

7 (E) A description of the potential alter-
8 natives to fill the mission performance gap, in-
9 cluding any acquisition or lease considered and
10 the reasons they were not pursued.

11 (b) REPORT REQUIRED ON ACCEPTANCE OF DELIV-
12 ERY OF INCOMPLETE ASSET.—

13 (1) IN GENERAL.—If the Secretary accepts de-
14 livery of an asset after the date of enactment of this
15 Act for which a contractually required certification
16 cannot be achieved within 30 days after the date of
17 delivery or with any system that is not fully func-
18 tional for the mission for which it was intended, the
19 Secretary shall submit to the Committee on Trans-
20 portation and Infrastructure of the House of Rep-
21 resentatives and the Committee on Commerce,
22 Science, and Transportation of the United States
23 Senate within 30 days after accepting delivery of the
24 asset a report explaining why acceptance of the asset

1 in such a condition is in the best interests of the
2 United States Government.

3 (2) CONTENTS.—The report shall—

4 (A) specify the systems that are not able
5 to achieve contractually required certifications
6 within 30 days after the date of delivery and
7 the systems that are not fully functional at the
8 time of delivery for the missions for which they
9 were intended;

10 (B) identify milestones for the completion
11 of required certifications and to make all sys-
12 tems fully functional; and

13 (C) identify when the milestones will be
14 completed, who will complete them, and the cost
15 to complete them.

16 **SEC. 7. USE OF THE NAVAL SEA SYSTEMS COMMAND, THE**
17 **NAVAL AIR SYSTEMS COMMAND, AND THE**
18 **SPACE AND NAVAL WARFARE SYSTEMS COM-**
19 **MAND TO ASSIST THE COAST GUARD IN EX-**
20 **ERCISING TECHNICAL AUTHORITY FOR THE**
21 **DEEPWATER PROGRAM AND OTHER COAST**
22 **GUARD ACQUISITION PROGRAMS.**

23 (a) FINDINGS.—Congress finds that the Coast
24 Guard's use of the technical, contractual, and program
25 management oversight expertise of the Department of the

1 Navy in ship and aircraft production complements and
2 augments the Coast Guard's organic expertise as it pro-
3 cures assets for the Deepwater Program.

4 (b) INTER-SERVICE TECHNICAL ASSISTANCE.—The
5 Secretary may enter into a memorandum of understanding
6 or a memorandum of agreement with the Secretary of the
7 Navy to provide for the use of the Navy Systems Com-
8 mands to assist the Coast Guard with the oversight of
9 Coast Guard major acquisition programs. Such memo-
10 randum of understanding or memorandum of agreement
11 shall, at a minimum provide for—

12 (1) the exchange of technical assistance and
13 support that the Coast Guard Chief Engineer and
14 the Coast Guard Chief Information Officer, as Coast
15 Guard Technical Authorities, may identify;

16 (2) the use, as appropriate, of Navy technical
17 expertise; and

18 (3) the temporary assignment or exchange of
19 personnel between the Coast Guard and the Navy
20 Systems Commands to facilitate the development of
21 organic capabilities in the Coast Guard.

22 (c) TECHNICAL AUTHORITIES.—The Coast Guard
23 Chief Engineer, Chief Information Officer, and Chief Ac-
24 quisition Officer shall adopt, to the extent practicable, pro-
25 cedures that are similar to those used by the Navy Senior

1 Acquisition Official to ensure the Coast Guard Technical
2 Authorities, or designated Technical Warrant Holders, ap-
3 prove all technical requirements.

4 (d) COORDINATION.—The Secretary, acting through
5 the Commandant of the Coast Guard, may coordinate with
6 the Secretary of the Navy, acting through the Chief of
7 Naval Operations, to develop processes by which the as-
8 sistance will be requested from the Navy Systems Com-
9 mands and provided to the Coast Guard.

10 (e) REPORT.—Not later than 120 days after the date
11 of enactment of this Act and every twelve months there-
12 after, the Commandant of the Coast Guard shall report
13 to the Committee on Transportation and Infrastructure
14 of the House of Representatives and the Committee on
15 Commerce, Science, and Transportation of the Senate on
16 the activities undertaken pursuant to such memorandum
17 of understanding or memorandum of agreement.

18 **SEC. 8. DEFINITIONS.**

19 In this Act:

20 (1) DEEPWATER PROGRAM.—The term “Deep-
21 water Program” means the Integrated Deepwater
22 Systems Program described by the Coast Guard in
23 its report to Congress entitled “Revised Deepwater
24 Implementation Plan 2005”, dated March 25, 2005.
25 The Deepwater Program primarily involves the pro-

1 curement of cutter and aviation assets that operate
2 more than 50 miles offshore.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of the department in which the Coast
5 Guard is operating.

Passed the House of Representatives July 31, 2007.

Attest: LORRAINE C. MILLER,

Clerk.