

110TH CONGRESS
1ST SESSION

H. R. 2722

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2007

Mr. CUMMINGS (for himself and Mr. OBERSTAR) introduced the following bill;
which was referred to the Committee on Transportation and Infrastructure

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Integrated Deepwater
5 Program Reform Act”.

6 **SEC. 2. IMPLEMENTATION OF COAST GUARD INTEGRATED**
7 **DEEPWATER ACQUISITION PROGRAM.**

8 (a) USE OF PRIVATE SECTOR ENTITY AS A LEAD
9 SYSTEMS INTEGRATOR.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the Secretary may not use
3 a private sector entity as a lead systems integrator
4 for procurements under, or in support of, the Deep-
5 water Program beginning 24 months after the date
6 of enactment of this Act.

7 (2) COMPLETION OF EXISTING DELIVERY OR-
8 DERS AND TASK ORDERS.—The Secretary may use
9 a private sector entity as a lead systems integrator
10 to complete any delivery order or task order under
11 the Deepwater Program that was issued to the lead
12 systems integrator on or before the date of enact-
13 ment of this Act.

14 (3) ASSISTANCE OF OTHER FEDERAL AGEN-
15 CIES.—In any case in which the Secretary is the sys-
16 tems integrator under the Deepwater Program, the
17 Secretary may obtain any type of assistance the Sec-
18 retary considers appropriate, with any systems inte-
19 gration functions, from any Federal agency with ex-
20 perience in systems integration involving maritime
21 vessels and aircraft.

22 (b) COMPETITION.—

23 (1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, the Secretary shall use full
25 and open competition for each class of asset acquisi-

1 tions under the Deepwater Program for which an
2 outside contractor is used, if the asset is procured
3 directly by the Coast Guard or by the Integrated
4 Coast Guard System acting under a contract with
5 the Coast Guard.

6 (2) EXCEPTION.—The Secretary may use a pro-
7 curement method that is less than full and open
8 competition to procure an asset under the Deep-
9 water Program, if—

10 (A) the Secretary determines that such
11 method is in the best interests of the Federal
12 Government; and

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

22 (3) LIMITATION ON APPLICATION.—Paragraph
23 (1) shall not apply to a contract, subcontract, or
24 task order that was issued before the date of enact-

1 ment of this Act, if there is no change in the quan-
2 tity of assets or the specific type of assets procured.

3 (c) REQUIRED CONTRACT TERMS.—The Secretary
4 shall include in each contract, subcontract, and task order
5 issued under the Deepwater Program after the date of the
6 enactment of this Act the following provisions, as applica-
7 ble:

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

15 (2) RESPONSIBILITY FOR TECHNICAL REQUIRE-
16 MENTS.—A requirement that the Secretary shall
17 maintain the authority to establish, approve, and
18 maintain technical requirements.

19 (3) COST ESTIMATE OF MAJOR CHANGES.—A
20 requirement that an independent cost estimate must
21 be prepared and approved by the Secretary before
22 the execution of any change order costing more than
23 5 percent of the unit cost approved in the Deepwater
24 Program baseline in effect as of May 2007.

1 (4) PERFORMANCE MEASUREMENT.—A require-
2 ment that any measurement of contractor and sub-
3 contractor performance must be based on the status
4 of all work performed, including the extent to which
5 the work performed met all cost, schedule, and mis-
6 sion performance requirements outlined in the Deep-
7 water Program contract.

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

12 (A) a requirement that the Secretary of
13 the Department in which the Coast Guard is
14 operating shall cause an Early Operational As-
15 sessment to be conducted by the Department of
16 the Navy after the development of the prelimi-
17 nary design of the cutter and before the con-
18 duct of the critical design review of the cutter;
19 and

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

23 (6) TRANSIENT ELECTROMAGNETIC PULSE
24 EMANATION.—For the acquisition or upgrade of air,
25 surface, or shore assets for which compliance with

1 transient electromagnetic pulse emanation (TEM-
2 PEST) is a requirement, a provision specifying that
3 the standard for determining such compliance shall
4 be the air, surface, or shore asset standard then
5 used by the Department of the Navy.

6 (7) OFFSHORE PATROL CUTTER UNDERWAY RE-
7 QUIREMENT.—For any contract issued to acquire an
8 Offshore Patrol Cutter, provisions specifying the
9 service life, fatigue life, days underway in general
10 Atlantic and North Pacific Sea conditions, maximum
11 range, and maximum speed the cutter shall be built
12 to achieve.

13 (8) INSPECTOR GENERAL ACCESS.—A require-
14 ment that the Department of Homeland Security’s
15 Office of the Inspector General shall have access to
16 all records maintained by all contractors working on
17 the Deepwater Program, and shall have the right to
18 privately interview any contractor personnel.

19 (d) LIFE CYCLE COST ESTIMATE.—

20 (1) IN GENERAL.—The Secretary shall develop
21 an authoritative life cycle cost estimate for the
22 Deepwater Program.

23 (2) CONTENTS.—The life cycle cost estimate
24 shall include asset acquisition and logistics support

1 decisions and planned operational tempo and loca-
2 tions as of the date of enactment of this Act.

3 (3) SUBMITTAL.—The Secretary shall—

4 (A) submit the life cycle cost estimate to
5 the Committee on Transportation and Infra-
6 structure of the House of Representatives and
7 the Committee on Commerce, Science, and
8 Transportation of the Senate within 4 months
9 after the date of enactment of this Act; and

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

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

20 (f) TECHNOLOGY RISK REPORT.—The Secretary
21 shall submit to the Committee on Transportation and In-
22 frastructure of the House of Representatives and the Com-
23 mittee on Commerce, Science, and Transportation of the
24 Senate a report identifying the technology risks and level
25 of maturity for major technologies used on each class of

1 asset acquisitions under the Deepwater Program, includ-
2 ing the Fast Response Cutter A (FRC-A), the Fast Re-
3 sponse Cutter B (FRC-B), the Offshore Patrol Cutter
4 (OPC), and the Vertical Unmanned Aerial Vehicle
5 (VUAV), not later than 90 days before the date of award
6 of a contract for such an acquisition.

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

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

19 (2) a report describing how the recommenda-
20 tions of each Early Operational Assessment con-
21 ducted pursuant to subsection (c)(5)(A) on the first
22 in class of a new cutter class have been addressed
23 in the design on which construction is to begin, with-
24 in 30 days before initiation of construction.

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

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

5 **“§ 55 Chief Acquisition Officer**

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

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

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

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

20 “(1) monitoring the performance of acquisition
21 activities and acquisition programs of the Coast
22 Guard, evaluating the performance of those pro-
23 grams on the basis of applicable performance meas-
24 urements, and advising the Commandant regarding
25 the appropriate business strategy to achieve the mis-
26 sion of the Coast Guard;

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

11 “(3) ensuring the use of detailed performance
12 specifications in instances in which performance-
13 based contracting is used;

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

18 “(5) managing the direction of acquisition poli-
19 cy for the Coast Guard, including implementation of
20 the unique acquisition policies, regulations, and
21 standards of the Coast Guard;

22 “(6) developing and maintaining an acquisition
23 career management program in the Coast Guard to
24 ensure that there is an adequate professional work-
25 force; and

1 “(7) as part of the strategic planning and per-
2 formance evaluation process required under section
3 306 of title 5 and sections 1105(a)(28), 1115, 1116,
4 and 9703 of title 31—

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

12 “(B) in order to rectify any deficiency in
13 meeting such requirements, developing strate-
14 gies and specific plans for hiring, training, and
15 professional development; and

16 “(C) reporting to the Commandant on the
17 progress made in improving acquisition man-
18 agement capability.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of such chapter is amended by adding
21 at the end the following:

 “55. Chief Acquisition Officer.”.

22 **SEC. 4. TESTING AND CERTIFICATION.**

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

24 (1) cause each cutter, other than a National Se-
25 curity Cutter, acquired by the Coast Guard and de-

1 livered after the date of enactment of this Act to be
2 classed by the American Bureau of Shipping, before
3 acceptance of delivery;

4 (2) cause the design and construction of each
5 National Security Cutter, other than National Security
6 Cutter 1 and 2, to be certified by an independent
7 third party with expertise in vessel design
8 and construction certification to be able to meet a
9 185-underway-day requirement under general Atlantic
10 and North Pacific sea conditions for a period of
11 at least 30 years;

12 (3) cause all electronics on all aircraft, surface,
13 and shore assets that require TEMPEST certification
14 and that are delivered after the date of enactment
15 of this Act to be tested and certified in accordance
16 with TEMPEST standards and communications security
17 (COMSEC) standards by an independent third party
18 that is authorized by the Federal Government to perform
19 such testing and certification; and

20 (4) cause all aircraft and aircraft engines acquired
21 by the Coast Guard and delivered after the date of
22 enactment of this Act to be certified for airworthiness
23 by an independent third party with ex-
24

1 pertise in aircraft and aircraft engine certification,
2 before acceptance of delivery.

3 (b) **FIRST IN CLASS OF A MAJOR ASSET ACQUISITION.**—The Secretary shall cause the first in class of a
4 major asset acquisition of a cutter or an aircraft to be
5 subjected to an assessment of operational capability con-
6 ducted by the Secretary of the Navy.

8 (c) **FINAL ARBITER.**—The Secretary shall be the
9 final arbiter of all technical disputes regarding designs
10 and acquisitions of vessels and aircraft for the Coast
11 Guard.

12 **SEC. 5. NATIONAL SECURITY CUTTERS.**

13 (a) **NATIONAL SECURITY CUTTERS 1 AND 2.**—

14 (1) **REPORT ON OPTIONS UNDER CONSIDER-**
15 **ATION.**—The Secretary shall submit to the Com-
16 mittee on Transportation and Infrastructure of the
17 House of Representatives and the Committee on
18 Commerce, Science, and Transportation of the Sen-
19 ate—

20 (A) within 120 days after the date of en-
21 actment of this Act, a report describing in de-
22 tail the cost increases that have been experi-
23 enced on National Security Cutters 1 and 2
24 since the date of the issuance of the task orders

1 for construction of those cutters and explaining
2 the causes of these cost increases; and

3 (B) within 180 days after the date of en-
4 actment of this Act, a report on the options
5 that the Coast Guard is considering to
6 strengthen the hulls of National Security Cutter
7 1 and National Security Cutter 2, including—

8 (i) the costs of each of the options
9 under consideration;

10 (ii) a schedule for when the hull
11 strengthening repairs are anticipated to be
12 performed; and

13 (iii) the impact that the weight likely
14 to be added to each the cutter by each op-
15 tion will have on the cutter's ability to
16 meet both the original performance re-
17 quirements included in the Deepwater Pro-
18 gram contract and the performance re-
19 quirements created by contract Amend-
20 ment Modification 00042 dated February
21 7, 2007.

22 (2) DESIGN ASSESSMENT.—Not later than 30
23 days before the Coast Guard signs any contract, de-
24 livery order, or task order to strengthen the hull of
25 either of National Security Cutter 1 or 2 to resolve

1 the structural design and performance issues identi-
2 fied in the Department of Homeland Security In-
3 spector General’s report OIG–07–23 dated January
4 2007, the Secretary shall submit to the Committee
5 on Transportation and Infrastructure of the House
6 of Representatives and the Committee on Commerce,
7 Science, and Transportation of the Senate all results
8 of an assessment of the proposed hull strengthening
9 design conducted by the Naval Surface Warfare
10 Center, Carderock Division, including a description
11 in detail of the extent to which the hull strength-
12 ening measures to be implemented on those cutters
13 will enable the cutters to meet a 185-underway-day
14 requirement under general Atlantic and North Pa-
15 cific sea conditions for a period of at least 30 years.

16 (b) NATIONAL SECURITY CUTTERS 3 THROUGH 8.—
17 Not later than 30 days before the Coast Guard signs any
18 contract, delivery order, or task order authorizing con-
19 struction of National Security Cutters 3 through 8, the
20 Secretary shall submit to the Committee on Transpor-
21 tation and Infrastructure of the House of Representatives
22 and the Committee on Commerce, Science, and Transpor-
23 tation of the Senate all results of an assessment of the
24 proposed designs to resolve the structural design, safety,
25 and performance issues identified by the Department of

1 Homeland Security Office of Inspector General report
2 OIG–07–23 for the hulls of those cutters conducted by the
3 Naval Surface Warfare Center, Carderock Division, in-
4 cluding a description in detail of the extent to which such
5 designs will enable the cutters to meet a 185-underway-
6 day requirement under general Atlantic and North Pacific
7 sea conditions.

8 **SEC. 6. MISCELLANEOUS REPORTS.**

9 (a) IN GENERAL.—The Secretary shall submit the
10 following reports to the Committee on Transportation and
11 Infrastructure of the House of Representatives and the
12 Committee on Commerce, Science, and Transportation of
13 the Senate:

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

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

20 (B) where each National Security Cutter
21 will be home ported;

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

1 (D) the extent to which 8 National Security
2 Cutters deployed without vertical un-
3 manned aerial vehicles (VUAV) will meet or ex-
4 ceed the mission capability (including surveil-
5 lance capacity) of the 12 Hamilton-class high
6 endurance cutters that the National Security
7 Cutters will replace;

8 (E) the business case in support of con-
9 structing National Security Cutters 3 through
10 8, including a cost-benefit analysis; and

11 (F) an analysis of how many Offshore Pa-
12 trol Cutters would be required to provide the
13 patrol coverage provided by a National Security
14 Cutter.

15 (2) Within 4 months after the date of enact-
16 ment of this Act, a report on—

17 (A) the impact that deployment of a Na-
18 tional Security Cutter and other cutter assets
19 without the vertical unmanned aerial vehicle
20 (VUAV) will have on the amount of patrol cov-
21 erage that will be able to be provided during
22 missions conducted by the National Security
23 Cutter and all other cutters planned to be
24 equipped with a VUAV;

25 (B) how the coverage gap will be made up;

1 (C) an update on the current status of the
2 development of the VUAV; and

3 (D) the timeline detailing the major mile-
4 stones to be achieved during development of the
5 VUAV and identifying the delivery date for the
6 first and last VUAV.

7 (3) Within 30 days after the elevation to flag-
8 level for resolution of any design or other dispute re-
9 garding the Deepwater Program contract or an item
10 to be procured under that contract, including a de-
11 tailed description of the issue and the rationale un-
12 derlying the decision taken by the flag officer to re-
13 solve the issue.

14 (4) Within 4 months after the date of enact-
15 ment of this Act, a report detailing the total number
16 of change orders that have been created by the
17 Coast Guard under the Deepwater Program before
18 the date of enactment of this Act, the total cost of
19 these change orders, and their impact on the Deep-
20 water Program schedule.

21 (5) Within 180 days after the date of enact-
22 ment of this Act, a report detailing the technology
23 risks and level of maturity for major technologies
24 used on maritime patrol aircraft, the HC-130J, and
25 the National Security Cutter.

1 (6) Not less than 60 days before signing a con-
2 tract to acquire any vessel or aircraft, a report com-
3 paring the cost of purchasing that vessel or aircraft
4 directly from the manufacturer or shipyard with the
5 cost of procuring it through the Integrated Coast
6 Guard System.

7 (7) Within 30 days after the Program Execu-
8 tive Officer of the Deepwater Program becomes
9 aware of a likely cost overrun exceeding 5 percent of
10 the overall asset acquisition contract cost or schedule
11 delay exceeding 5 percent of the estimated asset con-
12 struction period under the Deepwater Program, a
13 report by the Commandant containing a description
14 of the cost overrun or delay, an explanation of the
15 overrun or delay, a description of Coast Guard's re-
16 sponse, and a description of significant delays in the
17 procurement schedule likely to be caused by the
18 overrun or delay.

19 (8) Within 90 days after the date of enactment
20 of this Act, articulation of a doctrine and description
21 of an anticipated implementation of a plan for man-
22 agement of acquisitions programs, financial manage-
23 ment (including earned value management and cost
24 estimating), engineering and logistics management,
25 and contract management, that includes—

1 (A) a description of how the Coast Guard
2 will cultivate among uniformed personnel exper-
3 tise in acquisitions management and financial
4 management;

5 (B) a description of the processes that will
6 be followed to draft and ensure technical review
7 of procurement packages, including statements
8 of work, for any class of assets acquired by the
9 Coast Guard;

10 (C) a description of how the Coast Guard
11 will conduct an independent cost estimating
12 process, including independently developing cost
13 estimates for major change orders; and

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

16 (9) Within 4 months after the date of enact-
17 ment of this Act, a report on the development of a
18 new acquisitions office within the Coast Guard de-
19 scribing the specific staffing structure for that direc-
20 torate, including—

21 (A) identification of all managerial posi-
22 tions proposed as part of the office, the func-
23 tions that each managerial position will fill, and
24 the number of employees each manager will su-
25 pervise; and

1 (B) a formal organizational chart and
2 identification of when managerial positions are
3 to be filled.

4 (10) Ninety days prior to the issuance of a Re-
5 quest for Proposals for construction of an Offshore
6 Patrol Cutter, a report detailing the service life, fa-
7 tigue life, maximum range, maximum speed, and
8 number of days underway under general Atlantic
9 and North Pacific Sea conditions the cutter shall be
10 built to achieve.

11 (11) The Secretary shall report annually on the
12 percentage of the total amount of funds expended on
13 procurements under the Deepwater Program that
14 has been paid to each of small businesses and minor-
15 ity-owned businesses.

16 (b) REPORT REQUIRED ON ACCEPTANCE OF DELIV-
17 ERY OF INCOMPLETE ASSET.—

18 (1) IN GENERAL.—If the Secretary accepts de-
19 livery of an asset after the date of enactment of this
20 Act for which a contractually required certification
21 cannot be achieved within 30 days after the date of
22 delivery or with any system that is not fully func-
23 tional for the mission for which it was intended, the
24 Secretary shall submit to the Committee on Trans-
25 portation and Infrastructure of the House of Rep-

1 representatives and the Committee on Commerce,
2 Science, and Transportation of the United States
3 Senate within 30 days after accepting delivery of the
4 asset a report explaining why acceptance of the asset
5 in such a condition is in the best interests of the
6 United States Government.

7 (2) CONTENTS.—The report shall—

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

14 (B) identify milestones for the completion
15 of required certifications and to make all sys-
16 tems fully functional; and

17 (C) identify when the milestones will be
18 completed, who will complete them, and the cost
19 to complete them.

20 **SEC. 7. DEFINITIONS.**

21 In this Act:

22 (1) DEEPWATER PROGRAM.—The term “Deep-
23 water Program” means the Integrated Deepwater
24 Systems Program described by the Coast Guard in
25 its report to Congress entitled “Revised Deepwater

1 Implementation Plan 2005”, dated March 25, 2005.

2 The Deepwater Program primarily involves the pro-
3 curement of cutter and aviation assets that operate
4 more than 50 miles offshore.

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

○