

Calendar No. 171

110TH CONGRESS
1ST SESSION

S. 924

[Report No. 110-72]

To strengthen the United States Coast Guard's Integrated Deepwater Program.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2007

Ms. CANTWELL (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MAY 24, 2007

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To strengthen the United States Coast Guard's Integrated Deepwater Program.

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; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the

5 ~~“Integrated Deepwater Program Reform Act”.~~

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- See. 1: Short title; table of contents.
- See. 2: Procurement structure.
- See. 3: Analysis of alternatives.
- See. 4: Certification.
- See. 5: Contract requirements.
- See. 6: Improvements in Coast Guard management.
- See. 7: Procurement and report requirements.
- See. 8: GAO review and recommendations.
- See. 9: Definitions.

3 **SEC. 2. PROCUREMENT STRUCTURE.**

4 (a) IN GENERAL.—

5 (1) USE OF LEAD SYSTEMS INTEGRATOR.—Ex-
 6 cept as provided in subsection (b), the United States
 7 Coast Guard may not use a private sector entity as
 8 a lead systems integrator for procurements under, or
 9 in support of, the Integrated Deepwater Program
 10 after the date of enactment of this Act.

11 (2) FULL AND OPEN COMPETITION.—The
 12 United States Coast Guard shall utilize full and
 13 open competition for any other procurement for
 14 which an outside contractor is used under, or in sup-
 15 port of, the Integrated Deepwater Program after the
 16 date of enactment of this Act.

17 (b) EXCEPTIONS.—

18 (1) COMPLETION OF PROCUREMENT BY LEAD
 19 SYSTEMS INTEGRATOR.—Notwithstanding subsection
 20 (a), the Coast Guard may use a private sector entity
 21 as a lead systems integrator—

1 (A) to complete, without modification, any
2 delivery order or task order that was issued to
3 the lead systems integrator on or before the
4 date of enactment of this Act;

5 (B) for procurements of—

6 (i) the HC-130J and the C41SR; and

7 (ii) National Security Cutters or Mar-
8 itime Patrol Aircraft under contract or
9 order for construction as of the date of en-
10 actment of this Act;

11 if the requirements of subsection (e) are met
12 with respect to such procurements; and

13 (C) for the procurement of additional Na-
14 tional Security Cutters or Maritime Patrol Air-
15 craft if the Commandant determines, after con-
16 ducting the analysis of alternatives required by
17 section 3, that—

18 (i) the justifications of FAR 6.3 are
19 met;

20 (ii) the procurement and the use of a
21 private sector entity as a lead systems inte-
22 grator for the procurement is in the best
23 interest of the Federal Government; and

24 (iii) the requirements of subsection (e)
25 are met with respect to such procurement.

1 (2) REPORT ON DECISION-MAKING PROCESS.—

2 If the Coast Guard determines under paragraph (1)
3 that it will use a private sector lead systems inte-
4 grator for a procurement, the Commandant shall
5 transmit a report to the Senate Committee on Com-
6 merce, Science, and Transportation and the House
7 of Representatives Committee on Transportation
8 and Infrastructure notifying the Committees of its
9 determination and explaining the rationale for the
10 determination.

11 (c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—

12 Neither an entity performing lead systems integrator func-
13 tions for a procurement under, or in support of, the Inte-
14 grated Deepwater Program, nor a Tier 1 subcontractor,
15 for any procurement described in subparagraph (B) or (C)
16 of subsection (b)(1) may have a financial interest below
17 the tier 1 subcontractor level unless—

18 (1) the entity was selected by the Coast Guard
19 through full and open competition for such procure-
20 ment;

21 (2) the procurement was awarded by the lead
22 systems integrator or a subcontractor through full
23 and open competition; or

24 (3) the procurement was awarded by a subcon-
25 tractor through a process over which the lead sys-

1 tems integrator or a Tier 1 subcontractor exercised
2 no control.

3 **SEC. 3. ANALYSIS OF ALTERNATIVES.**

4 (a) **IN GENERAL.**—Except with respect to a procure-
5 ment described in subparagraph (A) or (B) of section
6 2(b)(1) of this Act, no procurement may be awarded under
7 the Integrated Deepwater Program until an analysis of al-
8 ternatives has been conducted under this section.

9 (b) **INDEPENDENT ANALYSIS.**—Within 30 days after
10 the date of enactment of this Act, the Commandant shall
11 execute a contract for an analysis of alternatives with a
12 Federally Funded Research and Development Center, an
13 appropriate entity of the Department of Defense, or a
14 similar independent third party entity that has appro-
15 priate acquisition expertise for independent analysis of all
16 of the proposed procurements under, or in support of, the
17 Integrated Deepwater Program, including procurements
18 described in section 2(b)(1)(B), and for any future major
19 changes of such procurements. The Commandant may not
20 contract under this subsection for such an analysis with
21 any entity that has a substantial financial interest in any
22 part of the Integrated Deepwater Program as of the date
23 of enactment of this Act or in any alternative being consid-
24 ered.

1 (c) ANALYSIS.—The analysis of alternatives provided
2 pursuant to the contract under subsection (b) shall in-
3 clude—

4 (1) a discussion of capability, interoperability,
5 and other advantages and disadvantages of the pro-
6 posed procurements;

7 (2) an examination of feasible alternatives;

8 (3) a discussion of key assumptions and vari-
9 ables, and sensitivity to changes in such assumptions
10 and variables;

11 (4) an assessment of technology risk and matu-
12 rity; and

13 (5) a calculation of costs, including life-cycle
14 costs.

15 (d) REPORT TO CONGRESS.—As soon as possible
16 after an analysis of alternatives has been completed, the
17 Commandant shall develop a plan for the procurements
18 addressed in the analysis and shall transmit a report de-
19 scribing the plan to the Senate Committee on Commerce,
20 Science, and Transportation and the House of Represent-
21 atives Committee on Transportation and Infrastructure.

22 **SEC. 4. CERTIFICATION.**

23 (a) IN GENERAL.—A contract, delivery order, or task
24 order for procurement under, or in support of, the Coast
25 Guard's Integrated Deepwater Program may not be exe-

1 euted by the Coast Guard until the Commandant certifies
2 that—

3 (1) appropriate market research has been con-
4 ducted prior to technology development to reduce
5 duplication of existing technology and products;

6 (2) the technology has been demonstrated in a
7 relevant environment;

8 (3) the technology demonstrates a high likeli-
9 hood of accomplishing its intended mission;

10 (4) the technology is affordable when consid-
11 ering the per unit cost and the total procurement
12 cost in the context of the total resources available
13 during the period covered by the Integrated Deep-
14 water Program;

15 (5) the technology is affordable when consid-
16 ering the ability of the Coast Guard to accomplish
17 its missions using alternatives, based on dem-
18 onstrated technology, design, and knowledge;

19 (6) reasonable cost and schedule estimates have
20 been developed to execute the product development
21 and production plan for the technology;

22 (7) funding is available to execute the product
23 development and production plan for the technology;
24 and

1 (8) the technology complies with all relevant
2 policies, regulations, and directives of the Coast
3 Guard.

4 (b) **REPORT TO CONGRESS.**—The Commandant shall
5 transmit a copy of each certification required under sub-
6 section (a) to the Senate Committee on Commerce,
7 Science, and Transportation and the House of Represent-
8 atives Committee on Transportation and Infrastructure
9 within 30 days after the completion of the certification.

10 **SEC. 5. CONTRACT REQUIREMENTS.**

11 The Commandant shall ensure that any contract, de-
12 livery order, or task order for procurement under, or in
13 support of, the Integrated Deepwater Program executed
14 by the Coast Guard—

15 (1) incorporates provisions that address the rec-
16 ommendations related to award fee determination
17 and award term evaluation made by the Government
18 Accountability Office in its March, 2004, report en-
19 titled Coast Guard’s Deepwater Program Needs In-
20 creased Attention to Management and Contractor
21 Oversight, GAO-04-380, and any subsequent Gov-
22 ernment Accountability Office recommendations rel-
23 evant to the contract terms issued before the date of
24 enactment of this Act, including that any award or
25 incentive fee is tied to program outcomes;

1 (2) provides that certification of any Integrated
2 Deepwater Program procurement for performance,
3 safety, and any other relevant factor will be con-
4 ducted by an independent third party;

5 (3) does not include—

6 (A) for any contract extending the existing
7 Integrated Deepwater Program contract term;
8 minimum requirements for the purchase of a
9 given or determinable number of specific assets;

10 (B) provisions that commit the Coast
11 Guard without express written approval by the
12 Coast Guard;

13 (C) any provision allowing for equitable ad-
14 justment that differs from the Federal Acquisi-
15 tion Regulations; and

16 (4) for any contract extending the existing Inte-
17 grated Deepwater Program contract term, is re-
18 viewed by, and addresses recommendations made by,
19 the Under Secretary of Defense for Acquisition,
20 Technology, and Logistics through the Defense Ae-
21 quisition University.

22 **SEC. 6. IMPROVEMENTS IN COAST GUARD MANAGEMENT.**

23 (a) IN GENERAL.—As soon as practicable after the
24 date of enactment of this Act, the Commandant shall take
25 action to ensure that—

1 (1) the measures contained in the Coast
2 Guard's report entitled Coast Guard: Blue Print for
3 Acquisition Reform are implemented fully;

4 (2) any additional measures for improved man-
5 agement recommended by the Defense Acquisition
6 University in its Quick Look Study of the United
7 States Coast Guard Deepwater Program, dated Feb-
8 ruary 5, 2007, are implemented;

9 (3) integrated product teams, and all higher-
10 level teams that oversee integrated product teams,
11 are chaired by Coast Guard personnel; and

12 (4) the Assistant Commandant for Engineering
13 and Logistics is designated as the Technical Author-
14 ity for all design, engineering, and technical deci-
15 sions for the Integrated Deepwater Program.

16 (b) TRANSFER.—

17 (1) IN GENERAL.—Section 93(a) of title 14,
18 United States Code, is amended—

19 (A) by striking “and” after the semicolon
20 in paragraph (23);

21 (B) by striking “appropriate.” in para-
22 graph (24) and inserting “appropriate; and”;
23 and

24 (C) by adding at the end thereof the fol-
25 lowing:

1 “(25) notwithstanding any other provision of
2 law, in any fiscal year transfer funds made available
3 for personnel, compensation, and benefits from the
4 appropriation account ‘Acquisition, Construction,
5 and Improvement’ to the appropriation account ‘Op-
6 erating Expenses’ for personnel compensation and
7 benefits and related costs necessary to execute new
8 or existing procurements of the Coast Guard.”.

9 (2) NOTIFICATION.—Within 30 days after mak-
10 ing a transfer under section 93(a)(25) of title 14,
11 United States Code, the Commandant shall notify
12 the Senate Committee on Commerce, Science,
13 Transportation and Infrastructure, the Senate Com-
14 mittee on Appropriations, the House Committee on
15 Transportation and Infrastructure, and the House
16 Committee on Appropriations.

17 **SEC. 7. PROCUREMENT AND REPORT REQUIREMENTS.**

18 (a) SELECTED ACQUISITION REPORTS.—The Com-
19 mandant shall submit to the Senate Committee on Com-
20 merce, Science, and Transportation and the House of Rep-
21 resentatives Committee on Transportation and Infrastruc-
22 ture reports on the Integrated Deepwater Program that
23 contain the same type of information with respect to that
24 Program, to the greatest extent practicable, as the Sec-
25 retary of Defense is required to provide to the Congress

1 under section 2432 of title 10, United States Code, with
2 respect to major defense procurement programs.

3 (b) UNIT COST REPORTS.—Each Coast Guard pro-
4 gram manager under the Coast Guard’s Integrated Deep-
5 water Program shall provide to the Commandant, or the
6 Commandant’s designee, reports on the unit cost of assets
7 acquired or modified that are under the management or
8 control of the Coast Guard program manager on the same
9 basis and containing the same information, to the greatest
10 extent practicable, as is required to be included in the re-
11 ports a program manager is required to provide to the
12 service procurement executive designated by the Secretary
13 of Defense under section 2432 of title 10, United States
14 Code, with respect to a major defense procurement pro-
15 gram.

16 (c) REPORTING ON COST OVERRUNS AND DELAYS.—
17 Within 30 days after the Commandant becomes aware of
18 a likely cost overrun or scheduled delay, the Commandant
19 shall transmit a report to the Senate Committee on Com-
20 merce, Science, and Transportation and the House of Rep-
21 resentatives Committee on Transportation and Infrastruc-
22 ture that includes—

23 (1) a description of the known or anticipated
24 cost overrun;

25 (2) a detailed explanation for such overruns;

1 (3) a detailed description of the Coast Guard's
2 plans for responding to such overrun and preventing
3 additional overruns; and

4 (4) a description of any significant delays in
5 procurement schedules.

6 **SEC. 8. GAO REVIEW AND RECOMMENDATIONS.**

7 (a) **AWARD FEE AND AWARD TERM CRITERIA.**—The
8 Coast Guard may not execute a new contract, delivery
9 order, or task order, nor agree to extend the term of an
10 existing contract, with a prime contractor for procurement
11 under, or in support of, the Integrated Deepwater Pro-
12 gram until the Commandant has consulted with the Comp-
13 troller General to ensure that the Government Account-
14 ability Office's recommendations, in its March, 2004, re-
15 port entitled Coast Guard's Deepwater Program Needs In-
16 creased Attention to Management and Contractor Over-
17 sight, GAO-04-380, and any subsequent Government Ac-
18 countability Office recommendations issued before the
19 date of enactment of this Act, with respect to award fee
20 and award term criteria have been fully addressed.

21 (b) **OTHER RECOMMENDATIONS.**—The Commandant
22 shall ensure that all other recommendations in that report,
23 and any subsequent recommendations issued before the
24 date of enactment of this Act, are implemented to the
25 maximum extent practicable by the Coast Guard within

1 1 year after the date of enactment of this Act. The Com-
2 mandant shall report to the Senate Committee on Com-
3 merce, Science, and Transportation and the House of Rep-
4 resentatives Committee on Transportation and Infrastruc-
5 ture on the Coast Guard's progress in implementing such
6 recommendations.

7 (e) GAO REPORTS ON IMPLEMENTATION.—Begin-
8 ning 6 months after the date of enactment of this Act,
9 the Comptroller General shall submit an annual report to
10 the Senate Committee on Commerce, Science, and Trans-
11 portation and the House of Representatives Committee on
12 Transportation and Infrastructure on the Coast Guard's
13 progress in implementing the Government Accountability
14 Office's recommendations, in its March, 2004, report enti-
15 tled Coast Guard's Deepwater Program Needs Increased
16 Attention to Management and Contractor Oversight,
17 GAO-04-380, and any subsequent Government Account-
18 ability Office recommendations issued before the date of
19 enactment of this Act, in carrying out this Act.

20 **SEC. 9. DEFINITIONS.**

21 In this Act:

22 (1) COMMANDANT.—The term “Commandant”
23 means the Commandant of the United States Coast
24 Guard.

1 (2) INTEGRATED DEEPWATER PROGRAM.—The
 2 term “Integrated Deepwater Program” means the
 3 Integrated Deepwater Systems Program described
 4 by the Coast Guard in its Report to Congress on Re-
 5 vised Deepwater Implementation Plan, dated March
 6 25, 2005, including any subsequent modifications,
 7 revisions, or restatements of the Program.

8 (3) PROCUREMENT.—The term “procurement”
 9 includes development, production, sustainment,
 10 modification, conversion, and missionization.

11 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

12 (a) *SHORT TITLE.*—This Act may be cited as the “In-
 13 *tegrated Deepwater Program Reform Act*”.

14 (b) *TABLE OF CONTENTS.*—The table of contents for
 15 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Procurement structure.

Sec. 3. Analysis of alternatives.

Sec. 4. Certification.

Sec. 5. Contract requirements.

Sec. 6. Improvements in Coast Guard management.

Sec. 7. Procurement and report requirements.

Sec. 8. GAO review and recommendations.

Sec. 9. Inspector General review of Deepwater program.

Sec. 10. Definitions.

16 **SEC. 2. PROCUREMENT STRUCTURE.**

17 (a) *IN GENERAL.*—

18 (1) *USE OF LEAD SYSTEMS INTEGRATOR.*—*Ex-*
 19 *cept as provided in subsection (b), the United States*
 20 *Coast Guard may not use a private sector entity as*

1 *a lead systems integrator for procurements under, or*
2 *in support of, the Integrated Deepwater Program*
3 *after the date of enactment of this Act.*

4 (2) *FULL AND OPEN COMPETITION.—The United*
5 *States Coast Guard shall utilize full and open com-*
6 *petition for any other procurement for which an out-*
7 *side contractor is used under, or in support of, the In-*
8 *tegrated Deepwater Program after the date of enact-*
9 *ment of this Act.*

10 (b) *EXCEPTIONS.—*

11 (1) *COMPLETION OF PROCUREMENT BY LEAD*
12 *SYSTEMS INTEGRATOR.—Notwithstanding subsection*
13 *(a), the Coast Guard may use a private sector entity*
14 *as a lead systems integrator—*

15 (A) *to complete any delivery order or task*
16 *order that was issued to the lead systems inte-*
17 *grator on or before the date of enactment of this*
18 *Act without any change in the quantity of assets*
19 *or the specific type of assets covered by the order;*

20 (B) *for procurements of—*

21 (i) *the HC-130J and the C41SR, and*

22 (ii) *National Security Cutters or Mari-*
23 *time Patrol Aircraft under contract or order*
24 *for construction as of the date of enactment*
25 *of this Act,*

1 *if the requirements of subsection (c) are met with*
2 *respect to such procurements; and*

3 *(C) for the procurement of additional Na-*
4 *tional Security Cutters or Maritime Patrol Air-*
5 *craft if the Commandant determines, after con-*
6 *ducting the analysis of alternatives required by*
7 *section 3, that—*

8 *(i) the justifications of FAR 6.3 are*
9 *met;*

10 *(ii) the procurement and the use of a*
11 *private sector entity as a lead systems inte-*
12 *grator for the procurement is in the best in-*
13 *terest of the Federal government; and*

14 *(iii) the requirements of subsection (c)*
15 *are met with respect to such procurement.*

16 (2) *AWARDS TO TIER 1 SUBCONTRACTORS.—The*
17 *Coast Guard may award to any Tier 1 subcontractor*
18 *or subcontractor below the Tier 1 level any procure-*
19 *ment that it could award to a lead systems integrator*
20 *under paragraph (1).*

21 (3) *REPORT ON DECISION-MAKING PROCESS.—If*
22 *the Coast Guard determines under paragraph (1) that*
23 *it will use a private sector lead systems integrator for*
24 *a procurement, the Commandant shall transmit a re-*
25 *port to the Senate Committee on Commerce, Science,*

1 *and Transportation and the House of Representatives*
2 *Committee on Transportation and Infrastructure no-*
3 *tifying the Committees of its determination and ex-*
4 *plaining the rationale for the determination.*

5 *(c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—*
6 *Neither an entity performing lead systems integrator func-*
7 *tions for a procurement under, or in support of, the Inte-*
8 *grated Deepwater Program, nor a Tier 1 subcontractor, for*
9 *any procurement described in subparagraph (B) or (C) of*
10 *subsection (b)(1) may have a financial interest in a subcon-*
11 *tractor below the tier 1 subcontractor level unless—*

12 *(1) the entity was selected by the Coast Guard*
13 *through full and open competition for such procure-*
14 *ment;*

15 *(2) the procurement was awarded by the lead*
16 *systems integrator or a subcontractor through full and*
17 *open competition;*

18 *(3) the procurement was awarded by a subcon-*
19 *tractor through a process over which the lead systems*
20 *integrator or a Tier 1 subcontractor exercised no con-*
21 *trol; or*

22 *(4) the Commandant has determined that the*
23 *justifications of FAR 6.3 are met.*

1 **SEC. 3. ANALYSIS OF ALTERNATIVES.**

2 (a) *IN GENERAL.*—*Except with respect to a procure-*
3 *ment described in subparagraph (A) or (B) of section*
4 *2(b)(1) of this Act, or a procurement for which a request*
5 *for proposals consistent with the FAR has been issued before*
6 *the date of enactment of this Act, no procurement may be*
7 *awarded under the Integrated Deepwater Program until an*
8 *analysis of alternatives has been conducted under this sec-*
9 *tion.*

10 (b) *INDEPENDENT ANALYSIS.*—*As soon as possible, but*
11 *no later than 120 days after the date of enactment of this*
12 *Act, the Commandant shall execute a contract for an anal-*
13 *ysis of alternatives with a Federally Funded Research and*
14 *Development Center, an appropriate entity of the Depart-*
15 *ment of Defense, or a similar independent third party enti-*
16 *ty that has appropriate acquisition expertise for inde-*
17 *pendent analysis of all of the proposed procurements under,*
18 *or in support of, the Integrated Deepwater Program, in-*
19 *cluding procurements described in section 2(b)(1)(B), and*
20 *for any future major changes of such procurements. The*
21 *Commandant may not contract under this subsection for*
22 *such an analysis with any entity that has a substantial*
23 *financial interest in any part of the Integrated Deepwater*
24 *Program as of the date of enactment of this Act or in any*
25 *alternative being considered.*

1 (c) *ANALYSIS.*—*The analysis of alternatives provided*
2 *pursuant to the contract under subsection (b) for procure-*
3 *ments and feasible alternatives shall include—*

4 (1) *an examination of capability, interoper-*
5 *ability, and other advantages and disadvantages;*

6 (2) *an evaluation of whether different quantities*
7 *of specific assets could meet the Coast Guard’s overall*
8 *performance needs;*

9 (3) *a discussion of key assumptions and vari-*
10 *ables, and sensitivity to changes in such assumptions*
11 *and variables;*

12 (4) *an assessment of technology risk and matu-*
13 *rity;*

14 (5) *an evaluation of safety and performance*
15 *records; and*

16 (6) *a calculation of costs, including life-cycle*
17 *costs.*

18 (d) *REPORT TO CONGRESS.*—*As soon as possible after*
19 *an analysis of alternatives has been completed, the Com-*
20 *mandant shall develop a plan for the procurements ad-*
21 *dressed in the analysis, as well as procurements described*
22 *in subsection (a) for which no analysis of alternatives is*
23 *required, and shall transmit a report describing the plan,*
24 *and the schedule and costs for delivery of such procurements*
25 *to the Senate Committee on Commerce, Science, and Trans-*

1 *portation and the House of Representatives Committee on*
2 *Transportation and Infrastructure.*

3 **SEC. 4. CERTIFICATION.**

4 *(a) IN GENERAL.—After the date of enactment of this*
5 *Act, a contract, delivery order, or task order exceeding*
6 *\$10,000,000 for procurement under, or in support of, the*
7 *Coast Guard’s Integrated Deepwater Program may not be*
8 *executed by the Coast Guard until the Commandant cer-*
9 *tifies that—*

10 *(1) appropriate market research has been con-*
11 *ducted prior to technology development to reduce du-*
12 *plication of existing technology and products;*

13 *(2) the technology has been demonstrated to the*
14 *maximum extent practicable in a relevant environ-*
15 *ment;*

16 *(3) the technology demonstrates a high likelihood*
17 *of accomplishing its intended mission;*

18 *(4) the technology is affordable when considering*
19 *the per unit cost and the total procurement cost in the*
20 *context of the total resources available during the pe-*
21 *riod covered by the Integrated Deepwater Program;*

22 *(5) the technology is affordable when considering*
23 *the ability of the Coast Guard to accomplish its mis-*
24 *sions using alternatives, based on demonstrated tech-*
25 *nology, design, and knowledge;*

1 (6) *funding is available to execute the contract,*
2 *delivery order, or task order; and*

3 (7) *the technology complies with all relevant*
4 *policies, regulations, and directives of the Coast*
5 *Guard.*

6 (b) *LIMITATION.*—*Nothing in this section shall prevent*
7 *the Coast Guard from executing contracts or issuing deliver*
8 *orders or task orders, for research and development or tech-*
9 *nology demonstrations under, or in support of, the Inte-*
10 *grated Deepwater Program.*

11 (c) *REPORT TO CONGRESS.*—*The Commandant shall*
12 *transmit a copy of each certification required under sub-*
13 *section (a) to the Senate Committee on Commerce, Science,*
14 *and Transportation and the House of Representatives Com-*
15 *mittee on Transportation and Infrastructure within 30*
16 *days after the completion of the certification.*

17 **SEC. 5. CONTRACT REQUIREMENTS.**

18 *The Commandant shall ensure that any contract, de-*
19 *livery order, or task order for procurement under, or in sup-*
20 *port of, the Integrated Deepwater Program executed by the*
21 *Coast Guard—*

22 (1) *addresses the recommendations related to*
23 *award fee determination and award term evaluation*
24 *made by the Government Accountability Office in its*
25 *March, 2004, report entitled Coast Guard’s Deepwater*

1 *Program Needs Increased Attention to Management*
2 *and Contractor Oversight, GAO-04-380, and any*
3 *subsequent Government Accountability Office rec-*
4 *ommendations relevant to the contract terms issued*
5 *before March 1, 2007, including the recommendation*
6 *that any award or incentive fee be tied to program*
7 *outcomes;*

8 (2) *provides that certification of any Integrated*
9 *Deepwater Program procurement for performance,*
10 *safety, and other relevant factors determined by the*
11 *Commandant will be conducted by an independent*
12 *third party;*

13 (3) *does not include—*

14 (A) *for any contract extending the existing*
15 *Integrated Deepwater Program contract term*
16 *that expires in June, 2007, minimum require-*
17 *ments for the purchase of a given or deter-*
18 *minable number of specific assets;*

19 (B) *provisions that commit the Coast Guard*
20 *without express written approval by the Coast*
21 *Guard;*

22 (C) *any provision allowing for equitable ad-*
23 *justment that differs from the Federal Acquisi-*
24 *tion Regulations;*

1 (4) for any contract extending the existing Inte-
2 grated Deepwater Program contract term that expires
3 in June, 2007, is reviewed by, and addresses rec-
4 ommendations made by, the Under Secretary of De-
5 fense for Acquisition, Technology, and Logistics
6 through the Defense Acquisition University in its
7 Quick Look Study dated February 5, 2007; and

8 (5) meets the requirements of the Systems Acqui-
9 sition Manual.

10 **SEC. 6. IMPROVEMENTS IN COAST GUARD MANAGEMENT.**

11 (a) *IN GENERAL.*—As soon as practicable after the
12 date of enactment of this Act, the Commandant shall take
13 action to ensure that—

14 (1) the measures contained in the Coast Guard's
15 report entitled *Coast Guard: Blue Print for Acquisi-*
16 *tion Reform* are implemented fully;

17 (2) any additional measures for improved man-
18 agement recommended by the Defense Acquisition
19 University in its Quick Look Study of the United
20 States Coast Guard Deepwater Program, dated Feb-
21 ruary 5, 2007, are implemented;

22 (3) integrated product teams, and all higher-level
23 teams that oversee integrated product teams, are
24 chaired by Coast Guard personnel; and

1 (4) *the Assistant Commandant for Engineering*
2 *and Logistics is designated as the Technical Author-*
3 *ity for all design, engineering, and technical decisions*
4 *for the Integrated Deepwater Program.*

5 (b) *TRANSFER.—*

6 (1) *IN GENERAL.—Section 93(a) of title 14,*
7 *United States Code, is amended—*

8 (A) *by striking “and” after the semicolon in*
9 *paragraph (23);*

10 (B) *by striking “appropriate.” in para-*
11 *graph (24) and inserting “appropriate; and”;*
12 *and*

13 (C) *by adding at the end thereof the fol-*
14 *lowing:*

15 “(25) *notwithstanding any other provision of*
16 *law, in any fiscal year transfer funds made available*
17 *for personnel, compensation, and benefits from the ap-*
18 *propriation account ‘Acquisition, Construction, and*
19 *Improvement’ to the appropriation account ‘Oper-*
20 *ating Expenses’ for personnel compensation and bene-*
21 *fits and related costs necessary to execute new or ex-*
22 *isting procurements of the Coast Guard.”.*

23 (2) *NOTIFICATION.—Within 30 days after mak-*
24 *ing a transfer under section 93(a)(25) of title 14,*
25 *United States Code, the Commandant shall notify the*

1 *Senate Committee on Commerce, Science, Transpor-*
2 *tation and Infrastructure, the Senate Committee on*
3 *Appropriations, the House Committee on Transpor-*
4 *tation and Infrastructure, and the House Committee*
5 *on Appropriations.*

6 **SEC. 7. PROCUREMENT AND REPORT REQUIREMENTS.**

7 (a) *SELECTED ACQUISITION REPORTS.*—*The Com-*
8 *mandant shall submit to the Senate Committee on Com-*
9 *merce, Science, and Transportation and the House of Rep-*
10 *resentatives Committee on Transportation and Infrastruc-*
11 *ture reports on the Integrated Deepwater Program that con-*
12 *tain the same type of information with respect to that Pro-*
13 *gram, to the greatest extent practicable, as the Secretary*
14 *of Defense is required to provide to the Congress under sec-*
15 *tion 2432 of title 10, United States Code, with respect to*
16 *major defense procurement programs.*

17 (b) *UNIT COST REPORTS.*—*Each Coast Guard pro-*
18 *gram manager under the Coast Guard's Integrated Deep-*
19 *water Program shall provide to the Commandant, or the*
20 *Commandant's designee, reports on the unit cost of assets*
21 *acquired or modified that are under the management or*
22 *control of the Coast Guard program manager on the same*
23 *basis and containing the same information, to the greatest*
24 *extent practicable, as is required to be included in the re-*
25 *ports a program manager is required to provide to the serv-*

1 *ice procurement executive designated by the Secretary of*
2 *Defense under section 2433 of title 10, United States Code,*
3 *with respect to a major defense procurement program.*

4 *(c) REPORTING ON COST OVERRUNS AND DELAYS.—*
5 *Within 30 days after the Commandant becomes aware of*
6 *a likely cost overrun or scheduled delay, the Commandant*
7 *shall transmit a report to the Senate Committee on Com-*
8 *merce, Science, and Transportation and the House of Rep-*
9 *resentatives Committee on Transportation and Infrastruc-*
10 *ture that includes—*

11 *(1) a description of the known or anticipated*
12 *cost overrun;*

13 *(2) a detailed explanation for such overruns;*

14 *(3) a detailed description of the Coast Guard's*
15 *plans for responding to such overrun and preventing*
16 *additional overruns; and*

17 *(4) a description of any significant delays in*
18 *procurement schedules.*

19 *(d) PATROL BOAT REPORT.—Not later than 90 days*
20 *after the date of enactment of this Act the Commandant*
21 *shall submit to the Committee on Commerce, Science, and*
22 *Transportation of the Senate and the Committee on Trans-*
23 *portation and Infrastructure of the House of Representa-*
24 *tives a report on how the Coast Guard plans to manage*
25 *the annual readiness gap of lost time for 110-foot patrol*

1 boats from fiscal year 2008 through fiscal year 2014. The
2 report shall include—

3 (1) a summary of the patrol hours that will be
4 lost due to delays in replacing the 110-foot cutters
5 and reduced capabilities of the 110-foot cutters that
6 have been converted;

7 (2) an identification of assets that may be used
8 to alleviate the annual readiness gap of lost time for
9 such patrol boats;

10 (3) a projection of the remaining operational
11 lifespan of the 110-foot patrol boat fleet;

12 (4) a description of how extending through fiscal
13 year 2014 the transfer agreement between the Coast
14 Guard and the United States Navy for 5 Cyclone
15 class 179-foot patrol coastal ships would effect the an-
16 nual readiness gap of lost time for 110-foot patrol
17 boats; and

18 (5) an estimate of the cost to extend the oper-
19 ational lifespan of the 110-foot patrol boat fleet for
20 each of fiscal years 2008 through 2014.

21 **SEC. 8. GAO REVIEW AND RECOMMENDATIONS.**

22 (a) **AWARD FEE AND AWARD TERM CRITERIA.**—The
23 Coast Guard shall consult with the Comptroller General no
24 later than June 1, 2007 to ensure that the Government Ac-
25 countability Office's recommendations, in its March, 2004,

1 *report entitled Coast Guard's Deepwater Program Needs In-*
2 *creased Attention to Management and Contractor Over-*
3 *sight, GAO-04-380, and any subsequent Government Ac-*
4 *countability Office recommendations issued before March 1,*
5 *2007, with respect to award fee and award term criteria*
6 *will be addressed to the maximum extent practicable in any*
7 *contract, delivery order, or task order or extension of the*
8 *existing contract for procurement under or in support of*
9 *the Integrated Deepwater Program entered into after the*
10 *date of enactment of this Act.*

11 *(b) OTHER RECOMMENDATIONS.—The Commandant*
12 *shall ensure that all other recommendations in that report,*
13 *and any subsequent recommendations issued before March*
14 *1, 2007, are implemented to the maximum extent prac-*
15 *ticable by the Coast Guard within 1 year after the date*
16 *of enactment of this Act. The Commandant shall report to*
17 *the Senate Committee on Commerce, Science, and Trans-*
18 *portation and the House of Representatives Committee on*
19 *Transportation and Infrastructure on the Coast Guard's*
20 *progress in implementing such recommendations.*

21 *(c) GAO REPORTS ON IMPLEMENTATION.—Beginning*
22 *6 months after the date of enactment of this Act, the Comp-*
23 *troller General shall submit an annual report to the Senate*
24 *Committee on Commerce, Science, and Transportation and*
25 *the House of Representatives Committee on Transportation*

1 *and Infrastructure on the Coast Guard's progress in imple-*
2 *menting the provisions of this Act, the Government Ac-*
3 *countability Office's recommendations, in its March, 2004,*
4 *report entitled Coast Guard's Deepwater Program Needs In-*
5 *creased Attention to Management and Contractor Over-*
6 *sight, GAO-04-380, and any subsequent Government Ac-*
7 *countability Office recommendations issued before March 1,*
8 *2007.*

9 **SEC. 9. INSPECTOR GENERAL REVIEW OF DEEPWATER PRO-**
10 **GRAM.**

11 *Not later than 240 days after the date of the enactment*
12 *of this Act, the Inspector General of the Department of*
13 *Homeland Security shall submit to the Secretary, and to*
14 *Congress, a report on the acquisition of assets under the*
15 *Deepwater program. The report shall include—*

16 *(1) a description of each decision, if any, of the*
17 *Coast Guard or Integrated Coast Guard Systems re-*
18 *lating to the acquisition of assets under the Deep-*
19 *water program that directly or indirectly resulted in*
20 *cost overruns or program cost increases to the United*
21 *States;*

22 *(2) an assessment whether any decision covered*
23 *by paragraph (1) violated the terms of the contract of*
24 *Integrated Coast Guard Systems for the Deepwater*
25 *program;*

1 (3) *an assessment of how much program costs*
2 *under the Deepwater program have increased as a re-*
3 *sult of any such decision; and*

4 (4) *an assessment of whether the Coast Guard or*
5 *Integrated Coast Guard Systems is responsible for the*
6 *payment of any cost overruns associated with any*
7 *such decision.*

8 **SEC. 10. DEFINITIONS.**

9 *In this Act:*

10 (1) *COMMANDANT.*—*The term “Commandant”*
11 *means the Commandant of the United States Coast*
12 *Guard.*

13 (2) *INTEGRATED DEEPWATER PROGRAM.*—*The*
14 *term “Integrated Deepwater Program” means the In-*
15 *tegrated Deepwater Systems Program described by the*
16 *Coast Guard in its Report to Congress on Revised*
17 *Deepwater Implementation Plan, dated March 25,*
18 *2005, including any subsequent modifications, revi-*
19 *sions, or restatements of the Program.*

20 (3) *PROCUREMENT.*—*The term “procurement”*
21 *includes development, production, sustainment, modi-*
22 *fication, conversion, and missionization.*

Calendar No. 171

110TH CONGRESS
1ST Session

S. 924

[Report No. 110-72]

A BILL

To strengthen the United States Coast Guard's
Integrated Deepwater Program.

MAY 24, 2007

Reported with an amendment