

**SUMMARY OF
H.R. 6999, THE INTEGRATED DEEPWATER PROGRAM REFORM ACT OF 2008
SEPTEMBER 24, 2008**

H.R. 6999 imposes appropriate standards and oversight over the Coast Guard's Deepwater procurement program – a program through which the Service expects to expend a total of \$24 billion and which is to last for another 20 years. The highlights of the bill are discussed below.

PROHIBITION ON PRIVATE SECTOR LEAD SYSTEMS INTEGRATOR

Section 2 of H.R. 6999 prohibits the use of a lead systems integrator¹ beginning 180 days after the date of enactment of this Act. However, the bill does allow the Coast Guard to continue to utilize private sector lead systems integrators for some on-going acquisition efforts between now and October 2011 when the Coast Guard's use of a lead systems integrator will be fully prohibited. Allowing the Coast Guard to continue to use the integrators until 2011 will ensure that the Coast Guard has the time necessary to prepare to fully bring the lead systems integration function in-house and prevent disruptions to ongoing procurements. Specifically, H.R. 6999 allows the use of a lead systems integrator between now and 2011 under the following circumstances:

- To complete any delivery order or task order issued to a lead systems integrator within the 180-day period after the date of enactment of this Act (that is, any award issued to a private sector lead systems integrator *before* the prohibition on the use of these integrators takes effect 180 days after the enactment of this Act);
- For acquisitions of (or of systems that support) HC-130J aircraft, HH-65 helicopters, and C4ISR information technology systems;
- For acquisitions of National Security Cutters and the Maritime Patrol Aircraft that are under contract or order for construction between now and the date that is 180 days after the date of enactment of this Act; and for acquisitions of National Security Cutters and Maritime Patrol Aircraft after the implementation of the prohibition 180 days after the date of enactment of this Act if the use of the lead systems integrator is in compliance with the Federal Acquisition Regulation, is in the best interests of the government, and does not involve the use of Tier 1 subcontractors in which the lead systems integrator has a financial interest (unless that subcontractor was chosen through full and open competition);

Therefore, the use of private sector lead systems integrators is permitted for all on-going asset procurements under Deepwater, but it is not permitted for the procurement of new assets. New procurements will be handled by the Coast Guard as it develops its own internal capacity to

¹ A lead systems integrator is a contractor, or team of contractors, hired by the federal government to execute a large, complex, acquisition program, particularly a so-called system-of-systems acquisition program. Integrators can have broad responsibility for executing their programs, and may perform some or all of the following functions: requirements generation; technology development; source selection; construction or modification work; procurement of systems or components from, and management of, supplier firms; testing; validation; and administration.

serve as the lead systems integrator. Both the House-passed bill, H.R. 2722, and the Senate-passed bill, S. 924, eliminated the use of private sector lead systems integrators.

RETENTION IN THE COAST GUARD OF TECHNICAL AUTHORITIES AND SPECIFICATION OF CERTIFICATION AND TESTING REQUIREMENTS

Section 3 of H.R. 6999 requires the Commandant of the Coast Guard to retain all technical authorities, prohibits the contractors under the Deepwater program from self-certifying that they are complying with the contract's requirements, and requires performance awards to be based on actual performance.

Section 4 of the bill requires adequate testing of asset designs before construction begins ("Early Operational Assessment") so that problems can be corrected at the design stage and requires the conduct of an operational assessment on constructed assets before the Coast Guard accepts delivery to ensure that quality standards and contractual requirements have been met.

STRENGTHENING THE COAST GUARD'S ACQUISITIONS MANAGEMENT CAPABILITIES

Sections 6 and 7 of H.R. 6999 include significant measures to improve the Coast Guard's internal processes for managing acquisitions, including requiring the appointment of a Chief Acquisition Officer ("CAO") at the Assistant Commandant level. The House-passed bill, H.R. 2722, created the Chief Acquisitions Officer and required that it be a civilian. Under H.R. 6999, the Commandant is authorized to choose for this position either a civilian from the senior executive service or a flag-level uniformed officer. However, the CAO must have a Level III acquisition management qualification and 10 years of acquisition experience. These requirements are in keeping with the requirements imposed on flag-level officers and civilians in equivalent positions in the Department of Defense. (*See* 10 U.S.C. 1735). Implementation of the requirement that the CAO have 10 years of acquisitions experience is delayed until October 2011 – when the use of private sector lead systems integrators is phased out – to enable the Coast Guard to prepare personnel to assume this position.

H.R. 6999 also requires that the Coast Guard develop a strategy to empower acquisitions program managers – who are the cornerstones of the acquisition workforce. Such a strategy must explain how the Coast Guard will create a career path for program managers and provide adequate training and educational opportunities – as well as how the Coast Guard will hold program managers accountable for the results of acquisitions initiatives. Development and implementation of this strategy is essential to enabling the Coast Guard to empower program managers and to grow senior level acquisitions managers.

H.R. 6999 requires the Coast Guard to create career paths for both civilian and military personnel assigned to the acquisitions programs to ensure that these people receive the training and qualifications they need to effectively oversee and execute procurements worth billions of dollars.

H.R. 6999 requires the Coast Guard to promote a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

NOTIFICATION OF COST OVERRUNS AND SCHEDULE DELAYS

To ensure that Congress is fully apprised of major cost overruns and schedule delays encountered in acquisitions conducted under Deepwater, section 9 of H.R. 6999 requires the Coast Guard to advise Congress whenever a cost overrun greater than eight percent of the baseline total acquisition cost is encountered. This standard is in keeping with the requirements of the Department of Homeland Security's own investment management handbook. Additionally, the Coast Guard is required to advise Congress whenever a delay in the production of an asset exceeding 180 days is encountered. Both H.R. 2722 and the Senate-passed bill, S. 924, included provisions requiring the notification of Congress when cost overruns or schedule delays occurred.

ALTERNATIVES ANALYSIS FOR EXPERIMENTAL, TECHNICALLY IMMATURE, OR FIRST-IN-CLASS MAJOR ASSETS

Section 8 of H.R. 6999 requires the Coast Guard to conduct an alternatives analysis in advance of the acquisition of an experimental, technically immature, or first-in-class of a major asset class to objectively assess:

- the technology's capabilities, level of maturity, and safety and performance history;
- the likely production and development costs of the assets, including their operating and support costs; and
- the correct number of the assets to be purchased to meet the Coast Guard's mission needs.

Earlier in Deepwater, the Coast Guard obligated more than \$100 million to the development of a vertical unmanned aerial vehicle ("VUAV") and the effort failed to yield a reliable design. The Coast Guard was seeking to develop its own VUAV when other branches of the military had already developed proven designs. Now, as a result of the failure of this effort, the National Security Cutter will be launched without a VUAV – and without the expanded patrol range that the asset was intended to provide. S. 924 required the Coast Guard to conduct an alternatives analysis of the entire Deepwater program. H.R. 6999 applies that requirement to individual assets to ensure that value for money is obtained – and that purchases are fully capable of meeting mission requirements. The original slate of assets planned for purchase under Deepwater was developed by the Integrated Coast Guard Systems ("ICGS") – and should be evaluated as new purchases are undertaken to ensure that the purchases align with current mission needs.

SUBMARINES AND SEMISUBMERSIBLE VESSELS USED TO SMUGGLE DRUGS

Drug smugglers are currently using submersible and semisubmersible vessels to smuggle tons of cocaine into the United States. Section 212 of the bill makes it a civil and criminal offense with a fine and/or prison term of up to 15 years for knowingly operating or embarking in any submersible or semisubmersible vessel that is without nationality and that is navigating in, or has navigated into, through, or from, waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection. This section also grants extraterritorial federal jurisdiction over violations of this

section. This section also directs the U.S. Sentencing Commission to promulgate or amend existing guidelines to provide adequate penalties for criminal violations of this section. This section is similar to H.R. 6295, which passed the House on July 29, 2008.

CONSULTATION WITH THE DEPARTMENT OF DEFENSE

Section 108 of H.R. 6999 instructs the Coast Guard to obtain support to the extent appropriate from the Department of Defense (“DOD”) and to seek to leverage off of DOD contracts and contracts issued by other Federal agencies to obtain the best prices for assets. The bill also instructs the Coast Guard’s technical authority, which will make decisions regarding the fulfillment of technical contract requirements, to adopt procedures for overseeing technical issues similar to those used by the Navy. H.R. 2722 and S. 924 included provisions authorizing and encouraging the Coast Guard to obtain technical assistance with contracting and acquisitions functions from the Department of Defense.