

111TH CONGRESS
1ST SESSION

H. R. 1665

AN ACT

To structure Coast Guard acquisition processes and policies,
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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Coast Guard Acquisition Reform Act of 2009”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—RESTRICTIONS ON THE USE OF LEAD SYSTEMS
INTEGRATORS

Sec. 101. Procurement structure.

TITLE II—COAST GUARD ACQUISITION POLICY

Sec. 201. Operational requirements.

Sec. 202. Required contract terms.

Sec. 203. Life-cycle cost estimates.

Sec. 204. Test and evaluation.

Sec. 205. Capability standards.

Sec. 206. Acquisition program reports.

Sec. 207. Undefined contractual actions.

Sec. 208. Guidance on excessive pass-through charges.

Sec. 209. Acquisition of major capabilities: Alternatives analysis.

Sec. 210. Cost overruns and delays.

Sec. 211. Report on former Coast Guard officials employed by contractors to
the agency.

Sec. 212. Department of Defense consultation.

TITLE III—COAST GUARD PERSONNEL

Sec. 301. Chief Acquisition Officer.

Sec. 302. Improvements in Coast Guard acquisition management.

Sec. 303. Recognition of Coast Guard personnel for excellence in acquisition.

Sec. 304. Enhanced status quo officer promotion system.

Sec. 305. Coast Guard acquisition workforce expedited hiring authority.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means the Committee on Transportation
11 and Infrastructure of the House of Representatives

1 and the Committee on Commerce, Science, and
2 Transportation of the Senate.

3 (2) COMMANDANT.—The term “Commandant”
4 means the Commandant of the Coast Guard.

5 (3) LEVEL 1 ACQUISITION.—The term “Level 1
6 acquisition” means—

7 (A) an acquisition by the Coast Guard—

8 (i) the estimated life-cycle costs of
9 which exceed \$1,000,000,000; or

10 (ii) the estimated total acquisition
11 costs of which exceed \$300,000,000; or

12 (B) any acquisition that the Chief Acquisi-
13 tion Officer of the Coast Guard determines to
14 have a special interest—

15 (i) due to—

16 (I) the experimental or tech-
17 nically immature nature of the asset;

18 (II) the technological complexity
19 of the asset;

20 (III) the commitment of re-
21 sources; or

22 (IV) the nature of the capability
23 or set of capabilities to be achieved; or

24 (ii) because such acquisition is a joint
25 acquisition.

1 (4) LEVEL 2 ACQUISITION.—The term “Level 2
2 acquisition” means an acquisition by the Coast
3 Guard—

4 (A) the estimated life-cycle costs of which
5 are equal to or less than \$1,000,000,000, but
6 greater than \$300,000,000; or

7 (B) the estimated total acquisition costs of
8 which are equal to or less than \$300,000,000,
9 but greater than \$100,000,000.

10 (5) LIFE-CYCLE COST.—The term “life-cycle
11 cost” means all costs for development, procurement,
12 construction, and operations and support for a par-
13 ticular capability or asset, without regard to funding
14 source or management control.

15 **TITLE I—RESTRICTIONS ON THE**
16 **USE OF LEAD SYSTEMS INTE-**
17 **GRATORS**

18 **SEC. 101. PROCUREMENT STRUCTURE.**

19 (a) IN GENERAL.—

20 (1) USE OF LEAD SYSTEMS INTEGRATOR.—Ex-
21 cept as provided in subsection (b), the Commandant
22 may not use a private sector entity as a lead systems
23 integrator for an acquisition contract awarded or de-
24 livery order or task order issued after the end of the

1 180-day period beginning on the date of enactment
2 of this Act.

3 (2) FULL AND OPEN COMPETITION.—The Com-
4 mandant and any lead systems integrator engaged
5 by the Coast Guard shall use full and open competi-
6 tion for any acquisition contract awarded after the
7 date of enactment of this Act, unless otherwise ex-
8 cepted in accordance with Federal acquisition laws
9 and regulations promulgated under those laws, in-
10 cluding the Federal Acquisition Regulation.

11 (3) NO EFFECT ON SMALL BUSINESS ACT.—
12 Nothing in this subsection shall be construed to su-
13 persede or otherwise affect the authorities provided
14 by and under the Small Business Act (15 U.S.C.
15 631 et seq.).

16 (b) EXCEPTIONS.—

17 (1) NATIONAL DISTRESS AND RESPONSE SYS-
18 TEM MODERNIZATION PROGRAM; NATIONAL SECUR-
19 ITY CUTTERS 2 AND 3.—Notwithstanding sub-
20 sections (a) and (e), the Commandant may use a
21 private sector entity as a lead systems integrator for
22 the Coast Guard to complete the National Distress
23 and Response System Modernization Program (oth-
24 erwise known as the “Rescue 21” program) and Na-
25 tional Security Cutters 2 and 3.

1 (2) COMPLETION OF ACQUISITION BY LEAD
2 SYSTEMS INTEGRATOR.—Notwithstanding subsection
3 (a), the Commandant may use a private sector enti-
4 ty as a lead systems integrator for the Coast
5 Guard—

6 (A) to complete any delivery order or task
7 order, including the exercise of previously estab-
8 lished options on a delivery order or task order
9 that was issued to a lead systems integrator on
10 or before the date that is 180 days after the
11 date of enactment of this Act without any
12 change in the quantity of capabilities or assets
13 or the specific type of capabilities or assets cov-
14 ered by the order;

15 (B) for a contract awarded after the date
16 that is 180 days after the date of enactment of
17 this Act for acquisition of, or in support of, the
18 HC-130J aircraft, the HH-65 aircraft, or the
19 C4ISR system, if the requirements of sub-
20 section (c) are met with respect to such acquisi-
21 tions;

22 (C) for a contract awarded after the date
23 that is 180 days after the date of enactment of
24 this Act for acquisition of, or in support of,
25 Maritime Patrol Aircraft, if the requirements of

1 subsection (c) are met with respect to such an
2 acquisition; and

3 (D) for the acquisition of, or in support of,
4 additional National Security Cutters or Mari-
5 time Patrol Aircraft, if the Commandant deter-
6 mines that—

7 (i) the acquisition is in accordance
8 with Federal acquisition laws and regula-
9 tions promulgated under those laws, in-
10 cluding the Federal Acquisition Regula-
11 tion;

12 (ii) the acquisition and the use of a
13 private sector entity as a lead systems inte-
14 grator for the acquisition are in the best
15 interest of the Federal Government; and

16 (iii) the requirements of subsection (c)
17 are met with respect to such acquisition.

18 (3) REPORT ON DECISION-MAKING PROCESS.—

19 If the Commandant determines under subparagraph
20 (B), (C), or (D) of subsection (b)(2) that the Coast
21 Guard will use a private sector lead systems inte-
22 grator for an acquisition, the Commandant shall no-
23 tify in writing the appropriate congressional commit-
24 tees of the Commandant's determination and shall
25 provide a detailed rationale for the determination, at

1 least 30 days before the award of a contract or
2 issuance of a delivery order or task order, using a
3 private sector lead systems integrator, including a
4 comparison of the cost of the acquisition through the
5 private sector lead systems integrator with the ex-
6 pected cost if the acquisition were awarded directly
7 to the manufacturer or shipyard. For purposes of
8 that comparison, the cost of award directly to a
9 manufacturer or shipyard shall include the costs of
10 Government contract management and oversight.

11 (c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—

12 Neither an entity performing lead systems integrator func-
13 tions for a Coast Guard acquisition nor a Tier 1 subcon-
14 tractor for any acquisition described in subparagraph (B),
15 (C), or (D) of subsection (b)(2) may have a financial inter-
16 est in a subcontractor below the Tier 1 subcontractor level
17 unless—

18 (1) the subcontractor was selected by the prime
19 contractor through full and open competition for
20 such procurement;

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

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; or

3 (4) the Commandant has determined that the
4 procurement was awarded in a manner consistent
5 with Federal acquisition laws and regulations pro-
6 mulgated under those laws, including the Federal
7 Acquisition Regulation.

8 (d) **RULE OF CONSTRUCTION.**—The limitation in
9 subsection (b)(1)(A) on the quantity and specific type of
10 assets to which subsection (b) applies shall not be con-
11 strued to apply to the modification of the number or type
12 of any sub-systems or other components of a vessel or air-
13 craft described in subparagraph (B), (C), or (D) of sub-
14 section (b)(2).

15 (e) **TERMINATION DATE FOR EXCEPTIONS.**—Except
16 as described in subsection (b)(1), the Commandant may
17 not use a private sector entity as a lead systems integrator
18 for acquisition contracts awarded, or task orders or deliv-
19 ery orders issued, after the earlier of—

20 (1) September 30, 2011; or

21 (2) the date on which the Commandant certifies
22 in writing to the appropriate congressional commit-
23 tees that the Coast Guard has available and can re-
24 tain sufficient acquisition workforce personnel and
25 expertise within the Coast Guard, through an ar-

1 rangement with other Federal agencies, or through
2 contracts or other arrangements with private sector
3 entities, to perform the functions and responsibilities
4 of the lead systems integrator in an efficient and
5 cost-effective manner.

6 **TITLE II—COAST GUARD** 7 **ACQUISITION POLICY**

8 **SEC. 201. OPERATIONAL REQUIREMENTS.**

9 (a) IN GENERAL.—No Level 1 or Level 2 acquisition
10 program may be initiated by the Coast Guard, and no pro-
11 duction contract may be awarded for such an acquisition,
12 unless the Commandant has approved an operational re-
13 quirement for such acquisition.

14 (b) OPERATIONAL REQUIREMENT FOR ACQUISITION
15 PROGRAMS.—

16 (1) IN GENERAL.—The Commandant shall es-
17 tablish mature and stable operational requirements
18 for acquisition programs.

19 (2) ELEMENTS.—Prior to establishing oper-
20 ational requirements under paragraph (1), the Com-
21 mandant shall—

22 (A) prepare a preliminary statement of
23 need, a concept of operations, an analysis of al-
24 ternatives or the equivalent, an estimate of life-
25 cycle costs, and requirements for interoper-

1 ability with other capabilities and assets within
2 and external to the Coast Guard; and

3 (B) in preparing the concept of operations
4 under subparagraph (A), coordinate with acqui-
5 sition and support professionals, requirements
6 officials, operational users and maintainers, and
7 resource officials who can ensure the appro-
8 priate consideration of performance, cost,
9 schedule and risk trade-offs.

10 (c) CONSIDERATION OF TRADE-OFFS.—In estab-
11 lishing operational requirements under subsection (a), the
12 Commandant shall develop and implement mechanisms to
13 ensure that trade-offs among performance, cost, schedule,
14 and risk are considered in the establishment of operational
15 requirements for development and production of a Level
16 1 or Level 2 acquisition.

17 (d) ELEMENTS.—The mechanisms required under
18 this section shall ensure at a minimum that Coast Guard
19 officials responsible for acquisition management, budget,
20 and cost estimating functions have the authority to de-
21 velop cost estimates and raise cost and schedule matters
22 at any point in the process of establishing operational re-
23 quirements for a Level 1 or Level 2 acquisition.

1 **SEC. 202. REQUIRED CONTRACT TERMS.**

2 (a) IN GENERAL.—The Commandant shall ensure
3 that a contract awarded or a delivery order or task order
4 issued for an acquisition of a capability or an asset with
5 an expected service life of 10 years and with a total acqui-
6 sition cost that is equal to or exceeds \$10,000,000 award-
7 ed or issued by the Coast Guard after the date of enact-
8 ment of this Act—

9 (1) provides that all certifications for an end-
10 state capability or asset under such contract, deliv-
11 ery order, or task order, respectively, will be con-
12 ducted by the Commandant or an independent third
13 party, and that self-certification by a contractor or
14 subcontractor is not allowed;

15 (2) requires that the Commandant shall main-
16 tain the authority to establish, approve, and main-
17 tain technical requirements;

18 (3) requires that any measurement of con-
19 tractor and subcontractor performance be based on
20 the status of all work performed, including the ex-
21 tent to which the work performed met all perform-
22 ance, cost, and schedule requirements;

23 (4) specifies that, for the acquisition or upgrade
24 of air, surface, or shore capabilities and assets for
25 which compliance with TEMPEST certification is a
26 requirement, the standard for determining such com-

1 pliance will be the air, surface, or shore standard
2 then used by the Department of the Navy for that
3 type of capability or asset; and

4 (5) for any contract awarded to acquire an Off-
5 shore Patrol Cutter, includes provisions specifying
6 the service life, fatigue life, and days underway in
7 general Atlantic and North Pacific Sea conditions,
8 maximum range, and maximum speed the cutter will
9 be built to achieve.

10 (b) PROHIBITED CONTRACT PROVISIONS.—The Com-
11 mandant shall ensure that any contract awarded or deliv-
12 ery order or task order issued by the Coast Guard after
13 the date of enactment of this Act does not include any
14 provision allowing for equitable adjustment that differs
15 from the Federal Acquisition Regulation.

16 (c) EXTENSION OF PROGRAM.—Any contract, con-
17 tract modification, or award term extending a contract
18 with a lead systems integrator—

19 (1) shall not include any minimum require-
20 ments for the purchase of a given or determinable
21 number of specific capabilities or assets; and

22 (2) shall be reviewed by an independent third
23 party with expertise in acquisition management, and
24 the results of that review shall be submitted to the
25 appropriate congressional committees at least 60

1 days prior to the award of the contract, contract
2 modification, or award term.

3 **SEC. 203. LIFE-CYCLE COST ESTIMATES.**

4 (a) IN GENERAL.—The Commandant shall imple-
5 ment mechanisms to ensure the development and regular
6 updating of life-cycle cost estimates for each acquisition
7 with a total acquisition cost that equals or exceeds
8 \$10,000,000 and an expected service life of 10 years, and
9 to ensure that these estimates are considered in decisions
10 to develop or produce new or enhanced capabilities and
11 assets.

12 (b) TYPES OF ESTIMATES.—In addition to life-cycle
13 cost estimates that may be developed by acquisition pro-
14 gram offices, the Commandant shall require that an inde-
15 pendent life-cycle cost estimate be developed for each
16 Level 1 or Level 2 acquisition program or project.

17 (c) REQUIRED UPDATES.—For each Level 1 or Level
18 2 acquisition program or project the Commandant shall
19 require that life-cycle cost estimates shall be updated be-
20 fore each milestone decision is concluded and the program
21 or project enters a new acquisition phase.

22 **SEC. 204. TEST AND EVALUATION.**

23 (a) TEST AND EVALUATION MASTER PLAN.—

24 (1) IN GENERAL.—For any Level 1 or Level 2
25 acquisition program or project the Coast Guard

1 Chief Acquisition Officer must approve a Test and
2 Evaluation Master Plan specific to the acquisition
3 program or project for the capability, asset, or sub-
4 systems of the capability or asset and intended to
5 minimize technical, cost, and schedule risk as early
6 as practicable in the development of the program or
7 project.

8 (2) TEST AND EVALUATION STRATEGY.—The
9 TEMP shall—

10 (A) set forth an integrated test and evalua-
11 tion strategy that will verify that capability-level
12 or asset-level and sub-system-level design and
13 development, including performance and
14 supportability, have been sufficiently proven be-
15 fore the capability, asset, or sub-system of the
16 capability or asset is approved for production;
17 and

18 (B) require that adequate developmental
19 tests and evaluations and operational tests and
20 evaluations established under subparagraph (A)
21 are performed to inform production decisions.

22 (3) OTHER COMPONENTS OF TEMP.—At a min-
23 imum, the TEMP shall identify—

1 (A) the key performance parameters to be
2 resolved through the integrated test and evalua-
3 tion strategy;

4 (B) critical operational issues to be as-
5 sessed in addition to the key performance pa-
6 rameters;

7 (C) specific development test and evalua-
8 tion phases and the scope of each phase;

9 (D) modeling and simulation activities to
10 be performed, if any, and the scope of such ac-
11 tivities;

12 (E) early operational assessments to be
13 performed, if any, and the scope of such assess-
14 ments;

15 (F) operational test and evaluation phases;

16 (G) an estimate of the resources, including
17 funds, that will be required for all test, evalua-
18 tion, assessment, modeling, and simulation ac-
19 tivities; and

20 (H) the Government entity or independent
21 entity that will perform the test, evaluation, as-
22 sessment, modeling, and simulation activities.

23 (4) UPDATE.—The Coast Guard Chief Acquisi-
24 tion Officer shall approve an updated TEMP when-

1 ever there is a revision to program or project test
2 and evaluation strategy, scope, or phasing.

3 (5) LIMITATION.—The Coast Guard may not—

4 (A) proceed past that phase of the acquisi-
5 tion process that entails approving the sup-
6 porting acquisition of a capability or asset be-
7 fore the TEMP is approved by the Coast Guard
8 Chief Acquisition Officer; or

9 (B) award any production contract for a
10 capability, asset, or sub-system for which a
11 TEMP is required under this subsection before
12 the TEMP is approved by the Coast Guard
13 Chief Acquisition Officer.

14 (b) TESTS AND EVALUATIONS.—

15 (1) IN GENERAL.—The Commandant shall en-
16 sure that the Coast Guard conducts developmental
17 tests and evaluations and operational tests and eval-
18 uations of a capability or asset and the sub-systems
19 of the capability or asset for which a TEMP has
20 been prepared under subsection (a).

21 (2) USE OF THIRD PARTIES.—The Com-
22 mandant shall ensure that the Coast Guard uses
23 third parties with expertise in testing and evaluating
24 the capabilities or assets and the sub-systems of the
25 capabilities or assets being acquired to conduct de-

1 velopmental tests and evaluations and operational
2 tests and evaluations whenever the Coast Guard
3 lacks the capability to conduct the tests and evalua-
4 tions required by a TEMP.

5 (3) COMMUNICATION OF SAFETY CONCERNS.—

6 The Commandant shall require that safety concerns
7 identified during developmental or operational tests
8 and evaluations or through independent or Govern-
9 ment-conducted design assessments of capabilities or
10 assets and sub-systems of capabilities or assets to be
11 acquired by the Coast Guard shall be communicated
12 as soon as practicable, but not later than 30 days
13 after the completion of the test or assessment event
14 or activity that identified the safety concern, to the
15 program manager for the capability or asset and the
16 sub-systems concerned and to the Coast Guard Chief
17 Acquisition Officer.

18 (4) REPORTING OF SAFETY CONCERNS.—Any
19 safety concerns that have been reported to the Chief
20 Acquisition Officer for an acquisition program or
21 project shall be reported by the Commandant to the
22 appropriate congressional committees at least 90
23 days before the award of any contract or issuance of
24 any delivery order or task order for low, initial, or
25 full-rate production of the capability or asset con-

1 cerned if they will remain uncorrected or unmiti-
2 gated at the time such a contract is awarded or de-
3 livery order or task order is issued. The report shall
4 include a justification for the approval of that level
5 of production of the capability or asset before the
6 safety concern is corrected or mitigated. The report
7 shall also include an explanation of the actions that
8 will be taken to correct or mitigate the safety con-
9 cern, the date by which those actions will be taken,
10 and the adequacy of current funding to correct or
11 mitigate the safety concern.

12 (5) ASSET ALREADY IN LOW, INITIAL, OR FULL-
13 RATE PRODUCTION.—If operational test and evalua-
14 tion on a capability or asset already in low, initial,
15 or full-rate production identifies a safety concern
16 with the capability or asset or any sub-systems of
17 the capability or asset not previously identified dur-
18 ing developmental or operational test and evaluation,
19 the Commandant shall—

20 (A) notify the program manager and the
21 Chief Acquisition Officer of the safety concern
22 as soon as practicable, but not later than 30
23 days after the completion of the test and eval-
24 uation event or activity that identified the safe-
25 ty concern; and

1 (B) notify the appropriate congressional
2 Committee of the safety concern not later than
3 30 days after notification is made to the pro-
4 gram manager and Chief Acquisition Officer,
5 and include in such notification—

6 (i) an explanation of the actions that
7 will be taken to correct or mitigate the
8 safety concern in all capabilities or assets
9 and sub-systems of the capabilities or as-
10 sets yet to be produced, and the date by
11 which those actions will be taken;

12 (ii) an explanation of the actions that
13 will be taken to correct or mitigate the
14 safety concern in previously produced ca-
15 pabilities or assets and sub-systems of the
16 capabilities or assets, and the date by
17 which those actions will be taken; and

18 (iii) an assessment of the adequacy of
19 current funding to correct or mitigate the
20 safety concern in capabilities or assets and
21 sub-systems of the capabilities or assets
22 and in previously produced capabilities or
23 assets and sub-systems.

24 (c) DEFINITIONS.—In this section:

1 (1) DEVELOPMENTAL TEST AND EVALUA-
2 TION.—The term “developmental test and evalua-
3 tion” means—

4 (A) the testing of a capability or asset and
5 the sub-systems of the capability or asset to de-
6 termine whether they meet all contractual per-
7 formance requirements, including technical per-
8 formance requirements, supportability require-
9 ments, and interoperability requirements and
10 related specifications; and

11 (B) the evaluation of the results of such
12 testing.

13 (2) OPERATIONAL TEST AND EVALUATION.—
14 The term “operational test and evaluation” means—

15 (A) the testing of a capability or asset and
16 the sub-systems of the capability or asset,
17 under conditions similar to those in which the
18 capability or asset and subsystems will actually
19 be deployed, for the purpose of determining the
20 effectiveness and suitability of the capability or
21 asset and sub-systems for use by typical Coast
22 Guard users to conduct those missions for
23 which the capability or asset and sub-systems
24 are intended to be used; and

1 (B) the evaluation of the results of such
2 testing.

3 (3) SAFETY CONCERN.—The term “safety con-
4 cern” means any hazard associated with a capability
5 or asset or a sub-system of a capability or asset that
6 is likely to cause serious bodily injury or death to a
7 typical Coast Guard user in testing, maintaining, re-
8 pairing, or operating the capability, asset, or sub-
9 system or any hazard associated with the capability,
10 asset, or sub-system that is likely to cause major
11 damage to the capability, asset, or sub-system dur-
12 ing the course of its normal operation by a typical
13 Coast Guard user.

14 (4) TEMP.—The term “TEMP” means a Test
15 and Evaluation Master Plan for which approval is
16 required under this section.

17 **SEC. 205. CAPABILITY STANDARDS.**

18 (a) CUTTER CLASSIFICATION.—The Commandant
19 shall cause each cutter, other than a National Security
20 Cutter, acquired by the Coast Guard and delivered after
21 the date of enactment of this Act to be classed by the
22 American Bureau of Shipping before final acceptance.

23 (b) TEMPEST TESTING.—The Commandant shall—
24 (1) cause all electronics on all aircraft, surface,
25 and shore capabilities and assets that require TEM-

1 PEST certification and that are delivered after the
2 date of enactment of this Act to be tested in accord-
3 ance with TEMPEST standards and communication
4 security (COMSEC) standards by an independent
5 third party that is authorized by the Federal Gov-
6 ernment to perform such testing; and

7 (2) certify that the capabilities and assets meet
8 all applicable TEMPEST requirements.

9 (c) NATIONAL SECURITY CUTTERS.—

10 (1) NATIONAL SECURITY CUTTERS 1 AND 2.—

11 Not later than 90 days before the Coast Guard
12 awards any contract or issues any delivery order or
13 task order to strengthen the hull of either of Na-
14 tional Security Cutter 1 or 2 to resolve the struc-
15 tural design and performance issues identified in the
16 Department of Homeland Security Inspector Gen-
17 eral's report OIG-07-23 dated January 2007, the
18 Commandant shall submit to the appropriate con-
19 gressional committees and the Committee on Home-
20 land Security of the House of Representatives all re-
21 sults of an assessment of the proposed hull strength-
22 ening design conducted by the Coast Guard, includ-
23 ing—

24 (A) a description in detail of the extent to
25 which the hull strengthening measures to be im-

1 plemented on those cutters will enable the cut-
2 ters to meet contract and performance require-
3 ments;

4 (B) a cost benefit analysis of the proposed
5 hull strengthening measures for National Secu-
6 rity Cutters 1 and 2; and

7 (C) a description of any operational re-
8 strictions that would have to be applied to ei-
9 ther National Security Cutter 1 or 2 if the pro-
10 posed hull strengthening measures were not im-
11 plemented on either cutter.

12 (2) OTHER VESSELS.—The Commandant shall
13 cause the design and construction of each National
14 Security Cutter, other than National Security Cut-
15 ters 1, 2, and 3, to be assessed by an independent
16 third party with expertise in vessel design and con-
17 struction certification.

18 (d) AIRCRAFT AIRWORTHINESS.—The Commandant
19 shall cause all aircraft and aircraft engines acquired by
20 the Coast Guard and delivered after the date of enactment
21 of this Act to be assessed for airworthiness by an inde-
22 pendent third party with expertise in aircraft and aircraft
23 engine certification, before final acceptance.

1 **SEC. 206. ACQUISITION PROGRAM REPORTS.**

2 Any Coast Guard Level 1 or Level 2 acquisition pro-
3 gram or project may not begin to obtain any capability
4 or asset or proceed beyond that phase of its development
5 that entails approving the supporting acquisition until the
6 Commandant submits to the appropriate congressional
7 committees the following:

8 (1) The key performance parameters, the key
9 system attributes, and the operational performance
10 attributes of the capability and asset to be acquired
11 under the proposed acquisition program or project
12 will be built to achieve.

13 (2) A detailed list of the systems or other capa-
14 bilities with which the capability or asset to be ac-
15 quired is intended to be interoperable, including an
16 explanation of the attributes of interoperability.

17 (3) The anticipated acquisition program base-
18 line and acquisition unit cost for the capability or
19 asset to be produced and deployed under the pro-
20 gram or project.

21 (4) A detailed schedule for the acquisition proc-
22 ess showing when all capability and asset acquisi-
23 tions are to be completed and when all acquired ca-
24 pabilities and assets are to be initially and fully de-
25 ployed.

1 **SEC. 207. UNDEFINITIZED CONTRACTUAL ACTIONS.**

2 (a) IN GENERAL.—The Coast Guard may not enter
3 into an undefinitized contractual action unless such action
4 is directly approved by the Head of Contracting Activity
5 of the Coast Guard.

6 (b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL
7 ACTIONS.—Any request to the Head of Contracting Activ-
8 ity for approval of an undefinitized contractual action cov-
9 ered under subsection (a) must include a description of
10 the anticipated effect on requirements of the Coast Guard
11 if a delay is incurred for the purposes of determining con-
12 tractual terms, specifications, and price before perform-
13 ance is begun under the contractual action.

14 (c) REQUIREMENTS FOR UNDEFINITIZED CONTRAC-
15 TUAL ACTIONS.—

16 (1) DEADLINE FOR AGREEMENT ON TERMS,
17 SPECIFICATIONS, AND PRICE.—A contracting officer
18 of the Coast Guard may not enter into an
19 undefinitized contractual action unless the contrac-
20 tual action provides for agreement upon contractual
21 terms, specification, and price by the earlier of—

22 (A) the end of the 180-day period begin-
23 ning on the date on which the contractor sub-
24 mits a qualifying proposal to definitize the con-
25 tractual terms, specifications, and price; or

1 (B) the date on which the amount of funds
2 obligated under the contractual action is equal
3 to more than 50 percent of the negotiated over-
4 all ceiling price for the contractual action.

5 (2) LIMITATION ON OBLIGATIONS.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the contracting officer for an
8 undefinitized contractual action may not obli-
9 gate under such contractual action an amount
10 that exceeds 50 percent of the negotiated over-
11 all ceiling price until the contractual terms,
12 specifications, and price are definitized for such
13 contractual action.

14 (B) EXCEPTION.—Notwithstanding sub-
15 paragraph (A), if a contractor submits a quali-
16 fying proposal to definitize an undefinitized
17 contractual action before an amount that ex-
18 ceeds 50 percent of the negotiated overall ceil-
19 ing price is obligated on such action, the con-
20 tracting officer for such action may not obligate
21 with respect to such contractual action an
22 amount that exceeds 75 percent of the nego-
23 tiated overall ceiling price until the contractual
24 terms, specifications, and price are definitized
25 for such contractual action.

1 (3) WAIVER.—The Commandant may waive the
2 application of this subsection with respect to a con-
3 tract if the Commandant determines that the waiver
4 is necessary to support—

5 (A) a contingency operation (as that term
6 is defined in section 101(a)(13) of title 10,
7 United States Code);

8 (B) an operation in response to an emer-
9 gency that poses an unacceptable threat to
10 human health or safety or to the marine envi-
11 ronment; or

12 (C) an operation in response to a natural
13 disaster or major disaster or emergency des-
14 ignated by the President under the Robert T.
15 Stafford Disaster Relief and Emergency Assist-
16 ance Act (42 U.S.C. 5121 et seq.).

17 (4) LIMITATION ON APPLICATION.—This sub-
18 section does not apply to an undefinitized contrac-
19 tual action for the purchase of initial spares.

20 (d) INCLUSION OF NONURGENT REQUIREMENTS.—
21 Requirements for spare parts and support equipment that
22 are not needed on an urgent basis may not be included
23 in an undefinitized contractual action by the Coast Guard
24 for spare parts and support equipment that are needed

1 on an urgent basis unless the Commandant approves such
2 inclusion as being—

3 (1) good business practice; and

4 (2) in the best interests of the United States.

5 (e) MODIFICATION OF SCOPE.—The scope of an
6 undefinitized contractual action under which performance
7 has begun may not be modified unless the Commandant
8 approves such modification as being—

9 (1) good business practice; and

10 (2) in the best interests of the United States.

11 (f) ALLOWABLE PROFIT.—The Commandant shall
12 ensure that the profit allowed on an undefinitized contrac-
13 tual action for which the final price is negotiated after
14 a substantial portion of the performance required is com-
15 pleted reflects—

16 (1) the possible reduced cost risk of the con-
17 tractor with respect to costs incurred during per-
18 formance of the contract before the final price is ne-
19 gotiated; and

20 (2) the reduced cost risk of the contractor with
21 respect to costs incurred during performance of the
22 remaining portion of the contract.

23 (g) DEFINITIONS.—In this section:

24 (1) UNDEFINITIZED CONTRACTUAL ACTION.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term “undefinitized con-
3 tractual action” means a new procurement ac-
4 tion entered into by the Coast Guard for which
5 the contractual terms, specifications, or price
6 are not agreed upon before performance is
7 begun under the action.

8 (B) EXCLUSION.—Such term does not in-
9 clude contractual actions with respect to the fol-
10 lowing:

11 (i) Foreign military sales.

12 (ii) Purchases in an amount not in ex-
13 cess of the amount of the simplified acqui-
14 sition threshold.

15 (iii) Special access programs.

16 (2) QUALIFYING PROPOSAL.—The term “quali-
17 fying proposal” means a proposal that contains suf-
18 ficient information to enable complete and meaning-
19 ful audits of the information contained in the pro-
20 posal as determined by the contracting officer.

21 **SEC. 208. GUIDANCE ON EXCESSIVE PASS-THROUGH**
22 **CHARGES.**

23 (a) IN GENERAL.—Not later than 180 days after the
24 date of enactment of this Act, the Commandant shall issue
25 guidance to ensure that pass-through charges on con-

1 tracts, subcontracts, delivery orders, and task orders that
2 are entered into with a private entity acting as a lead sys-
3 tems integrator by or on behalf of the Coast Guard are
4 not excessive in relation to the cost of work performed by
5 the relevant contractor or subcontractor. The guidance
6 shall, at a minimum—

7 (1) set forth clear standards for determining
8 when no, or negligible, value has been added to a
9 contract by a contractor or subcontractor;

10 (2) set forth procedures for preventing the pay-
11 ment by the Government of excessive pass-through
12 charges; and

13 (3) identify any exceptions determined by the
14 Commandant to be in the best interest of the Gov-
15 ernment.

16 (b) **EXCESSIVE PASS-THROUGH CHARGE DE-**
17 **FINED.**—In this section the term “excessive pass-through
18 charge”, with respect to a contractor or subcontractor that
19 adds no, or negligible, value to a contract or subcontract,
20 means a charge to the Government by the contractor or
21 subcontractor that is for overhead or profit on work per-
22 formed by a lower-tier contractor or subcontractor, other
23 than reasonable charges for the direct costs of managing
24 lower-tier contractors and subcontracts and overhead and
25 profit based on such direct costs.

1 (c) APPLICATION OF GUIDANCE.—The guidance
2 under this subsection shall apply to contracts awarded to
3 a private entity acting as a lead systems integrator by or
4 on behalf of the Coast Guard on or after the date that
5 is 360 days after the date of enactment of this Act.

6 **SEC. 209. ACQUISITION OF MAJOR CAPABILITIES: ALTER-**
7 **NATIVES ANALYSIS.**

8 The Coast Guard may not acquire an experimental
9 or technically immature capability or asset or implement
10 a Level 1 or Level 2 acquisition, unless it has conducted
11 an alternatives analysis for the capability or asset to be
12 acquired in the concept and technology development phase
13 of the acquisition process for the capability or asset. Such
14 analysis shall be conducted by a federally funded research
15 and development center, a qualified entity of the Depart-
16 ment of Defense, or a similar independent third party enti-
17 ty that has appropriate acquisition expertise. Such alter-
18 natives analysis shall include—

19 (1) an assessment of the technical maturity of
20 the capability or asset and technical and other risks;

21 (2) an examination of capability, interoper-
22 ability, and other advantages and disadvantages;

23 (3) an evaluation of whether different combina-
24 tions or quantities of specific capabilities or assets

1 could meet the Coast Guard's overall performance
2 needs;

3 (4) a discussion of key assumptions and vari-
4 ables, and sensitivity to change in such assumptions
5 and variables;

6 (5) when an alternative is an existing capa-
7 bility, asset, or prototype, an evaluation of relevant
8 safety and performance records and costs;

9 (6) a calculation of life-cycle costs, including—

10 (A) an examination of development costs
11 and the levels of uncertainty associated with
12 such estimated costs;

13 (B) an examination of likely production
14 and deployment costs and the levels of uncer-
15 tainty associated with such estimated costs;

16 (C) an examination of likely operating and
17 support costs and the levels of uncertainty asso-
18 ciated with such estimated costs;

19 (D) if they are likely to be significant, an
20 examination of likely disposal costs and the lev-
21 els of uncertainty associated with such esti-
22 mated costs; and

23 (E) such additional measures the Com-
24 mandant determines to be necessary for appro-
25 priate evaluation of the capability or asset; and

1 (7) the business case for each viable alternative.

2 **SEC. 210. COST OVERRUNS AND DELAYS.**

3 (a) IN GENERAL.—The Commandant shall submit a
4 report to the appropriate congressional committees as
5 soon as possible, but not later than 30 days, after the
6 Chief Acquisition Officer of the Coast Guard becomes
7 aware of the breach of an acquisition program baseline
8 for any Level 1 or Level 2 acquisition program, by—

9 (1) a likely cost overrun greater than 10 per-
10 cent of the acquisition program baseline for that in-
11 dividual capability or asset or a class of capabilities
12 or assets;

13 (2) a likely delay of more than 180 days in the
14 delivery schedule for any individual capability or
15 asset or class of capabilities or assets; or

16 (3) an anticipated failure for any individual ca-
17 pability or asset or class of capabilities or assets to
18 satisfy any key performance threshold or parameter
19 under the acquisition program baseline.

20 (b) CONTENT.—The report submitted under sub-
21 section (a) shall include—

22 (1) a detailed description of the breach and an
23 explanation of its cause;

24 (2) the projected impact to performance, cost,
25 and schedule;

1 (3) an updated acquisition program baseline
2 and the complete history of changes to the original
3 acquisition program baseline;

4 (4) the updated acquisition schedule and the
5 complete history of changes to the original schedule;

6 (5) a full life-cycle cost analysis for the capa-
7 bility or asset or class of capabilities or assets;

8 (6) a remediation plan identifying corrective ac-
9 tions and any resulting issues or risks; and

10 (7) a description of how progress in the remedi-
11 ation plan will be measured and monitored.

12 (c) SUBSTANTIAL VARIANCES IN COSTS OR SCHED-
13 ULE.—If a likely cost overrun is greater than 20 percent
14 or a likely delay is greater than 12 months from the costs
15 and schedule described in the acquisition program baseline
16 for any Level 1 or Level 2 acquisition program or project
17 of the Coast Guard, the Commandant shall include in the
18 report a written certification, with a supporting expla-
19 nation, that—

20 (1) the capability or asset or capability or asset
21 class to be acquired under the program or project is
22 essential to the accomplishment of Coast Guard mis-
23 sions;

24 (2) there are no alternatives to such capability
25 or asset or capability or asset class which will pro-

1 vide equal or greater capability in both a more cost-
2 effective and timely manner;

3 (3) the new acquisition schedule and estimates
4 for total acquisition cost are reasonable; and

5 (4) the management structure for the acquisi-
6 tion program is adequate to manage and control per-
7 formance, cost, and schedule.

8 **SEC. 211. REPORT ON FORMER COAST GUARD OFFICIALS**
9 **EMPLOYED BY CONTRACTORS TO THE AGEN-**
10 **CY.**

11 (a) **REPORT REQUIRED.**—Not later than December
12 31, 2009, and annually thereafter, the Comptroller Gen-
13 eral of the United States shall submit a report to the ap-
14 propriate congressional committees on the employment
15 during the preceding year by Coast Guard contractors of
16 individuals who were Coast Guard officials in the previous
17 5-year period. The report shall assess the extent to which
18 former Coast Guard officials were provided compensation
19 by Coast Guard contractors in the preceding calendar
20 year.

21 (b) **OBJECTIVES OF REPORT.**—At a minimum, the
22 report required by this section shall assess the extent to
23 which former Coast Guard officials who receive compensa-
24 tion from Coast Guard contractors have been assigned by
25 those contractors to work on contracts or programs be-

1 tween the contractor and the Coast Guard, including con-
2 tracts or programs for which the former official personally
3 had oversight responsibility or decision-making authority
4 when they served in or worked for the Coast Guard.

5 (c) CONFIDENTIALITY REQUIREMENT.—The report
6 required by this subsection shall not include the names
7 of the former Coast Guard officials who receive compensa-
8 tion from Coast Guard contractors.

9 (d) ACCESS TO INFORMATION.—A Coast Guard con-
10 tractor shall provide the Comptroller General access to in-
11 formation requested by the Comptroller General for the
12 purpose of conducting the study required by this section.

13 (e) DEFINITIONS.—In this section:

14 (1) COAST GUARD CONTRACTOR.—The term
15 “Coast Guard contractor” includes any person that
16 received at least \$10,000,000 in contractor awards
17 from the Coast Guard in the calendar year covered
18 by the annual report.

19 (2) COAST GUARD OFFICIAL.—The term “Coast
20 Guard official” includes former officers of the Coast
21 Guard who were compensated at a rate of pay for
22 grade O–7 or above during the calendar year prior
23 to the date on which they separated from the Coast
24 Guard, and former civilian employees of the Coast
25 Guard who served at any level of the Senior Execu-

1 tive Service under subchapter VIII of chapter 53 of
2 title 5, United States Code, during the calendar year
3 prior to the date on which they separated from the
4 Coast Guard.

5 **SEC. 212. DEPARTMENT OF DEFENSE CONSULTATION.**

6 (a) IN GENERAL.—The Commandant shall make ar-
7 rangements as appropriate with the Secretary of Defense
8 for support in contracting and management of Coast
9 Guard acquisition programs. The Commandant shall also
10 seek opportunities to make use of Department of Defense
11 contracts, and contracts of other appropriate agencies, to
12 obtain the best possible price for capabilities and assets
13 acquired for the Coast Guard.

14 (b) INTER-SERVICE TECHNICAL ASSISTANCE.—The
15 Commandant may enter into a memorandum of under-
16 standing or a memorandum of agreement with the Sec-
17 retary of the Navy to obtain the assistance of the Office
18 of the Assistant Secretary of the Navy for Research, De-
19 velopment, and Acquisition, including the Navy Systems
20 Commands, with the oversight of Coast Guard major ac-
21 quisition programs. Such memorandum of understanding
22 or memorandum of agreement shall, at a minimum, pro-
23 vide for—

24 (1) the exchange of technical assistance and
25 support that the Coast Guard Chief Acquisition Offi-

1 cer, Coast Guard Chief Engineer, and the Coast
2 Guard Chief Information Officer may identify;

3 (2) the use, as appropriate, of Navy technical
4 expertise; and

5 (3) the temporary assignment or exchange of
6 personnel between the Coast Guard and the Office
7 of the Assistant Secretary of the Navy for Research,
8 Development, and Acquisition, including Naval Sys-
9 tems Commands, to facilitate the development of or-
10 ganic capabilities in the Coast Guard.

11 (c) TECHNICAL REQUIREMENT APPROVAL PROCE-
12 DURES.—The Coast Guard Chief Acquisition Officer shall
13 adopt, to the extent practicable, procedures that are simi-
14 lar to those used by the senior procurement executive of
15 the Department of the Navy to approve all technical re-
16 quirements.

17 (d) ASSESSMENT.—Within 180 days after the date
18 of enactment of this Act, the Comptroller General shall
19 transmit a report to the appropriate congressional com-
20 mittees that—

21 (1) contains an assessment of current Coast
22 Guard acquisition and management capabilities to
23 manage Level 1 and Level 2 acquisitions;

24 (2) includes recommendations as to how the
25 Coast Guard can improve its acquisition manage-

1 ment, either through internal reforms or by seeking
2 acquisition expertise from the Department of De-
3 fense; and

4 (3) addresses specifically the question of wheth-
5 er the Coast Guard can better leverage Department
6 of Defense or other agencies' contracts that would
7 meet the needs of Level 1 or Level 2 acquisitions in
8 order to obtain the best possible price.

9 **TITLE III—COAST GUARD**

10 **PERSONNEL**

11 **SEC. 301. CHIEF ACQUISITION OFFICER.**

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

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

16 “(a) ESTABLISHMENT OF CHIEF ACQUISITION OFFI-
17 CER.—There shall be in the Coast Guard a Chief Acquisi-
18 tion Officer selected by the Commandant who shall be a
19 Rear Admiral or civilian from the Senior Executive Service
20 (career reserved) and who meets the qualifications set
21 forth under subsection (b). The Chief Acquisition Officer
22 shall serve at the Assistant Commandant level and have
23 acquisition management as that individual's primary duty.

24 “(b) QUALIFICATIONS.—

1 “(1) The Chief Acquisition Officer and any
2 Flag Officer serving in the Acquisitions Directorate
3 shall be an acquisition professional with a program
4 manager level III certification and must have at
5 least 10 years experience in an acquisition position,
6 of which at least 4 years were spent in one of the
7 following qualifying positions:

8 “(A) Program executive officer.

9 “(B) Program manager of a Level 1 or
10 Level 2 acquisition.

11 “(C) Deputy program manager of a Level
12 1 or Level 2 acquisition.

13 “(D) Project manager for a Level 1 or
14 Level 2 acquisition.

15 “(E) Any other acquisition position of sig-
16 nificant responsibility in which the primary du-
17 ties are supervisory or management duties.

18 “(2) The Commandant shall periodically publish
19 a list of the positions designated under this sub-
20 section.

21 “(c) AUTHORITY AND FUNCTIONS OF THE CHIEF AC-
22 QUISITION OFFICER.—The functions of the Chief Acquisi-
23 tion Officer shall include—

24 “(1) monitoring the performance of programs
25 and projects on the basis of applicable performance

1 measurements and advising the Commandant,
2 through the chain of command, regarding the appro-
3 priate business strategy to achieve the missions of
4 the Coast Guard;

5 “(2) maximizing the use of full and open com-
6 petition at the prime contract and subcontract levels
7 in the acquisition of property, capabilities, assets,
8 and services by the Coast Guard by establishing poli-
9 cies, procedures, and practices that ensure that the
10 Coast Guard receives a sufficient number of sealed
11 bids or competitive proposals from responsible
12 sources to fulfill the Government’s requirements, in-
13 cluding performance and delivery schedules, at the
14 lowest cost or best value considering the nature of
15 the property, capability, asset, or service procured;

16 “(3) making acquisition decisions in concur-
17 rence with the technical authority of the Coast
18 Guard, as designated by the Commandant, and con-
19 sistent with all other applicable laws and decisions
20 establishing procedures within the Coast Guard;

21 “(4) ensuring the use of detailed performance
22 specifications in instances in which performance
23 based contracting is used;

24 “(5) managing the direction of acquisition poli-
25 icy for the Coast Guard, including implementation of

1 the unique acquisition policies, regulations, and
2 standards of the Coast Guard;

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

7 “(7) assessing the requirements established for
8 Coast Guard personnel regarding knowledge and
9 skill in acquisition resources and management and
10 the adequacy of such requirements for facilitating
11 the achievement of the performance goals established
12 for acquisition management;

13 “(8) developing strategies and specific plans for
14 hiring, training, and professional development; and

15 “(9) reporting to the Commandant, through the
16 chain of command, on the progress made in improv-
17 ing acquisition management capability.”.

18 (b) APPLICATION OF QUALIFICATION REQUIRE-
19 MENT.—Section 55(b) of title 14, United States Code, as
20 amended by this section, shall apply beginning October 1,
21 2011.

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

“55. Chief Acquisition Officer.”.

1 (d) ELEVATION OF DISPUTES TO THE CHIEF ACQUI-
2 SITION OFFICER.—Within 45 days after the elevation to
3 the Chief Acquisition Officer of any design or other dis-
4 pute regarding a Level 1 or Level 2 acquisition, the Com-
5 mandant shall provide to the appropriate congressional
6 committees a detailed description of the issue and the ra-
7 tionale underlying the decision taken by the Chief Acquisi-
8 tion Officer to resolve the issue.

9 (e) SPECIAL RATE SUPPLEMENTS.—

10 (1) REQUIREMENT TO ESTABLISH.—Not later
11 than 1 year after the date of enactment of this Act
12 and in accordance with part 9701.333 of title 5,
13 Code of Federal Regulations, the Commandant shall
14 establish special rate supplements that provide high-
15 er pay levels for employees necessary to carry out
16 the amendment made by this section.

17 (2) SUBJECT TO APPROPRIATIONS.—The re-
18 quirement under paragraph (1) is subject to the
19 availability of appropriations.

20 **SEC. 302. IMPROVEMENTS IN COAST GUARD ACQUISITION**
21 **MANAGEMENT.**

22 (a) PROGRAM AND PROJECT MANAGERS.—An indi-
23 vidual may not be assigned as the program manager for
24 a Level 1 or Level 2 acquisition unless the individual holds
25 a Level III acquisition certification as a program manager.

1 (b) INTEGRATED PRODUCT TEAMS.—Integrated
2 product teams, and all teams that oversee integrated prod-
3 uct teams, shall be chaired by officers, members, or em-
4 ployees of the Coast Guard.

5 (c) TECHNICAL AUTHORITY.—The Commandant
6 shall maintain or designate the technical authority to es-
7 tablish, approve, and maintain technical requirements.
8 Any such designation shall be made in writing and may
9 not be delegated to the authority of the Chief Acquisition
10 Officer established by section 55 of title 14, United States
11 Code.

12 (d) DESIGNATION OF POSITIONS IN THE ACQUISI-
13 TION WORKFORCE.—

14 (1) IN GENERAL.—The Commandant shall des-
15 ignate a sufficient number of positions to be in the
16 Coast Guard’s acquisition workforce to perform ac-
17 quisition-related functions at Coast Guard head-
18 quarters and field activities.

19 (2) REQUIRED POSITIONS.—In designating po-
20 sitions under subsection (a), the Commandant shall
21 include, at a minimum, positions encompassing the
22 following competencies and functions:

23 (A) Program management.

24 (B) Systems planning, research, develop-
25 ment, engineering, and testing.

1 (C) Procurement, including contracting.

2 (D) Industrial and contract property man-
3 agement.

4 (E) Life-cycle logistics.

5 (F) Quality control and assurance.

6 (G) Manufacturing and production.

7 (H) Business, cost estimating, financial
8 management, and auditing.

9 (I) Acquisition education, training, and ca-
10 reer development.

11 (J) Construction and facilities engineering.

12 (K) Testing and evaluation.

13 (3) ACQUISITION MANAGEMENT HEADQUARTER
14 ACTIVITIES.—The Commandant shall also designate
15 as positions in the acquisition workforce under para-
16 graph (1) those acquisition-related positions located
17 at Coast Guard headquarters units.

18 (4) APPROPRIATE EXPERTISE REQUIRED.—The
19 Commandant shall ensure that each individual as-
20 signed to a position in the acquisition workforce has
21 the appropriate expertise to carry out the respon-
22 sibilities of that position.

23 (e) MANAGEMENT INFORMATION SYSTEM.—

24 (1) IN GENERAL.—The Commandant shall es-
25 tablish a management information system capability

1 to improve acquisition workforce management and
2 reporting.

3 (2) INFORMATION MAINTAINED.—Information
4 maintained with such capability shall include the fol-
5 lowing standardized information on individuals as-
6 signed to positions in the workforce:

7 (A) Qualifications, assignment history, and
8 tenure of those individuals assigned to positions
9 in the acquisition workforce or holding acquisi-
10 tion-related certifications.

11 (B) Promotion rates for officers and mem-
12 bers of the Coast Guard in the acquisition
13 workforce.

14 (f) REPORT ON ADEQUACY OF ACQUISITION WORK-
15 FORCE.—

16 (1) IN GENERAL.—The Commandant shall re-
17 port to the Congress by July 1 of each year on the
18 scope of the acquisition activities to be performed in
19 the next fiscal year and on the adequacy of the cur-
20 rent acquisition workforce to meet that anticipated
21 workload.

22 (2) CONTENTS.—The report shall—

23 (A) specify the number of officers, mem-
24 bers, and employees of the Coast Guard cur-

1 rently and planned to be assigned to each posi-
2 tion designated under subsection (d); and

3 (B) identify positions that are understaffed
4 to meet the anticipated acquisition workload,
5 and actions that will be taken to correct such
6 understaffing.

7 (g) APPOINTMENTS TO ACQUISITION POSITIONS.—
8 The Commandant shall ensure that no requirement or
9 preference for officers or members of the Coast Guard is
10 used in the consideration of persons for positions in the
11 acquisition workforce.

12 (h) CAREER PATHS.—

13 (1) IDENTIFICATION OF CAREER PATHS.—To
14 establish acquisition management as a core com-
15 petency of the Coast Guard, the Commandant
16 shall—

17 (A) ensure that career paths for officers,
18 members, and employees of the Coast Guard
19 who wish to pursue careers in acquisition are
20 identified in terms of the education, training,
21 experience, and assignments necessary for ca-
22 reer progression of those officers, members, and
23 employees to the most senior positions in the
24 acquisition workforce; and

1 (B) publish information on such career
2 paths.

3 (2) PROMOTION PARITY.—The Commandant
4 shall ensure that promotion parity is established for
5 officers and members of the Coast Guard who have
6 been assigned to the acquisition workforce relative to
7 officers and members who have not been assigned to
8 the acquisition workforce.

9 (i) BALANCED WORKFORCE POLICY.—In the devel-
10 opment of acquisition workforce policies under this section
11 with respect to any civilian employees or applicants for
12 employment, the Commandant shall, consistent with the
13 merit system principles set out in paragraphs (1) and (2)
14 of section 2301(b) of title 5, United States Code, take into
15 consideration the need to maintain a balanced workforce
16 in which women and members of racial and ethnic minor-
17 ity groups are appropriately represented in Government
18 service.

19 (j) GUIDANCE ON TENURE AND ACCOUNTABILITY OF
20 PROGRAM MANAGERS.—

21 (1) ISSUANCE OF GUIDANCE.—Not later than 1
22 year after the date of enactment of this Act, the
23 Commandant shall issue guidance to address the
24 qualifications, resources, responsibilities, tenure, and
25 accountability of program managers for the manage-

1 ment of acquisition programs and projects. The
2 guidance shall address, at a minimum—

3 (A) the qualifications that shall be required
4 of program managers, including the number of
5 years of acquisition experience and the profes-
6 sional training levels to be required of those ap-
7 pointed to program management positions;

8 (B) authorities available to program man-
9 agers, including, to the extent appropriate, the
10 authority to object to the addition of new pro-
11 gram requirements that would be inconsistent
12 with the parameters established for an acquisi-
13 tion program; and

14 (C) the extent to which a program man-
15 ager who initiates a new program or project will
16 continue in management of that program or
17 project without interruption until the delivery of
18 the first production units of the program.

19 (2) STRATEGY.—

20 (A) IN GENERAL.—Not later than 18
21 months after the date of enactment of this Act,
22 the Commandant shall develop a comprehensive
23 strategy for enhancing the role of Coast Guard
24 program managers in developing and carrying
25 out acquisition programs.

1 (B) MATTERS TO BE ADDRESSED.—The
2 strategy required by this section shall address,
3 at a minimum—

4 (i) the creation of a specific career
5 path and career opportunities for individ-
6 uals who are or may become program man-
7 agers, including the rotational assignments
8 that will be provided to program managers;

9 (ii) the provision of enhanced training
10 and educational opportunities for individ-
11 uals who are or may become program man-
12 agers;

13 (iii) the provision of mentoring sup-
14 port to current and future program man-
15 agers by experienced senior executives and
16 program managers within the Coast
17 Guard, and through rotational assignments
18 to the Department of Defense;

19 (iv) the methods by which the Coast
20 Guard will collect and disseminate best
21 practices and lessons learned on systems
22 acquisition to enhance program manage-
23 ment throughout the Coast Guard;

24 (v) the templates and tools that will
25 be used to support improved data gath-

1 ering and analysis for program manage-
2 ment and oversight purposes, including the
3 metrics that will be utilized to assess the
4 effectiveness of Coast Guard program
5 managers in managing systems acquisition
6 efforts;

7 (vi) a description in detail of how the
8 Coast Guard will promote a balanced work-
9 force in which women and members of ra-
10 cial and ethnic minority groups are appro-
11 priately represented in Government service;
12 and

13 (vii) the methods by which the ac-
14 countability of program managers for the
15 results of acquisition programs will be in-
16 creased.

17 **SEC. 303. RECOGNITION OF COAST GUARD PERSONNEL**
18 **FOR EXCELLENCE IN ACQUISITION.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of enactment of this Act, the Commandant shall com-
21 mence implementation of a program to recognize excellent
22 performance by individuals and teams comprised of offi-
23 cers, members, and employees of the Coast Guard that
24 contributed to the long-term success of a Coast Guard ac-
25 quisition program or project.

1 (b) ELEMENTS.—The program required by sub-
2 section (a) shall include the following:

3 (1) Specific award categories, criteria, and eligi-
4 bility and manners of recognition.

5 (2) Procedures for the nomination by personnel
6 of the Coast Guard of individuals and teams com-
7 prised of officers, members, and employees of the
8 Coast Guard for recognition under the program.

9 (3) Procedures for the evaluation of nomina-
10 tions for recognition under the program by one or
11 more panels of individuals from the Government,
12 academia, and the private sector who have such ex-
13 pertise and are appointed in such manner as the
14 Commandant shall establish for the purposes of this
15 program.

16 (c) AWARD OF CASH BONUSES.—As part of the pro-
17 gram required by subsection (a), the Commandant, sub-
18 ject to the availability of appropriations, may award to any
19 individual recognized pursuant to the program a cash
20 bonus to the extent that the performance of such indi-
21 vidual so recognized warrants the award of such bonus.

22 **SEC. 304. ENHANCED STATUS QUO OFFICER PROMOTION**
23 **SYSTEM.**

24 Chapter 11 of title 14, United States Code, is amend-
25 ed—

1 (1) in section 253(a)—

2 (A) by inserting “and” after “considered,”;

3 and

4 (B) by striking “, and the number of offi-
5 cers the board may recommend for promotion”;

6 (2) in section 258—

7 (A) by inserting “(a) IN GENERAL.—” be-
8 fore the existing text;

9 (B) in subsection (a) (as so designated) by
10 striking the colon at the end of the material
11 preceding paragraph (1) and inserting “—”;
12 and

13 (C) by adding at the end the following:

14 “(b) PROVISION OF DIRECTION AND GUIDANCE.—

15 “(1) In addition to the information provided
16 pursuant to subsection (a), the Commandant may
17 furnish the selection board—

18 “(A) specific direction relating to the needs
19 of the Coast Guard for officers having par-
20 ticular skills, including direction relating to the
21 need for a minimum number of officers with
22 particular skills within a specialty; and

23 “(B) any other guidance that the Com-
24 mandant believes may be necessary to enable
25 the board to properly perform its functions.

1 “(2) Selections made based on the direction and
2 guidance provided under this subsection shall not ex-
3 ceed the maximum percentage of officers who may
4 be selected from below the announced promotion
5 zone at any given selection board convened under
6 section 251 of this title.”;

7 (3) in section 259(a), by inserting after “whom
8 the board” the following: “, giving due consideration
9 to the needs of the Coast Guard for officers with
10 particular skills so noted in specific direction fur-
11 nished to the board by the Commandant under sec-
12 tion 258 of this title,”; and

13 (4) in section 260(b), by inserting after “quali-
14 fied for promotion” the following: “to meet the
15 needs of the service (as noted in specific direction
16 furnished the board by the Commandant under sec-
17 tion 258 of this title)”.

18 **SEC. 305. COAST GUARD ACQUISITION WORKFORCE EXPE-**

19 **DITED HIRING AUTHORITY.**

20 (a) **IN GENERAL.**—For purposes of sections 3304,
21 5333, and 5753 of title 5, United States Code, the Com-
22 mandant may—

23 (1) designate any category of acquisition posi-
24 tions within the Coast Guard as shortage category
25 positions; and

1 (2) use the authorities in such sections to re-
2 cruit and appoint highly qualified persons directly to
3 positions so designated.

4 (b) LIMITATION.—The Commandant may not ap-
5 point a person to a position of employment under this sub-
6 section after September 30, 2012.

 Passed the House of Representatives July 29, 2009.

 Attest:

Clerk.

111TH CONGRESS
1ST SESSION

H. R. 1665

AN ACT

To structure Coast Guard acquisition processes and policies, and for other purposes.