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REPORT
110–72

INTEGRATED DEEPWATER PROGRAM REFORM ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 924

MAY 24, 2007.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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MAY 24, 2007.—Ordered to be printed

Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 924]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 924) to strengthen the United States Coast Guard's Integrated Deepwater Program, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 924 is to correct problems with the United States Coast Guard's (Coast Guard) Integrated Deepwater Program that were discussed at a hearing of the Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard on February 14, 2007. Significant concerns with the program have been raised by the Government Accountability Office (GAO), the Inspector General (IG) of the Department of Homeland Security (DHS), and the Defense Acquisition University (DAU), including: the Coast Guard's reliance on a single private entity, Integrated Coast Guard Systems (ICGS), to make significant procurement decisions under a unique Lead Systems Integrator (LSI) contract; incorporation of terms adverse to the Coast Guard in the contract; a lack of competition of subcontracts; and weak oversight by the Coast Guard.

BACKGROUND AND NEEDS

Deepwater is the largest and most complex procurement project in the Coast Guard's history. Its primary purpose is to modernize an aging fleet of 90 cutters and 200 aircraft used for missions that occur beyond 50 miles from the shoreline through a mix of new ac-

quisitions and retrofits to existing "legacy assets." In 2002, the Coast Guard selected ICGS, a joint venture of Lockheed Martin and Northrop Grumman, as the primary contractor under the non-traditional LSI approach intended to develop new Coast Guard assets as an integrated "system-of-systems." The LSI contract approach provides the contractor with significant decision-making and management authority over many aspects of the acquisition, including decisions on whether to "make or buy" assets to be delivered. The contract also did not require competition for subcontracts.

In 1998, the Coast Guard's initial estimated cost for the project was $17 billion with all new and retrofitted assets to be delivered by 2018. The Coast Guard submitted a revised Deepwater implementation plan to the Congress in February 2005, to address increased costs and to account for new security capabilities and the service's new missions following its shift from the Department of Transportation to DHS subsequent the events of September 11, 2001. Under this revised plan, the overall program cost increased to $24 billion, with the final assets scheduled for delivery in 2027.

Problems with the Deepwater program, many of which have been documented in reports from the DHS IG and the GAO, have raised serious concerns about specific acquisitions under the program, as well as more fundamental problems with the program as a whole. The GAO issued a report in March 2004, citing significant risks with the use of the LSI contracting model, and recommended changes to address three broad areas of concern: (1) improving program management; (2) strengthening contractor accountability; and (3) promoting cost control through greater competition among potential subcontractors. A report of the GAO in January 2006 detailed problems with the design of one of the three major new vessel assets to be acquired, the Fast Response Cutter (FRC), that led the Coast Guard to issue a stop-work order to ICGS. On November 30, 2006, the Coast Guard announced the decision to suspend all operations of the eight 110-foot patrol boats that had been converted to 123-foot patrol boats, due to structural damage and safety concerns. A report of the DHS IG issued on January 23, 2007, found that the largest new vessel to be delivered under the contract, the National Security Cutter (NSC), would not meet the Coast Guard's performance requirements and had design flaws that could result in significant additional costs. Another report from the DHS IG dated February 9, 2007, found that ICGS failed to install low-smoke cable and other elements of the command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR) system on the converted 123-foot vessels, as required by the contract specifications.

The DAU, housed within the Department of Defense (DOD), released a study on February 5, 2007, which found problems with nearly every aspect of the Deepwater program, including the implementation of the "system-of-systems" approach; the LSI contractual arrangement; and Coast Guard management, workforce and organizational structure, financial management, and logistics. The report encompasses many specific recommendations on all fronts, including improvements to acquisition strategy, contract structure, and management.

The Coast Guard has started to take steps to respond to these recommendations; however, many specific details of reforms remain unclear. The Coast Guard is currently negotiating with ICGS on a new contract, possibly for the full 43-month period of the next award term, to replace the existing contract which expires in June 2007. Although the Coast Guard has stated that it is making changes to the contract to address Congressional concerns, significant uncertainty remains.

SUMMARY OF PROVISIONS

The bill would direct the Coast Guard to stop using an LSI on future Deepwater acquisitions, while allowing the LSI to complete limited work as follows: upgrades of the HC–130J aircraft which would be completed in fiscal year (FY) 2008; acquisition of the C4ISR system; and completion of only those NSCs and Maritime Patrol Aircraft (MPAs) on contract for production as of the date of enactment. The bill also allows the Coast Guard to use the LSI for the remaining NSCs and MPAs currently planned for under the program but only after a third-party analysis of alternatives is completed, and the Coast Guard concludes that: (1) this approach is in the best interests of the Federal government, (2) Federal justifications on sole-source contracts are met, and (3) conflicts of interest for subcontracts are addressed. The bill would require the Coast Guard to fully compete all other Deepwater assets for which the Coast Guard is using an outside contractor. The requirement for full and open competition is not intended to apply to procurements for which a simplified acquisition procedure is allowed under the Federal Acquisition Regulations, Part 13.

The bill would require an analysis of alternatives by an independent third party expert of all proposed Deepwater assets, other than those already under contract or which the LSI is allowed to complete, or those being competed. This analysis would include additional NSCs and MPAs, and any major future changes to the Deepwater acquisitions program. It also would require a plan from the Coast Guard outlining how the agency will move forward with the program, including revised cost and schedule information.

An analysis of alternatives is routinely used for major changes to DOD contracts. The rationale for undertaking such a review for the Deepwater program is two-fold. First, various concerns with proposed Deepwater assets, including the NSC, have been identified. Second, since problems with the program surfaced, the Coast Guard has made many significant changes to what it plans to procure. For example, the Coast Guard has decided to alter its plans for three of the four planned major vessel components. It has halted the conversion of its 110-foot patrol boats to 123-foot vessels, stopped work on the original Fast Response Cutter and is rethinking whether to build a newly-designed vessel for its Offshore Patrol Cutter or to purchase a different vessel. It also has put on hold the development of the Vertical Unmanned Aerial Vehicle (VUAV), after Bell Helicopter, the company making the VUAV, encountered problems in the asset's development. The VUAV was to be a "force multiplier" used in combination with the NSCs and was a factor in the decision to purchase only eight NSCs to replace the twelve Hamilton Class 378-foot cutters. Given this situation, an analysis of alternatives for proposed Deepwater assets is warranted to en-

sure that the Coast Guard will procure the mix of assets that best meets its needs.

The bill would require changes to terms of new Deepwater contracts, including changes to award term and award fee criteria, as recommended by the GAO and the DAU. It would require the Coast Guard to adhere to the Systems Acquisition Manual, which the Coast Guard waived in order to enter into the current contractual arrangement but has since asserted that it will apply to Deepwater projects moving forward. The bill also would end the practice of allowing the private contractor to self-certify the design and performance of assets being delivered to ensure adherence to accepted industry-wide standards and procedures.

The bill would require a number of improvements to the Coast Guard's internal management of the Deepwater program. It would ensure better technical oversight by the Coast Guard's engineering staff, and it would allow the Coast Guard new authority to shift personnel to support acquisitions projects.

The bill would require the Coast Guard to provide significant information to Congress regarding the status of the Deepwater program, including information similar to what the DOD provides to Congress for major acquisitions. It would require a specific report from the Coast Guard on the 110-foot patrol boat gaps and a report from the IG on cost overruns for Deepwater assets. It would also require the GAO to provide an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing the provisions of the bill, the GAO recommendations in its March, 2004 report, GAO–04–380, and any subsequent recommendations issued before March 1, 2007.

LEGISLATIVE HISTORY

On March 20, 2007, Senators Cantwell and Snowe introduced S. 924, the Integrated Deepwater Program Reform Act. The bill was referred to the Senate Committee on Commerce, Science, and Transportation.

On April 25, 2007, the Committee considered this bill and reported it unanimously, along with two manager's amendments offered by Senators Cantwell and Snowe. The manager's amendments modified the bill as introduced to reflect comments received from members and other parties and incorporated additional changes to streamline the process requiring the Coast Guard to consult with GAO.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 924—Integrated Deepwater Program Reform Act

Summary: S. 924 addresses the contracting practices used by the United States Coast Guard (USCG) for the Integrated Deepwater Program (IDP), a 25-year, $24 billion initiative to replace many of

the agency's vessels, aircraft, and other assets. CBO expects that implementing the bill would add about $20 million to USCG's costs over the next 2 years, but that increase would probably be more than offset by savings in future years. Enacting this legislation would not affect revenues or direct spending.

Several provisions of the bill could increase contract administration and other program costs, but those provisions and other reforms required by the bill also could result in lower procurement costs. Moreover, many of the bill's required reforms may be implemented by the Coast Guard even in the absence of legislation. CBO expects that implementing those reforms (whether under current law or as a result of enacting S. 924) would reduce the long-term cost of the Integrated Deepwater Program, but CBO cannot estimate the likely size of that cost savings or clearly identify what proportion of any long-term savings would be attributable to this legislation and what share would result from changes the Coast Guard would implement under current law. Any annual costs or savings realized by the agency as a result of the legislation would depend on future changes in the level of discretionary appropriations for this initiative.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of State, local, or tribal governments.

Major provisions

S. 924 would restrict the Coast Guard's reliance on private entities to manage IDP and would require the agency to revise other procurement practices to rectify problems identified by the Department of Defense (DOD), the Department of Homeland Security (DHS), and the Government Accountability Office. S. 924 also would mandate that future acquisitions for the program be open to competition and be subject to formal analyses of alternatives carried out by an independent entity. For acquisitions that exceed $10 million, the agency would have to certify that it has performed appropriate technological research and feasibility studies. Finally, the bill would require the Coast Guard to produce various reports on its contracting and acquisition activities.

Estimated effect on the Federal Budget: CBO estimates that implementing S. 924 would increase USCG's administrative costs by $20 million over the next two years. Most of this cost would be incurred in 2008 to obtain an independent analysis of alternatives (AoA) for the Deepwater program, as required by section 3. Under this requirement, the USCG would contract with an independent entity such as DOD or a federally funded research center for a comprehensive review of the agency's existing deepwater plan and feasible alternatives. We estimate that the costs of implementing other administrative requirements, such as certifications on large contracts or smaller AoA's on future acquisition projects, would not add significantly to the costs of the Deepwater program.

The budgetary impact of other provisions of the bill is uncertain—as is the cost of the deepwater initiative under existing law. According to the DHS Inspector General, the Coast Guard's most recent cost estimate for the program—$24 billion—is likely to be too low because it does not take into account costs of hundreds of

millions of dollars resulting from delays, design failures, and other problems. S. 924 would seek to address those problems by requiring greater agency supervision and more reliance on competitive bidding. CBO expects that those reforms would result in savings, but we cannot estimate the magnitude of such savings or predict the extent to which some savings would be realized by implementing certain reforms under current law.

Pending acquisitions

CBO expects that implementing the bill would not directly affect pending acquisitions of certain classes of assets, such as the national security cutter and the maritime patrol aircraft, two assets that the USCG has already begun acquiring from its chosen contractor. The bill would exempt those and other specified projects from its requirements on management and competitive bidding if certain conditions are met. The administrative burden of meeting those conditions could cause delays in acquiring some fleet replacements and thus result in additional operating and maintenance costs over the next few years for existing assets.Similar delays, however, may occur under current law; the Coast Guard has already had to begin revising the design of those assets to address known problems.

Future acquisitions

The bill would require that future phases of IDP be subject to open competition and other reforms. The resulting savings from such reforms could be significant—perhaps hundreds of millions of dollars—but cannot be estimated with any precision. Moreover, many of the contracting changes may occur even in the absence of legislation. For example, the Coast Guard recently announced that it intends to begin managing the program itself rather than relying on a private systems integrator. The agency has also begun implementing some of the other reforms suggested by DHS, such as more reliance on competition and independent analysis.

Any costs or savings that result from implementing S. 924 would depend on corresponding changes in annual appropriation acts. Annual funding for acquisitions under the program has varied widely—from $320 million in fiscal year 2002 to more than $1.1 billion to date for 2007. The President's budget request for 2008 includes nearly $840 million for the program.

Intergovernmental and private-sector impact: S. 924 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Deborah Reis; Impact on state, local, and tribal governments: Elizabeth Cove; Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The reported bill would require changes to the contracting approach used by the Coast Guard in its Deepwater program, and improvements to the Coast Guard's management of this program. It does not authorize any new regulations and therefore will not subject any individuals or businesses to new regulations.

ECONOMIC IMPACT

The reported bill would have little, if any, impact on the United States economy or on United States citizens. The provisions of the bill, including changes to the contracting approach and the requirement for increased competition, are aimed at reducing costs under the Deepwater program.

PRIVACY

The reported bill would not have any adverse impact on the personal privacy of the individuals that will be impacted by this legislation.

PAPERWORK

The reported bill would not increase paperwork requirements for the private sector.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents

Section 1 would entitle the legislation as the "Integrated Deepwater Program Reform Act."

Section 2. Procurement structure

Section 2(a) would direct the Coast Guard to stop using a LSI on future Deepwater acquisitions and to have a full and open competition of all Deepwater assets that have not yet gone on contract, other than those that the LSI can complete or that the Coast Guard is doing in-house.

Section 2(b) would allow the Coast Guard to use the LSI to complete any specific work for which a contract or order had already been issued. It would also allow the Coast Guard to use the LSI to complete the C130–J modifications and the C4ISR program in their entirety, and to complete procurements of the NSCs and MPAs already under contract for construction. It would allow the Coast Guard to use the LSI to complete all of the remaining NSCs and MPAs only after an analysis of alternatives has been conducted, and the Coast Guard concludes that: (1) these procurements and the use of an LSI are in the best interest of the Federal government, (2) justifications for not competing assets under the Federal Acquisition Regulations are met, and (3) financial conflicts of interest for subcontracts are addressed. This section also would allow the Coast Guard to directly award any work to a subcontractor that it could award to the LSI under this section.

Section 3. Analysis of alternatives

Section 3 would prevent procurement of additional assets under the Deepwater program, except those already under contract

or which the bill allows the LSI to complete, or those for which a request for proposals had been issued prior to the date of enactment, until completion of an analysis of alternatives. Such review would have to be conducted by an independent third party entity with expertise in major acquisitions and no financial conflict of interest. It would require the Coast Guard to provide a plan to Congress for how to move forward with Deepwater procurements based on this review, including a revised cost and schedule for the program. A similar review would be required for any major changes to the agreed plan in the future.

Section 4. Certification

Section 4 would require the Commandant to certify to Congress, prior to issuing new contracts, delivery orders, or task orders for procurements exceeding $10 million, that the proposed procurement meets objective criteria on feasibility, maturity of design, and costs.

Section 5. Contract requirements

Section 5 would require improvements to any contract entered into by the Coast Guard for Deepwater assets, including changes to award term and award fee criteria as recommended by the GAO. It would end the practice of allowing the private contractor to self-certify the design and performance of assets being delivered to ensure adherence to accepted industry-wide standards and procedures. This would be accomplished by requiring an independent third party to certify any procurement for performance and safety. However, such third-party certification is not intended to apply to certain performance standards, such as sea trials of vessels, for which the Coast Guard has the appropriate internal expertise. This section also would require the Coast Guard to adhere to its Systems Acquisition Manual.

Section 6. Improvements in Coast Guard management

Section 6 would require improvements to the Coast Guard's management of the Deepwater program, including implementation of the Coast Guard's Blueprint for Acquisition Reform, as well as recommendations for improved management included in a February 5, 2007, DAU report and in reports by the GAO. It also would ensure better technical oversight by the Coast Guard's engineering staff by requiring the Coast Guard to make the head of its Engineering and Logistics program the technical authority for all design, engineering, and technical decisions for the Deepwater program. It also would allow the Coast Guard to shift personnel to support acquisitions projects.

Section 7. Procurement and report requirements

Section 7 would require the Coast Guard to provide significant additional information to Congress regarding the status of the Deepwater program. It also would require a report on how the Coast Guard will address gaps in operational hours stemming from its suspension of the eight converted 123-foot cutters.

Section 8. GAO review and recommendations

Section 8 would require the GAO to closely monitor the Coast Guard's implementation of improvements to its management of the Deepwater program. It also would require the GAO to provide an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing the provisions of the bill, the GAO recommendations in its March, 2004 report, GAO–04–380, and any subsequent recommendations issued before March 1, 2007.

Section 9. Inspector General review of Deepwater program

Section 9 would require the IG of DHS to provide Congress with a report regarding decisions under the Deepwater program that have led to cost overruns or cost increases for Deepwater assets.

Section 10. Definitions

Section 10 would set forth definitions for certain terms used in the bill.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 14. COAST GUARD

PART I. REGULAR COAST GUARD

CHAPTER 5. FUNCTIONS AND POWERS

§ 93. Commandant; general powers

(a) For the purpose of executing the duties and functions of the Coast Guard the Commandant may:

(1) maintain water, land, and air patrols, and ice-breaking facilities;

(2) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;

(3) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;

(4) conduct experiments, investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function and cooperate and coordinate such activities with other government agencies and with private agencies;

(5) conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions;

(6) collect, publish, and distribute information concerning Coast Guard operations;

(7) conduct or make available to personnel of the Coast Guard such specialized training and courses of instruction, including correspondence courses, as may be necessary or desirable for the good of the service;

(8) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) dispose of them;

(9) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;

(10) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;

(11) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;

(12) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;

(13) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the Treasury;

(14) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially injuring the interests of the United States in the property thereby affected;

(15) establish, install, abandon, re-establish, re-route, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, including telephones in residences leased or owned by the Government of the United States when appropriate to assure efficient response to extraordinary operational contingencies of a limited duration, and acquire such real property, rights-of-way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment;

(16) establish, install, abandon, re-establish, change the location of, operate, maintain, and repair radio transmitting and receiving stations;

(17) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities;

(18) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court;

(19) notwithstanding any other law, enter into cooperative agreements with States, local governments, non-governmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

(A) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

(B) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims;

(20) enter into cooperative agreements with other Government agencies and the National Academy of Sciences;

(21) require that any member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual;

(22) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including State and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation);

(23) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery; **[**and**]**

(24) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers **[**appropriate**]** *appropriate; and*

(25) notwithstanding any other provision of law, in any fiscal year transfer funds made available for personnel, compensation, and benefits from the appropriation account 'Acquisition, Construction, and Improvement' to the appropriation account 'Oper-

ating Expenses' for personnel compensation and benefits and related costs necessary to execute new or existing procurements of the Coast Guard.

(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

(2) A lease referred to in paragraph (1) is a lease—

(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.

○