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Navy LPD-17 Flight II and LHA Amphibious Ship Programs: Background and Issues for Congress

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Summary

This report discusses two types of amphibious ships being procured for the Navy: LPD-17 Flight II class amphibious ships and LHA-type amphibious assault ships. Both types are built by Huntington Ingalls Industries/Ingalls Shipbuilding (HII/Ingalls) of Pascagoula, MS. The first LPD-17 Flight II class ship, LPD-30, was procured in FY2018. LHA-type amphibious assault ships are procured once every few years.

The Navy's FY2021 budget submission presented the second LPD-17 Flight II class amphibious ship, LPD-31, as a ship requested for procurement in FY2021, and the next amphibious assault ship, LHA-9, as a ship projected for procurement in FY2023. Consistent with congressional action on the Navy's FY2020 budget, this CRS report treats LPD-31 and LHA-9 as ships that Congress procured (i.e., authorized and provided procurement—not advance procurement—funding for) in FY2020. The Department of Defense's (DOD's) decision to present LPD-31 and LHA-9 in its FY2021 budget submission as ships requested for procurement in FY2021 and FY2023, respectively, even though Congress procured both ships in FY2020, posed an institutional issue for Congress regarding the preservation and use of Congress's power of the purse under Article I of the Constitution, and for maintaining Congress as a coequal branch of government relative to the executive branch. Section 126 of the FY2021 National Defense Authorization Act (NDAA) (H.R. 6395/P.L. 116-283 of January 1, 2021) states:

SEC. 126. TREATMENT IN FUTURE BUDGETS OF THE PRESIDENT OF SYSTEMS ADDED BY CONGRESS.

In the event the procurement quantity for a system authorized by Congress in a National Defense Authorization Act for a fiscal year, and for which funds for such procurement quantity are appropriated by Congress in the Shipbuilding and Conversion, Navy account for such fiscal year, exceeds the procurement quantity specified in the budget of the President, as submitted to Congress under section 1105 of title 31, United States Code, for such fiscal year, such excess procurement quantity shall not be specified as a new procurement quantity in any budget of the President, as so submitted, for any fiscal year after such fiscal year.

Section 124 of P.L. 116-283 provides authority for the Navy to use a block buy contract for the procurement of three LPD-17 class ships and one LHA-type amphibious assault ship. Such a contract would be the first block buy contract to cover the procurement of ships from two separate ship classes.

A key issue for Congress concerns the Navy's force-level goals for amphibious ships and the effect these goals could have on future procurement of LPD-17 Flight II and LHA-type ships. The Navy's current force-level goal, released in December 2016, calls for achieving and maintaining a 355-ship fleet that includes 38 amphibious ships—12 LHA/LHD-type amphibious assault ships, 13 LPD-17 Flight I class ships, and 13 LPD-17 Flight II class ships (12+13+13). The Navy and DOD since 2019 have been working to develop a new force-level goal to replace the Navy's current 355-ship force-level goal. On December 9, 2020, the outgoing Trump Administration released a document that presents an envisioned Navy force-level goal for achieving by 2045 a Navy with 61 to 67 amphibious ships, including 9 to 10 LHA/LHD-type ships and a combined total of 52 to 57 LPD-type ships and Light Amphibious Warships (LAWs). (LAWs are a planned new kind of amphibious ship that are covered in another CRS report.) The December 9, 2020, document also calls for a future Navy with 0 to 6 light aircraft carriers (CVLs). The design for such carriers, if any are procured, might be based on the LHA design. In establishing its force-level goals and shipbuilding plans for the Navy, the Biden Administration can choose to adopt, revise, or set aside the December 9, 2020, document.

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Introduction

This report provides background information and issues for Congress on two types of amphibious ships being procured for the Navy: LPD-17 Flight II class amphibious ships and LHA-type amphibious assault ships. Both types are built by Huntington Ingalls Industries/Ingalls Shipbuilding (HII/Ingalls) of Pascagoula, MS.

The Navy's LPD-17 Flight II and LHA shipbuilding programs pose multiple oversight issues for Congress. Congress's decisions on the LPD-17 Flight II and LHA programs could affect Navy capabilities and funding requirements and the shipbuilding industrial base.

A separate CRS report discusses the Navy's new Light Amphibious Warship (LAW) program.¹

Background

Amphibious Ships in General

Roles and Missions

Navy amphibious ships are operated by the Navy, with crews consisting of Navy personnel. The primary function of Navy amphibious ships is to lift (i.e., transport) embarked U.S. Marines and their equipment and supplies to distant operating areas, and enable Marines to conduct expeditionary operations ashore in those areas. Although amphibious ships are designed to support Marine landings against opposing military forces, they are also used for operations in permissive or benign situations where there are no opposing forces. Due to their large storage spaces and their ability to use helicopters and landing craft to transfer people, equipment, and supplies from ship to shore without need for port facilities,² amphibious ships are potentially useful for a range of combat and noncombat operations.³

On any given day, some of the Navy's amphibious ships, like some of the Navy's other ships, are forward-deployed to various overseas operating areas. Forward-deployed U.S. Navy amphibious ships are often organized into three-ship formations called amphibious ready groups (ARGs).⁴ On

¹ CRS Report R46374, *Navy Light Amphibious Warship (LAW) Program: Background and Issues for Congress*, by Ronald O'Rourke.

² Amphibious ships have berthing spaces for Marines; storage space for their wheeled vehicles, their other combat equipment, and their supplies; flight decks and hangar decks for their helicopters and vertical take-off and landing (VTOL) fixed-wing aircraft; and well decks for storing and launching their landing craft. (A well deck is a large, garage-like space in the stern of the ship. It can be flooded with water so that landing craft can leave or return to the ship. Access to the well deck is protected by a large stern gate that is somewhat like a garage door.)

³ Amphibious ships and their embarked Marine forces can be used for launching and conducting humanitarian-assistance and disaster-response (HA/DR) operations; peacetime engagement and partnership-building activities, such as exercises; other nation-building operations, such as reconstruction operations; operations to train, advise, and assist foreign military forces; peace-enforcement operations; noncombatant evacuation operations (NEOs); maritime-security operations, such as anti-piracy operations; smaller-scale strike and counterterrorism operations; and larger-scale ground combat operations. Amphibious ships and their embarked Marine forces can also be used for maintaining forward-deployed naval presence for purposes of deterrence, reassurance, and maintaining regional stability.

⁴ An ARG notionally includes three amphibious ships—one LHA or LHD, one LSD, and one LPD. These three amphibious ships together can embark a Marine expeditionary unit (MEU) consisting of about 2,200 Marines, their aircraft, their landing craft, their combat equipment, and about 15 days' worth of supplies. ARGs can operate in conjunction with carrier strike groups (CSGs) to form larger naval task forces; ARGs can also be broken up into individual ships that are sent to separate operating areas.

average, two or perhaps three ARGs might be forward-deployed at any given time. Amphibious ships are also sometimes forward-deployed on an individual basis to lower-threat operating areas, particularly for conducting peacetime engagement activities with foreign countries or for responding to smaller-scale or noncombat contingencies.

Types of Amphibious Ships

Current Navy amphibious ships can be divided into two main groups—the so-called “big-deck” amphibious assault ships, designated LHA and LHD, which look like medium-sized aircraft carriers, and the smaller (but still sizeable) amphibious ships designated LPD or LSD, which are sometimes called “small-deck” amphibious ships.⁵ The LHAs and LHDs have large flight decks and hangar decks for embarking and operating numerous helicopters and vertical or short takeoff and landing (V/STOL) fixed-wing aircraft, while the LSDs and LPDs have much smaller flight decks and hangar decks for embarking and operating smaller numbers of helicopters. The LHAs and LHDs, as bigger ships, in general can individually embark more Marines and equipment than the LSDs and LPDs.

Amphibious Fleet Force Level

Current Force-Level Goal

The Navy’s current force-level goal, released in December 2016, calls for achieving and maintaining a 355-ship fleet that includes 38 amphibious ships—12 LHA/LHD-type ships, 13 LPD-17 Flight I class ships, and 13 LPD-17 Flight II class ships (12+13+13).⁶

Potential New Force-Level Goal

Overview

The Navy and DOD since 2019 have been working to develop a new force-level goal to replace the Navy’s current 355-ship force-level goal. This new force-level goal is expected to introduce a once-in-a-generation change in fleet architecture, meaning basic the types of ships that make up the Navy and how these ships are used in combination with one another to perform Navy missions. This new fleet architecture is expected to be more distributed than the fleet architecture reflected in the 355-ship goal or previous Navy force-level goals. In particular, the new fleet architecture is expected to feature

- a smaller proportion of larger ships (such as large-deck aircraft carriers, cruisers, destroyers, large amphibious ships, and large resupply ships);

⁵ U.S. Navy amphibious ships have designations starting with the letter L, as in amphibious *landing*. LHA can be translated as landing ship, helicopter-capable, assault; LHD can be translated as landing ship, helicopter-capable, well deck; LPD can be translated as landing ship, helicopter platform, well deck; and LSD can be translated as landing ship, well deck. Whether noted in the designation or not, almost all these ships have well decks. The exceptions are LHAs 6 and 7, which do not have well decks and instead have expanded aviation support capabilities. For an explanation of well decks, see footnote 2.

⁶ For more on the Navy’s 355-ship force-level goal, see CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O’Rourke. For a more detailed review of the 38-ship force structure requirements, see Appendix A of archived CRS Report RL34476, *Navy LPD-17 Amphibious Ship Procurement: Background, Issues, and Options for Congress*, by Ronald O’Rourke.

- a larger proportion of smaller ships (such as frigates, corvettes, smaller amphibious ships, smaller resupply ships, and perhaps smaller aircraft carriers); and
- a new third tier of surface vessels about as large as corvettes or large patrol craft that will be either lightly manned, optionally manned, or unmanned, as well as large unmanned underwater vehicles (UUVs).

Navy and DOD leaders believe that shifting to a more distributed fleet architecture is

- **operationally necessary**, to respond effectively to the improving maritime anti-access/area-denial (A2/AD) capabilities of other countries, particularly China;⁷
- **technically feasible** as a result of advances in technologies for UVs and for networking widely distributed maritime forces that include significant numbers of UVs; and
- **affordable**—no more expensive, and possibly less expensive, than the current fleet architecture, so as to fit within expected future Navy budgets.

December 9, 2020, Shipbuilding Document

On December 9, 2020, the outgoing Trump Administration released a document that can be viewed as its own vision for future Navy force structure and/or a draft version of the FY2022 30-year Navy shipbuilding plan.⁸ The document presents an envisioned Navy force-level goal for achieving by 2045 a Navy with a more distributed fleet architecture, including 382 to 446 manned ships and 143 to 242 large unmanned vehicles (UVs). Within the total of 382 to 446 manned ships, the document calls for an amphibious fleet of 61 to 67 amphibious ships, including 9 to 10 LHA/LHD-type ships and a combined total of 52 to 57 LPD-type ships and LAWs.

The December 9, 2020, document did not break down the above figure of 52 to 57 amphibious ships into separate figures for LPD-type ships and LAWs. As discussed in the CRS report on the LAW program, the Navy envisages procuring a total of 28 to 30 LAWs. Subtracting out 28 to 30

⁷ See, for example, David B. Larter, “With China Gunning for Aircraft Carriers, US Navy Says It Must Change How It Fights,” *Defense News*, December 6, 2019; Arthur H. Barber, “Redesign the Fleet,” *U.S. Naval Institute Proceedings*, January 2019. Some observers have long urged the Navy to shift to a more distributed fleet architecture, on the grounds that the Navy’s current architecture—which concentrates much of the fleet’s capability into a relatively limited number of individually larger and more expensive surface ships—is increasingly vulnerable to attack by the improving A2/AD capabilities (particularly anti-ship missiles and their supporting detection and targeting systems) of potential adversaries, particularly China. Shifting to a more distributed architecture, these observers have argued, would

- complicate an adversary’s targeting challenge by presenting the adversary with a larger number of Navy units to detect, identify, and track;
- reduce the loss in aggregate Navy capability that would result from the destruction of an individual Navy platform;
- give U.S. leaders the option of deploying USVs and UUVs in wartime to sea locations that would be tactically advantageous but too risky for manned ships; and
- increase the modularity and reconfigurability of the fleet for adapting to changing mission needs.

For more on China’s maritime A2/AD capabilities, see CRS Report RL33153, *China Naval Modernization: Implications for U.S. Navy Capabilities—Background and Issues for Congress*, by Ronald O’Rourke.

⁸ U.S. Navy, *Report to Congress on the Annual Long-Range Plan for Construction of Naval Vessels*, December 9, 2020, 23 pp. For more on this document, see CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O’Rourke.

LAWs would leave a potential total of 22 to 29 LPD-17 class ships, including 13 LPD-17 Flight I ships procured in earlier years, and 9 to 16 LPD-17 Flight II class ships.

The December 9, 2020, document also calls for a future Navy with 0 to 6 light aircraft carriers (CVLs). The design for such carriers, if any are procured, might be based on the LHA design.⁹

In establishing its force-level goals and shipbuilding plans for the Navy, the Biden Administration can choose to adopt, revise, or set aside the December 9, 2020, document.

Operational Rationale

To improve their ability to perform various missions in coming years, including a potential mission of countering Chinese forces in a possible conflict in the Western Pacific, the Navy and Marine Corps want to implement a new operational concept called Distributed Maritime Operations (DMO).¹⁰ DMO calls for U.S. naval forces (meaning the Navy and Marine Corps)¹¹ to operate at sea in a less concentrated, more distributed manner, so as to complicate an adversary's task of detecting, identifying, tracking, and targeting U.S. naval forces, while still being able to bring lethal force to bear against adversary forces. To support the implementation of DMO, the Navy wants to shift to the new and more distributed fleet architecture outlined above.

In parallel with DMO, and with an eye toward potential conflict scenarios in the Western Pacific against Chinese forces, the Marine Corps has developed two supporting operational concepts, called Littoral Operations in a Contested Environment (LOCE) and Expeditionary Advanced Base Operations (EABO). Under the EABO concept, the Marine Corps envisions, among other things, having reinforced-platoon-sized Marine Corps units maneuver around the theater, moving from island to island, to fire anti-ship cruise missiles (ASCMs) and perform other missions so as to contribute, alongside Navy and other U.S. military forces, to U.S. operations to counter and deny sea control to Chinese forces.

More specifically, the Marine Corps states that the EABO concept includes, among other things, establishing and operating "multiple platoon-reinforced-size expeditionary advance base sites that can host and enable a variety of missions such as long-range anti-ship fires, forward arming and refueling of aircraft, intelligence, surveillance, and reconnaissance of key maritime terrain, and air-defense and early warning,"¹² The use of Marine Corps units to contribute to U.S. sea-denial operations against an opposing navy by shooting ASCMs would represent a new mission for the Marine Corps.¹³

⁹ For additional discussion, see CRS Report RS20643, *Navy Ford (CVN-78) Class Aircraft Carrier Program: Background and Issues for Congress*, by Ronald O'Rourke.

¹⁰ For additional discussion, see CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O'Rourke, and CRS Report RL33153, *China Naval Modernization: Implications for U.S. Navy Capabilities—Background and Issues for Congress*, by Ronald O'Rourke.

¹¹ Although the term *naval* is often used to refer specifically to the Navy, it more properly refers to both the Navy and Marine Corps, because both the Navy and Marine Corps are naval services. Even though the Marine Corps sometimes operates for extended periods as a land fighting force (as it has done in recent years, for example, in Afghanistan and Iraq), and is often thought of as the country's second land army, it nevertheless is, by law, a naval service. 10 U.S.C. §8001(a)(3) states, "The term 'member of the naval service' means a person appointed or enlisted in, or inducted or conscripted into, the Navy or the Marine Corps." DON officials sometimes refer to the two services as the Navy-Marine Corps team. For additional discussion, see CRS In Focus IF10484, *Defense Primer: Department of the Navy*, by Ronald O'Rourke.

¹² Emailed statement from Marine Corps as quoted in Shawn Snow, "New Marine Littoral Regiment, Designed to Fight in Contested Maritime Environment, Coming to Hawaii," *Marine Times*, May 14, 2020.

¹³ For press articles discussing these envisioned operations, see, for example, Megan Eckstein, "CMC Berger Outlines

Current Force Level

The Navy's force of amphibious ships at the end of FY2020 included 33 ships, including 10 amphibious assault ships (2 LHAs and 8 LHDs), 11 LPD-17 Flight I ships, and 12 LSD-41/49 class ships. The LSD-41/49 class ships, which are the ships to be replaced by LPD-17 Flight II class ships, are discussed in the next section.

One of the Navy's LHDs—*Bonhomme Richard* (LHD-6)—was extensively damaged by a fire in July 2020 and will be decommissioned and scrapped.¹⁴ Excluding LHD-6, the Navy's force of amphibious ships at the end of FY2020 included 32 ships, including 9 LHA/LHD-type amphibious assault ships.

Existing LSD-41/49 Class Ships

The Navy's 12 aging Whidbey Island/Harpers Ferry (LSD-41/49) class ships (**Figure 1**) were procured between FY1981 and FY1993 and entered service between 1985 and 1998.¹⁵ The LSD-41/49 class includes 12 ships because the class was built at a time when the Navy was planning a 36-ship (12+12+12) amphibious force. LD-41/49 class ships have an expected service life of 40 years; the first ship will reach that age in 2025. The Navy's FY2020 30-year shipbuilding plan projected that the 12 ships would retire between FY2026 and FY2038.

How Marines Could Fight Submarines in the Future," *USNI News*, December 8, 2020; David Axe, "Meet Your New Island-Hopping, Missile-Slinging U.S. Marine Corps," *Forbes*, May 14, 2020; Shawn Snow, "New Marine Littoral Regiment, Designed to Fight in Contested Maritime Environment, Coming to Hawaii," *Marine Times*, May 14, 2020; William Cole (Honolulu Star-Advertiser), "The Marine Corps Is Forming a First-of-its-Kind Regiment in Hawaii," *Military.com*, May 12, 2020; Joseph Trevithick, "Marines To Radically Remodel Force, Cutting Tanks, Howitzers In Favor Of Drones, Missiles," *The Drive*, March 23, 2020; Chris "Ox" Harmer, "Marine Boss's Audacious Plan To Transform The Corps By Giving Up Big Amphibious Ships," *The Drive*, September 5, 2019.

¹⁴ The five-day fire on LHD-6 began on July 12, 2020, while the ship was at pier in San Diego. At the time of the fire, the ship was 22 years old and had thus expended about 50% of its expected service life of 40 to 45 years. Following the fire, the Navy spent months assessing condition of the ship and examining options for repairing it and returning it to service in some capacity. On November 30, 2020, the Navy announced that due to the estimated cost and time to repair the ship and return it to service, the Navy had decided to decommission the ship and scrap it. The Navy stated that about 60% of the ship was ruined and would need to be rebuilt or replaced. Repairing the ship and returning it to service as an LHD, the Navy estimated, would cost between \$2.5 billion and \$3.2 billion and take about five to seven years to complete. (By then, portions of the ship would be 27 to 29 years old.) By comparison, the Navy said, a new replacement LHA-type ship would cost an estimated \$4.1 billion to procure and take about six years to build. (The Navy's estimated repair cost for LHD-6 equates to about 61% to 78% of the Navy's estimated procurement cost for a replacement LHA. A new-built LHA would have a full 40- to 45-year expected service life.) Repairing LHD-6 and reconfiguring it for use as either a hospital ship or a tender (i.e., a ship used to repair, maintain, or otherwise support other Navy ships), the Navy estimated, would cost more than \$1 billion, and also take five to seven years to complete. The Navy stated that designing and building a new hospital ship or tender would cost less than repairing LHD-6 and converting it into a hospital ship or tender. The Navy estimated that decommissioning the ship, salvaging usable parts of it for use on other Navy ships (which began in September 2020), towing the ship to its scrapping site, and scrapping the ship would cost about \$30 million. (See Megan Eckstein, "UPDATED: Navy Will Scrap USS Bonhomme Richard," *USNI News*, November 30, 2020; Geoff Ziezulewicz, "Navy Will Scrap Fire-Ravaged Bonhomme Richard," *Navy Times*, November 20, 2020; Nancy A. Youssef, "Navy Will Decommission Ship Damaged in Five-Day Blaze," *Wall Street Journal*, November 30, 2020; Andrew Dyer, "Ravaged by Fire, USS Bonhomme Richard Bound for Scrapyard, Navy Says," *San Diego Union-Tribune*, November 30, 2020.)

¹⁵ The class was initially known as the Whidbey Island (LSD-41) class. The final four ships in the class, beginning with *Harpers Ferry* (LSD-49), were built to a modified version of the original LSD-41 design, prompting the name of the class to be changed to the Harpers Ferry/Whidbey Island (LSD-41/49) class. Some sources refer to these 12 ships as two separate classes..

Figure I. LSD-41/49 Class Ship



Source: Cropped version of U.S. Navy photo dated July 13, 2013, showing the *Pearl Harbor* (LSD-52).

Amphibious Warship Industrial Base

Huntington Ingalls Industries/Ingalls Shipbuilding (HII/Ingalls) of Pascagoula, MS, is the Navy’s current builder of both LPDs and LHA-type ships, although other U.S. shipyards could also build amphibious ships.¹⁶ The amphibious warship industrial base also includes many supplier firms in numerous U.S. states that provide materials and components for Navy amphibious ships. HII states that the supplier base for its LHA production line, for example, includes 457 companies in 39 states.¹⁷

LPD-17 Flight II Program

Program Origin and Name

The Navy decided in 2014 that the LSD-41/49 replacement ships would be built to a variant of the design of the Navy’s San Antonio (LPD-17) class amphibious ships. (A total of 13 LPD-17 class ships [LPDs 17 through 29] were procured between FY1996 and FY2017.) Reflecting that decision, the Navy announced on April 10, 2018, that the replacement ships would be known as the LPD-17 Flight II class ships.¹⁸ By implication, the Navy’s original LPD-17 design became the LPD-17 Flight I design. The first LPD-17 Flight II class ship is designated LPD-30. Subsequent LPD-17 Flight II class ships are to be designated LPD-31, LPD-32, and so on.

¹⁶ Amphibious ships could also be built by U.S. shipyards such as HII/Newport News Shipbuilding (HII/NNS) of Newport News, VA; General Dynamics/National Steel and Shipbuilding Company (GD/NASSCO) of San Diego, CA; and (for LPDs at least) General Dynamics/Bath Iron Works (GD/BIW) of Bath, ME. The Navy over the years has from time to time conducted competitions among shipyards for contracts to build amphibious ships.

¹⁷ Source: HII statement as quoted in Frank Wolfe, “Navy Budget Plan Delays Buy of Amphibious Ships,” *Defense Daily*, March 15, 2019.

¹⁸ Megan Eckstein, “Navy Designates Upcoming LX(R) Amphibs as San Antonio-Class LPD Flight II,” *USNI News*, April 11, 2018. Within a program to build a class of Navy ships, the term *flight* refers to a group of ships within the class that are built to a particular version of the class design. The LPD-17 Flight II program was previously known as the LX(R) program and before that as the LSD(X) program.

Whether the LPD-17 Flight II class ships constitute their own shipbuilding program or an extension of the original LPD-17 shipbuilding program might be a matter of perspective. As a matter of convenience, this CRS report refers to the Flight II class shipbuilding effort as a separate program. Years from now, LPD-17 Flight I and Flight II class ships might come to be known collectively as either the LPD-17 class, the LPD-17/30 class, or the LPD-17 and LPD-30 classes.

On October 10, 2019, the Navy announced that LPD-30, the first LPD-17 Flight II class ship, will be named Harrisburg, for the city of Harrisburg, PA.¹⁹ As a consequence, LPD-17 Flight II, if treated as a separate class, would be referred to as Harrisburg (LPD-30) class ships.

Design

Compared to the LPD-17 Flight I design, the LPD-17 Flight II design (**Figure 2**) is somewhat less expensive to procure, and in some ways less capable—a reflection of how the Flight II design was developed to meet Navy and Marine Corps operational requirements while staying within a unit procurement cost target that had been established for the program.²⁰ In many other respects, however, the LPD-17 Flight II design is similar in appearance and capabilities to the LPD-17 Flight I design. Of the 13 LPD-17 Flight I ships, the final two (LPDs 28 and 29) incorporate some design changes that make them transitional ships between the Flight I design and the Flight II design.

Procurement Quantity

Under the Navy's current 38-ship amphibious force-level goal, the Navy would procure a total of 13 LPD-17 Flight II class ships.

Procurement Schedule

The first LPD-17 Flight II class ship, LPD-30, was procured in FY2018. The Navy's FY2021 budget submission presented the second LPD-17 Flight II class amphibious ship, LPD-31, as a ship requested for procurement in FY2021. Consistent with congressional action on the Navy's FY2020 budget, this CRS report treats LPD-31 as a ship that Congress procured (i.e., authorized and provided procurement—not advance procurement—funding for) in FY2020. (For additional discussion, see the **Appendix**.)²¹ Under the Navy's FY2021 budget submission, the third and fourth LPD-17 Flight II class ships (i.e., LPDs 32 and 33) were programmed for procurement in FY2023 and FY2025. The December 9, 2020, shipbuilding document submitted by the outgoing

¹⁹ Secretary of the Navy Public Affairs, "SECNAV Names Future Amphibious Transport Dock Ship in Honor of the city of Harrisburg, Pennsylvania," *Navy News Service*, October 10, 2019.

²⁰ The Navy's unit procurement cost targets for the LPD-17 Flight II program were \$1,643 million in constant FY2014 dollars for the lead ship, and an average of \$1,400 million in constant FY2014 dollars for ships 2 through 11. (Source: Navy briefing on LX(R) program to CRS and CBO, March 23, 2015.) The cost target for the lead ship was greater than the cost target for the subsequent ships primarily because the procurement cost of the lead ship incorporates much or all of the detail design and nonrecurring engineering (DD/NRE) costs for the program. Incorporating much or all of the DD/NRE costs of for a shipbuilding program into the procurement cost of the lead ship in the program is a traditional Navy shipbuilding budgeting practice.

²¹ An appendix in another CRS report—CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O'Rourke—provides a similar discussion regarding the procurement dates of LPD-31 and LHA-9, and includes an additional discussion of the procurement date of a third ship, the aircraft carrier CVN-81.

Trump Administration similarly showed the third and fourth LPD-17 Flight II class ships as programmed for procurement in FY2023 and FY2025.

Figure 2. LPD-17 Flight II Design

Artist's rendering



Source: Huntington Ingalls Industries rendering accessed March 2, 2021, at <https://huntingtoningalls.com/lpd-flight-ii/>.

Procurement Cost

The Navy's FY2021 budget submission estimated the procurement costs of LPDs 30, 31, 32, and 33 as \$1,819.6 million, \$2,029.9 million, \$1,847.6 million, and \$1,864.7 million, respectively (i.e., about \$1.8 billion, \$2.0 billion, \$1.8 billion, and \$1.9 billion, respectively). As discussed below, Section 124 of P.L. 116-283 provides authority for the Navy to use a block buy contract for the procurement of three LPD-17 class ships and one LHA-type amphibious assault ship. Using block buy contracting could reduce the unit procurement costs of LPD-17 Flight II class ships.²²

LHA-9 Amphibious Assault Ship

LHA-type amphibious assault ships are procured once every few years. LHA-8 (**Figure 3**) was procured in FY2017; the Navy's FY2021 budget submission estimated its cost at \$3,832.0 million (i.e., about \$3.8 billion).

The Navy's FY2020 budget submission projected the procurement of the next amphibious assault ship, LHA-9, for FY2024. Some in Congress were interested in accelerating the procurement of LHA-9 from FY2024 to an earlier year, such as FY2020 or FY2021, in part to achieve better

²² For more on block buy contracting, see CRS Report R41909, *Multiyear Procurement (MYP) and Block Buy Contracting in Defense Acquisition: Background and Issues for Congress*, by Ronald O'Rourke. See also Megan Eckstein, "Ingalls Eyeing LPD Cost Reductions, Capability Increases As Future Fleet Design Evolves," *USNI News*, January 21, 2021.

production learning curve benefits in shifting from production of LHA-8 to LHA-9 and thereby reduce LHA-9's procurement cost in real (i.e., inflation-adjusted) terms.

Figure 3. LHA-8 Amphibious Assault Ship

Artist's rendering



Source: Rendering accompanying Tyler Rogoway, "The Next America Class Amphibious Assault Ship Will Almost Be In a Class of its Own," *The Drive*, April 17, 2018. A note on the photo credits the photo to HII.

The Navy's FY2021 budget submission presented LHA-9 as a ship projected for procurement in FY2023. Consistent with congressional action on the Navy's FY2020 budget, this CRS report treats LHA-9 as a ship that Congress procured (i.e., authorized and provided procurement—not advance procurement—funding for) in FY2020. (For additional discussion, see **Appendix**.)²³

The Navy's FY2021 budget submission estimated the procurement cost of LHA-9, if procured in FY2023, at \$3,873.5 million (i.e., about \$3.9 billion).

Legislation on Ship Procurement Dates

The Department of Defense's (DOD's) decision to present LPD-31 and LHA-9 in its FY2021 budget submission as ships requested for procurement in FY2021 and FY2023, respectively, even though Congress procured both ships in FY2020, posed an institutional issue for Congress regarding the preservation and use of Congress's power of the purse under Article 1 of the Constitution, and for maintaining Congress as a coequal branch of government relative to the executive branch. Section 126 of the FY2021 National Defense Authorization Act (NDAA) (H.R. 6395/P.L. 116-283 of January 1, 2021) states:

²³ An appendix in another CRS report—CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O'Rourke—provides a similar discussion regarding the procurement dates of LPD-31 and LHA-9, and includes an additional discussion of the procurement date of a third ship, the aircraft carrier CVN-81.

SEC. 126. TREATMENT IN FUTURE BUDGETS OF THE PRESIDENT OF SYSTEMS ADDED BY CONGRESS.

In the event the procurement quantity for a system authorized by Congress in a National Defense Authorization Act for a fiscal year, and for which funds for such procurement quantity are appropriated by Congress in the Shipbuilding and Conversion, Navy account for such fiscal year, exceeds the procurement quantity specified in the budget of the President, as submitted to Congress under section 1105 of title 31, United States Code, for such fiscal year, such excess procurement quantity shall not be specified as a new procurement quantity in any budget of the President, as so submitted, for any fiscal year after such fiscal year.

Regarding the original Senate version of this provision, the Senate Armed Services Committee's report (S.Rept. 116-236 of June 24, 2020) on the FY2021 National Defense Authorization Act (S. 4049) states:

Treatment of weapon systems added by Congress in future President's budget requests (sec. 126)

The committee recommends a provision that would preclude the inclusion in future annual budget requests of a procurement quantity of a system previously authorized and appropriated by the Congress that was greater than the quantity of such system requested in the President's budget request.

The committee is concerned that by presenting CVN-81 as a ship that was procured in fiscal year 2020 (instead of as a ship that was procured in fiscal year 2019), LPD-31 as a ship requested for procurement in fiscal year 2021 (instead of as a ship that was procured in fiscal year 2020), and LHA-9 as a ship projected for procurement in fiscal year 2023 (instead of as a ship that was procured in fiscal year 2020), the Department of Defense, in its fiscal year 2021 budget submission, is disregarding or mischaracterizing the actions of Congress regarding the procurement dates of these three ships. (Page 11)

Legislation Providing Authority for LPD-LHA Block Buy Contract

Section 124 of P.L. 116-283 provides authority for the Navy to use a block buy contract for the procurement of three LPD-17 class ships and one LHA-type amphibious assault ship. Such a contract would be the first block buy contract to cover the procurement of ships from two separate ship classes. Using block buy contracting could reduce the unit procurement costs of LPD-17 Flight II and LHA-type ships.²⁴

Issues for Congress

Amphibious Ship Force-Level Goal

A key issue for Congress concerns the Navy's force-level goals for amphibious ships and the effect these goals could have on the numbers of LPD-17 Flight II and LHA-type ships procured in FY2022 and subsequent fiscal years:

²⁴ For more on block buy contracting, see CRS Report R41909, *Multiyear Procurement (MYP) and Block Buy Contracting in Defense Acquisition: Background and Issues for Congress*, by Ronald O'Rourke. See also Megan Eckstein, "Ingalls Eyeing LPD Cost Reductions, Capability Increases As Future Fleet Design Evolves," *USNI News*, January 21, 2021.

- **LPD-17 Flight II class ships.** As noted earlier, under the Navy’s current 38-ship amphibious force-level goal, the Navy would procure a total of 13 LPD-17 Flight II class ships, while figures in the December 9, 2020, shipbuilding document submitted by the outgoing Trump Administration suggest a potential procurement total of 9 to 16 LPD-17 Flight II class ships.²⁵
- **LHA-type ships.** As noted earlier, the Navy’s current 38-ship amphibious force-level goal calls for the Navy to have an amphibious force that includes a total of 12 LHA/LHD-type amphibious assault ships, while the December 9, 2020, shipbuilding document submitted by the outgoing Trump Administration calls for an amphibious force that includes a total of 9 to 10 LHA/LHD-type ships. As also noted earlier, in addition to 9 to 10 LHA/LHD-type ships for use in the amphibious force, the December 9, 2020, shipbuilding document also calls for a future Navy with 0 to 6 light aircraft carriers (CVLs). The design for such carriers, if any are procured, might be based on the LHA design.

Potential Impact of COVID-19 Pandemic

Another issue for Congress concerns the potential impact of the COVID-19 pandemic on the execution of U.S. military shipbuilding programs, including the LPD-17 Flight II and LHA programs. For additional discussion of this issue, see CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O’Rourke.

Technical and Cost Risk in LPD-17 Flight II and LHA Programs

Another potential issue for Congress is technical and cost risk in the LPD-17 Flight II and LHA programs.

Technical Risk

Regarding technical risk in the LPD-17 Flight II program, a June 2020 Government Accountability Office (GAO) report—the 2020 edition of GAO’s annual report surveying DOD major acquisition programs—states the following about the LPD-17 Flight II program:

Current Status

The Navy purchased the first Flight II ship—LPD 30—in March 2019 and plans to begin construction in April 2020 after a production readiness review in the first quarter of fiscal year 2020. It made about 200 design changes from the first to second flight, including replacing the composite mast with a steel stick, which the Navy plans to complete prior to lead ship construction. Program officials stated that the updated design does not rely on any new technologies. However, the Navy plans to install the new Enterprise Air Surveillance Radar (EASR), which is still in development, on Flight II ships. Live radar system testing on an EASR prototype is underway. Although program officials consider this low risk, the Navy will begin ship construction with little time to incorporate any lessons learned from radar testing, which could require the Navy to absorb costly changes and rework during ship construction if test results require design changes....

Program Office Comments

We provided a draft of this assessment to the program office for review and comment. The program office provided technical comments, which we incorporated where appropriate.

²⁵ See also Megan Eckstein, “Ingalls Eyeing LPD Cost Reductions, Capability Increases As Future Fleet Design Evolves,” *USNI News*, January 21, 2021.

Program officials said the Navy has subsumed LPD 17 Flight II into the LPD 17 program and existing cost baseline. Program officials also stated that EASR testing is ongoing as of March 2020. Further, these officials stated that the Navy acquired LPD 30 under a sole source contract with Huntington Ingalls Incorporated. In addition, program officials reported they have completed LPD 30 critical design and production readiness reviews and intend to begin construction as planned.²⁶

Regarding technical risk in the LHA program, the June 2020 GAO report stated the following about the LHA program:

Current Status

The Navy began construction in October 2018 with about 61 percent of the LHA 8 product model completed—an approach inconsistent with shipbuilding best practices, which call for the completion of modeling before construction begins. Ninety-nine percent of the product model is now complete, with the exception of the mast and two other compartments on the top of the ship. LHA 8 construction is now 5 percent complete.

The LHA 8 program office has not identified any critical technologies, but has identified risks from its reliance on technology from another Navy program. Specifically, LHA 8 program officials identified the use of the Enterprise Air Surveillance Radar (EASR)—a rotating radar system derived from the preexisting Air and Missile Defense Radar program—as the program’s highest development risk. EASR is planned to be delivered in August 2021 and provide self-defense and situational awareness capabilities for LHA 8. Officials stated that during EASR development, they found that the mast blocked EASR’s field of view. They said that to reduce the obstruction and electromagnetic interference from EASR, they have to reconfigure the mast and nearby antennas, which may affect the ship’s planned delivery date of January 2024. Officials said they would test the configuration in a laboratory environment to determine the impact of EASR prior to its delivery to the ship.

The program has also encountered construction challenges that have increased schedule risk. Program officials said that the subcontractor manufacturing the ship’s Main Reduction Gears (MRG) encountered quality issues that delayed their delivery. Officials report that the contractor had been following a more aggressive construction schedule for ship delivery, but that the delay to the MRGs pushed them back to the contract’s schedule.

Program Office Comments

We provided a draft of this assessment to the program office for review and comment. The program office provided technical comments, which we incorporated where appropriate. Officials stated that LHA 8 is progressing well and is 12 percent complete as of March 2020. Officials stated that the Navy has reduced risk in the topside design changes and finalized them with the contractor, and that EASR remains a development risk that the Navy is managing closely.²⁷

Cost Risk

Regarding cost risk in the LPD-17 Flight II program, an October 2019 Congressional Budget Office (CBO) report on the cost of the Navy’s shipbuilding programs states the following:

The Navy estimates that the LPD-17 Flight IIs would cost \$1.6 billion each, on average, and that the lead ship would cost \$1.7 billion to \$1.8 billion.... To achieve its cost goal for

²⁶ Government Accountability Office, *Defense Acquisitions Annual Assessment[:]* Drive to Deliver Capabilities Faster Increases Importance of Program Knowledge and Consistent Data for Oversight, GAO-20-439, June 2020, p. 147.

²⁷ Government Accountability Office, *Defense Acquisitions Annual Assessment[:]* Drive to Deliver Capabilities Faster Increases Importance of Program Knowledge and Consistent Data for Oversight, GAO-20-439, June 2020, p. 146.

the LPD-17 Flight II, the Navy plans to further alter the LPD-17 design and, perhaps, to change the way it buys them: The Flight II variant would have substantially less capability than the LPD-17 class, and the Navy might use block-buy or multiyear authority to purchase the ships, although it has not yet stated an intention to do so. Such authority would commit the government to buying a group of ships over several years, thereby realizing savings as a result of the predictable and steady work provided to the construction shipyard and to the vendors that provide parts and components to the shipbuilder. The authority would be similar to that provided for the Arleigh Burke class destroyers, Virginia class attack submarines, and LCSs [Littoral Combat Ships].

CBO estimates that the LPD-17 Flight II class would cost an average of \$1.9 billion per ship. The agency [CBO] used the existing LPD-17 hull as the starting point for its estimate and then adjusted the ship's size to reflect the reduced capability it expects for the Flight II. CBO's estimate reflects the assumption that the Navy would ultimately use multiyear or block-buy procurement authority to purchase the ships.²⁸

The June 2020 GAO report states

Program officials stated that they have sufficient funding for LPD 30 construction, but that without multi-year procurement authority to buy multiple ships across up to 5 years with a single contract, they will be challenged to achieve the current cost requirement and complete construction of ships. Statute requires programs requesting multi-year authority to have a realistic cost estimate, among other things. The LPD 17 program does not have an independent cost estimate for Flight II ships nor plans to establish a cost baseline specific to Flight II. Consequently, the Navy does not have an accurate and credible estimate of Flight II costs.²⁹

Regarding cost risk in the LHA program, the October 2019 CBO report states the following:

The Navy estimates that the LHA-6 class amphibious assault ships would cost \$3.4 billion each Under the 2020 plan, a seven-year gap separates the last LHA-6 class ship ordered in 2017 and the next one, slated to be purchased in 2024, which in CBO's estimation would effectively eliminate any manufacturing learning gleaned from building the first 3 ships of the class. As a result, CBO's estimate is higher than the Navy's, at \$3.9 billion per ship.³⁰

Legislative Activity for FY2022

The Navy's proposed FY2022 budget will be submitted to Congress later this year.

Legislative Activity for FY2021

Summary of Congressional Action on FY2021 Funding Request

Table 1 summarizes congressional action on the Navy's FY2021 funding request for LPD-31 and LHA-9.

²⁸ Congressional Budget Office, *An Analysis of the Navy's Fiscal Year 2020 Shipbuilding Plan*, October 2019, pp. 26-27.

²⁹ Government Accountability Office, *Defense Acquisitions Annual Assessment[:] Drive to Deliver Capabilities Faster Increases Importance of Program Knowledge and Consistent Data for Oversight*, GAO-20-439, June 2020, p. 147.

³⁰ Congressional Budget Office, *An Analysis of the Navy's Fiscal Year 2020 Shipbuilding Plan*, October 2019, p. 26.

Table 1. Summary of Congressional Action on FY2021 Procurement Funding Request

Millions of dollars, rounded to nearest tenth

	Request	Authorization			Appropriation		
		HASC	SASC	Conf.	HAC	SAC	Conf.
LPD-17 Flight II (or LPD-31) procurement	1,155.8	1,118.1	905.8	1,125.8	1,155.8	1,125.8	1,125.8
LPD-32 advance procurement (AP)	0	0	0	0	0	1.0	1.0
LPD-33 advance procurement (AP)	0	0	0	0	0	1.0	1.0
LPD-17 Flight II (or LPD-32 and LPD-33) advance procurement (AP)	0	0	500.0	2.0	0	0	0
LHA-9 procurement	0	0	250.0	500.0	0	500.0	500.0

Source: Table prepared by CRS based on Navy’s FY2021 budget submission, committee and conference reports, and explanatory statements on FY2021 National Defense Authorization Act and FY2021 DOD Appropriations Act.

Notes: **HASC** is House Armed Services Committee; **SASC** is Senate Armed Services Committee; **HAC** is House Appropriations Committee; **SAC** is Senate Appropriations Committee; **Conf.** is conference agreement.

FY2021 National Defense Authorization Act (H.R. 6395/S. 4049/P.L. 116-283)

House

The House Armed Services Committee, in its report (H.Rept. 116-442 of July 9, 2020) on H.R. 6395, recommended the funding levels shown in the HASC column of **Table 1**. The recommended reduction of \$37.7 million in LPD-31 procurement funding is for “Excessive unit cost growth.” (Page 345)

Section 1028 of H.R. 6395 as reported by the committee states:

SEC. 1028. REPORT ON IMPLEMENTATION OF COMMANDANT’S PLANNING GUIDANCE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the Commandant’s Planning Guidance. Such report shall include a detailed description of each of the following:

- (1) The specific number and type of manned littoral ships required to execute such Guidance.
- (2) The role of long-range unmanned surface vessels in the execution of such Guidance.
- (3) How platforms referred to in paragraphs (1) and (2) account for and interact with ground-based missiles fielded by teams of Marines deployed throughout the Indo-Pacific region.
- (4) The integrated naval command and control architecture required to support the platforms referred to in paragraphs (1) and (2);
- (5) The projected cost and any additional resources required to deliver the platforms referred to in paragraph (1) and (2) by not later than five years after the date of the enactment of this Act.

(b) FORM OF REPORT.—The report required under this section shall be submitted in unclassified form, but may contain a classified annex. The unclassified report shall be made publicly available.

H.Rept. 116-442 states:

Amphibious Shipbuilding

The Committee notes the President’s Budget Request for Fiscal Year 2021 includes \$1.156 billion for LPD 31, the 2nd ship of the San Antonio-class LPD Flight II, which was authorized in the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116–92). The Committee continues to support the most efficient procurement and construction of these warships and further notes there are only 2 active amphibious vessel production lines within the shipbuilding industrial base. In the absence of a 30 Year Shipbuilding Plan, Future Naval Force Study, and Integrated Naval Force Structure Assessment, the only available shipbuilding forecast available for review is the Future Years’ Defense Plan accompanying the fiscal year 2021 request. The Future Years’ Defense Plan forecasts construction of 3 additional amphibious warships, including an America-class LHA amphibious assault ship and 2 San Antonio-class LPD Flight II vessels. The Committee is further aware of recent guidance issued by the Commandant of the Marine Corps which envisions new approaches and new platforms for the integrated naval force. The Committee supports developing additional amphibious capabilities to enable these new approaches while maintaining the existing industrial base to produce survivable L-class warships that support the integrated naval force.

The Committee is aware of alternative contracting strategies for the construction of these warships which may reduce the overall cost of acquisition. Therefore, the Committee directs the Secretary of the Navy to provide a report within 180 days which provides options for the most efficient procurement of the 3 forecasted amphibious warships. The report should include a list of any additional necessary legislative authorities and an estimate of cost efficiencies generated by each option. (Page 17)

Senate

The Senate Armed Services Committee, in its report (S.Rept. 116-236 of June 24, 2020) on S. 4049, recommended the funding levels shown in the SASC column of **Table 1**. The recommended reduction of \$250.0 in LPD-31 procurement funding is for transfer to LPD-32 and LPD-33 advance procurement (AP) funding. The recommended increase of \$500.0 million for LPD-32 and LPD-33 advance procurement (AP) funding includes the \$250.0 million transferred from LPD-31 procurement funding and an additional \$250.0 million for “LPD–32 and LPD–33 program increase.” The recommended increase of \$250.0 million for LHA-9 is for “LHA-9 program increase.” (Pages 458-459)

Regarding these funding recommendations, S.Rept. 116-236 states:

LPD Flight II

The budget request included \$1.2 billion in line number 14 of Shipbuilding and Conversion, Navy (SCN), for LPD Flight II ships.

The committee notes that the Navy received incremental funding authority in section 129 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92) for the LPD–31, which would be fully funded in this request.

The committee further notes that additional funding is required in line number 15 of SCN to maximize the benefit of the amphibious ship procurement authorities provided elsewhere in this Act through the procurement of long lead material for LPD–32 and LPD–33.

Therefore, the committee recommends a decrease of \$250.0 million in line number 14 of SCN. This sum is added to line number 15 of SCN elsewhere in this Report.

LPD Flight II advance procurement

The budget request included no funding in line number 15 of Shipbuilding and Conversion, Navy (SCN), for LPD Flight II advance procurement.

The committee notes that \$500.0 million is required in line number 15 of SCN to maximize the benefit of the amphibious ship procurement authorities provided elsewhere in this Act through the procurement of long lead material for LPD-32 and LPD-33.

Therefore, the committee recommends an increase of \$500.0 million in line number 15 of SCN, of which \$250.0 million is a transfer from line number 14.

LHA replacement amphibious assault ship

The budget request included no funding in line number 17 of Shipbuilding and Conversion, Navy (SCN), for the LHA replacement amphibious assault ship.

The committee remains concerned with the procurement profile for large deck amphibious assault ships, which includes a span of 6 years until the next large deck amphibious assault ship (LHA-9) would be procured in fiscal year 2023.

The committee notes that efficiencies could be gained by reducing this time span, including steadier workflow with an increased learning curve, material and equipment suppliers with more predictable delivery contracts, and a more effective continuous improvement schedule.

The committee urges the Secretary of the Navy to accelerate the construction of LHA-9, including putting the remainder of the \$350.0 million appropriated in fiscal year 2019 for this ship on contract as soon as possible, leveraging the incremental funding authority in section 127 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92) to build LHA-9 as efficiently as possible and utilizing the amphibious ship procurement authorities provided elsewhere in this Act to further increase efficiency and stability in the shipbuilding industrial base.

Therefore, the committee recommends an increase of \$250.0 million in line number 17 of SCN. (Pages 31-32)

Section 124 of S. 4049 as reported by the committee states:

SEC. 124. PROCUREMENT AUTHORITIES FOR CERTAIN AMPHIBIOUS SHIPBUILDING PROGRAMS.

(a) CONTRACT AUTHORITY.—

(1) PROCUREMENT AUTHORIZED.—In fiscal year 2021, the Secretary of the Navy may enter into one or more contracts for the procurement of three San Antonio-class amphibious ships and one America-class amphibious ship.

(2) PROCUREMENT IN CONJUNCTION WITH EX

ISTING CONTRACTS.—The ships authorized to be procured under paragraph (1) may be procured as additions to existing contracts covering such programs.

(b) CERTIFICATION REQUIRED.—A contract may not be entered into under subsection (a) unless the Secretary of the Navy certifies to the congressional defense committees, in writing, not later than 30 days before entry into the contract, each of the following, which shall be prepared by the milestone decision authority for such programs:

(1) The use of such a contract is consistent with the Department of the Navy's projected force structure requirements for amphibious ships.

(2) The use of such a contract will result in significant savings compared to the total anticipated costs of carrying out the program through annual contracts. In certifying cost savings under the preceding sentence, the Secretary shall include a written explanation of—

(A) the estimated end cost and appropriated funds by fiscal year, by hull, without the authority provided in subsection (a);

(B) the estimated end cost and appropriated funds by fiscal year, by hull, with the authority provided in subsection (a);

(C) the estimated cost savings or increase by fiscal year, by hull, with the authority provided in subsection (a);

(D) the discrete actions that will accomplish such cost savings or avoidance; and

(E) the contractual actions that will ensure the estimated cost savings are realized.

(3) There is a reasonable expectation that throughout the contemplated contract period the Secretary of the Navy will request funding for the contract at the level required to avoid contract cancellation.

(4) There is a stable design for the property to be acquired and the technical risks associated with such property are not excessive.

(5) The estimates of both the cost of the contract and the anticipated cost avoidance through the use of a contract authorized under subsection (a) are realistic.

(6) The use of such a contract will promote the national security of the United States.

(7) During the fiscal year in which such contract is to be awarded, sufficient funds will be available to perform the contract in such fiscal year, and the future-years defense program (as defined under section 221 of title 10, United States Code) for such fiscal year will include the funding required to execute the program without cancellation.

(c) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The Secretary of the Navy may enter into one or more contracts for advance procurement associated with a vessel or vessels for which authorization to enter into a contract is provided under subsection (a), and for systems and subsystems associated with such vessels in economic order quantities when cost savings are achievable.

(d) **CONDITION FOR OUT-YEAR CONTRACT PAY**

MENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year is subject to the availability of appropriations for that purpose for such fiscal year.

(e) **MILESTONE DECISION AUTHORITY DEFINED.**—In this section, the term “milestone decision authority” has the meaning given the term in section 2366a(d) of title 10, United States Code.

Regarding Section 124, S.Rept. 116-236 states:

Procurement authorities for certain amphibious shipbuilding programs (sec. 124)

The committee recommends a provision that would allow the Secretary of the Navy to enter into one or more contracts for the procurement of three San Antonio-class amphibious ships and one America-class amphibious ship.

The committee notes that the Assistant Secretary of the Navy for Research, Development, and Acquisition testified on March 4, 2020, that the authorities provided in this provision would be “tremendously beneficial” and added, “[W]e will look forward to those authorities, should they come in the [National Defense Authorization Act for Fiscal Year 2021].”

The committee further notes that the Navy is estimating savings of 8 to 12 percent, or roughly \$1 billion, for the multiple ship procurement of these 4 ships as compared to 4 separate ship procurement contracts.

Accordingly, this provision would provide the necessary authorities for implementing such an approach. (Page 10)

Section 126 of S. 4049 as reported by the committee states:

SEC. 126. TREATMENT OF SYSTEMS ADDED BY CONGRESS IN FUTURE PRESIDENT’S BUDGET REQUESTS.

A procurement quantity of a system authorized by Congress in a National Defense Authorization Act for a given fiscal year that is subsequently appropriated by Congress in an amount greater than the quantity of such system included in the President’s annual budget request submitted to Congress under section 1105 of title 31, United States Code, for such fiscal year shall not be included as a new procurement quantity in future annual budget requests.

Regarding Section 126, S.Rept. 116-236 states:

Treatment of weapon systems added by Congress in future President’s budget requests (sec. 126)

The committee recommends a provision that would preclude the inclusion in future annual budget requests of a procurement quantity of a system previously authorized and appropriated by the Congress that was greater than the quantity of such system requested in the President’s budget request.

The committee is concerned that by presenting CVN–81 as a ship that was procured in fiscal year 2020 (instead of as a ship that was procured in fiscal year 2019), LPD–31 as a ship requested for procurement in fiscal year 2021 (instead of as a ship that was procured in fiscal year 2020), and LHA–9 as a ship projected for procurement in fiscal year 2023 (instead of as a ship that was procured in fiscal year 2020), the Department of Defense, in its fiscal year 2021 budget submission, is disregarding or mischaracterizing the actions of Congress regarding the procurement dates of these three ships. (Page 11)

Section 1025 of S. 4049 as reported by the committee states (emphasis added):

SEC. 1025. SENSE OF CONGRESS ON ACTIONS NECESSARY TO ACHIEVE A 355-SHIP NAVY.

It is the sense of Congress that to achieve the national policy of the United States to have available, as soon as practicable, not fewer than 355 battle force ships—

(1) the Navy must be adequately resourced to increase the size of the Navy in accordance with the national policy, which includes the associated ships, aircraft, personnel, sustainment, and munitions;

(2) across fiscal years 2021 through 2025, the Navy should start construction on not fewer than—

- (A) 12 Arleigh Burke-class destroyers;
- (B) 10 Virginia-class submarines;
- (C) 2 Columbia-class submarines;
- (D) 3 San Antonio-class amphibious ships;**
- (E) 1 LHA-class amphibious ship;**
- (F) 6 John Lewis-class fleet oilers; and

- (G) 5 guided missile frigates;
- (3) new guided missile frigate construction should increase to a rate of between two and four ships per year once design maturity and construction readiness permit;
- (4) the Columbia-class submarine program should be funded with additions to the Navy budget significantly above the historical average, given the critical single national mission that these vessels will perform and the high priority of the shipbuilding budget for implementing the National Defense Strategy;
- (5) stable shipbuilding rates of construction should be maintained for each vessel class, utilizing multi-year or block buy contract authorities when appropriate, until a deliberate transition plan is identified; and
- (6) prototyping of potential new shipboard sub systems should be accelerated to build knowledge systematically, and, to the maximum extent practicable, shipbuilding prototyping should occur at the subsystem-level in advance of ship design.

Conference

The conference report (H.Rept. 116-617 of December 3, 2020) on H.R. 6395/P.L. 116-283 of January 1, 2021, recommends the funding levels shown in the authorization conference column of **Table 1**. The recommended reduction of \$30.0 million for LPD-17 Flight II procurement is for “Excessive unit cost growth” (\$28.0 million) and transfer to LPD-17 Flight II advance procurement (AP) (\$2.0 million). (PDF page 4276 of 4517)

Section 124 of the conference version of H.R. 6395 states:

SEC. 124. PROCUREMENT AUTHORITIES FOR CERTAIN AMPHIBIOUS SHIPBUILDING PROGRAMS.

(a) CONTRACT AUTHORITY.—

(1) PROCUREMENT AUTHORIZED.—In fiscal year 2021, the Secretary of the Navy may enter into one or more contracts for the procurement of three San Antonio-class amphibious ships and one America-class amphibious ship.

(2) PROCUREMENT IN CONJUNCTION WITH EXISTING CONTRACTS.—The ships authorized to be procured under paragraph (1) may be procured as additions to existing contracts covering such programs.

(b) CERTIFICATION REQUIRED.—A contract may not be entered into under subsection (a) unless the Secretary of the Navy certifies to the congressional defense committees, in writing, not later than 30 days before entry into the contract, each of the following, which shall be prepared by the milestone decision authority for such programs:

(1) The use of such a contract is consistent with the projected force structure requirements of the Department of the Navy for amphibious ships.

(2) The use of such a contract will result in significant savings compared to the total anticipated costs of carrying out the program through annual contracts. In certifying cost savings under the preceding sentence, the Secretary shall include a written explanation of—

(A) the estimated end cost and appropriated funds by fiscal year, by hull, without the authority provided in subsection (a);

(B) the estimated end cost and appropriated funds by fiscal year, by hull, with the authority provided in subsection (a);

(C) the estimated cost savings or increase by fiscal year, by hull, with the authority provided in subsection (a);

- (D) the discrete actions that will accomplish such cost savings or avoidance; and
 - (E) the contractual actions that will ensure the estimated cost savings are realized.
- (3) There is a reasonable expectation that throughout the contemplated contract period the Secretary will request funding for the contract at the level required to avoid contract cancellation.
- (4) There is a stable design for the property to be acquired and the technical risks associated with such property are not excessive.
- (5) The estimates of both the cost of the contract and the anticipated cost avoidance through the use of a contract authorized under subsection (a) are realistic.
- (6) The use of such a contract will promote the national security of the United States.
- (7) During the fiscal year in which such contract is to be awarded, sufficient funds will be available to perform the contract in such fiscal year, and the future-years defense program (as defined under section 221 of title 10, United States Code) for such fiscal year will include the funding required to execute the program without cancellation.
- (c) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The Secretary of the Navy may enter into one or more contracts for advance procurement associated with a vessel or vessels for which authorization to enter into a contract is provided under subsection (a), and for systems and subsystems associated with such vessels in economic order quantities when cost savings are achievable.
- (d) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year is subject to the availability of appropriations for that purpose for such fiscal year.
- (e) **MILESTONE DECISION AUTHORITY DEFINED.**—In this section, the term “milestone decision authority” has the meaning given the term in section 2366a(d) of title 10, United States Code.

Regarding Section 124, H.Rept. 116-617 states:

Procurement authorities for certain amphibious shipbuilding programs (sec. 124)

The Senate amendment contained a provision (sec. 124) that would allow the Secretary of the Navy to enter into one or more contracts for the procurement of three San Antonio-class amphibious ships and one America-class amphibious ship.

The House bill contained no similar provision.

The House recesses.

The conferees believe that better planning and execution of long lead time material (LLTM) purchases for Navy shipbuilding programs could generate significant benefits for such programs, including material delivery schedules that better support the critical path at a more affordable cost, a firmer signal to the supplier base that better stabilizes the marketplace, and incentives for the industrial base to capitalize and invest in workforce development. The conferees understand that suboptimal LLTM funding requests in the past have contributed, directly or indirectly, to construction delays, cost increases, supplier base instability, and depressed industrial base investment.

Accordingly, the conferees direct the Secretary of the Navy to submit a report to the congressional defense committees concurrent with the President’s budget request for fiscal year 2022 on the optimal funding profile for each new construction or refueling and complex overhaul program for which a funding request is included in the Shipbuilding and Conversion, Navy account in the fiscal year 2022 future years defense program (FYDP).

This report shall include, at a minimum, for each such covered program: (1) A description of LLTM needs to support associated construction milestones, including an itemized list of LLTM with the material, production duration, purchase lead time, required in-yard need date, vendor, vendor location, and approximate cost; (2) The fiscal year 2022 FYDP funding profile, including procurement full funding and advance procurement funding for such LLTM with an itemized description; (3) The optimal fiscal year 2022 FYDP funding profile to support associated construction milestones, including procurement full funding and advance procurement funding for such LLTM with an itemized description; (4) The benefits and program risk reduction that could be realized from pursuing the funding profiles described under paragraph (3) in terms of construction schedule, cost, supplier base stability, industrial base investment, and any other factors the Secretary deems appropriate; and (5) Any related matters the Secretary deems appropriate. (PDF pages 3731-3732 of 4517)

Section 126 of the conference version of H.R. 6395 states:

SEC. 126. TREATMENT IN FUTURE BUDGETS OF THE PRESIDENT OF SYSTEMS ADDED BY CONGRESS.

In the event the procurement quantity for a system authorized by Congress in a National Defense Authorization Act for a fiscal year, and for which funds for such procurement quantity are appropriated by Congress in the Shipbuilding and Conversion, Navy account for such fiscal year, exceeds the procurement quantity specified in the budget of the President, as submitted to Congress under section 1105 of title 31, United States Code, for such fiscal year, such excess procurement quantity shall not be specified as a new procurement quantity in any budget of the President, as so submitted, for any fiscal year after such fiscal year.

Regarding Section 126, H.Rept. 116-617 states:

Treatment in future budgets of the President of systems added by Congress (sec. 126)

The Senate amendment contained a provision (sec. 126) that would preclude the inclusion in future annual budget requests of a procurement quantity of a system previously authorized and appropriated by the Congress that was greater than the quantity of such system requested in the President's Budget request.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the effect of this provision to the Shipbuilding and Conversion, Navy account. (PDF page 3734)

H.Rept. 116-617 also states:

Report on implementation of Commandant's Planning Guidance

The House bill contained a provision (sec. 1028) that would require the Secretary of Defense to submit a report regarding the implementation of the Commandant of the Marine Corps' Planning Guidance.

The Senate amendment contained no similar provision.

The House recedes.

The conferees support the Commandant's Planning Guidance and recognize the potential of the transformational initiatives embodied in this approach. The conferees believe that better Marine Corps integration with the Navy is essential to operating in a denied environment as a stand-in force. The conferees further believe it is essential for the Marine Corps to reduce the overall weight of force elements and return to a more expeditionary, temporal posture that is more agile and decisively lethal.

To better examine Marine Corps future force structure and Navy integration requirements to support this effort, the conferees direct the Secretary of the Navy to submit a report to the congressional defense committees not later than March 1, 2021, that provides a detailed description of each of the following:

- (1) The specific number and type of manned littoral ships required to execute such Guidance;
- (2) The role of unmanned surface vessels (USVs), particularly long-range USVs, in the execution of such Guidance;
- (3) How platforms referred to in paragraphs (1) and (2) interact with ground-based Marine Corps units, including cruise missile units, deployed throughout the Indo-Pacific region;
- (4) The integrated naval command and control architecture required to support the platforms referred to in paragraphs (1), (2) and (3); and
- (5) The projected cost and any additional resources required to deliver the platforms and capabilities described in paragraphs (1) through (4) by not later than 5 years after the date of the enactment of this Act.

This report shall be submitted in unclassified form but may contain a classified annex. The unclassified report shall be made publicly available. (PDF pages 4024-4025 of 4517)

H.Rept. 116-617 also states:

Sense of Congress on actions necessary to achieve a 355-ship Navy

The Senate amendment contained a provision (sec. 1025) that would express the sense of Congress on actions necessary to implement the national policy of the United States to have available, as soon as practicable, not fewer than 355 battle force ships.

The House bill contained no similar provision.

The Senate recesses. (PDF page 4024 of 4517)

FY2021 DOD Appropriations Act (H.R. 7617/S. XXXX/Division C of H.R. 133/P.L. 116-260)

House

The House Appropriations Committee, in its report (H.Rept. 116-453 of July 16, 2020) on H.R. 7617, recommended the funding levels shown in the HAC column of **Table 1**.

Senate

The Senate Appropriations Committee, in the explanatory statement for S. XXXX that the committee released on November 10, 2020, recommended the funding levels shown in the SAC column of **Table 1**.

Section 8032 of the bill as released by the committee on November 10, 2020, states:

SEC. 8032. Subject to section 8005 of this Act, the Secretary of Defense may transfer funds appropriated in fiscal year 2021 for “Shipbuilding and Conversion, Navy: LPD Flight II–LPD 31” to “Shipbuilding and Conversion, Navy: LPD 32 (AP)”, and “Shipbuilding and Conversion, Navy: LPD 33 (AP)” for fiscal year 2021 advance procurement authorized by section 124(c) of S. 4049, the Fiscal Year 2021 National Defense Authorization Act: *Provided*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

The explanatory statement for the bill released by the committee on November 10, 2020, states:

USS BONHOMME RICHARD

The fire on the USS Bonhomme Richard [LHD-6] broke out the morning of July 12, 2020, while pier side in San Diego, California, undergoing scheduled maintenance. The Committee understands that the Navy is in the process of assessing the extent of the electrical, structural and mechanical damages to evaluate whether the amphibious assault ship, commissioned in 1998, is salvageable. The Committee recommends an increase of \$30,000,000 to fund immediate expenses during this damage assessment phase. The Committee is eager to learn about the factors the Navy is examining to determine the way ahead and expects to remain informed about possible courses of action. (Page 12)

Conference

The explanatory statement for the final version of the FY2021 DOD Appropriations Act (Division C of H.R. 133/P.L. 116-260 of December 27, 2020, the Consolidated Appropriations Act, 2021) provides the funding levels shown in the appropriation conference column of **Table 1**. The reduction of \$30.0 million from the requested amount for LPD-17 Flight II (or LPD-31) procurement is for “LPD 31 contract award savings” (\$28.0 million) and for transfer to LPD-32 and LPD-33 advance procurement (AP) (\$1.0 million each). The \$1.0 million in advance procurement (AP) funding provided for LPD-32 and the \$1.0 million in advance procurement (AP) funding provided for LPD-33 are for economic order quantity (EOQ), meaning the up-front batch ordering of components for the ships. (PDF page 204 of 469)

Section 8034 of Division C of H.R. 133 states:

SEC. 8034. Subject to section 8005 of this Act, the Secretary of Defense may transfer funds appropriated in fiscal year 2021 for “Shipbuilding and Conversion, Navy: LPD Flight II–LPD 31” to “Shipbuilding and Conversion, Navy: LPD 32 (AP)”, and “Shipbuilding and Conversion, Navy: LPD 33 (AP)” for fiscal year 2021 advance procurement authorized by section 124(c) of the National Defense Authorization Act for Fiscal Year 2021: *Provided*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

Appendix. Procurement Dates of LPD-31 and LHA-9

This appendix presents background information regarding the procurement dates of LPD-31 and LHA-9. In reviewing the bullet points presented below, it can be noted that procurement funding is funding for a ship that is either being procured in that fiscal year or has been procured in a prior fiscal year, while advance procurement (AP) funding is funding for a ship that is to be procured in a future fiscal year.³¹

An institutional issue for Congress in FY2021 concerned the treatment in the Navy's proposed FY2021 budget of the procurement dates of LPD-31 and LHA-9. The Navy's FY2021 budget submission presented LPD-31 as a ship requested for procurement in FY2021 and LHA-9 as a ship projected for procurement in FY2023. Consistent with congressional action on the Navy's FY2020 budget regarding the procurement of LPD-31 and LHA-9, this CRS report treats LPD-31 and LHA-9 as ships that Congress procured (i.e., authorized and provided procurement funding for) in FY2020. Potential oversight issues for Congress included the following:

- By presenting LPD-31 as a ship requested for procurement in FY2021 (instead of a ship that was procured in FY2020) and LHA-9 as a ship projected for procurement in FY2023 (instead of a ship that was procured in FY2020), was DOD, in its FY2021 budget submission, disregarding or mischaracterizing the actions of Congress regarding the procurement dates of these three ships? If so:
 - Was DOD doing this to inflate the apparent number of ships requested for procurement in FY2021 and the apparent number of ships included in the five-year (FY2021-FY2025) shipbuilding plan?
 - Could this establish a precedent for DOD or other parts of the executive branch in the future to disregard or mischaracterize the actions of Congress regarding the procurement or program-initiation dates for other Navy ships, other Navy programs, other DOD programs, or other federal programs? If so, what implications might that have for the preservation and use of Congress's power of the purse under Article 1 of the Constitution, and for maintaining Congress as a coequal branch of government relative to the executive branch?

LPD-31—an LPD-17 Flight II Class Amphibious Ship

The Navy's FY2021 budget submission presented LPD-31, an LPD-17 Flight II class amphibious ship, as a ship requested for procurement in FY2021. This CRS report treats LPD-31 as a ship that Congress procured (i.e., authorized and provided procurement funding for) in FY2020, consistent with the following congressional action on the Navy's FY2020 budget regarding the procurement of LPD-31:

- The House Armed Services Committee's report (H.Rept. 116-120 of June 19, 2019) on H.R. 2500, the FY2020 National Defense Authorization Act, recommended authorizing the procurement of an LPD-17 Flight II class ship in FY2020, showing a quantity increase of one ship above the Navy's request and recommending procurement (not just AP) funding for the program.³²

³¹ For additional discussion, see CRS Report RL31404, *Defense Procurement: Full Funding Policy—Background, Issues, and Options for Congress*, by Ronald O'Rourke and Stephen Daggett.

³² H.Rept. 116-120, p. 379, line 012.

- The Senate Armed Services Committee’s report (S.Rept. 116-48 of June 11, 2019) on S. 1790, the FY2020 National Defense Authorization Act, recommended authorizing the procurement of an LPD-17 Flight II class ship in FY2020, showing a quantity increase of one ship above the Navy’s request and recommending procurement (rather than AP) funding for the program.³³
- The conference report (H.Rept. 116-333 of December 9, 2019) on S. 1790/P.L. 116-92 of December 20, 2019, the FY2020 National Defense Authorization Act, authorized the procurement of an LPD-17 Flight II class ship in FY2020, showing a quantity increase of one ship above the Navy’s request and recommending procurement (rather than AP) funding for the program.³⁴ Section 129 of S. 1790/P.L. 116-92 authorizes the Navy to enter into a contract, beginning in FY2020, for the procurement of LPD-31, and to use incremental funding to fund the contract.
- The Senate Appropriations Committee’s report (S.Rept. 116-103 of September 12, 2019) on S. 2474, the FY2020 DOD Appropriations Act, recommended funding for the procurement of an LPD-17 Flight II class ship in FY2020, showing a quantity increase of one ship above the Navy’s request and recommending procurement (rather than AP) funding for the program.³⁵
- The final version of the FY2020 DOD Appropriations Act (Division A of H.R. 1158/P.L. 116-93 of December 20, 2019) provides procurement (not AP) funding for an LPD-17 Flight II class ship. The paragraph in this act that appropriates funding for the Navy’s shipbuilding account, including this ship, includes a provision stating “*Provided further*, That an appropriation made under the heading ‘Shipbuilding and Conversion, Navy’ provided for the purpose of ‘Program increase—advance procurement for fiscal year 2020 LPD Flight II and/or multiyear procurement economic order quantity’ shall be considered to be for the purpose of ‘Program increase—advance procurement of LPD–31’.” This provision relates to funding appropriated in the FY2019 DOD Appropriations Act (Division A of H.R. 6157/P.L. 115-245 of September 28, 2018) for the procurement of an LPD-17 Flight II class ship in FY2020, as originally characterized in the explanatory statement accompanying that act.³⁶

LHA-9 Amphibious Assault Ship

The Navy’s FY2021 budget submission presented the amphibious assault ship LHA-9 as a ship projected for procurement in FY2023. This CRS report treats LHA-9 as a ship that Congress procured (i.e., authorized and provided procurement funding for) in FY2020, consistent with the following congressional action on the Navy’s FY2020 budget regarding the procurement of LHA-9:

- The Senate Armed Services Committee’s report (S.Rept. 116-48 of June 11, 2019) on S. 1790, the FY2020 National Defense Authorization Act, recommended authorizing the procurement of LHA-9 in FY2020, showing a

³³ S.Rept. 116-48, p. 433, line 12. See also pp. 23-24 for associated report language.

³⁴ H.Rept. 116-333, p. 1566, line 012. See also p. 1144 for associated report language.

³⁵ S.Rept. 116-103, p. 118, line 12. See also p. 122 for associated report language.

³⁶ See PDF page 176 of 559, line 12, of the explanatory statement for H.R. 6157/P.L. 115-245.

- quantity increase of one ship above the Navy's request and recommending procurement (rather than AP) funding for the program.³⁷
- The conference report (H.Rept. 116-333 of December 9, 2019) on S. 1790/P.L. 116-92 of December 20, 2019, the FY2020 National Defense Authorization Act, authorized the procurement of LHA-9 in FY2020, showing a quantity increase of one ship above the Navy's request and recommending procurement (rather than AP) funding for the program.³⁸ Section 127 of S. 1790/P.L. 116-92 authorizes the Navy to enter into a contract for the procurement of LHA-9 and to use incremental funding provided during the period FY2019-FY2025 to fund the contract.
 - The Senate Appropriations Committee's report (S.Rept. 116-103 of September 12, 2019) on S. 2474, the FY2020 DOD Appropriations Act, recommended funding for the procurement of an LHA amphibious assault ship in FY2020, showing a quantity increase of one ship above the Navy's request and recommending procurement (rather than AP) funding for the program.³⁹
 - The final version of the FY2020 DOD Appropriations Act (Division A of H.R. 1158/P.L. 116-93 of December 20, 2019) provides procurement (not AP) funding for an LHA amphibious assault ship. The explanatory statement for Division A of H.R. 1158/P.L. 116-93 states that the funding is for LHA-9.⁴⁰

Legislation on Ship Procurement Dates

Section 126 of the FY2021 National Defense Authorization Act (NDAA) (H.R. 6395/P.L. 116-283 of January 1, 2021) states:

SEC. 126. TREATMENT IN FUTURE BUDGETS OF THE PRESIDENT OF SYSTEMS ADDED BY CONGRESS.

In the event the procurement quantity for a system authorized by Congress in a National Defense Authorization Act for a fiscal year, and for which funds for such procurement quantity are appropriated by Congress in the Shipbuilding and Conversion, Navy account for such fiscal year, exceeds the procurement quantity specified in the budget of the President, as submitted to Congress under section 1105 of title 31, United States Code, for such fiscal year, such excess procurement quantity shall not be specified as a new procurement quantity in any budget of the President, as so submitted, for any fiscal year after such fiscal year.

Regarding the original Senate version of this provision, the Senate Armed Services Committee's report (S.Rept. 116-236 of June 24, 2020) on the FY2021 National Defense Authorization Act (S. 4049) states:

Treatment of weapon systems added by Congress in future President's budget requests (sec. 126)

The committee recommends a provision that would preclude the inclusion in future annual budget requests of a procurement quantity of a system previously authorized and

³⁷ S.Rept. 116-48, p. 433, line 15.

³⁸ H.Rept. 116-333, p. 1566, line 015.

³⁹ S.Rept. 116-103, p. 118, line 15.

⁴⁰ Explanatory statement for Division A of H.R. 1158, PDF page 175 of 414, line 15.

appropriated by the Congress that was greater than the quantity of such system requested in the President's budget request.

The committee is concerned that by presenting CVN-81 as a ship that was procured in fiscal year 2020 (instead of as a ship that was procured in fiscal year 2019), LPD-31 as a ship requested for procurement in fiscal year 2021 (instead of as a ship that was procured in fiscal year 2020), and LHA-9 as a ship projected for procurement in fiscal year 2023 (instead of as a ship that was procured in fiscal year 2020), the Department of Defense, in its fiscal year 2021 budget submission, is disregarding or mischaracterizing the actions of Congress regarding the procurement dates of these three ships. (Page 11)

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