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

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## Summary

The Navy is currently building two types of larger amphibious ships: 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. Oversight issues for Congress regarding larger amphibious ships include the Navy's plans for procuring LPD-17 Flight II class ships in FY2024 and subsequent years, and associated projected numbers of larger amphibious ships; Navy proposals for retiring older LSD-41/49 class amphibious ships; the Navy's non-use of LHA-LPD-17 block-buy procurement authority provided by Congress; technical and cost risk in the LPD-17 Flight II and LHA programs; and the operational readiness of in-service larger amphibious ships.

The Navy's 355-ship force-level goal, released in December 2016, calls for achieving and maintaining a force of 38 larger amphibious ships, including 12 LHA/LHD-type amphibious assault ships, 13 LPD-17 Flight I class ships, and 13 LPD-17 Flight II class ships (i.e., 12+13+13). The Navy and the office of the Secretary of Defense (OSD) have been working since 2019 to develop a new force-level goal to replace the 355-ship force-level goal. The Marine Corps supports a successor amphibious ship force-level goal with 31 larger amphibious ships, including 10 LHA/LHD-type ships, 13 LPD-17 Flight I class ships, and 8 LPD-17 Flight II class ships (i.e., 10+13+8). Marine Corps officials have stated that a force with fewer than 31 larger amphibious ships would increase operational risks for meeting requests from U.S. regional combatant commanders for amphibious ships for day-to-day forward presence or responding to contingencies. The Navy also nominally supports a force-level goal of 31 larger amphibious ships. Section 1023 of the FY2023 NDAA amended 10 U.S.C. 8062 to require the Navy to include not less than 31 operational larger amphibious ships, including 10 LHA/LHD-type ships and 21 LPD-type or older LSD-type amphibious ships.

Notwithstanding 10 U.S.C. 8062, the Navy's FY2024 budget submission does not program the procurement of any further LPD-17 Flight II amphibious ships (i.e., it proposes truncating the LPD-17 Flight II program at three ships), and projects that the number of larger amphibious ships will remain below 31, with the figure decreasing to 26 in FY2035 and to 19 to 23 in FY2053. The Marine Corps' FY2024 unfunded priorities list (UPL) includes, as its top unfunded priority, \$1,712.5 million in procurement funding for procuring a fourth LPD-17 Flight II class ship (LPD-33) in FY2024.

The most recently procured LHA-type ship is LHA-9. The Navy's FY2024 budget submission estimates its procurement cost at \$3,834.3 million (i.e., about \$3.8 billion). The ship has received a total of \$2,004.1 million in prior year advance procurement (AP) and procurement funding. The Navy's proposed FY2024 budget requests the remaining \$1,830.1 million needed to complete the ship's procurement cost.

Section 129 of the FY2023 National Defense Authorization Act (NDAA) (H.R. 7776/P.L. 117-263 of December 23, 2022) permits the Navy to enter into a block buy contract for procuring a combination of up to five LPD-17 and LHA-type amphibious ships.

The Navy's FY2024 budget submission also proposes retiring three aging LSD-41/49 class amphibious ships in FY2024.

Marine Corps officials in public remarks have called attention to the number of in-service amphibious ships that are not operationally ready because they are undergoing or need maintenance and repair work, and have stated that inadequate numbers of operationally ready amphibious ships have resulted in instances of where the Navy has not been able to meet requests from U.S. regional combatant commanders for amphibious ships for day-to-day forward presence or responding to contingencies.

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## Introduction

This report provides background information and issues for Congress on two types of amphibious ships being built 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.

Oversight issues for Congress regarding larger amphibious ships include the Navy's plans for procuring LPD-17 Flight II class ships in FY2024 and subsequent years, and associated projected numbers of larger amphibious ships; Navy proposals for retiring older LSD-41/49 class amphibious ships; the Navy's non-use of LHA-LPD-17 block-buy procurement authority provided by Congress; technical and cost risk in the LPD-17 Flight II and LHA programs; and the operational readiness of in-service larger amphibious ships.

A separate CRS report discusses the Navy's Medium Landing Ship (LSM) program, previously known as the Light Amphibious Warship (LAW) program.<sup>1</sup>

## Background

### U.S. Navy Amphibious Ships

#### Roles and Missions

Navy amphibious ships are operated by the Navy, with crews consisting of Navy personnel. They are battle force ships, meaning ships that count toward the quoted size of the Navy and toward the Navy's force-level goal. The primary function of Navy amphibious ships is to lift (i.e., transport) embarked U.S. Marines and their weapons, equipment, and supplies to distant operating areas, and enable Marines to conduct expeditionary operations ashore in those areas. Although amphibious ships can be used 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,<sup>2</sup> amphibious ships are potentially useful for a range of combat and noncombat operations.<sup>3</sup>

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 in multiship formations called amphibious groups (ARGs). Amphibious ships are also sometimes forward-deployed on an individual basis,

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<sup>1</sup> CRS Report R46374, *Navy Medium Landing Ship (LSM) (Previously Light Amphibious Warship [LAW]) Program: Background and Issues for Congress*, by Ronald O'Rourke.

<sup>2</sup> 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 in many cases 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.)

<sup>3</sup> 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.

particularly for conducting peacetime engagement activities with foreign countries or for responding to smaller-scale or noncombat contingencies.

## Types of Amphibious Ships

The Navy's current amphibious ship force consists entirely of larger amphibious ships, including the so-called "big-deck" amphibious assault ships, designated LHA and LHD, which look like medium-sized aircraft carriers, and the smaller (but still quite sizeable) amphibious ships, designated LPD or LSD, which are sometimes called "small-deck" amphibious ships.<sup>4</sup> As mentioned earlier, a separate CRS report discusses the Navy's Medium Landing Ship (LSM) program, previously known as the Light Amphibious Warship (LAW) program, which is a program to build a new type of amphibious ship that would be much smaller than the Navy's current LHA/LHD- and LPD/LSD-type amphibious ships.<sup>5</sup>

## Amphibious Ship Force-Level Goal

### *Requirement in 10 U.S.C. 8062*

10 U.S.C. 8062(b) requires the Navy to include not less than 31 operational amphibious warfare ships. The 31 amphibious ships are to include not less than 10 LHA/LHD-type "big deck" amphibious assault ships, with the remaining amphibious ships being LPD/LSD-type amphibious ships. The requirement for the Navy to include these numbers and types of amphibious ships was added to 10 U.S.C. 8062 by Section 1023 of the FY2023 (NDAA) (H.R. 7776/P.L. 117-263 of December 23, 2022).

### *Force-Level Goal under 355-Ship Plan of 2016*

The Navy's 355-ship force-level goal, released in December 2016, calls for achieving and maintaining a force of 38 larger amphibious ships, including 12 LHA/LHD-type amphibious assault ships, 13 LPD-17 Flight I class ships, and 13 LPD-17 Flight II class ships (i.e., 12+13+13).<sup>6</sup> This 38 ship force-level goal predates the LSM program and consequently includes no LSMs.

### *Successor Force-Level Goal*

The Navy and OSD have been working since 2019 to develop a new force-level goal to replace the Navy's 355-ship force-level goal, but have not been able to come to closure on a successor goal. Required numbers and types of amphibious ships reportedly have been matters of discussion

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<sup>4</sup> 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. The terms "large-deck" and "small-deck" refer to the size of the ship's flight deck.

<sup>5</sup> CRS Report R46374, *Navy Medium Landing Ship (LSM) (Previously Light Amphibious Warship [LAW]) Program: Background and Issues for Congress*, by Ronald O'Rourke

<sup>6</sup> 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.

and debate between the Navy, the Marine Corps, and the Office of the Secretary of Defense (OSD).<sup>7</sup>

The Marine Corps supports a successor amphibious ship force-level goal with 31 larger amphibious ships—including 10 LHA/LHD-type ships, 13 LPD-17 Flight I class ships, and 8 LPD-17 Flight II class ships (i.e., 10+13+8)—plus 35 LSMs (aka “31+35”).<sup>8</sup> Marine Corps officials have stated that a force with fewer than 31 larger amphibious ships would increase operational risks for meeting requests from U.S. regional combatant commanders for amphibious ships for day-to-day forward presence or responding to contingencies.<sup>9</sup>

The Navy nominally supports a force-level goal of 31 larger amphibious ships: A July 18, 2023, press report stated that the Navy on June 20, 2023, had submitted to the congressional defense committees a classified, congressionally mandated Battle Force Ship Assessment and Requirement (BFSAR) that Navy officials stated publicly calls for achieving and maintaining a future fleet of 381 ships, including 31 larger amphibious ships.<sup>10</sup>

<sup>7</sup> Megan Eckstein, “Marines Want 31 Amphibious Ships. The Pentagon Disagrees. Now What?” *Defense News*, May 2, 2023; Laura Heckmann, “Navy, Marine Corps at Odds Over Fleet Requirements,” *National Defense*, March 29, 2023; Brent D. Sadler, “This Ugly Dispute Over Amphibious Warships Didn’t Have to Happen,” *Defense One*, March 23, 2023; Paul McLeary, “Marines Furious over the Navy’s Plan for Troop-Carrying Ships,” *Politico Pro*, March 17, 2023; Caitlin M. Kenney, “Is the LPD-17 Flight II Amphib Worth It? Depends Who You Ask,” *Defense One*, March 16, 2023; Rich Abott, “Pause in Procurement of LPDs is Mostly Due To Price, CNO Says,” *Defense Daily*, March 15, 2023; Megan Eckstein, “Naval Chief Says Rising Cost Spurred Amphib Production Pause,” *Defense News*, March 15, 2023; Justin Katz, “Both Citing Cost, Leaders of Navy, Marines Dig In on Amphib Ship Fight,” *Breaking Defense*, March 15, 2023; Mallory Shelbourne, “Navy and Marine Corps Debate Amphibious Ship Costs as Clash Over LPD-17 Flight II Line Continues,” *USNI News*, March 15 (updated March 16), 2023; Nick Wilson, “Berger: LSD Decommissioning Would Violate Amphib Requirement; Unfunded Priorities Coming Soon,” *Inside Defense*, March 15, 2023; Nick Wilson, “CNO: LPD Pause Is Cost-Driven, Budget Growth Will Not Last,” *Inside Defense*, March 15, 2023; Justin Katz, “‘Unacceptable’: Marines Are Ready to Fight Tonight—About the Amphib Budget,” *Breaking Defense*, March 13, 2023; Caitlin M. Kenney, “Navy On Path To Violate 31-Amphibious-Ship Requirement in 2024,” *Defense One*, March 13, 2023; Mallory Shelbourne, “Navy: OSD Directed Amphib Procurement Pause, Joint Staff Says Current Amphib Force ‘Sufficient,’” *USNI News*, March 13 (updated March 20), 2023; Megan Eckstein, “Commandant pushes amphibious warship funding as next budget emerges,” *Defense News*, March 9, 2023; Mallory Shelbourne, “FY2024 Budget: Navy Won’t Buy Any More San Antonio Amphibs in the Next Five Years,” *USNI News*, March 9 (updated March 15), 2023; Megan Eckstein, “US Navy Reviews Cost-Saving Design Changes Before Resuming Amphib Buys,” *Defense News*, February 28, 2023; Rich Abott, “Rivers: Navy Not Talking About ‘Walking Away’ From LPD Flight II,” *Defense Daily*, February 27, 2023; Megan Eckstein, “White House Steps in as Navy, Pentagon Feud over Amphibious Ship Study,” *Defense News*, December 8, 2022; Justin Katz, “Del Toro: Navy-Marine Corps Amphib Study in ‘Final Stages,’ Being Briefed to Leadership,” *Breaking Defense*, December 6, 2022; Lee Hudson, “Senators Press Del Toro for Update on Amphib Study,” *Politico Pro*, November 14, 2022; Megan Eckstein, “US Marines Warn Against Navy’s FY24 Decommission Plans,” *Defense News*, October 4, 2022.

<sup>8</sup> See, for example, Todd South, “Back to Ship: Marines Need Ships to Fight. Will They Get Them?” *Military Times*, March 24, 2022; Megan Eckstein, “Some Lawmakers Back Marines in Disagreement over Navy Amphib Force,” *Defense News*, April 5, 2022; Caitlin M. Kenney, “Marines Push Light Amphib Warship While Navy Secretary Awaits Study,” *Defense One*, April 5, 2022; Mallory Shelbourne, “Navy and Marines Divided Over the Amphibious Fleet’s Future as Delays and Cancellations Mount in FY 2023 Budget Request,” *USNI News*, April 3, 2022.

<sup>9</sup> See, for example, Caitlin M. Kenney, “‘We Didn’t Have the Ships’ to Send ‘Best Option’ to Help Earthquake Victims, Commandant Says,” *Defense One*, February 15, 2023; Caitlin M. Kenney, “Marines Issue Warning on Amphib Fleet, The Assistant Commandant Says 31 Large Amphibious Warfare Ships Are Needed to Avoid Risk,” *Defense One*, February 14, 2023.

<sup>10</sup> Sam LaGrone, “Navy Raises Battle Force Goal to 381 Ships in Classified Report to Congress,” *USNI News*, July 18, 2023. See also Joseph Trevithick, “Navy’s New 381-Hull Fleet Plan Recommits To Big Amphibious Warfare Ships,” *The Drive*, July 19, 2023. See also Linda Hersey, “Franchetti Pledges Support for 31-Amphib Mandate, Delivering Columbia Submarines on Time,” *Inside Defense*, September 14, 2023.

### ***FY2023 NDAA Provisions***

The FY2023 National Defense Authorization Act (NDAA) (H.R. 7776/P.L. 117-263 of December 23, 2022) included the following provisions relating to the amphibious ship force-level goal:

- Section 1022 amended 10 U.S.C. 8026 to require the Secretary of the Navy to ensure that the views of the Commandant of the Marine Corps are given appropriate consideration before a major decision is made by an element of the Department of the Navy outside the Marine Corps on a matter that directly concerns amphibious force structure and capability.
- Section 1023, as noted earlier, amended 10 U.S.C. 8062 to require the Navy to include not less than 31 operational larger amphibious ships, including 10 LHA/LHD-type ships and 21 LPD or LSD type ships.
- Section 1025 amended 10 U.S.C. 8695 to state that, in preparing a periodic battle force ship assessment and requirement, the Commandant of the Marine Corps shall be specifically responsible for developing the requirements relating to amphibious warfare ships.

### **Number of Amphibious Ships at End of FY2022 and Projected Through FY2053**

The Navy's force of amphibious ships at the end of FY2022 included 31 larger ships, including 9 amphibious assault ships (2 LHAs and 7 LHDs), 12 LPD-17 Flight I class ships, and 10 older LSD-41/49 class ships. The Navy's FY2024 budget submission projects that the Navy at the end of FY2024 will include 29 larger amphibious ships, including 9 LHA/LHD-type ships, 13 LPD Flight I class ships, and 7 LSD-41/49 class ships.

The Navy's FY2024 30-year (FY2024-FY2053) shipbuilding plan, released on April 18, 2023,<sup>11</sup> includes three 30-year shipbuilding profiles and three resulting 30-year force-level projections. The three alternatives are called PB2024 (meaning the President's budget for FY2024), Alternative 2, and Alternative 3. The document shows the projected number of larger amphibious ships remaining below 31 ships throughout the 30-year period, with the figure decreasing to 26 ships in FY2035 and decreasing further, to 19 ships (PB2024), 20 ships (Alternative 2), or 23 ships (Alternative 3), in FY2053.

### **Existing LSD-41/49 Class Ships**

The Navy procured a total of 12 Whidbey Island/Harpers Ferry (LSD-41/49) class ships (**Figure 1**) procured between FY1981 and FY1993. The ships entered service between 1985 and 1998.<sup>12</sup> The LSD-41/49 class included 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. Two of the ships were retired in 2021 and 2022. The Navy's proposed FY2024 budget proposes retiring three more in FY2024 at ages of 34, 35, and 38 years, which would leave seven in service at the end of FY2024.

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<sup>11</sup> U.S. Navy, *Report to Congress on the Annual Long-Range Plan for Construction of Naval Vessels for Fiscal Year 2024*, March 2023, with cover letters dated March 30, 2023, released April 18, 2023, 31 pp.

<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

## 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.<sup>15</sup> 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.

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

<sup>13</sup> 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.

<sup>14</sup> Source: HII statement as quoted in Frank Wolfe, “Navy Budget Plan Delays Buy of Amphibious Ships,” *Defense Daily*, March 15, 2019.

<sup>15</sup> 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.

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.<sup>16</sup> 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.<sup>17</sup> 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 class 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.

**Figure 2. LPD-17 Flight II Design**

Artist's rendering



**Source:** Cropped version of Huntington Ingalls Industries rendering accessed March 2, 2021, at <https://newsroom.huntingtoningalls.com/file?fid=5c9a85ca2cfac22774673031>.

<sup>16</sup> 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.

<sup>17</sup> 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.

## Procurement Cost

LPD-17 Flight II class ships have a current estimated unit procurement cost of about \$1.9 billion.

## Procurement Quantity and FY2024 Funding Request

The first LPD-17 Flight II class ship (LPD-30) was procured in FY2018, the second (LPD-31) in FY2020 (the Navy states that the year was FY2021),<sup>18</sup> and the third (LPD-32) in FY2023. The Navy's FY2024 budget submission, like its FY2023 budget submission, proposes truncating the LPD-17 Flight II program to three ships by making LPD-32 the final ship in the program. The Navy's FY2024 budget submission does not request any funding for the procurement of LPD-33 and programs no additional LPD-17 Flight II class ships or LPD-type ships of a follow-on design through FY2028. The Marine Corps' FY2024 unfunded priorities list (UPL) includes, as its top unfunded priority, \$1,712.5 million in procurement funding for procuring LPD-33 in FY2024.

## LHA-9 Amphibious Assault Ship

LHA-type amphibious assault ships (**Figure 3** and **Figure 4**) are procured once every few years.

**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.

LHA-8 was procured in FY2017. The most recently procured LHA-type ship, LHA-9, was procured in FY2021 (the Navy states that the year was FY2023).<sup>19</sup> The Navy's FY2024 budget submission estimates its procurement cost at \$3,834.3 million (i.e., about \$3.8 billion). The ship has received a total of \$2,004.1 million in prior year advance procurement (AP) and procurement

<sup>18</sup> For further discussion, see the **Appendix**.

<sup>19</sup> For further discussion, see the **Appendix**.

funding. The Navy’s proposed FY2024 budget requests the remaining \$1,830.1 million needed to complete the ship’s procurement cost.

**Figure 4. LHA-7 Amphibious Assault Ship**

Shown with 20 F-35B Joint Strike Fighters (JSFs) on Flight Deck



**Source:** Photograph accompanying Stavros Atlamazoglou, “The US’s Experimental ‘Lightning Carriers’ Are ‘Much More Capable’ than China’s Current Carriers, US Admiral Says,” *Business Insider*, December 6, 2022. The article credits the photograph to U.S. Marine Corps/Sgt. Samuel Ruiz.

**Proposed Retirements of LSD-41/49-Class Ships**

The Navy’s FY2024 budget submission proposes retiring three aging LSD-41/49 class amphibious ships in FY2024 at ages of 34, 35, and 38 years; two more in FY2025; and one more in FY2026.

**NDAAs Provisions Authorizing Block Buys**

**FY2021 and FY2022 NDAA’s**

Section 124 of the FY2021 NDAA (H.R. 6395/P.L. 116-283 of January 1, 2021), as amended by Section 121 of the FY2022 NDAA (S. 1605/P.L. 117-821 of December 27, 2021), permitted the Navy to enter into a block buy contract in FY2021 or FY2022 for the procurement of three LPD-17 class ships and one LHA-type amphibious assault ship. Such a contract would have been 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 and affect Congress’s flexibility for making changes to Navy shipbuilding programs in response to potential changes in strategic or budgetary circumstances during the period covered by the block buy contract.<sup>20</sup> The Navy did not use this authority.

<sup>20</sup> 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 (continued...)

## FY2023 NDAA

Section 129 of the FY2023 NDAA (H.R. 7776/P.L. 117-263 of December 23, 2022) permits the Navy to enter into a block buy contract for procuring a combination of up to five LPD-17 and LHA-type amphibious ships. Similar to the point made in the previous paragraph, such a contract would be the first block buy contract to cover the procurement of ships from two separate ship classes. As noted above, using block buy contracting could reduce the unit procurement costs of LPD-17 Flight II and LHA-type ships and affect Congress's flexibility for making changes to Navy shipbuilding programs in response to potential changes in strategic or budgetary circumstances during the period covered by the block buy contract. As of January 2024, the Navy has not used this authority.

## Issues for Congress

### LPD-17 Flight II Procurement and Projected Numbers of Amphibious Ships

One issue for Congress—an issue that emerged as a prominent item in Congress's review of the Navy's proposed FY2024 budget—concerns the Navy's plans for procuring LPD-17 Flight II class ships in FY2024 and subsequent years, associated projected numbers of larger amphibious ships, and whether these plans and projections are consistent with the 31-ship force-level goal for larger amphibious ships. As noted earlier

- The Marine Corps supports an amphibious ship force-level goal with 31 larger amphibious ships, including, among other things, 8 LPD-17 Flight II class ships.
- The Navy also nominally supports a force-level goal of 31 larger amphibious ships.
- 10 U.S.C. 8062 requires the Navy to include not less than 31 operational amphibious warfare ships, including not less than 10 LHA/LHD-type “big deck” amphibious assault ships and the remainder being LPD/LSD-type amphibious ships.

Notwithstanding the three above points, the Navy's FY2024 budget submission, as noted earlier, does not program the procurement of any further LPD-17 Flight II amphibious ships (i.e., it proposes truncating the LPD-17 Flight II program at three ships), and projects that the number of larger amphibious ships will remain below 31, with the figure decreasing to 26 in FY2035 and to 19 to 23 in FY2053. Potential oversight questions for Congress include the following:

- Are the Navy's plans for procuring amphibious ships and the Navy's projected numbers of amphibious ships consistent with the requirement in 10 U.S.C. 8062 for the Navy to include not less than 31 amphibious ships? If not, why not? More specifically, is the Navy's proposal to truncate the LPD-17 Flight II program to three ships, and not procure any more such ships during the five-year period FY2024-FY2028, consistent with the requirement under 10 U.S.C. 8062?
- 10 U.S.C. 8062 requires the Navy to include not less than 11 operational aircraft carriers. When the Navy projected that for a period of several years, it would have 10 rather than 11 operational aircraft carriers, the Navy requested, and

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

Congress approved, a legislative waiver permitting the Navy to include 10 rather than 11 operational carriers during that period.<sup>21</sup> As noted above, the Navy's projects that the number of amphibious ships will remain below 31 ships throughout the FY2023. Has the Navy requested a legislative waiver of the requirement under 10 U.S.C. 8062 for the Navy to include not less than 31 operational amphibious warfare ships? If the Navy has not requested such a waiver, why not?

- What are the potential operational consequences of the projected numbers of amphibious ships shown in the Navy's FY2024 budget submission?
- What impact would the truncation of LPD-17 Flight II procurement to a total of three ships have on the shipyard that builds LPD-17 Flight IIs (HII/Ingalls—the Ingalls shipyard of Pascagoula, MS, which is part of Huntington Ingalls Industries) in terms of workloads, employment levels, and costs for building other Navy warships (including DDG-51 destroyers and LHA-type amphibious assault ships) that are built at that yard? What impact would the truncation of LPD-17 Flight II procurement have on supplier firms associated with construction of LPD-17 Flight II ships?<sup>22</sup>
- What changes to the Navy's FY2024 budget submission would be needed to better align Navy plans with the amphibious ship force-level required by 10 U.S.C. 8062? How much additional funding for procuring amphibious ships and for operating and supporting amphibious ships would be needed to achieve and maintain a force of not less than 31 amphibious ships, including not less than 10 LHA/LHD-type "big deck" amphibious assault ships? In a situation of finite defense funding, what impact might providing this additional funding have on funding available for other Navy or DOD priorities?

An April 18, 2023, press report stated

Like its predecessor, the U.S. Navy's 2024 long-range shipbuilding plan is a tardy, multiple-choice document that appears to fall short of the legal requirement for amphibious warships. And some lawmakers are not happy.

"Why are you violating the law? And why does your shipbuilding plan have no remote interest for the next 30 years, as far as I can tell, of hitting the statutory mandate that we told you to hit?" [Senator Dan Sullivan] asked Navy Secretary Carlos Del Toro at a Tuesday [April 18] hearing of the Senate Armed Services Committee.

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<sup>21</sup> As discussed in in the CRS report on the Gerald R. Ford (CVN-78) class aircraft carrier program (CRS Report RS20643, *Navy Ford (CVN-78) Class Aircraft Carrier Program: Background and Issues for Congress*, by Ronald O'Rourke), the aircraft carrier force dropped from 11 ships to 10 ships between December 1, 2012, when the aircraft carrier *Enterprise* (CVN-65) was inactivated, and July 22, 2017, when the aircraft carrier Gerald R. Ford (CVN-78) was commissioned into service. Anticipating the gap between the inactivation of CVN-65 and the commissioning of CVN-78, the Navy asked Congress for a temporary waiver of 10 U.S.C. 8062(b) to accommodate the period between the two events. Section 1023 of the FY2010 National Defense Authorization Act (H.R. 2647/P.L. 111-84 of October 28, 2009) authorized the waiver, permitting the Navy to have 10 rather than 11 operational carriers between the inactivation of CVN-65 and the commissioning of CVN-78.

<sup>22</sup> For press reports discussing the amphibious ship industrial base, see, for example, Nick Wilson, "Amphibious Warship Industrial Base is 'Underutilized' as LPD Procurement Pause Drags On," *Inside Defense*, January 22, 2024; Megan Eckstein, "HII Warns of Potential Carrier, Amphib Issues in FY25 Budget Request," *Defense News*, January 8, 2024.

“It is my responsibility to follow the law. It's also my responsibility to ensure that we just don't waste taxpayer money on vessels, for example, that will never see the light of day,” Del Toro replied....

Sullivan was complaining about the Navy's stated plan to allow its amphibious fleet to drop to 29 ships in 2024, below the 31-ship floor that Congress mandated in the 2023 National Defense Authorization Act.

He was not alone. Several senators remarked on the amphibious-ship plan during the hearing or in later emailed statements....

[Senator Tim Kaine, who leads the committee's Seapower subcommittee, said in his statement:] Lastly, on the issue of amphibious ships: the Marine Corps has made it clear that they need 31, and Congress shares that view. I'm frustrated that neither this plan nor the President's budget gets us there.”...

The top request in the Marine Corps' 2024 unfunded priorities list is to fully fund LPD 33 to try to get the fleet back to the minimum requirement, Marine Corps Commandant Gen. David Berger told senators at Tuesday's hearing.

“In the shipbuilding plan and the budget submitted, there is no plan to get to that number. And that's why I put it as the top of the unfunded list,” Berger said. “I know it to be the operational requirement and the law. And I saw no plan to get there.”<sup>23</sup>

A March 15, 2023, press report stated

The Navy halted its pursuit of the San Antonio-class amphibious transport dock line because of the program's growing costs and delays in the shipyard, the service's top officer said Wednesday.

The pause to reassess the LPD-17 Flight II line started a year ago at the direction of the Office of the Secretary of Defense, Chief of Naval Operations Adm. Mike Gilday said at the annual McAleese Conference....

The pause on buying amphibious ships is so the Navy can perform a Battle Force Ship Assessment and Requirements Study, which will help inform amphibious ship buys and likely wrap up in the third quarter of FY 2023, and evaluate both possible cost savings and capabilities, officials have said....

The Navy wanted [LPD-32] to be the last LPD-17 Flight II purchase, as the service last year tried to end the line early after only buying three ships instead of the originally planned 13.

After appeals from the Marine Corps for advanced procurement funding for LPD-33, lawmakers opted to continue the line and allotted \$250 million in advanced procurement dollars for that ship in the FY 2023 funding and policy bills.

But the service did not include the ship in its five-year budget outlook released Monday [March 13]. The Navy could buy LPD-33 in FY 2025 if it followed industry's recommendation to order the ships every two years to keep a stable work force and maintain the supply chain. Because of the two-year centers, Gilday said the Navy has time to evaluate the LPD-17 Flight II line.

“Congress has given us the authorities in the latest [National Defense Authorization Act] to do a bundle buy and we all agree that that's the way that we ought to go after these ships. But to go after a single ship in '25, and put that in the budget now – based on where we are with all this churn on cost and so forth and this concern about the cost of those ships – it's

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<sup>23</sup> Caitlin M. Kenney, “Navy Shipbuilding Plan Draws Lawmakers' Ire Anew,” *Defense One*, April 18, 2023. See also Doug G. Ware, “‘You're Ignoring the Law': Navy Secretary Grilled in Senate over Lack of Amphibious Ships,” *Stars and Stripes*, April 18, 2023.

like telling a car dealer, ‘hey I really want to buy that minivan. I’m going to buy that minivan. Now let’s roll up our sleeves and talk about price,’” Gilday said.

“It’s not going to drive down the price of that ship. It needs to be competitive. Actually, with that production line and that ship, it’s not competitive. One company builds it,” the CNO added.

But the Marine Corps has a different take. At the same conference, Marine Corps Commandant Gen. David Berger made the case for the LPD-17 Flight II line and said a block buy acquisition strategy is the way to pursue the ships to save money. The commandant argued that HII’s Ingalls Shipbuilding is approaching the point in the line where they can see cost savings and that increased costs to buy new LPDs are because of inflation....

Berger was part of the team in 2014 that assessed the LPD-17 line and chose to pursue an altered design – Flight II – instead of starting from scratch on a new amphibious ship program. He expressed doubt that the Navy could find more cost savings by doing another assessment and said halting the line would affect the workforce and drive the price up....

Naval Sea Systems Command chief Vice Adm. Bill Galinis could not provide details when asked if NAVSEA is formally assessing the LPD design or looking at a potential Flight III....

Both Berger and Gilday argued for block buys to achieve cost savings, a point Navy Secretary Carlos Del Toro echoed in advocating for potential multi-year procurement strategies.

“I think it’s necessary to try to get to why is the cost of the LPD going up as significantly as it has. It’s now approaching pretty much the cost of a DDG Flight III destroyer,” Del Toro said.

“So there are some concerns to that. So we’re going to actually take a look at that over the next few months actually, hopefully by either June or September we’ll have the final answer to are there ways that we could perhaps bring that cost down a bit.”...

Berger cited his minimum requirement of 31 amphibious ships, which Congress signed into law in FY 2023, as the reason why he cannot support the pause in purchasing LPDs.

“They’re right at the point in the curve that’s the most efficient and we’re going to take a time out. From my perspective, I can’t accept that when the inventory – the capacity has to be no less than 31,” the commandant said.<sup>24</sup>

A March 13, 2023, press report stated

The Navy is proposing to drop its amphibious fleet below 31 ships, despite an agreement with the Marine Corps and a potential violation of last year’s defense policy law.

Sent to Congress on Monday [March 13], the Navy’s proposed \$255.8 billion 2024 budget aims to retire eight warships before the end of their intended service life, including three Whidbey Island-class dock landing ships, or LSDs, that it proposed to scrap last year but which were saved by the 2023 National Defense Authorization Act....

“We’ve gone through, not only on LSDs but the other divestments proposed in this budget, did a ship-by-ship review, to understand the material state of each of the ships. What we found on the LSDs is that they are challenged in terms of readiness. We want to make sure that the capabilities that we field are the right capabilities, and are able to perform the

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<sup>24</sup> Mallory Shelbourne, “Navy and Marine Corps Debate Amphibious Ship Costs as Clash Over LPD-17 Flight II Line Continues,” *USNI News*, March 15 (updated March 16), 2023.



mission to the standards that we expect,” Navy Undersecretary Erik Raven told reporters ahead of the proposed budget’s release.

“And so we’re proposing those divestments because we think the return on investment, on further investments on those particular ships, as judged hull by hull, that return on investment is not there,” Raven said. “Additionally, say that we have sailors and Marines who are serving on these ships, we think that getting them matched up to the right platforms is the way to go.”

Marine Corps Commandant Gen. David Berger last week rejected any plans that would cut these aging LSDs before their replacements were delivered.

Despite the delivery of one LPD in 2024, the early retirement of the three LSDs would mean the total number of amphibs that year would drop below the legally required 31 ships minimum laid out in the 2023 NDAA, according to the budget documents. Raven told reporters that the Navy is not seeking a waiver at this time....

Berger on Monday reiterated the reasoning behind the 31-ship requirement for amphibs.

“Anything less incurs risk to national defense by limiting the options for our combatant commanders,” he said in a statement to *Defense One*. “Per strategic guidance, the Marine Corps must be able to provide the nation with crisis response capabilities and build partnerships with allies and partners in support of integrated deterrence—difficult to achieve without the requisite number of amphibious warships.”...

Last month, Navy Secretary Carlos Del Toro said the service is taking a “strategic pause” on buying more LPDs until additional studies are completed, *Defense News* reported. Afterward, the Navy would “probably” start buying them again, according to the report.

On Monday, Raven told reporters at the Pentagon that the office of the Secretary of Defense had directed the pause and a capabilities-based assessment, and that there is an “integrated team” to assess the ships.

“What we are making sure that we are doing as we move forward with our budget plans, is making sure that we have the right capabilities at the right price aligned to not only meeting military requirements, but working with industry,” Raven said. “And for LPD, we’re taking a look at the acquisition strategy moving forward, again, to make sure that we would have the right capabilities at the right price and working with industry partners to put together that plan moving forward.”

The Navy has “time to get this right” with the LPD, and that the Navy and Marine Corps are “fundamentally aligned” on the 31-ship requirement, Rear Adm. John Gumbleton, the deputy assistant secretary of the Navy for budget, said Monday.

“Both service chiefs like 31 [ships] as a requirement. Both service chiefs like multiyear procurements. Both service chiefs want to buy in a predictable future. And so if we can do a study and actually lower the costs of this, that’s all to the good of the Department of the Navy and Marine Corps,” Gumbleton said.<sup>25</sup>

Another March 13, 2023, press report stated

The future amphibious warship fleet—and its production line—are in peril of being sunk by budget politics. And the Marine Corps is ready to fight about it.

“Without a programmed replacement for [dock landing ships] being decommissioned, substantial risk falls on the combatant commander as the requirement for 31 ships will not

<sup>25</sup> Caitlin M. Kenney, “Navy On Path To Violate 31-Amphibious-Ship Requirement in 2024,” *Defense One*, March 13, 2023.

be met,” Maj. Joshua Benson, a spokesman for the service’s three-star general in charge of combat development and integration, told *Breaking Defense* today. “This is unacceptable.”

The Navy’s new fiscal 2024 budget request follows up on previous comments from Navy Secretary Carlos Del Toro, who has said the service will take a “strategic pause” in purchasing new amphibious warships, which are designed to ferry Marines and their equipment into strategic locations where they can deploy from ship to shore. At the time, Del Toro said the pause was so the Navy can consider both how many ships it needs as well as the capabilities onboard those vessels.

Speaking to reporters ahead of the budget rollout, Navy Undersecretary Erik Raven declined to answer several questions about the pause, instead thanking for Congress for its support in the previous budget and promising to work with industry and the Hill moving forward.

During an event on the Hill last week, Commandant Gen. David Berger also declined to explain the logic behind the “strategic pause,” saying it was Del Toro’s place to articulate the administration’s position. But he was blunt about the risk in not meeting what the Marines say is a minimum of 31 amphibious ship fleet, a figure backed up by a recent joint Navy-Marine Corps assessment delivered to lawmakers.

“The inventory is going to go down, the risk is going to go up,” he said then. “The risk meaning our ability as a nation to respond when needed, and sometimes you can’t predict that the risk goes up — that a combatant commander doesn’t have the right tool for the job. That’s the risk.”

But the new comments from the Marine Corps’ three-star command in charge of developing warfighting technologies represent major, public push-back against the Pentagon’s formal request.

In follow up comments today to *Breaking Defense*, Benson emphasized that risk, citing the ongoing humanitarian crises in Turkey prompted by multiple earthquakes.

“The ongoing humanitarian disaster in Turkey is the most recent example of a situation that would benefit from the capabilities organic to an [amphibious ready group/ Marine expeditionary unit]. Unfortunately, no operationally deployable amphibious warfare ships were available,” said Benson.

In terms of the industrial base, the Marine Corps views the “strategic pause” as putting its ship production lines at risk of completely shutting down. “Depending on the length of the pause,” Benson said shipyards may be forced to cut their workforce, losing “years of experience that have been carried forward from keel to keel.”

“If a shipbuilder is forced to make these decisions due to forecasted gaps in production, re-starting a line becomes much more expensive,” he added.<sup>26</sup>

## Proposed Retirements of LSD-41/49 Class Ships

Another issue for Congress concerns the Navy’s proposal in its FY2024 budget submission to retire three LSD-41/49-class amphibious ships in FY2024. A March 30, 2023, press report stated

The U.S. Navy’s plan to decommission three amphibious warships ahead of schedule has drawn ire from some legislators, who last year put into law a requirement for the service to maintain a fleet of at least 31 ships for the Marine Corps to use.

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<sup>26</sup> Justin Katz, “‘Unacceptable’: Marines Are Ready to Fight Tonight—About the Amphib Budget,” *Breaking Defense*, March 13, 2023.

The Navy in its fiscal 2024 budget request asked to decommission three Whidbey Island-class amphibious dock landing ships — the Germantown, Gunston Hall and Tortuga — which it tried to decommission last year and Congress voted to save.

Vice Adm. Scott Conn, the deputy chief of naval operations for warfighting requirements and capabilities, explained during a Tuesday [March 28] hearing before the Senate Armed Services Committee’s sea power panel that these ships are not viable options for overseas operations given their poor condition. The vessels have not reached the end of their planned 40-year life span.

Conn said the ships’ original service life was meant to be 35 years, but in the 1990s the Navy changed that to 40 based on the assumptions the ships would operate in six-month deployments and be properly maintained along the way.

Throughout the wars in Iraq and Afghanistan, “we operated those ships much longer than six-month deployments,” Conn said. “We know we didn’t put the resources [toward] those ships to be able to sustain them. So now we’re in a position where we have some hard choices to make.”

As the Navy watches their performance in ongoing maintenance availabilities, “we don’t have the confidence, as we’re seeing growth work and new work, that those ships will get out of the maintenance phase, be able to get through a work-up cycle ... which is a year long, and then go on deployment.”

Why keep them if “we can’t get them away from the pier,” Conn wondered.

It would cost about \$3 billion to keep the Whidbey Island amphibious ships and cruisers the Navy wants to decommission, but Conn argues that money would be better spent on other ships. Additionally, decommissioning the ships rather than continuing their unsuccessful maintenance availabilities would free up sailors for other ship assignments at sea and would free up repair yards to work on ships that are more badly needed by the fleet.

Sen. Dan Sullivan, R-Alaska, who serves in the Marine Corps Reserve, told Conn the Navy’s plan to decommission these ships brings the fleet lower than the now-statutory requirement for 31 ships.

“This is not a suggestion, it’s a law,” he said. “You have a law, we passed it ... and the Navy comes out and says: ‘Eh, we’ll just blow off those silly U.S. senators.’ ”

Conn told him that “having 31 ships, of which three of them may be tied to a pier for the next five years, is not really 31.”<sup>27</sup>

## Use of Block Buy Contract Authority

Another issue for Congress is whether the Navy intends to use the LPD-LHA block buy contracting authority provided by Congress in Section 129 of the FY2023 NDAA, and if not, then what, if anything, Congress should do in response. As noted earlier, the Navy did not use the LPD-LHA block buy contracting authority provided in the FY2021 and FY2022 NDAAs.

An April 3, 2023, press report stated

The Chief of Naval Operations wants the Navy to pursue a multi-year procurement strategy for the amphibious warship program the service indicated it would end in the latest budget submission.

“Most recently, on Friday, we put LPD-32 on contract at a good price and we hope to leverage the multi-year authorities that we have to keep that great line of ships going.”

<sup>27</sup> Megan Eckstein, “Lawmakers Decry US Navy’s Plan to Decommission Aging Amphibious Ships,” *Defense News*, March 30, 2023.

Adm. Mike Gilday said Monday [April 3] at the annual Navy League’s Sea Air Space symposium.

A March 9, 2023, press report stated that Marine Corps Commandant General David Berger

today doubled down on the need for 31 traditional amphibious warships and endorsed block buys and other contracting strategies to signal consistent demand to industry....

“We have bought these one at a time. That’s not the way you do it,” Berger said at a Thursday [March 9] forum hosted by the Amphibious Warship Industrial Base Coalition. “We do block buys for other platforms—destroyers, submarines aircraft carriers—for all the right reasons. We need to do it also for amphibious ships.”<sup>28</sup>

At a June 22, 2021, hearing before the Senate Armed Services Committee on the Department of the Navy’s proposed FY2022 budget, General David Berger, the Commandant of the Marine Corps, stated that using the block buy authority in the FY2021 and FY2022 NDAs would reduce the combined cost of the four ships by \$722 million.<sup>29</sup> At a June 17, 2021, hearing before the Seapower and Projection Forces subcommittee of the House Armed Services Committee on seapower programs in the Department of the Navy’s proposed FY2022 budget, Frederick J. Stefany, Acting Assistant Secretary of the Navy for Research, Development and Acquisition (ASN RDA) (i.e., the Navy’s acting acquisition executive), stated that this would equate to a reduction of 7.1%.<sup>30</sup> At a June 8, 2021, hearing before the Seapower subcommittee of the Senate Armed Services Committee on Navy and Marine Corps investment programs, the Department of Navy witnesses were asked about the Navy’s intentions regarding the block buy contracting authority granted by Section 124. Stefany replied that

to update you on that authority that your—your committee provided last year, the Section 124 Authority, we have finished negotiating with HII Ingalls to document a ... contract structure that could be put in place to implement the four-ship procurement that you’re referring to, that—that we just finished that up about a week ago.

And, so we had a—a handshake agreement [with HII Ingalls] on what that would look like if we were to actually enact it into a contract and we packaged that up and we’re sending it to the department<sup>31</sup> leadership for—for a decision. But what—and—and get that in place before the authority that expires at the end of this year, that you provided us.

But—in—I’ll just let you know the initial indications we’re getting from the department is that they would like to defer this decision so that they can make an overall, as they do their overall [FY]’23 budget review this summer and fall, of the overall force structure, work with Admiral Kilby and General Smith on the right mix of ships of the future, the commitment of four ships at once, they would like to make—defer that commitment until they are able to make that force-structure assessment.

So, right now, indicators are that we are not gonna be able to execute that, but it’s not a done deal. It’s going through the process within the department for a final decision sir.<sup>32</sup>

<sup>28</sup> Nick Wilson, “Commandant Endorses Block Buys for Amphibious Warships,” *Inside Defense*, March 9, 2023. See also Mallory Shelbourne, “FY2024 Budget: Navy Won’t Buy Any More San Antonio Amphibs in the Next Five Years,” *USNI News*, March 9 (updated March 15), 2023.

<sup>29</sup> Richard R. Burgess, “Senators Hammer \$1 Billion Loss, Industrial Instability with Navy’s Planned 2022 Shipbuilding,” *Seapower*, June 22, 2021.

<sup>30</sup> Megan Eckstein, “Marines Explain Vision for Fewer Traditional Amphibious Warships,” *Defense News*, June 21, 2021.

<sup>31</sup> This is a reference to the Department of the Navy or the Department of Defense.

<sup>32</sup> Transcript of hearing as posted by CQ.com. The passage as printed here includes some minor typographical corrections done by CRS for readability. See also Megan Eckstein, “Deal to Buy Four Amphibious Warships Losing (continued...)”

## 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.

### LPD-17 Flight II Program

A June 2023 Government Accountability Office (GAO) report—the 2023 edition of GAO’s annual report surveying DOD major acquisition programs—stated the following about the LPD-17 Flight II program:

#### Current Status

Construction of LPD 17 Flight II ships is underway. The first ship in Flight II, LPD 30, is nearly 30 percent complete. The Navy now expects delivery of LPD 30 in the fall of 2025, a delay of approximately 6 months from our last assessment. In addition, the Navy began construction of LPD 31 in September 2022—a delay of 5 months.

The program continues to experience schedule delays due to labor shortages resulting from COVID-19. For example, the shipbuilder reassigned workers from LPD 30 to mitigate ongoing labor shortages on Flight I ships. As of September 2022, the LPD 30 workforce was at approximately 80 percent of planned levels. Program officials said that they expect to see workers reassigned to LPD 30 and 31 as work on the final Flight I ship, LPD 29, is completed. The Navy has yet to realize any cost increases from the delays.

As we reported last year, testing plans for Flight II are under revision, with a final test and evaluation master plan expected in early 2023. The Navy and the test authority agreed on a testing approach but still need to develop a full test strategy. Specific areas under discussion include the need for a Full Ship Shock Trial and testing the new mast and radar—introduced on the final Flight I ships and to be included in Flight II ships.

The program office and test authority characterized the design changes between Flight I and Flight II—including the new mast and radar—as iterative technology enhancements, not an introduction of new critical technologies. While they may not consider these systems new critical technologies, there is risk with this first time integration of these systems on LPD 17 class ships.

#### 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. According to the program office, they are in the process of testing and delivering LPD 17 class ships. The program also stated that it laid the keel for LPD 30, started fabrication of LPD 31, and placed LPD 32 under contract to procure long lead time materials.<sup>33</sup>

### LHA Program

A January 2024 report from DOD’s Director, Operational Test and Evaluation (DOT&E)—DOT&E’s annual report for FY2023—stated the following about the LHA program:

#### TEST ADEQUACY

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Steam, as Navy Takes Another Look at Future Force Needs,” *Defense News*, June 8, 2021; Mallory Shelbourne, “Navy Reaches ‘Handshake’ Deal on Four-Ship Amphib Buy, Pentagon Wants New Navy Force Structure Assessment,” *USNI News*, June 8, 2021.

<sup>33</sup> Government Accountability Office, *Weapon Systems Annual Assessment[:] Programs Are Not Consistently Implementing Practices That Can Help Accelerate Acquisitions*, GAO-23-106059, June 2023 p. 164.

In February 2023, DOT&E published an LHA 6 Flight 0 FOT&E report based on evaluation conducted between March and April 2022 on USS Tripoli (LHA 7), as detailed in the FY22 Annual Report. Testing was adequate to demonstrate LHA 6 Flight 0 capability to support Marine Corps aviation operations in the F-35B-heavy configuration consisting of 20 F-35B aircraft, 3 SH-60S Seahawk helicopters, a Marine Aviation Combat Element, and a Marine Command Element. Testing evaluated the ability to embark, operate, support, and maintain the fixed- and rotary-wing aircraft in this configuration. The LHA 6 program conducted this FOT&E period of the LHA 6 Flight 0 in accordance with a DOT&E-approved test plan, and tests were observed by DOT&E. The LHA 6 program plans to use test observations to inform future F-35B-heavy operational concepts and tactics, techniques, and procedures.

As first reported in the FY21 Annual Report, DOT&E and the LHA 6 program have yet to agree on an LHA Flight 1 LFT&E strategy to evaluate the survivability of the LHA 6 Flight 1 against air-delivered or underwater kinetic threats. Specific DOT&E concerns are the lack of fire testing for embarked vehicle spaces and the lack of a Full Ship Shock Trial.

## **PERFORMANCE**

### **EFFECTIVENESS**

LHA 6 Flight 0 ships are operationally effective in supporting Marine Corps aviation operations in the F-35B-heavy configuration. USS Tripoli demonstrated the capability to conduct representative flight operations with 20 embarked F-35Bs throughout two days of mission exercises. USS Tripoli supported reliable launch and recovery of the F-35B. The Navy also demonstrated sufficient capability to conduct casualty control in the F-35B-heavy configuration during the simulated events of an aircraft fire on the flight deck and in the hangar of an LHA Flight 0 ship.

LHA 6 Flight 0 ships have limited special access program facility (SAPF) capacity, degrading the planning and execution of real-world missions with sustained operations in the F-35B-heavy configuration. Full details are in the LHA 6 Flight 0 FOT&E report.

### **SUITABILITY**

LHA 6 Flight 0 is operationally suitable for amphibious warfare and standard ACE operations. USS Tripoli experienced no material issues and demonstrated sufficient reliability to support strike and defensive counter air missions in the F-35B-heavy configuration. Additionally, the ship's command, control, and communications systems were sufficient to support the demonstrated missions. Full details are in the LHA 6 Flight 0 FOT&E report.

The embarkation of an F-35B-heavy ACE created crewing requirements that exceeded the 12-hour routine operations. The Navy will likely need to develop a crewing plan for supplementing the ship's crew when operations exceed 12 hours with the embarkation of an F-35B-heavy ACE.

### **SURVIVABILITY**

No data are available to change the survivability assessment of LHA 6 Flight 0 from IOT&E or assess survivability of LHA 6 Flight 1.

## **RECOMMENDATIONS**

The Navy should:

1. Investigate SAPF space options that support sustained operations with an F-35B-heavy ACE embarked. If SAPF space cannot be increased to support mission requirements, the Navy and Marine Corps should investigate the feasibility of relaxing the requirement for the SAPF as necessary to support F-35B operations.

2. Investigate supplemental crewing options for sustained LHA 6 Flight 0 operations with an F-35B-heavy ACE embarked.
3. As recommended in the last two Annual Reports, deliver the LHA 6 Flight 1 LFT&E strategy for DOT&E approval in FY24. Identify funding in the updated TEMP for embarked vehicle fire testing and a Full Ship Shock Trial.<sup>34</sup>

## Operational Readiness of In-Service Amphibious Ships

Another issue for Congress concerns the operational readiness of in-service amphibious ships. Marine Corps officials in public remarks have called attention to the number of in-service amphibious ships that are not operationally ready because they are undergoing or are in need of maintenance and repair work, and have stated that inadequate numbers of operationally ready amphibious ships have resulted in instances of where the Navy has not been able to meet requests from U.S. regional combatant commanders for amphibious ships for day-to-day forward presence or responding to contingencies.<sup>35</sup> The situation has prompted the Marine Corps to explore alternatives for deploying Marines on other kinds of ships that are not designed for embarking and transporting Marine forces.<sup>36</sup>

## Legislative Activity for FY2024

### Summary of Congressional Action on FY2024 Funding Request

**Table 1** summarizes congressional action on the Navy’s FY2024 procurement and advance procurement (AP) funding request for the LPD-17 Flight II and LHA-9 programs.

**Table 1. Summary of Congressional Action on FY2024 Procurement Funding Request**

Millions of dollars, rounded to nearest tenth

	Request	Authorization			Appropriation		
		HASC	SASC	Final	HAC	SAC	Final
LPD-33 advance procurement (AP) funding	0	0	0	0	0	500.0	
LPD-33 procurement funding	0	750.0	1,863.0	1,000.0	0	0	
LHA-9 procurement funding	1,830.1	1,830.1	1,830.1	1,830.1	1,830.1	1,830.1	
LHA-10 advance procurement (AP) funding	0	0	0	0	0	0	

<sup>34</sup> Director, Operational Test & Evaluation, *FY 2023 Annual Report*, January 2024, pp. 203-204.

<sup>35</sup> Drew F. Lawrence and Konstantin Toropin, “Marines Can’t Count on Navy Ships to Carry Them to Global Emergencies, One of the Service’s Top Generals Says,” *Military.com*, January 25, 2024. See also James G. Foggo, “Evacuating Sudan: An Amphibious Gap and Missed Opportunity,” *Defense News*, May 3, 2023; Justin Katz, “Short on Amphibs for Turkey, Sudan, the Marines Grapple with Crisis Response Ethos,” *Breaking Defense*, May 1, 2023; Nancy A. Youssef, “Grounding of U.S. Marine Unit Spotlights Lack of Ships in Asia-Pacific,” *Wall Street Journal*, April 30, 2023. Richard R. Burgess, “Berger: Lack of Amphibs Left AFRICOM with No Sea-Based Option for Sudan Evacuation,” *Seapower*, April 28, 2023; Konstantin Toropin, “‘I Let Down the Combatant Commander’: Marine Leader Regrets His Forces Weren’t Available for Recent Crises,” *Military.com*, April 28, 2023.

<sup>36</sup> See, for example, Megan Eckstein, “Ship Shortage Forces Marines to Consider Alternate Deployments,” *Defense News*, January 25, 2024.

**Source:** Table prepared by CRS based on Navy’s FY2024 budget submission, committee and conference reports, and explanatory statements on FY2024 National Defense Authorization Act and FY2024 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.

## FY2024 National Defense Authorization Act (H.R. 2670/S. 2226)

### House

The House Armed Services Committee, in its report (H.Rept. 118-125 of June 30, 2023) on H.R. 2670, recommended the funding levels shown in the HASC column of **Table 1**.

**Section 346** of H.R. 2670 would require quarterly briefings from the Navy on the operational status of the amphibious warfare fleet and would limit the obligation and expenditure of funds from the Administration and Servicewide Activities part of the Operation and Maintenance, Navy (OMN) appropriation account until 30 days after the Navy provides the first such briefing.

**Section 1015** would amend 10 U.S.C. 8695(e) to require the Commandant of the Marine Corps to provide input on the battle force ship assessment related to amphibious warships and vessels that transport Marines.

**Section 1017** would prohibit the obligation and expenditure of FY2024 funds to retire, prepare to retire, inactivate, or place in storage certain Navy ships, including the LSD-41/49 class amphibious ships USS *Germantown* (LSD-42), USS *Gunston Hall* (LSD-44), and USS *Tortuga* (LSD-46).

**Section 1020** would provide authority to use FY2023-FY2025 funding to enter into an incrementally funded contract for the advance procurement and construction of an LPD-17 class ship.

H.Rept. 118-125 states

#### *LPD 33*

The committee continues to support the statutory operational requirement of no less than 31 amphibious warships. The committee is concerned by efforts to pause or delay amphibious ship construction, particularly those that may result in plans for less capable ships. The committee supports funding for LPD 33 in fiscal year 2024, and is concerned that further delay of amphibious warship construction plans could result in additional costs and harm to the shipyard industrial base. (Page 20)

### Senate

The Senate Armed Services Committee, in its report (S.Rept. 118-58 of July 12, 2023) on S. 2226, recommended the funding levels shown in the SASC column of **Table 1**. The recommended increase of \$1,83.0 million in LPD-33 procurement funding is for “Program increase for LPD–33—USMC UFR [unfunded requirements, aka Unfunded Priorities List (UPL)].” (Page 422)

S.Rept. 118-58 states

#### **LPD–33**

Neither the budget request, nor the future years defense program, included funding for Shipbuilding and Conversion, Navy (SCN) to purchase the next amphibious transport dock, LPD–33.



The Department of Defense has conducted extensive analysis of the LPD-17 class to redesign the ship to achieve cost savings. This resulted in the design of the Flight II ships. The LPD-33 would be the next Flight II ship of the LPD-17 class. Marine Corps witnesses have testified that there are no capabilities excess to their needs in the Flight II design, but the Department has decided to further study whether the LPD could be redesigned to yield a ship that would be less expensive to acquire.

Given that is unlikely that the Navy could achieve major cost savings without significant changes in capabilities, the committee fails to see why the Department would stop production of LPDs without a replacement.

Therefore, the committee recommends an increase in line number 14 of SCN of \$1.9 billion to fully fund LPD-33. (Pages 10-11)

**Section 343** of S. 2226 would require quarterly briefings on the operational status of the amphibious warship fleet.

**Section 357** would limit the obligation and expenditure of funds from the Administration and Servicewide Activities part of the Operation and Maintenance, Navy (OMN) appropriation account until the Navy submits to the congressional defense committees a 30-year shipbuilding plan that meets the statutory requirement in 10 U.S.C. 8062 to maintain 31 amphibious warships.

**Section 1022** would amend 10 U.S.C. 8062 to direct the Navy to adjust scheduled maintenance and repair actions to maintain a minimum of 24 amphibious warfare ships operationally available for worldwide deployment.

**Section 1023** would prohibit the obligation and expenditure of FY2024 funds to retire, prepare to retire, or place in storage certain Navy ships, including the LSD-41/49 class amphibious ships USS *Germantown* (LSD-42), USS *Gunston Hall* (LSD-44), and USS *Tortuga* (LSD-46).

## Conference

The conference report (H.Rept. 118-301 of December 6, 2023) on H.R. 2670 recommended the funding levels shown in the authorization final column of **Table 1**. The recommended increase of \$1.0 billion in LPD-17 procurement funding is for “Program increase for LPD-33—USMC UFR [U.S. Marine Corps unfunded requirements list],” meaning the procurement of LPD-33 in FY2024. (Page 1412)

**Section 348** directs the Navy to submit, as part of its FY2025 budget submission, a 30-year shipbuilding plan that “meets the statutory requirement to maintain 31 amphibious warships as found in section 8062(b) of title 10, United States Code,” and prohibits the obligation and expenditure of more than 50% of FY2024 funds for Administration and Servicewide Activities within the Operation and Maintenance, Navy (OPN), account until such a plan is submitted.

**Section 352** of H.R. 2670 directs the Navy to provide semiannual briefings on the operational status of the amphibious warship fleet.

**Section 1019** amends 10 USC 8695(e), which sets forth the role of the Commandant of the Marine Corps in the preparation of an annual Navy battle force ship assessment and requirement, to state that the Commandant shall be specifically responsible for not only “for developing the requirements relating to amphibious warfare ships,” as previously stated in 10 USC 8695(e), but also “for naval vessels with the primary mission of transporting Marines.”

Regarding Section 1019, H.Rept. 118-301 states

*Sec. 1019—Responsibility of Commandant of the Marine Corps with respect to naval battle force ship assessment and requirement reporting*

The House bill contained a provision (sec. 1015) that would provide the Commandant of the Marine Corps the responsibility for developing requirements related to all naval vessels with the primary mission of transporting Marines within the Naval Battle Force Ship Requirements and Assessment.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment to the provision's title.

The conferees agree that the Commandant of the Marine Corps has not been provided an adequate voice in the generation of requirements for naval vessels that support Marine Corps missions. Section 1025 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263) provided that the Commandant of the Marine Corps would have responsibility for preparation of amphibious warfare ship requirements. The section did not deal with requirements for smaller vessels, such as the Landing Ship Medium (LSM). However, the Commandant called for a program of 35 LSMs to support operations of three Marine Littoral Regiments, with affordability and speed to delivery as key considerations. However, the Navy's program only includes 18 LSMs, a number insufficient to provide continuous support for two Marine Littoral Regiments. (Page 1169)

**Section 1021** prohibits funds authorized by H.R. 2670 for FY2024 from being obligated or expended to retire, prepare to retire, or place in storage certain ships, including the LSD-41/49 class amphibious ships USS *Germantown* (LSD 42), USS *Gunston Hall* (LSD 44), and USS *Tortuga* (LSD 46).

**Section 1022** permits the use of FY2023-FY2025 funds to incrementally fund the procurement of an LPD-17 class amphibious ship.

## FY2024 DOD Appropriations Act (H.R. 4365/S. 2587)

### House

The House Appropriations Committee, in its report (H.Rept. 118-121 of June 27, 2023) on H.R. 4365, recommended the funding levels shown in the HAC column of **Table 1**.

**Section 8073** of H.R. 4365 would prohibit funds made available by the act from being used to decommissioning certain Navy ships, including the LSD-41/49 class amphibious ships USS *Germantown* (LSD-42) and USS *Tortuga* (LSD-46).

H.Rept. 118-121 states

#### MARINE CORPS AMPHIBIOUS SHIPS

The Committee is troubled that the budget request seeks to retire three amphibious dock landing ships (LSDs) prior to reaching their expected service lives, which would bring the total number of operational Marine Corps amphibious warfare ships under 31. Not only is this request in contravention of existing law, but the Committee also notes that such a reduction would further inhibit the Marine Corps' ability to respond to crises and support emerging combatant commander requirements. The Committee is concerned that the proposed rate of procurement of new amphibious ships is insufficient to meet the Marine Corps' operational requirement. While the Committee notes that the Department of the Navy is studying future landing platform dock (LPD) requirements, it believes that an interruption in the procurement of new amphibious ships will have a detrimental effect on maritime power projection and the shipbuilding industrial base. Therefore, the Committee recommendation prevents the decommissioning of two LSDs to sustain near-term capacity. Further, the Committee directs the Secretary of the Navy, in coordination with the Commandant of the Marine Corps, to submit a report to the congressional defense

committees, not later than 90 days after the enactment of this Act, on the Department's plan to meet and sustain a minimum of 31 operational Marine Corps amphibious warfare ships. (Page 11)

## **Senate**

The Senate Appropriations Committee, in its report (S.Rept. 118-81 of July 27, 2023) on S. 2587, recommended the funding levels shown in the SAC column of **Table 1**. The recommended increase of \$500.0 million in LPD-33 advance procurement (AP) funding is for "Program increase: Advance procurement of LPD 33." (Page 135) The committee's mark includes an additional \$250.0 million in LPD-33 advance procurement (AP) funding for "Realignment of fiscal year 2023 funds for advance procurement of LPD 33." (Page 135) Section 8045 of S. 2587 rescinds certain prior-year funds, including \$250.0 million in LPD-17 Flight II advance procurement (AP) funding.

## 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.<sup>37</sup>

### Overview

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 and FY2021 budgets 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 and FY2021, respectively. 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 FY2021), 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?

The Navy's FY2024 budget submission, similar to its FY2023, FY2022, and FY2021 budget submissions, presents LHA-9 as a ship procured or projected for procurement in FY2023. Navy officials have described the listing of LHA-9 in the Navy's FY2023 budget submission as a ship being requested for procurement in FY2023 as an oversight.

### 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,

<sup>37</sup> 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.

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.<sup>38</sup>
- 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.<sup>39</sup>
- 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.<sup>40</sup> 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.<sup>41</sup>
- The final version of the FY2020 DOD Appropriations Act (Division A of H.R. 1158/P.L. 116-93 of December 20, 2019) provided procurement (not AP) funding for an LPD-17 Flight II class ship. The paragraph in this act that appropriated 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.<sup>42</sup>

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<sup>38</sup> H.Rept. 116-120, p. 379, line 012.

<sup>39</sup> S.Rept. 116-48, p. 433, line 12. See also pp. 23-24 for associated report language.

<sup>40</sup> H.Rept. 116-333, p. 1566, line 012. See also p. 1144 for associated report language.

<sup>41</sup> S.Rept. 116-103, p. 118, line 12. See also p. 122 for associated report language.

<sup>42</sup> See PDF page 176 of 559, line 12, of the explanatory statement for H.R. 6157/P.L. 115-245.

## LHA-9 Amphibious Assault Ship

The Navy's FY2024 budget submission, similar to its FY2023, FY2022, and FY2021 budget submissions, presents LHA-9 as a ship procured or 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 FY2021, consistent with the following congressional action on the Navy's FY2020 and FY2021 budgets 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 quantity increase of one ship above the Navy's request and recommending procurement (rather than AP) funding for the program.<sup>43</sup>
- 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.<sup>44</sup> 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.<sup>45</sup>
- The final version of the FY2020 DOD Appropriations Act (Division A of H.R. 1158/P.L. 116-93 of December 20, 2019) provided procurement (not AP) funding for an LHA amphibious assault ship. The explanatory statement for Division A of H.R. 1158/P.L. 116-93 stated that the funding was for LHA-9.<sup>46</sup>
- The procurement (not AP) funding provided for LHA-9 in the FY2020 DOD Appropriations Act (see previous bullet point) was subsequently reprogrammed to provide support for counter-drug activities of the Department of Homeland Security (DHS) along the U.S. southern border.<sup>47</sup> 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), however, once again provided procurement (not AP) funding for an LHA amphibious assault ship. The explanatory statement for Division C of H.R. 133/P.L. 116-260 stated that the funding is for "Program increase—LHA 9."<sup>48</sup> As a result of the FY2021 procurement (not AP) funding for LHA-9, the ship once again has an authorization (provided in the FY2020 National Defense Authorization Act), authority for using incremental funding in procuring it (provided by Section 127

<sup>43</sup> S.Rept. 116-48, p. 433, line 15.

<sup>44</sup> H.Rept. 116-333, p. 1566, line 015.

<sup>45</sup> S.Rept. 116-103, p. 118, line 15.

<sup>46</sup> Explanatory statement for Division A of H.R. 1158, PDF page 175 of 414, line 15.

<sup>47</sup> Reprogramming action (Form DD 1415) FY 20-01 RA, February 13, 2020, page 3 of 5.

<sup>48</sup> Explanatory statement for Division C of H.R. 133/P.L. 116-260, PDF page 204 of 469, line 17.

of the FY2020 National Defense Authorization Act), and procurement (not AP) funding (provided in the FY2021 DOD Appropriations Act).

## **Ship Procurement Date Provision in FY2021 NDAA**

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 the two ships in FY2020 and FY2021, respectively, 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 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 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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