

(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plant; or

(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

(b) Considerations involved in determinations of estimation of cost of performance of work by Government plant

In estimating the comparable cost of doing the work under subsection (a)(1) by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

(c) Considerations involved in determinations of estimation of cost of performance of work by well-equipped contractor

In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall, in addition to the cost of labor and materials, take into account proper charges for depreciation of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.

(Mar. 2, 1919, ch. 95, §8, 40 Stat. 1290; Pub. L. 95-269, §2, Apr. 26, 1978, 92 Stat. 219.)

Editorial Notes

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1919.

AMENDMENTS

1978—Pub. L. 95-269 designated existing provision as subsec. (a), substituted provisions relating to determinations by the Secretary of the Army, acting through the Chief of Engineers, respecting contract prices for performance of works of river and harbor improvement by a Government plant or by a well-equipped contractor as a limitation on performance of the work by private contract, for provisions relating to limitation on use of funds for works of river and harbor improvement pursuant to private contract based on estimation of cost for performance of work by Government plant and factors constituting cost estimation, and added subsecs. (b) and (c).

Statutory Notes and Related Subsidiaries

COMPENSATION FOR INCREASED COSTS

Provision for payment to contractors to compensate for loss occasioned by increased cost of materials during the war with Germany was made by section 10 of act Mar. 2, 1919, and act June 5, 1920, ch. 252, §5, 41 Stat. 1014.

REPEAL OF LIMITATION ON COSTS

A provision for limitation on the costs of projects made by section 1 of act Mar. 2, 1919, was repealed by act June 5, 1920, ch. 252, §3, 41 Stat. 1013.

§ 625. Repealed. Oct. 31, 1951, ch. 654, §1(58), 65 Stat. 703

Section, acts Sept. 19, 1890, ch. 907, §2, 26 Stat. 452; July 25, 1912, ch. 253, §8, 37 Stat. 233, related to combining several projects in one contract.

§ 626. Prosecution of work when appropriation insufficient

Whenever the appropriations made, or authorized to be made, for the completion of any river and harbor work shall prove insufficient therefor, the Secretary of the Army may, in his discretion, on the recommendation of the Chief of Engineers, apply the funds so appropriated or authorized to the prosecution of such work.

(July 25, 1912, ch. 253, §8, 37 Stat. 233; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from part of section 8 of the Rivers and Harbors Appropriation Act of 1912. The omitted part of such section 8 was set out in section 625 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SIMILAR PROVISIONS

A similar provision was contained in act Mar. 2, 1907, ch. 2509, §1, 34 Stat. 1073.

§ 627. Application of appropriation when separate works are included therein

Where separate works or items are consolidated in River and Harbor Acts and an aggregate amount is appropriated therefor, any balances remaining to the credit of the separate works or items may be transferred to the credit of the corresponding aggregate amounts appropriated for the consolidated items, and the amounts appropriated or transferred shall, unless otherwise expressed, be expended in securing maintenance and improvement according to the respective projects adopted by Congress, after giving due regard to the respective needs of traffic. The allotments to the respective works consolidated shall be made by the Secretary of the Army

upon recommendations by the Chief of Engineers. In case such works or items are consolidated and separate amounts are given with each project, the amounts so named shall be expended upon such separate projects unless, in the discretion of the Secretary of the Army, another allotment or division should be made of the same. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items.

(Mar. 4, 1915, ch. 142, §3, 38 Stat. 1052; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1915.

PRIOR PROVISIONS

Section 3 of act Mar. 4, 1915, superseded act Mar. 4, 1913, ch. 144, §7, 37 Stat. 827, which read as follows:

“Where separate works or items are consolidated in this or subsequent river and harbor Acts and an aggregate amount is appropriated therefor the amounts appropriated shall, unless otherwise expressed, be expended in securing maintenance and improvement according to the respective projects adopted by Congress, after giving due regard to the respective needs of traffic. The allotments to the respective works consolidated shall be made by the Secretary of War upon recommendations by the Chief of Engineers. In case such works or items are consolidated and separate amounts are given with each project, the amounts so named shall be expended upon such separate projects unless, in the discretion of the Secretary of War, another allotment or division should be made of the same. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items.”

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SIMILAR PROVISIONS

The Rivers and Harbors Appropriation Act, Mar. 2, 1919, ch. 95, §2, 40 Stat. 1287, contained the following provision: “Where separate works or items are consolidated herein and an aggregate amount is appropriated therefor, the amount so appropriated shall, unless otherwise expressed, be expended in securing the maintenance and improvement according to the respective projects adopted by Congress after giving due regard to the respective needs of traffic. The allotments to the respective works so consolidated shall be made by the Chief of Engineers as authorized by the Secretary of War. In case such works or items are consolidated and separate amounts are given to individual projects the amounts so named shall be expended upon such separate projects. Any balances remaining to the credit of the consolidated items shall be carried to the credit of the respective aggregate amounts appropriated for the consolidated items.”

Similar provisions were contained in act July 18, 1918, ch. 155, §2, 40 Stat. 910.

§ 628. Expenditure for dredging within harbor lines

No money appropriated for the improvement of rivers and harbors shall be expended for dredging inside of harbor lines duly established. (July 13, 1892, ch. 158, §5, 27 Stat. 111.)

Editorial Notes

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1892.

§ 629. Contract for hire of dredging plant

Whenever it shall become, in the opinion of the Secretary of the Army, necessary or desirable to hire a dredging plant or plants for the performance of any of the public work carried on under his direction the said Secretary may, in his discretion, agree for the same, either in the manner customary on March 2, 1907, or on the basis of an equitable reimbursement for deterioration of plant when in use by the Government, and a reasonable percentage of the total cost of the work.

(Mar. 2, 1907, ch. 2509, §5, 34 Stat. 1119; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act of 1907.

The part of the original text omitted here repealed act Apr. 28, 1904, ch. 1761, §4, 33 Stat. 452.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 630. Limitation on expenditure for purchase of dredges

No money authorized to be expended for the acquirement of any dredge or dredges shall be so expended for the purchase of any dredge or dredges from private contractors, which at the time of the proposed purchase can be manufactured at any navy yard or other government-owned factory for a sum less than it can be purchased for from such private contractor.

(Sept. 22, 1922, ch. 427, §5, 42 Stat. 1042.)

Editorial Notes

CODIFICATION

Section is from part of section 5 of the Rivers and Harbors Appropriation Act for 1922.

The omitted portion of that section authorized the construction of six seagoing hopper dredges and limited the cost of each to \$750,000.

§ 631. Transfer of property between projects

The Secretary of the Army may direct a temporary transfer of any property employed in the