

project, including the cost of such work as is to be performed by the bridge owner and not included in the work to be performed by contract, shall not exceed the sum stated in said guaranty. The Secretary may direct the bridge owner to reject all bids and to take new bids, or may authorize the bridge owner to proceed with the project, by contract, or partly by contract and partly by the bridge owner, or wholly by the bridge owner. Upon such authorization and fixing of the proportionate shares of the cost as provided in section 516 of this title, the bridge owner shall, within a reasonable time to be prescribed by the Secretary, proceed with the work of alteration; and the cost thereof shall be borne by the United States and by the bridge owner, as provided in sections 516 and 517 of this title: *Provided*, That where funds have been appropriated for part only of a project, the bridge owner may take bids for part only of the work. In the event the bridge owner proceeds with the alteration through the taking of successive partial bids, the bridge owner shall, if required by the Secretary, submit a revised guaranty of cost after bids are accepted for successive parts of the work.

(June 21, 1940, ch. 409, § 5, 54 Stat. 498; Pub. L. 85-640, § 1(a), (b), Aug. 14, 1958, 72 Stat. 595.)

#### AMENDMENTS

1958—Pub. L. 85-640 struck out provisions which required bridge owner to take bids within 90 days after notification of approval of general plans and specifications, and inserted provisions permitting the taking of partial bids where funds have been appropriated for part of a project, and requiring the bridge owner, if requested, to submit a revised guaranty of cost.

#### § 516. Apportionment of cost

At the time the Secretary shall authorize the bridge owner to proceed with the project, as provided in section 515 of this title, and after an opportunity to the bridge owner to be heard thereon, the Secretary shall determine and issue an order specifying the proportionate shares of the total cost of the project to be borne by the United States and by the bridge owner. Such apportionment shall be made on the following basis: The bridge owner shall bear such part of the cost as is attributable to the direct and special benefits which will accrue to the bridge owner as a result of the alteration, including the expectable savings in repair or maintenance costs; and that part of the cost attributable to the requirements of traffic by railroad or highway, or both, including any expenditure for increased carrying capacity of the bridge, and including such proportion of the actual capital cost of the old bridge or of such part of the old bridge as may be altered or changed or rebuilt, as the used service life of the whole or a part, as the case may be, bears to the total estimated service life of the whole or such part: *Provided*, That in the event the alteration or relocation of any bridge may be desirable for the reason that the bridge unreasonably obstructs navigation, but also for some other reason, the Secretary may require equitable contribution from any interested person, firm, association, corporation, municipality, county, or State desiring such alteration or relocation for such other reason, as

a condition precedent to the making of an order for such alteration or relocation. The United States shall bear the balance of the cost, including that part attributable to the necessities of navigation: *And provided further*, That where the bridge owner proceeds with the alteration on a successive partial bid basis the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper, to meet any changed conditions.

(June 21, 1940, ch. 409, § 6, 54 Stat. 499; July 16, 1952, ch. 889, § 2, 66 Stat. 733; Pub. L. 85-640, § 1(c), Aug. 14, 1958, 72 Stat. 595.)

#### AMENDMENTS

1958—Pub. L. 85-640 permitted issuance of an order of apportionment of cost for entire alteration based on the accepted bid for first part of alteration and an estimate of cost for remainder of work where bridge owner proceeds with alteration on a successive partial bid basis.

1952—Act July 16, 1952, made railroads share equally with proprietors of highways in bearing cost of alterations necessary to remove obstacles to navigation.

#### § 517. Payment of share of United States

Following service of the order requiring alteration of the bridge, the Secretary of Transportation may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of Transportation may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Fiscal Service upon certifications of the Secretary of Transportation.

(June 21, 1940, ch. 409, § 7, 54 Stat. 499; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Pub. L. 85-640, § 1(d), Aug. 14, 1958, 72 Stat. 596; Pub. L. 91-605, title I, § 118, Dec. 31, 1970, 84 Stat. 1725; Pub. L. 97-449, § 2(d)(1), Jan. 12, 1983, 96 Stat. 2440.)

#### AMENDMENTS

1983—Pub. L. 97-449 substituted "Secretary of Transportation" for "Secretary of War" wherever appearing, which substitution had previously been made by Pub. L. 91-605. See, also, Transfer of Functions note below.

1970—Pub. L. 91-605 substituted provision permitting Secretary of Transportation to make payments for de-