

The third sentence, which provided that in all cases where the project for a work of river or harbor improvement provides for the construction or use of Government dredging plant, the Secretary of War [now Army] may, in his discretion, have the work done by contract if reasonable prices can be obtained, was from section 3 of the Act of Mar. 2, 1919, the Rivers and Harbors Appropriation Act of 1919, which superseded a somewhat similar provision in section 3 of the Act of Aug. 8, 1917, ch. 49, 40 Stat. 261. Section 1 of the 1917 Act, 40 Stat. 255, provided in part that "the work proposed under the project adopted by the river and harbor Act approved July twenty-fifth, nineteen hundred and twelve, may be done by contract if reasonable prices can be obtained".

#### AMENDMENTS

2007—Subsec. (c)(7)(B). Pub. L. 110-114 inserted "This subparagraph shall not apply to the Federal hopper dredges Essays and Yaquina of the Corps of Engineers." at end.

1996—Subsec. (c). Pub. L. 104-303 added subsec. (c).

1978—Pub. L. 95-269 designated existing provision as subsec. (a), substituted provisions relating to authority of Secretary of the Army, acting through the Chief of Engineers, to implement improvement projects by contract or otherwise and dredging and related work by contract with private industry, for provisions relating to authority of the Secretary of the Army to apply moneys appropriated for improvements by contract or otherwise and for construction or use of a Government dredging plant by contract, and added subsec. (b).

#### § 623. Repealed. Oct. 31, 1951, ch. 654, § 1(57), 65 Stat. 703

Section, act Aug. 11, 1888, ch. 860, § 3, 25 Stat. 423, related to letting of contracts to lowest responsible bidder.

#### § 624. Limitation on improvement work by private contract

##### (a) Determinations respecting comparison of private contract price with estimation of cost of performance of work by Government plant or by well-equipped contractor

No works of river and harbor improvement shall be done by private contract—

(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.)

#### 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).

#### 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.)