

mitted by the bridge owner, shall be submitted to the Secretary, together with a recommendation by the bridge owner as to the most competent bid or bids, and at the same time the bridge owner shall submit to the Secretary a written guaranty that the total cost of the 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 the department in which the Coast Guard is operating 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 the department in which the Coast Guard is operating 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 the department in which the Coast Guard is operating.

(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; Pub. L. 114-120, title III, §306(b)(4)(C), Feb. 8, 2016, 130 Stat. 55.)

AMENDMENTS

2016—Pub. L. 114-120 substituted “Secretary of the department in which the Coast Guard is operating” for “Secretary of Transportation” wherever appearing.

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 design work performed prior to the actual commencement of bridge alteration but after the order to alter has been issued for provision requiring Secretary of War to approve alteration plans, the cost guaranty, the fixing of proportionate shares as between the United States and bridge owner, and the commencement of the alteration, before the Chief of Engineers may make payments for bridge alteration, inserted reference to Secretary of Transportation in second sentence, and substituted “Secretary of Transportation” for “Secretary of War” in third sentence.

1958—Pub. L. 85-640 struck out provisions which required Secretary of War to furnish to Secretary of the Treasury a certified copy of his approval of the plans and specifications and guaranty, and of his order fixing the proportionate shares, and which required the Secretary of the Treasury to set aside the share of the United States for the project.

TRANSFER OF FUNCTIONS

Section 6(g)(3) of Pub. L. 89-670 transferred functions, powers, and duties of Secretary of the Army [formerly War] and other officers and offices of Department of the Army [formerly War] relating to obstructive bridges under this subchapter to Secretary of Transportation. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(3) of Pub. L. 89-670, and repealed section 6(g)(3).

“Fiscal Service” substituted in text for “Division of Disbursement” on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of Title 31, Money and Finance.

§ 518. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(June 21, 1940, ch. 409, § 8, 54 Stat. 500.)

ALTERATION OF BRIDGES

Pub. L. 108-90, title II, Oct. 1, 2003, 117 Stat. 1144, provided in part: “That in fiscal year 2004 and thereafter, funds for bridge alteration projects conducted pursuant to the Act of June 21, 1940 (33 U.S.C. 511 et seq.) shall be available for such projects only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless contrary to law or international agreement, or unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-7, div. I, title I, Feb. 20, 2003, 117 Stat. 389.

§ 519. Noncompliance with orders; penalties; removal of bridge

Any bridge owner who shall willfully fail or refuse to comply with any lawful order of the

Secretary, made in accordance with the provisions of this subchapter, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding \$5,000, and every month such bridge owner shall remain in default shall be deemed a new offense and subject such bridge owner to additional penalties therefor. In addition to the penalties above prescribed the Secretary may, upon the failure or refusal of any bridge owner to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of any such bridge and accessory works at the expense of the bridge owner; and suit for such expense may be brought in the name of the United States against such bridge owner and recovery had for such expense in any court of competent jurisdiction. The removal of any bridge erected or maintained in violation of the provisions of this subchapter or the order or direction of the Secretary made in pursuance thereof, and compliance with any order of the Secretary made with respect to any bridge in accordance with the provisions of this subchapter, may be enforced by injunction, mandamus, or other summary process upon application to the district court of any district in which such bridge may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary.

(June 21, 1940, ch. 409, § 9, 54 Stat. 500.)

§ 520. Review of findings and orders

Any order made or issued under section 516 of this title may be reviewed by the court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order is issued. The judgment of any such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certification or certiorari, in the manner provided in section 1254 of title 28. The review by such Court shall be limited to questions of law, and the findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. Upon such review, such Court shall have power to affirm or, if the order is not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require. Proceedings under this section shall not operate as a stay of any order of the Secretary issued under provisions of this subchapter other than section 516 of this title, or relieve any bridge owner of any liability or penalty under such provisions.

(June 21, 1940, ch. 409, § 10, 54 Stat. 501; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

CODIFICATION

“Section 1254 of title 28” substituted in text for “sections 239 and 240 of the Judicial Code, as amended” on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure. Prior to the enactment of Title 28, sections 239 and 240 of the Judicial Code were classified to sections 346 and 347 of Title 28.