

(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