

and coast fortifications, including the submarine mine and torpedo defenses. (Jan. 25, 1907, c. 397, § 3, 34 Stat. 861.)

§ 272. **Composition of Coast Artillery Corps.**—The Coast Artillery Corps shall consist of one Chief of Coast Artillery with the rank of major general, eight hundred and forty officers in grades from colonel to second lieutenant, inclusive, the warrant officers of the Army Mine Planter Service as authorized by law, and thirty thousand enlisted men, organized into such Coast Artillery units as the President may direct. (June 3, 1916, c. 134, § 20, 39 Stat. 180; June 4, 1920, c. 227, subchapter I, § 20, 41 Stat. 770; June 30, 1922, c. 253, 42 Stat. 723.)

See section 482a of this title.

§ 273. **Detail of warrant officers or enlisted men to office of Chief of Coast Artillery.** Nothing contained in this title or any other Act shall be construed as precluding the detail upon duties of a technical or military nature of not to exceed eight warrant officers, or enlisted men of the Coast Artillery Corps, in the office of the Chief of Coast Artillery. (Mar. 3, 1921, c. 124, § 1, 41 Stat. 1279.)

§ 274. **Army Mine Planter Service established; composition of mine planter crews.** There shall be in the Coast Artillery Corps of the Regular Army a service to be known as the Army Mine Planter Service, which shall consist, for each mine planter in the service of the United States, of one master, one first mate, one second mate, one chief engineer, and one assistant engineer, who shall be warrant officers appointed by and holding their offices at the discretion of the Secretary of War, and two oilers, four firemen, four deck hands, one cook, one steward, and one assistant steward, who shall be appointed from enlisted men of the Coast Artillery Corps under such regulations as the Secretary of War may prescribe. (July 9, 1918, c. 143, subchapter IX, 40 Stat. 881.)

§ 275. **Number of warrant officers in Army Mine Planter Service.** The number of warrant officers in the Army Mine Planter Service shall not exceed forty. (June 30, 1922, c. 253, Title I, 42 Stat. 723.)

§ 276. **Army Mine Planter Service; allowances and retirement of warrant officers.** Except as otherwise provided in Title 37, warrant officers of the Army Mine Planter Service shall have such allowances as the Secretary of War may prescribe, and shall be retired as was, on July 9, 1918, provided by law for officers of the Army. In computing length of service for retirement, and in computing longevity pay, for warrant officers of the Army Mine Planter Service, service on boats in the service of the Quartermaster's Department or of the Quartermaster Corps prior to July 9, 1918, shall be counted. (July 9, 1918, c. 143, subchapter IX, 40 Stat. 882.)

## Chapter 17.—INFANTRY

Sec.

281. Composition of Infantry.

282. Negro regiments.

283. Puerto Rico regiment made part of Regular Army.

**Section 281. Composition of Infantry.** The Infantry shall consist of one Chief of Infantry with the rank of major general; two thousand nine hundred and forty officers in grades from colonel to second lieutenant, inclusive, and one hundred and ten thousand enlisted men, organized into such Infantry units as the President may direct. All tank units shall form a part of the Infantry. (June 3, 1916, c. 134, § 17, 39 Stat. 177; June 4, 1920, c. 227, subchapter I, § 17, 41 Stat. 769; June 30, 1922, c. 253, 42 Stat. 723.)

See section 482a of this title.

§ 282. **Negro regiments.** The enlisted men of two regiments of Infantry shall be colored men. (R. S. § 1108.)

From Act July 28, 1866, c. 299, § 4, 14 Stat. 332; Act Mar. 3, 1869, c. 124, § 2, 15 Stat. 318.

§ 283. **Puerto Rico regiment made part of Regular Army.** The Puerto Rico Regiment of Infantry and

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the officers and enlisted men of such regiment shall become a part of the Infantry branch of the Army. (June 3, 1916, c. 134, § 21, 39 Stat. 180; May 17, 1932, c. 190, 47 Stat. 158; June 4, 1920, c. 227, subchapter I, § 21, 41 Stat. 770.)

## Chapter 18.—AIR CORPS

Sec.

- 291. Establishing and composition of Air Corps.
- 291a. Flying and nonflying officers.
- 291b. Detail of officers to Air Corps.
- 291c. Flying officer in time of peace; qualifications.
- 291d. Rating as pilot in time of peace; qualifications.
- 291e. Flying officer in time of war; qualifications.
- 291f. Enlisted men rated as pilots; number.
- 291g. Enlisted men rated as air mechanics; number and pay.
- 292. Number of officers detailed to duty involving flying.
- 292a. Temporary rank for Air Corps officers.
- 292b. Five-year Air Corps program.
- 292c. Detail in aid of civil aviation.
- 293. Educational qualifications for Air Corps.
- 294. Command of flying units.
- 295. Aerial operations controlled by Army Air Corps.
- 296. Aviation schools; instruction for aviation students.
- 297. Aviation students enlisted or appointed as flying cadets.
- 298. Detail of officers for instruction in aeronautic engineering.
- 299. Commissioning flying cadets on completing course; discharge before completing course.
- 300. Additional pay for flying duty.
- 301. Additional pay for military aviators and junior military aviators.
- 302. Officers entitled to additional pay for aviation duty.
- 303. Base pay of flying cadets.
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- 306. Per diem allowance for additional expenses of fliers making aerial surveys of rivers, harbors, etc.
- 307. Bond for indemnity against injuries caused by exhibition flights.
- 308. Compensation for death by aviation accident. [Repealed.]
- 309. Employment of draftsmen and engineers in Air Corps.
- 310. Encouragement of aviation.
  - (a) Submission in competition of designs of aircraft, parts and accessories to be invited; advertisement.
  - (b) Advertisement; specifications; information of competition for applicants; reference of designs to board; appraisal; report; announcement of results.
  - (c) Contract with winner for furnishing items authorized; purchase of winning designs.
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  - (h) Showing of error in award; reference to board of arbitration; composition of board.
  - (i) Use of designs without just compensation; right to sue Government; limitation.
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  - (m) Preservation of audits and reports of inspection; report to Congress of operations.
  - (n) Release of claims; delivery to Secretary of War or Secretary of Navy by vendor or contractor.
  - (o) Appropriations; availability.
  - (p) Collusion, etc., affecting competition or audit declared unlawful; penalty.
  - (q) Contract for procurement of aircraft, etc., of earlier design.
  - (r) Patents and design board created; submission to board of designs for aircraft, etc.; evaluation; purchase of ownership or right to use.
  - (s) "Winner" or "winners" construed.
  - (t) Contract for aircraft, etc.; award to lowest responsible bidder; review of decision of Secretary of War or Secretary of Navy.

## CROSS-REFERENCES

Airplanes; contracts for production and purchase; see Title 50, WAR.  
 Aviation fields; see section 1341 of this title.  
 Expenses of air travel by officers and contract surgeons without troops; see section 750 of this title.

**Section 291. Establishment and composition of Air Corps.** The Air Corps shall consist of one Chief of the Air Corps, with the rank of major general; three assistants, with the rank of brigadier general; one

thousand six hundred and fifty officers, in grades from colonel to second lieutenant, inclusive; and fifteen thousand enlisted men, including not to exceed two thousand five hundred flying cadets, such part of whom as the President may direct being formed into tactical units or bands, organized as he may prescribe: *Provided*, That the number of officers and enlisted men above provided for shall not be attained except as prescribed in section 292b of this title. (June 3, 1916, c. 134, § 13a; June 4, 1920, c. 227, subchapter I, § 13, 41 Stat. 768; June 30, 1922, c. 253, 42 Stat. 724; July 2, 1926, c. 721, § 2, 44 Stat. 780, 783.)

See section 482a of this title.

**§ 291a. Flying and nonflying officers.** The Chief of the Air Corps, at least two brigadier generals, and at least 90 per centum of the officers in each grade below that of brigadier general shall be flying officers: *Provided*, That in time of war 10 per centum of the total number of officers that may be authorized for the Air Corps for such war may be immediately commissioned as nonflying officers: *Provided further*, That as soon as a sufficient number can be trained, at least 90 per centum of the total number of officers authorized for the Air Corps for such war shall be flying officers. (July 2, 1926, c. 721, § 2, 44 Stat. 780.)

**§ 291b. Detail of officers to Air Corps.** In time of peace in order to insure that the commissioned officers of the Air Corps shall be properly qualified flying officers and, for the purpose of giving officers of the Army an opportunity to so qualify, the Secretary of War is hereby authorized to detail to the Air Corps officers of all grades and such officers shall start flying training immediately upon being so detailed, but hereafter such officers shall not remain detailed to the Air Corps for a period in excess of one year or be permanently commissioned therein unless they qualify as flying officers: *Provided*, That any officer who is specifically recommended by the Secretary of War because of special qualifications other than as a flyer may be detailed to the Air Corps for a period longer than one year, or may be permanently commissioned in the Air Corps, but such officers, together with those flying officers who shall have become disqualified for flying, shall not be included among the 90 per centum of flying officers: *And provided further*, That nothing in sections 291, 291a to 291g, 294, and 300 of this title shall be construed to limit the number of officers in each grade that may be detailed to the Air Corps for training as flying officers except that the total number of officers allotted to the Air Corps shall not be exceeded. (July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 291c. Flying officer in time of peace; qualifications.** Whoever used in this title a flying officer in time of peace is defined as one who has received an aeronautical rating as a pilot of service types of aircraft: *Provided*, That all officers of the Air Corps now holding any rating as a pilot shall be considered as flying officers within the meaning of said sections. (July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 291d. Rating as pilot in time of peace; qualifications.** In order to receive a rating as a pilot in time of peace an officer or an enlisted man, except a flying cadet, must fly in heavier-than-air craft at least two hundred hours while acting as a pilot, seventy-five of which must be alone, and must successfully complete the course prescribed by competent authority. (July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 291e. Flying officer in time of war; qualifications.** In time of war a flying officer may include any officer who has received an aeronautical rating as a pilot of service types of aircraft and also in time of war may include any officer who has received an aeronautical rating as observer. (July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 291f. Enlisted men rated as pilots; number.** In time of peace, not less than 20 per centum of the total number of pilots employed in tactical units of the Air Corps shall be enlisted men, except when the Secretary of War shall determine that it is impractical to secure

that number of enlisted pilots. (July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 291g. Enlisted men rated as air mechanics; number and pay.** Enlisted men of the fourth, fifth, sixth, and seventh grades in the Air Corps who have demonstrated their fitness and shown that they possess the necessary technical qualifications therefor and are engaged upon the duties pertaining thereto may be rated as air mechanics, first class, or air mechanics, second class, under such regulations as the Secretary of War may prescribe. Each enlisted man while holding the rating of air mechanic, first class, and performing the duties as such shall receive the pay of the second grade, and each enlisted man while holding the rating of air mechanic, second class, and performing the duties as such shall receive the pay of the third grade: *Provided*, That such number as the Secretary of War may determine as necessary, not to exceed 14 per centum of the total authorized enlisted strength of the Air Corps, shall be rated as air mechanics, first class, or air mechanics, second class. (July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 292. Number of officers detailed to duty involving flying.** Exclusive of the Army Air Corps, the number of officers who may be required by competent authority to participate regularly and frequently in aerial flights as defined by such Executive orders as have heretofore been, or may hereafter be, promulgated by the President shall not at any one time exceed 1 per centum of the total authorized commissioned strength of such service. (June 10, 1922, c. 212, § 20, 42 Stat. 632; July 2, 1926, c. 721, § 6, 44 Stat. 782.)

**§ 292a. Temporary rank for Air Corps officers.** The Secretary of War is hereby authorized to assign, under such regulations as he may prescribe, officers of the Air Corps to flying commands, including wings, groups, squadrons, flights, schools, important air stations, and to the staffs of commanders of troops, which assignment shall carry with it temporary rank, including pay and allowances appropriate to such rank, as determined by the Secretary of War, for the period of such assignment: *Provided*, That such temporary rank is limited to two grades above the permanent rank of the officer appointed: *Provided further*, That no officers shall be temporarily advanced in rank as contemplated in this section unless the Chief of the Air Corps certifies that no officers of suitable permanent rank are available for the duty requiring the increased rank: *And provided further*, That no officer holding temporary rank under the provisions of this section shall be eligible to command outside of his own corps except by seniority under his permanent commission. (July 2, 1926, c. 721, § 3, 44 Stat. 782.)

**§ 292b. Five-year Air Corps program.** For the purpose of increasing the efficiency of the Air Corps of the Army and for its further development the following five-year program is authorized:

**Personnel.** The number of promotion list officers authorized by law on July 2, 1926, in the grade of second lieutenant of the Regular Army is increased by four hundred and three, and the number of enlisted men authorized by law on July 2, 1926, for the Regular Army is authorized to be increased by six thousand two hundred and forty: *Provided*, That the increase in the number of officers and enlisted men herein authorized shall be allotted as hereinafter provided. The allotment of one thousand two hundred and forty-seven officers to the Air Corps is authorized to be increased by four hundred and three officers distributed in grades from colonel to second lieutenant, inclusive, and the allotment of eight thousand seven hundred and sixty enlisted men to the Air Corps is authorized to be increased by six thousand two hundred and forty enlisted men. The President is authorized to call to active service, with their consent, such number of Air Corps reserve officers, as he may deem necessary, not to exceed five hundred and fifty, 90 per centum of whom shall serve for periods of not more than one year, and 10 per centum for periods of not more than two years: *Provided*, That nothing contained in this section shall affect the number of

reserve officers that may be called to active duty for periods of less than six months under existing law.

**Equipment.** The Secretary of War is hereby authorized to equip and maintain the Air Corps with not to exceed one thousand eight hundred serviceable airplanes, and such number of airships and free and captive balloons as he may determine to be necessary for training purposes, together with spare parts, equipment, supplies, hangars, and installations necessary for the operation and maintenance thereof. In order to maintain the number specified above, the Secretary of War is hereby authorized to replace obsolete or unserviceable aircraft from time to time: *Provided*, That the necessary replacement of airplanes shall not exceed approximately four hundred annually: *Provided*, That the total number of airplanes and airships herein authorized shall be exclusive of those waiting salvage or undergoing experiment or service tests, those authorized by the Secretary of War to be placed in museums and those classified by the Secretary of War as obsolete: *And provided further*, That the total number of planes authorized in this section shall include the number necessary for the training and equipment of the National Guard and the training of the Organized Reserves as may be determined by the Secretary of War. (July 2, 1926, c. 721, § 8, 44 Stat. 783.)

**§ 292c. Detail in aid of civil aviation.** The President of the United States is authorized in his discretion to detail officers of the Air Corps of the Army of the United States to duty under the Secretary of Commerce in connection with the work of promoting civil aviation as provided for in chapter 6 of Title 49: *Provided*, That such detail shall not be for a period of more than one year. (July 3, 1926, c. 807, 44 Stat. 915.)

**§ 293. Educational qualifications for Air Corps.** No person otherwise qualified for service as a flying cadet, pilot, or other officer in the aviation service, shall be barred from such service by reason of not being equipped with a college education. (July 9, 1918, c. 143, 40 Stat. 849; July 2, 1926, c. 721, § 1, 44 Stat. 780.)

**§ 294. Command of flying units.** Flying units shall in all cases be commanded by flying officers. (June 3, 1916, c. 134, § 13a; June 4, 1920, c. 227, subchapter 1, § 13, 41 Stat. 768; July 2, 1926, c. 721, § 2, 44 Stat. 780.)

**§ 295. Aerial operations controlled by Army Air Corps.** The Army Air Corps shall control all aerial operations from land bases. (June 5, 1920, c. 240, 41 Stat. 954; July 2, 1926, c. 721, § 1, 44 Stat. 780.)

**§ 296. Aviation schools; instruction for aviation students.** The Secretary of War is authorized and directed to establish and maintain at one or more established flying schools courses of instruction for aviation students. (July 11, 1919, c. 8, 41 Stat. 109.)

**§ 297. Aviation students enlisted or appointed as flying cadets.** There shall be in the Air Corps the grade of flying cadet. Aviation students shall be enlisted in or appointed to this grade. (July 11, 1919, c. 8, 41 Stat. 109; July 2, 1926, c. 721, § 1, 44 Stat. 780.)

**§ 298. Detail of officers for instruction in aeronautic engineering.** The Secretary of War is authorized to detail such officers of the Army as he may select, not exceeding twenty-five at any one time, to attend and pursue courses of aeronautic engineering or associate study at such schools, colleges, and universities as he may select, and to pay tuition for the officers so detailed to provide them with necessary text-books and technical supplies from any moneys available for the Air Corps of the Army not otherwise specifically appropriated. (May 10, 1920, c. 175, §§ 1, 2, 41 Stat. 594; July 2, 1926, c. 721, § 1, 44 Stat. 780.)

See section 535 of this title.

**§ 299. Commissioning flying cadets on completing course; discharge before completing course.** Upon

completion of a course prescribed for flying cadets, each flying cadet, if he so desire, may be discharged and commissioned as a second lieutenant in the Officers' Reserve Corps: *Provided*, That the Secretary of War is authorized to discharge at any time any flying cadet whose discharge shall have been recommended by a board of not less than three officers. (July 11, 1919, c. 8, 41 Stat. 109.)

**§ 300. Additional pay for flying duty.** Officers and enlisted men of the Army shall receive an increase of 50 per centum of their pay when by orders of competent authority they are required to participate regularly and frequently in aerial flights, and when in consequence of such orders they do participate in regular and frequent aerial flights as defined by such Executive orders as have heretofore been, or may hereafter be, promulgated by the President: *Provided*, That nothing in this section shall affect the pay of a flying cadet. (June 3, 1916, c. 134, § 13a; June 4, 1920, c. 227, subchapter 1, § 13, 41 Stat. 768; July 2, 1926, c. 721, § 2, 44 Stat. 781.)

**§ 301. Additional pay for military aviators and junior military aviators.** In lieu of the 50 per centum increase of pay provided for in section 300 of this title any officer or enlisted man upon whom the rating of junior military aviator, or military aviator, was prior to June 4, 1920, conferred for having specially distinguished himself in time of war in active operations against the enemy, shall, while, on duty which requires him to participate regularly and frequently in aerial flights, have the rank, pay, and allowances of one grade higher than that held by him under his commission if his rank under said commission be not higher than that of captain and in addition an increase of 50 per centum of the pay of his grade and length of service under his commission in case of a junior military aviator, and 75 per centum of the pay of his grade and length of service under his commission in case of a military aviator. (June 3, 1916, c. 134, § 127a; June 4, 1920, c. 227, subchapter 1, § 51, 41 Stat. 785.)

**§ 302. Officers entitled to additional pay for aviation duty.** The authorization for increase of flying pay contained in section 300 of this title, shall be construed to include any officer of any branch of the service who may be ordered by proper authority to perform duty requiring him to participate regularly and frequently in aerial flights. (June 30, 1922, c. 253, Title I, 42 Stat. 724.)

**§ 303. Base pay of flying cadets.** The base pay of a flying cadet shall be \$75 per month, including extra pay for flying risk as provided by law. (July 11, 1919, c. 8, 41 Stat. 109.)

**§ 304. Allowances of flying cadets.** The ration allowance of a flying cadet shall not exceed \$1 per day, and his other allowances shall be those of a private, first class, Air Corps. (July 11, 1919, c. 8, 41 Stat. 109; July 2, 1926, c. 721, § 1, 44 Stat. 780.)

**§ 305. Mileage of officers traveling on aviation duty.** Mileage to officers of the Army traveling on duty in connection with aviation shall be paid from the appropriation for the work in connection with which the travel is performed. (July 9, 1918, c. 143, 40 Stat. 849.)

**§ 306. Per diem allowance for additional expenses of fliers making aerial surveys of rivers, harbors, etc.** To cover actual additional expenses to which fliers are subjected when making aerial surveys, a per diem of \$7 in lieu of other travel allowances shall be paid to officers, warrant officers, and enlisted men of the Army, for the actual time consumed while traveling by air, under competent orders, in connection with aerial surveys of rivers and harbors, or other governmental projects, and a per diem of \$6 for the actual time consumed in making such aerial surveys, to be paid from appropriations available for the particular improvement or project for which the survey is being made: *Provided*, That not more than one of the per diem allowances authorized in this section shall be paid for any one day. (Mar. 3, 1925, c. 467, § 5, 43 Stat. 1190.)

§ 307. Bond for indemnity against injuries caused by exhibition flights. None of the funds appropriated for the Air Corps shall be used for the purpose of giving exhibition flights to the public other than those under the control and direction of the War Department and if such flights are given by Army personnel upon other than Government fields, a bond of indemnity, in such sum as the Secretary of War may require for damages to person or property, shall be furnished the Government by the parties desiring the exhibition. (Mar. 2, 1923, c. 178, Title I, 42 Stat. 1398; June 7, 1924, c. 291, Title I, 43 Stat. 492; Feb. 12, 1925, c. 225, Title I, 43 Stat. 908; Apr. 15, 1926, c. 146, Title I, 44 Stat. 269; July 2, 1926, c. 721, § 1, 44 Stat. 780; Feb. 23, 1927, c. 167, Title I, 44 Stat. 1120; Mar. 23, 1928, c. 232, Title I, 45 Stat. 339; Feb. 28, 1929, c. 366, Title I, 45 Stat. 1362; May 28, 1930, c. 348, Title I, 46 Stat. 445.)

§ 308. Compensation for death by aviation accident. [Repealed.]

This section (Act July 18, 1914, c. 186, § 3, 38 Stat. 515) was repealed by Act Oct. 6, 1917, c. 105, § 312, 40 Stat. 408. See section 903 of this title.

§ 309. Employment of draftsmen and engineers in Air Corps. The services of aeronautical engineers, skilled draftsmen, and such technical and other services as the Secretary of War may deem necessary may be employed only in the office of the Chief of Air Corps to carry into effect the various appropriations for aeronautical purposes, to be paid from such appropriations: *Provided*, That the Secretary of War shall each year in the Budget report to Congress the number of persons so employed, their duties, and the amount paid to each. (Feb. 12, 1925, c. 225, 43 Stat. 908; Apr. 15, 1926, c. 146, Title I, 44 Stat. 270; July 2, 1926, c. 721, § 1, 44 Stat. 780; Feb. 23, 1927, c. 167, Title I, 44 Stat. 1120.)

§ 310. Encouragement of aviation. (a) Submission in competition of designs of aircraft, parts and accessories to be invited; advertisement. In order to encourage the development and improve the efficiency of the Army and Navy aeronautical matériel the Secretary of War or the Secretary of the Navy prior to the procurement of new designs of aircraft or aircraft parts or aeronautical accessories, shall, by advertisement for a period of thirty days in at least three of the leading aeronautical journals and in such other manner as he may deem advisable, invite the submission in competition, by sealed communications, of such designs of aircraft, aircraft parts, and aeronautical accessories, together with a statement of the price for which such designs in whole or in part will be sold to the Government.

(b) Advertisement; specifications; information of competition for applicants; reference of designs to board; appraisal; report; announcement of results. The aforesaid advertisement shall specify a sufficient time, not less than sixty days from the expiration of the advertising period, within which all such communications containing designs and prices therefor must be submitted, and all such communications received shall be carefully kept sealed in the War Department or the Navy Department, as the case may be, until the expiration of said specified time, and no designs mailed after that time shall be received or considered. Said advertisement shall state in general terms the kind of aircraft, parts, or accessories to be developed and the approximate number or quantity required, and the department concerned shall furnish to each applicant identical specific detailed information as to the conditions and requirements of the competition and as to the various features and characteristics to be developed, listing specifically the respective measures of merit, expressed in rates per centum, that shall be applied in determining the merits of the designs, and said measures of merit shall be adhered to throughout such competition. All designs received up to the time specified for submitting them shall then be referred to a board appointed for that purpose by the Secretary of the department concerned and shall be appraised by it as soon as practicable and report made to the Secretary as to the win-

ner or winners of such competition. When said Secretary shall have approved the report of said board, he shall then fix a time and place for a public announcement of the results and notify each competitor thereof; but if said report shall be disapproved by said Secretary, the papers shall be returned to the board for revision or the competition be decided by the Secretary, in his discretion, and in any case the decision of the Secretary shall be final and conclusive. Such announcement shall include the percentages awarded to each of the several features or characteristics of the designs submitted by each competitor and the prices named by the competitors for their designs and the several features thereof if separable.

(c) Contract with winner for furnishing items authorized; purchase of winning designs. Thereupon the said Secretary is authorized to contract with the winner or winners in such competition on such terms and conditions as he may deem most advantageous to the Government for furnishing or constructing all of each of the items, or all of any one or more of the several items of the aircraft, or parts, or accessories indicated in the advertisement, as the said Secretary shall find that in his judgment a winner is, or can within a reasonable time become, able and equipped to furnish or construct satisfactorily all or part, provided said Secretary and the winner shall be able to agree on a reasonable price. If the Secretary shall decide that a winner cannot reasonably carry out and perform a contract for all or part of such aircraft, parts, or accessories, as above provided, then he is authorized to purchase the winning designs or any separable parts thereof if a fair and reasonable price can be agreed on with the winner, but not in excess of the price submitted with the designs.

(d) Rights of Government under contract or purchase of designs; right of designer to patent. After contract is made, as authorized by any provision of this section, with a winner in such design competition for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories in accordance with his designs and payment is completed under said contract and after the purchase of and payment for the designs or separable parts thereof of a winner, as authorized herein, with whom a contract shall not have been made for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories in accordance with his designs, then in either case any department of the Government shall have the right without further compensation to the winner to construct or have constructed according to said designs and use any number of aircraft or parts or accessories, and sell said aircraft or parts or accessories according to law as condemned material: *Provided*, That such winner shall, nevertheless, be at liberty to apply for a patent on any features originated by him, and shall be entitled to enjoy the exclusive rights under such patent as he may obtain as against all other persons except the United States Government or its assignee as aforesaid.

(e) Submission of graduated scale of prices; effect on contract. The competitors in design competition mentioned in this section shall submit with their designs a graduated scale of prices for which they are willing to construct any or all or each of the aircraft, aircraft parts, and aeronautical accessories for which designs are submitted and such stated prices shall not be exceeded in the awarding of contracts contemplated by this section.

(f) Rejection of all designs; division of contracts. If the Secretary of War or the Secretary of the Navy shall find that in his judgment none of the designs submitted in said competition is of sufficient merit to justify the procurement of aircraft, aircraft parts, or aeronautical accessories in accordance therewith, then he shall not be obligated to accept any of such designs or to make any payment on account of any of them. If the Secretary of the department concerned shall decide that the designs submitted by two or more competitors possess equal merit, or that certain features embodied in the designs of any competitor are superior to corresponding features

embodied in the designs of any other competitor and such features of one design may be substituted in another design, the said Secretary shall in his discretion divide the contracts for furnishing and manufacturing the aircraft, parts, or accessories required, equitably among those competitors that have submitted designs of equal merit, or he may select and combine features of superior excellence in different designs in such manner as may in his judgment best serve the Government's interests and make payment accordingly to the several competitors concerned at fair and reasonable prices, awarding the contract for furnishing or constructing the aircraft, parts, or accessories to the competitor or competitors concerned that have the highest figures of merit in said competition.

(g) **Inability to contract with or purchase from winner of competition; advertisement for bids; contract; rejection of bids.** In case the Secretary of War or the Secretary of the Navy shall be unable to make contract as above authorized with a winner in said competition for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories covered by the whole or part of the designs of such winner, or shall be unable to agree with a winner in the competition on a reasonable purchase price for the design of such winner with whom a contract may not be made, as aforesaid, he may retain such designs and shall advertise according to law for proposals for furnishing or constructing aircraft, or parts or accessories, in accordance with such designs or combinations thereof as aforesaid and, after all proposals are submitted, make contract on such terms and conditions as he may consider the best in the Government's interests, with the bidder that he shall find to be the lowest responsible bidder for furnishing or constructing the aircraft, parts, or accessories required, but the said Secretary shall have the right to reject all bids and to advertise for other bids with such other and different specifications as he may deem proper.

(h) **Showing of error in award; reference to board of arbitration; composition of board.** If within ten days after the announcement of the results of said competition, any participant in the competition shall make to the Secretary of War or the Secretary of the Navy a reasonable showing in writing that error was made in determining the merits of designs submitted whereby such claimant was unjustly deprived of an award, the matter shall at once be referred by the Secretary of the department concerned to a board of arbitration for determination and the finding of such board shall, with the approval of the said Secretary, be conclusive on both parties. Such board of arbitration shall be composed of three skilled aeronautical engineers, one selected by the said Secretary, one by the claimant, and the third by those two, no one of whom shall have been a member of the board of appraisal in that competition.

(i) **Use of designs without just compensation; right to sue Government; limitation.** Any person, firm, or corporation that shall complain that his, their, or its designs hereafter developed relating to aircraft or any components thereof are used or manufactured by or for any department of the Government without just compensation from either the Government or any other source, may within four years from the date of such use file suit in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture after July 2, 1926.

(j) **Eligibility for award of contract restricted to citizens; employment of aliens.** Only citizens of the United States, and corporations of which not less than three-fourths of the capital stock is owned by citizens of the United States, and of which the members of the boards of directors are citizens of the United States, and having manufacturing plants located within the continental limits of the United States shall be eligible to be awarded any contract under this section to furnish or construct aircraft, aircraft parts, or aeronautical accessories for the United States Government, except that a domestic corporation whose stock shall be listed on a stock exchange shall not be barred by

the provisions of this section unless and until foreign ownership or control of a majority of its stock shall be known to the Secretary of War or the Secretary of the Navy, as the case may be, and no aliens employed by a contractor for furnishing or constructing aircraft, or aircraft parts, or aeronautical accessories for the United States shall be permitted to have access to the plans or specifications or the work under construction or to participate in the contract trials without the written consent beforehand of the Secretary of the department concerned.

(k) **Purchase abroad of designs, aircraft, etc., for experimental purposes; procurement in quantity.** The Secretary of War or the Secretary of the Navy may at his discretion purchase abroad or in the United States with or without competition, by contract, or otherwise, such designs, aircraft, aircraft parts, or aeronautical accessories as may be necessary in his judgment for experimental purposes in the development of aircraft or aircraft parts or aeronautical accessories of the best kind for the Army or the Navy, as the case may be, and if as a result of such procurement, new and suitable designs considered to be the best kind for the Army or the Navy are developed, he may enter into contract, subject to the requirements of paragraph (j) of this section, for the procurement in quantity of such aircraft, aircraft parts, or aeronautical accessories without regard to the provisions of paragraphs (a) to (e), inclusive, hereof.

(l) **Plant and books of contractor furnishing aircraft or parts; right of Government to inspect and audit.** The manufacturing plant, and books, of any contractor for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories, for the War Department or the Navy Department, or such part of any manufacturing plant as may be so engaged, shall at all times be subject to inspection and audit by any person designated by the head of any executive department of the Government.

(m) **Preservation of audits and reports of inspection; report to Congress of operations.** All audits and reports of inspection, made under the provisions of this section, shall be preserved by the Secretary of War or the Secretary of the Navy, as the case may be, for a period of ten years, and shall be subject to inspection by any committee of Congress, and the said Secretaries shall annually make a detailed and itemized report to Congress of all the departments' operations under this section, the names and addresses of all competitors, and of all persons having been awarded contracts and the prices paid for aircraft purchased and the grounds and reasons for having awarded such contracts to the particular persons, firms, or corporations, and all such reports shall be printed and held subject to public distribution.

(n) **Release of claims; delivery to Secretary of War or Secretary of Navy by vendor or contractor.** Every vendor of designs to the War Department or the Navy Department under the provisions of this section, and every contractor for furnishing or constructing for the War Department or the Navy Department, or both, aircraft or aircraft parts or aeronautical accessories, shall deliver to the Secretary of War or Secretary of the Navy, or both, when required by either or both, a release in such form and containing such terms and conditions as may be prescribed by the Secretary of War, the Secretary of the Navy, or both, of claims on the part of such vendor or contractor against the United States arising out of such sale or contract, or both.

(o) **Appropriations; availability.** All or any appropriations available for the procurement of aircraft, aircraft parts, or aeronautical accessories for the War Department or the Navy Department shall also be available for payment of the purchase price of designs and the costs of arbitration as authorized by this section.

(p) **Collusion, etc., affecting competition or audit declared unlawful; penalty.** Any collusion, understanding, or arrangement to deprive the United States Government of the benefit of full and free competition

in any competition authorized by this section, or to deprive the United States Government of the benefit of a full and free audit of the books of any person, firm, or corporation engaged in carrying out any contract authorized by this section, so far as may be necessary to disclose the exact cost of executing such contract, shall be unlawful, and any person, firm, or corporation that shall, upon indictment and trial, be found guilty of violating any of the provisions of this section shall be sentenced to pay a fine of not exceeding \$20,000, or to be imprisoned not exceeding five years, or both, at the discretion of the court.

(q) **Contract for procurement of aircraft, etc., of earlier design.** In the procurement of aircraft constructed according to designs presented by any individual, firm, or corporation prior to July 2, 1926, which designs have been reduced to practice and found to be suitable for the purpose intended, or according to such designs with minor modifications thereof, the Secretary of War or the Secretary of the Navy, when in his opinion the interests of the United States will be best served thereby, may contract with said individual, firm, or corporation, at reasonable prices for such quantities of said aircraft, aircraft parts, or aeronautical accessories as he may deem necessary: *Provided*, That the action of the Secretary of War or the Secretary of the Navy, in each such case shall be final and conclusive.

(r) **Patents and design board created; submission to board of designs for aircraft, etc.; evaluation; purchase of ownership or right to use.** A board to be known as the patents and design board is hereby created, the three members of which shall be an Assistant Secretary of War, an Assistant Secretary of the Navy, and an Assistant Secretary of Commerce. Any individual, firm, or corporation may submit to the board for its action any design, whether patented or unpatented, for aircraft, aircraft parts, or aeronautical accessories. The board shall refer any design so submitted to the National Advisory Committee for Aeronautics for its recommendation. If and when the committee makes a favorable recommendation to the board in respect of the design, the board shall then proceed to determine whether the use of the design by the Government is desirable or necessary and evaluate the design and fix its worth to the United States in an amount not to exceed \$75,000. The said designer, individual, firm, or corporation, may then be offered the sum fixed by the board for the ownership or a nonexclusive right of the United States to the use of the design in aircraft, aircraft parts, or aeronautical accessories and upon the acceptance thereof shall execute complete assignment or non-exclusive license to the United States: *Provided*, That no sum in excess of \$75,000 shall be paid for any one design.

(s) **"Winner" or "winners" construed.** The terms "winner" or "winners" as used in this section shall be construed to include not more than three competitors having the highest figures of merit in any one competition.

(t) **Contract for aircraft, etc.; award to lowest responsible bidder; review of decision of Secretary of War or Secretary of Navy.** Whenever the Secretary of War, or the Secretary of the Navy, shall enter into a contract for or on behalf of the United States, for aircraft, aircraft parts, or aeronautical accessories, said Secretary is hereby authorized to award such contract to the bidder that said Secretary shall find to be the lowest responsible bidder that can satisfactorily perform the work or the service required to the best advantage of the Government; and the decision of the Secretary of the department concerned as to the award of such contract, the interpretation of the provisions of the contract, and the application and administration of the contract shall not be reviewable, otherwise than as may be therein provided for, by any officer or tribunal of the United States except the President and the Federal courts. (July 2, 1926, c. 721, § 10, 44 Stat. 784; Mar. 3, 1927, c. 345, 44 Stat. 1380.)

## Chapter 19.—PHILIPPINE SCOUTS

- Sec.  
 321. Organization.  
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**Section 321. Organization.** When in his opinion, the conditions in the Philippine Islands justify such action the President is authorized to enlist natives of these islands for service in the Army to be formed into such branches and tactical units as he may deem expedient, within the limit of strength prescribed by law, organized similarly to those of the Regular Army, the officers to be detailed from those authorized in section 482 of this title. (Feb. 2, 1901, c. 192, § 36, 31 Stat. 770; June 3, 1916, c. 134, § 22a; June 4, 1920, c. 227, subchapter I, § 22, 41 Stat. 770.)

**§ 321a. Disbandment or reduction of personnel.** The President is authorized at any time to disband the Philippine Scouts or to reduce the personnel thereof. (June 30, 1932, c. 314, § 301, 47 Stat. 407.)

**§ 322. Eligibility as officers of militia.** Officers of the Philippine Scouts shall be eligible to appointment as officers in the militia or other locally created armed forces in the Philippine Islands which may be drafted into the service of the United States; and any such officer of the Philippine Scouts so appointed as an officer in said drafted forces shall not thereby vacate his commission in the Philippine Scouts, and in case his commission in said Philippine Scouts shall terminate while holding a commission in said drafted forces as aforesaid, he shall thereupon be eligible to reappointment as an officer of said Philippine Scouts notwithstanding his retention of a commission in said drafted forces. (Mar. 30, 1918, c. 36, § 1, 40 Stat. 500.)

**§ 323. Appointment of officers.** No appointments as officers of Philippine Scouts shall be made except of citizens of the Philippine Islands, who may be appointed in the grade of second lieutenant, under such regulations as the President may prescribe. (June 3, 1916, c. 134, § 22a; June 4, 1920, c. 227, subchapter I, § 22, 41 Stat. 770.)

**§ 324. Officers commissioned prior to July 1, 1920, and not recommissioned in Regular Army continued in service.** [Superseded.]

This section (Act June 3, 1916, c. 134, § 22a; Act June 4, 1920, c. 227, subchapter I, § 22, 41 Stat. 770) was superseded by Act June 30, 1922, c. 253, Title I, 42 Stat. 721. See section 482 of this title.

**§ 325. Computation of period of service of officers.** In computing period of service for any purpose officers of the Philippine Scouts shall be credited with all time served as commissioned officers in the drafted forces mentioned in section 322 of this title. (Mar. 30, 1918, c. 36, § 2, 40 Stat. 501.)

**§ 326. Promotions; classification and elimination of officers.** Officers commissioned in the Philippine Scouts shall be subject to promotion, classification, and elimination, as hereinafter prescribed for officers of the Regular Army. (June 3, 1916, c. 134, § 22a; June 4, 1920, c. 227, subchapter I, § 22, 41 Stat. 770.)

**§ 327. Retired pay of officers.** Officers of the Philippine Scouts on the retired list on June 4, 1920, shall thereafter receive the same pay as a retired second lieutenant of equal service, except as other-