

FEDERAL RESERVE BANK
OF NEW YORK

{ Circular No. 3466 }
June 29, 1949 }

Assignment of Proceeds of Contracts of Department of Army, Pursuant to
Assignment of Claims Act of 1940

(Effect of Price Revision Article)

*To All Banks, Trust Companies, Other Financing Institutions,
and Others Concerned, in the Second Federal Reserve District:*

The Board of Governors of the Federal Reserve System has recently sent us a copy of a letter dated May 17, 1949, from the Comptroller General of the United States, addressed to the then Acting Secretary of the Army, regarding the effect of the price revision article contained in contracts of the Department of the Army upon the rights of banks which have taken assignments of claims under such contracts as collateral security for loans to Government contractors. For your information, the text of the letter is quoted below.

Reference is made to your letter of February 28, 1949, stating that payments due under some Department of the Army contracts, containing a price revision clause, have been assigned to banks pursuant to the Assignment of Claims Act of 1940, 50 Stat. 1029. You request advice as to whether the price revision article — providing that the Government shall retain from amounts otherwise due the contractor, or the contractor shall repay to the Government if paid to him, any amount by which the contract price is found to exceed a fair and reasonable price — may be regarded as authorizing the Government either to retain amounts otherwise due the assignee bank, or where full payment has been made to require payment by the bank of amounts previously paid to it by the Government.

As assignee under the contract, the bank merely succeeded to whatever rights the contractor had to amounts coming due thereunder. Therefore, if upon revision of the price it is determined that the contractor is not entitled to the amounts originally agreed upon in the contract, neither is the assignee bank; and any amount in excess of the contract price as revised may either be withheld from payment to the assignee or recovered directly from the assignee if already paid. Cf. 23 Comp. Gen. 943.

Additional copies of this circular will be furnished upon request.

ALLAN SPROUL,
President.