

violations for provisions relating to cease and desist orders. See section 1234e of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100-297, set out as a note under section 1234 of this title.

**§ 1234d. Withholding**

**(a) Discretionary authority over further payments under applicable program**

In accordance with section 1234c of this title, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

**(b) Notice requirements**

Before withholding payments, the Secretary shall notify the recipient, in writing, of—

- (1) the intent to withhold payments;
- (2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and
- (3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

**(c) Hearing**

The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 1234 of this title.

**(d) Suspension of payments, authorities, etc.**

Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

**(e) Findings of fact**

Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

**(f) Final agency action**

The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

- (1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or
- (2) remands the decision of the Office.

(Pub. L. 90-247, title IV, § 455, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2350;

amended Pub. L. 100-297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100-297 amended section generally, substituting provisions relating to withholding for provisions relating to judicial review. See section 1234g of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100-297, set out as a note under section 1234 of this title.

**§ 1234e. Cease and desist orders**

**(a) Issuance and contents of complaint**

In accordance with section 1234c of this title, the Secretary may issue to a recipient under an applicable program a complaint which—

- (1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and
- (2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

**(b) Appearance contesting order**

The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

**(c) Report; issuance of cease and desist order**

The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

- (1) make a report in writing stating its findings of fact; and
- (2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

**(d) Report and order as final agency action**

The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

**(e) Enforcement of final order**

The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

- (1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or
- (2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90-247, title IV, § 456, as added Pub. L. 95-561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2351; amended Pub. L. 100-297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)