

(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

(1) PROCEEDING.—A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711(a) or (b).

(2) DECISION.—If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

(A) not complied with section 6711(a) or (b), the judge may order payments to the government under this chapter terminated; or

(B) complied with section 6711(a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

(3) LIKELIHOOD OF PREVAILING.—An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1875.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6712, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1021, related to adjustments of local government allocations, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

§ 6713. Suspension and termination of payments in discrimination proceedings

(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711(a) and (b);

(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711(a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

(C) if required under section 6712(c).

(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

(1) as of the time of, and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections¹ 6711(a) and (b); or

(4) if a suspension is discontinued under subsection (b).

(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711(a) or (b).

(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1876.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6713, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1022; Pub. L. 98-185, §§5, 9(e), Nov. 30, 1983, 97 Stat. 1309, 1312, related to information used in allocation formulas, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

§ 6714. Compliance agreements

(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711(a) or (b); or

¹ So in original. Probably should be "section".