

istrative action as the Commission determines appropriate.

(2) Costs

The report submitted under paragraph (1) shall contain an estimate of the costs of establishing the program described in subsection (a)(1).

(3) Implementation

The report submitted under paragraph (1) shall contain an analysis of the feasibility of implementing the program described in subsection (a)(1) with respect to the absentee ballots to be submitted in the general election for Federal office held in 2004.

(4) Recommendations regarding the elderly and disabled

The report submitted under paragraph (1) shall—

(A) include recommendations on ways that program described in subsection (a)(1) would target elderly individuals and individuals with disabilities; and

(B) identify methods to increase the number of such individuals who vote in elections for Federal office.

(c) Postal Service defined

The term “Postal Service” means the United States Postal Service established under section 201 of title 39.

(Pub. L. 107-252, title II, §246, Oct. 29, 2002, 116 Stat. 1691.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15386 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20987. Consultation with Standards Board and Board of Advisors

The Commission shall carry out its duties under this part in consultation with the Standards Board and the Board of Advisors.

(Pub. L. 107-252, title II, §247, Oct. 29, 2002, 116 Stat. 1692.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15387 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART D—ELECTION ASSISTANCE

SUBPART 1—REQUIREMENTS PAYMENTS

§ 21001. Requirements payments

(a) In general

The Commission shall make a requirements payment each year in an amount determined under section 21002 of this title to each State which meets the conditions described in section 21003 of this title for the year.

(b) Use of funds

(1) In general

Except as provided in paragraphs (2) and (3), a State receiving a requirements payment

shall use the payment only to meet the requirements of subchapter III.

(2) Other activities

A State may use a requirements payment to carry out other activities to improve the administration of elections for Federal office if the State certifies to the Commission that—

(A) the State has implemented the requirements of subchapter III; or

(B) the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under section 21002(c) of this title.

(3) Activities under Uniformed and Overseas Citizens Absentee Voting Act

A State shall use a requirements payment made using funds appropriated pursuant to the authorization under section 21007(a)(4) of this title only to meet the requirements under the Uniformed and Overseas Citizens Absentee Voting Act [52 U.S.C. 20301 et seq.] imposed as a result of the provisions of and amendments made by the Military and Overseas Voter Empowerment Act.

(c) Retroactive payments

(1) In general

Notwithstanding any other provision of this part, including the maintenance of effort requirements of section 21004(a)(7) of this title, a State may use a requirements payment as a reimbursement for costs incurred in obtaining voting equipment which meets the requirements of section 21081 of this title if the State obtains the equipment after the regularly scheduled general election for Federal office held in November 2000.

(2) Special rule regarding multiyear contracts

A State may use a requirements payment for any costs for voting equipment which meets the requirements of section 21081 of this title that, pursuant to a multiyear contract, were incurred on or after January 1, 2001, except that the amount that the State is otherwise required to contribute under the maintenance of effort requirements of section 21004(a)(7) of this title shall be increased by the amount of the payment made with respect to such multiyear contract.

(d) Adoption of Commission guidelines and guidance not required to receive payment

Nothing in this subpart may be construed to require a State to implement any of the voluntary voting system guidelines or any of the voluntary guidance adopted by the Commission with respect to any matter as a condition for receiving a requirements payment.

(e) Schedule of payments

As soon as practicable after the initial appointment of all members of the Commission (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Commission shall make requirements payments to States under this subpart.

(f) Limitation

A State may not use any portion of a requirements payment—

- (1) to pay costs associated with any litigation, except to the extent that such costs otherwise constitute permitted uses of a requirements payment under this subpart; or
- (2) for the payment of any judgment.

(Pub. L. 107-252, title II, §251, Oct. 29, 2002, 116 Stat. 1692; Pub. L. 111-84, div. A, title V, §588(a), Oct. 28, 2009, 123 Stat. 2333.)

Editorial Notes

REFERENCES IN TEXT

Subchapter III, referred to in subsec. (b)(1), (2)(A), was in the original “title III”, meaning title III of Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1704, which is classified principally to subchapter III (§21081 et seq.) of this chapter. For complete classification of title III to the Code, see Tables.

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in subsec. (b)(3), is Pub. L. 99-410, Aug. 28, 1986, 100 Stat. 924, which is classified principally to chapter 203 (§20301 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Military and Overseas Voter Empowerment Act, referred to in subsec. (b)(3), is subtitle H (§§575-589) of title V of div. A of Pub. L. 111-84, Oct. 28, 2009, 123 Stat. 2318. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15401 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-84, §588(a)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (b)(3). Pub. L. 111-84, §588(a)(2), added par. (3).

§ 21002. Allocation of funds

(a) In general

Subject to subsection (c), the amount of a requirements payment made to a State for a year shall be equal to the product of—

- (1) the total amount appropriated for requirements payments for the year pursuant to the authorization under section 21007 of this title; and
- (2) the State allocation percentage for the State (as determined under subsection (b)).

(b) State allocation percentage defined

The “State allocation percentage” for a State is the amount (expressed as a percentage) equal to the quotient of—

- (1) the voting age population of the State (as reported in the most recent decennial census); and
- (2) the total voting age population of all States (as reported in the most recent decennial census).

(c) Minimum amount of payment

The amount of a requirements payment made to a State for a year may not be less than—

- (1) in the case of any of the several States or the District of Columbia, one-half of 1 percent of the total amount appropriated for requirements payments for the year under section 21007 of this title; or
- (2) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the

United States Virgin Islands, one-tenth of 1 percent of such total amount.

(d) Pro rata reductions

The Administrator¹ shall make such pro rata reductions to the allocations determined under subsection (a) as are necessary to comply with the requirements of subsection (c).

(e) Continuing availability of funds after appropriation

A requirements payment made to a State under this subpart shall be available to the State without fiscal year limitation.

(Pub. L. 107-252, title II, §252, Oct. 29, 2002, 116 Stat. 1693.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15402 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 21003. Condition for receipt of funds

(a) In general

A State is eligible to receive a requirements payment for a fiscal year if the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official, has filed with the Commission a statement certifying that the State is in compliance with the requirements referred to in subsection (b). A State may meet the requirement of the previous sentence by filing with the Commission a statement which reads as follows: “_____ hereby certifies that it is in compliance with the requirements referred to in section 253(b) of the Help America Vote Act of 2002.” (with the blank to be filled in with the name of the State involved).

(b) State plan requirement; certification of compliance with applicable laws and requirements

The requirements referred to in this subsection are as follows:

- (1) The State has filed with the Commission a State plan covering the fiscal year which the State certifies—

(A) contains each of the elements described in section 21004(a) of this title (or, for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 21007(a)(4) of this title, contains the element described in paragraph (14) of such section) with respect to the fiscal year;

(B) is developed in accordance with section 21005 of this title; and

(C) meets the public notice and comment requirements of section 21006 of this title.

- (2)(A) Subject to subparagraph (B), the State has filed with the Commission a plan for the implementation of the uniform, nondiscriminatory administrative complaint procedures required under section 21112 of this title (or has included such a plan in the State plan

¹ So in original. Probably should be “Commission”.