

**(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 of this chapter.

**(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 of this chapter; 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 15402(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 15407(a)(4) of this title only to meet the requirements under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff 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 15404(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 15481 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 15481 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 15404(a)(7) of this title shall be increased by the amount of the payment made with respect to such multi-year 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.)

## REFERENCES IN TEXT

Subchapter III of this chapter, 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 (§15481 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 subchapter I–G (§1973ff et seq.) of chapter 20 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of this title and 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, which enacted sections 1973ff–2a, 1973ff–2b, 1973ff–4a, and 1973ff–7 of this title and section 1566a of Title 10, Armed Forces, amended sections 1973ff to 1973ff–2, 1973ff–3, 1973ff–4, 15401, 15403, 15404, and 15407 of this title, and enacted provisions set out as notes under sections 1971 and 1973ff to 1973ff–2 of this title. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1971 of this title and Tables.

## 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).

**§ 15402. Allocation of funds****(a) In general**

Subject to subsection (c) of this section, 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 15407 of this title; and

(2) the State allocation percentage for the State (as determined under subsection (b) of this section).

**(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 15407 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 Administrator<sup>1</sup> shall make such pro rata reductions to the allocations determined under subsection (a) of this section as are necessary to comply with the requirements of subsection (c) of this section.

**(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.)

**§ 15403. 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) of this section. 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 15404(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 15407(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 15405 of this title; and

(C) meets the public notice and comment requirements of section 15406 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 15512 of this title (or has included such a plan in the State plan filed under paragraph (1)), and has such procedures in place for purposes of meeting the requirements of such section. If the State does not include such an implementation plan in the State plan filed under paragraph (1), the requirements of sections 15405(b) and 15406 of this title shall apply to the implementation plan in the same manner as such requirements apply to the State plan.

(B) Subparagraph (A) shall not apply for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 15407(a)(4) of this title.

(3) The State is in compliance with each of the laws described in section 15545 of this title, as such laws apply with respect to this chapter.

(4) To the extent that any portion of the requirements payment is used for activities other than meeting the requirements of subchapter III of this chapter—

(A) the State’s proposed uses of the requirements payment are not inconsistent with the requirements of subchapter III of this chapter; and

(B) the use of the funds under this paragraph is consistent with the requirements of section 15401(b) of this title.

(5)(A) Subject to subparagraph (B), the State has appropriated funds for carrying out the activities for which the requirements payment is made in an amount equal to 5 percent of the total amount to be spent for such activities (taking into account the requirements payment and the amount spent by the State) and, in the case of a State that uses a requirements payment as a reimbursement under section 15401(c)(2) of this title, an additional amount equal to the amount of such reimbursement.

(B) Subparagraph (A) shall not apply for purposes of determining the eligibility of a State to receive a requirements payment appropriated pursuant to the authorization provided under section 15407(a)(4) of this title for fiscal year 2010, except that if the State does not appropriate funds in accordance with subparagraph (A) prior to the last day of fiscal year 2011, the State shall repay to the Commission the requirements payment which is appropriated pursuant to such authorization.

**(c) Methods of compliance left to discretion of State**

The specific choices on the methods of complying with the elements of a State plan shall be left to the discretion of the State.

**(d) Timing for filing of certification**

A State may not file a statement of certification under subsection (a) of this section until the expiration of the 45-day period (or, in the case of a fiscal year other than the first fiscal year for which a requirements payment is made to the State under this part, the 30-day period) which begins on the date notice of the State plan under this part is published in the Federal Register pursuant to section 15405(b) of this title.

<sup>1</sup> So in original. Probably should be “Commission”.