

SAFRA Act Payments to Loan Servicers for Job Retention

Interim Final Requirements Questions

- Q1. For those employees who are retained, must the job they are performing be directly related to servicing either federal guaranteed loans or federal direct loans?
- A1. To be considered an eligible employee, they must have spent more than 50 percent of their time during the review period working for one of the eligible entity's locations to market, evaluate, authorize or recommend approval of FFEL Program loans. Training for future jobs does not have to relate to loan servicing.
- Q2. In regard to the definition of an "eligible employee," are servicers to calculate this on a FTE (full time equivalent) basis?
- A2. The definition of eligible employee refers to individual employees not FTEs.
- Q3. Please clarify what is meant by the phrase, "the one year period ending on March 31, 2010." Does this mean servicers calculate an average number of employees from March 31, 2009 through March 31, 2010?
- A3. The period referred to is the period beginning on April 1, 2009 and ending on March 31, 2010. Servicers should not calculate an average number of employees but use the actual number of employees working on servicing FFEL loans as defined in the "Final Requirements Notice."
- Q4. What is the beginning date a laid-off eligible employee may receive training and related services and when must FY 2010 awarded funds be fully expended?
- A4. A laid-off, eligible employee may receive training as of March 30, 2010. All FY 2010 funds must be used by the end of FY 2012, although all FY 2010 funds must be fully accounted for in the budget and plan submitted to the Department.
- Q5. We understand that we need to complete an application for each location in which we are seeking funds. Since we have multiple locations: (1) will we be allowed to submit a consolidated business plan and budget that outlines our plans and budget for each of the locations in which we are seeking the funds; or (2) do we need to provide a separate business plan and budget for each location in which we are applying for funds?
- A5. You will need to provide a separate plan and budget for each location as stated on the application form.
- Q6. My questions relate to the treatment of IT and project management staff whose responsibilities are for the development, maintenance, and upgrading of the systems that are used to originate and approve student loans. These individuals do not touch an individual loan directly but spend all of their time building the tools that do. Do they meet the definition of eligible employee?
- A6. To qualify as an eligible employee the employee must have spent more than 50 percent of their time during the review period, to market, evaluate, authorize or recommend approval of FFEL Program loans. If the employee spent 50 percent or more of their time working to market, evaluate, authorize or recommend approval of FFEL program loans they would be eligible.

- Q7. The Allowable Use of Funds section suggests that funds can be used to retrain any staff that may lose their job as a result of SAFRA to another position within the organization. No reference to eligible employee is made in this paragraph. The paragraph referring to outplacement services and training references "eligible employees" rather than any employee losing their job as a result of SAFRA. Is this your intent and are these outplacement services limited to "eligible employees" rather than any staff losing their jobs as a result of the new law?
- A7. For an eligible entity that receives an award, the awarded funds may be used to retrain any staff that may lose their job as a result of SAFRA.
- Q8. The interim final requirements defines the term "Review Period" as "For the purposes of determining total payroll for FY 2010 funds, the one-year period ending on March 31, 2010, the date of enactment of the SAFRA Act, used to calculate the number of eligible employees." What if the servicer transferred employees within their organization from loan servicing prior to March 31, 2010. The employees spent much more than 50 percent of their time for the previous 12 months on loan servicing (as defined in the interim final rule) but were not still engaged in that on March 31st. Can these employees be counted?
- A8. Yes. The employees would count as eligible employees for the formula calculation but if the employees have already been transitioned and no further training is required, the eligible entity would not be able to expend funds on those employees.
- Q9. How is annual payroll determined? How is eligible payroll determined at each facility?
- A9. Annual payroll is the total annual payroll for all (total) employees at an eligible facility up to the FICA cap of \$106,800 in 2010 for each employee. Eligible payroll is the annualized payroll for each employee that can be considered an eligible employee as defined in the notice up to the FICA cap of \$106,800 for each employee.
- Q10. How will the relative (adjusted) annual payroll be calculated? Relative to the total eligible employees at each facility?
- A10. As specified in the "Funding Allocation Formula FY 2010" section in the notice, the Secretary will calculate the adjusted eligible payroll for all locations by applying a sliding scale formula that takes into consideration the local unemployment rate for each location.
- Q11. How do you calculate the number of employees at each facility? Based on what date?
- A11. The number of employees at each eligible facility is the total number of employees that work at an eligible facility during the review period of April 1, 2009 through March 31, 2010.
- Q12. Is it permissible to rehire or retrain employees that they have already laid off?
- A12. If the funding is used to retrain laid-off eligible employees, an eligible entity must lead those laid-off employees to be hired by another entity; they may not be rehired by the same eligible entity.
- Q13. Is it an appropriate use of funds to train employees that were negatively affected by SAFRA, but did not market, evaluate, authorize or recommend approval of FFEL loans (e.g., IT, audit, or mailroom staff that was negatively affected, but did not perform these specific functions), especially given the use of only Eligible Employee wages in the award calculation and reporting only with respect to Eligible Employees. Additionally, which types of laid-off employees may we use funds to train for other employment?"

- A13. Funds may be used to train employees negatively affected by SAFRA, not only the eligible employees used to determine the amount of funds.
- Q14. Under "Content of the Application," it states that the application should include the "number of total employees and total payroll" and "the number of eligible employees and the eligible payroll." It also indicates that the eligible payroll is the total annual contribution and benefit base, as defined by 42 USC 430. Does this mean that the eligible employee salary and benefit base is limited to the maximum social security wage (which is \$106,800 for 2010)? If so, would that also mean that when we calculate the "total payroll" for the location, that we would need to cap any employees at that amount to tally up the total payroll for the location (so in other words, the total payroll is adjusted to reflect this wage cap also).
- A14. Yes, the "total payroll" and the "eligible payroll" are both capped in the same manner.
- Q15. Under Content of the Application, (d) indicates that a budget and timeline outlining how the applicant will use the funds in accordance with this program's allowable use of funds needs to be included in the job retention plan. Since the calculation of the allocation is not known until the Department completes their first 20 day review period and the applicant is subsequently notified is this "budget" part of the revised plan or do you envision some type of budget being submitted with the initial plan document? If it is expected that a budget be submitted with the initial plan, can they advise what they are looking for --- is it an estimate of what will be spent under each category of the "allowable use of funds."
- A15. An eligible entity must submit an application, including a plan specifying how FY 2010 funds will be used as part of the initial application process. The Department will notify the eligible entity of the amount of the award after all applications have been received and the award calculations have been done. Once an eligible entity is notified of the award amount it must submit an updated plan and budget describing how the funds will be used to preserve jobs, before any funds will be disbursed.
- Q16. Under the section "application and initial plan" it states that the Department estimates that 37 "servicers" would submit an application. Can the Department share the calculation that led to 37? Is there an established definition qualifying organizations as a "servicer" under the definition of a qualifying entity.
- A16. This estimated number was based on the number of active servicer ID's we have on file. An entity that applies must demonstrate that they are in fact a servicer, providing collection, origination, deferment processing and borrower contact services to a lender in connection with FFEL loans.
- Q17. In calculating the benefits associated with eligible employees, can the average percentage be used or does this require that each specific employees benefit calculation be provided?
- A17. An eligible entity must use the actual total salary amount for each employee up to the FICA capped amount of \$106,800 for 2010.
- Q18. As we are winding down our loan origination processing, we will no longer have the need for as many employees to perform functions directly associated with making new FFEL loans, such as disbursing loans, reconciling disbursement, school refunds, cancellations, Imaging/filing MPNs, etc. Would any or all of these employees be considered "eligible employees" for FY 2010 funds?

- A18. If you meet the requirements of an eligible entity and the employees to which you refer were employed as of March 31, 2010, and spent more than 50 percent of their time during the review period working at one of you locations to market, evaluate, authorize or recommend approval of FFEL program loans as specified in the notice, they would be considered "eligible employees."
- Q19. Will the Department be using the average monthly unemployment rates from April 1, 2009 – March 31, 2010 to determine the rates for the 12-month period ending on March 31, 2010?
- A19. Yes.
- Q20. We are trying to determine the definition of eligible payroll according to 42 USC 430. Is it the total payroll for eligible employees up to the FICA cap?
- A20. Yes.
- Q21. Are there set start and end dates for which these funds may be used? (e.g., can they be used toward current activities that will have occurred before the actual distribution of funds? What is the timeline for spending funds once awarded?)
- A21. An eligible entity must submit a business plan detailing how awarded funds will be used. The Department will notify awardees of the actual award amount each entity will receive. The eligible entity must then submit a revised plan detailing exactly how the funds will be used before the funds will be disbursed. All FY 2010 fund must be used by the end of FY 2012, although all FY 2010 funds must be fully accounted for in the budget and plan submitted to the Department.
- Q22. Can the job retention funds be used to retro fit an office for training purposes?
- A22. No. The funds can only be used for assisting individuals with job retention; they may not be used for capital expenses of any kind.
- Q23. Can an entity with multiple locations apply for all of its locations, knowing all but one do not have origination functionality, but use the funds received for the one eligible location for training employees at the non-eligible locations?
- A23. An entity should meet the definition of an eligible entity as defined in the definition section of the notice.

09/07/10