This Guide was developed in order to provide the FFELP community with a resource for implementing the new Income-Based Repayment (IBR) plan authorized by the College Cost Reduction and Access Act and promulgated under the regulations issued by the U.S. Department of Education. This document has been updated with new understandings or guidance obtained since the Version 2.0 released in December 2009. Any major changes are noted due to regulatory changes made subsequent to the publication of the last version of the Guide. In addition, technical changes were made to various sections. In particular, note that Section XIV was deleted from this version of the Guide. Questions from previous National Council of Higher Education Resources (NCHER) and Student Loan Servicing Alliance (SLSA) IBR webinars were moved into the other Sections based on the applicable topic.

The Team FFELP IBR Workgroup was formed in September 2008 and consists of members of NCHER and SLSA. The current represented organizations are:

ACS, Inc.  
AES/PHEAA  
Brazos Group of Companies  
College Foundation  
Discover Financial Services  
Edfinancial Services  
Evidens Group  
Iowa Student Loan  
KHESLC  
MOHELA  
NCHER  
Nelnet  
NTHEA  
Panhandle-Plains Higher Education Authority  
Student Assistance Foundation of Montana  
Sallie Mae  
SLSA  
Student Assistance Foundation  
Student Loans of North Dakota  
TGSLC  
UHEAA  
USA Funds  
Wells Fargo
This guide provides a summary of the statutory (section 493C of the Higher Education Act of 1965 as amended) and regulatory (34 CFR 682.215) provisions for IBR and is not legal advice. Readers should refer to the actual law and regulations and their own legal counsel to determine the issues specific to their own situation(s) and any results that may apply.
Section I: Income-Based Repayment Overview

Background
The College Cost Reduction and Access Act (CCRAA) introduced a new income-based repayment (IBR) plan under Section 493C of the Higher Education Act (HEA) for FFELP and FDLP loans, except for parent PLUS loans and Consolidation loans that repaid parent PLUS loans. The Higher Education Opportunity Act (HEOA), enacted August 14, 2008, amended certain provisions of IBR. The U.S. Department of Education (Department) conducted negotiations with industry representatives to regulate the provisions of the CCRAA. Proposed regulations were issued for public comment on July 1, 2008. Final regulations were issued October 23, 2008, effective July 1, 2009. Additional regulatory changes were made in the Final Regulations that were issued on October 29, 2009, effective July 1, 2010; the HEROES Act waivers issued on September 27, 2012, effective immediately; and Final Regulations issued on November 1, 2012, effective July 1, 2013. This document discusses the IBR plan based on the regulations and subsequent policy guidance from the Department.

Eligible Loans
Beginning on July 1, 2009, a borrower may request to repay the following FFELP and FDLP loans under an IBR plan:
- Subsidized and Unsubsidized Stafford
- Grad PLUS
- SLS and ALAS (student PLUS)
- Federally Insurance Student Loan (FISL)
- Consolidation loans that repaid loans under other programs (e.g., Stafford, SLS, Perkins, HPSL, HEAL, FISL, etc.), other than parent PLUS

Loans not eligible for IBR include:
- Parent PLUS
- Consolidation loans that repaid parent PLUS
- Defaulted loans
- Any other loan type that is not an FFELP or FDLP loan

Key Terms
**Adjusted Gross Income (AGI):** The borrower’s adjusted gross income as reported to the Internal Revenue Service (IRS). For a married borrower filing jointly, AGI includes both the borrower’s and spouse’s income, and for a married borrower filing separately, only the borrower’s income.

**Annual Deadline Date:** The date determined by the lender/servicer during the renewal process by which the borrower must provide the most recent income and family size information. The annual deadline date can be no earlier than 35 days prior to the end of the annual payment period.
Annual Payment Period: Each 12-month period during which the borrower qualifies for partial financial hardship on the plan.

Family Size: The number that is determined by counting the borrower, the borrower’s spouse, and the borrower’s children, including unborn children who will be born during the year the borrower certifies family size, if the children receive more than half their support from the borrower. A borrower’s family size also includes other individuals if, at the time the borrower certifies family size, the other individuals:
  - Live with the borrower; and
  - Receive more than half their support from the borrower and will continue to receive this support from the borrower for the year the borrower certifies family size. Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care and payment of college costs.

“New” Borrower: As of July 1, 2014, a borrower who has no outstanding balance on a FFELP or Direct loan at the time he or she obtains a new Direct loan. It is important to note that a borrower cannot become a “new” borrower by consolidating loans obtained prior to July 1, 2014. [§ 685.221(a)(4)]

Partial Financial Hardship (PFH) [Note: see updated changes]: A circumstance in which the annual aggregate amount due on all of a borrower’s eligible FFELP and FDLP loans, as calculated under a standard repayment plan based on a 10-year repayment period at the time the borrower initially entered repayment (i.e., “Standard-Standard”), exceeds 15% of the difference between the borrower’s AGI and 150% of the poverty line for the borrower’s family size.

Annual Standard-Standard Payment > 15%[AGI – (150% Poverty line applicable to family size)]

Regulatory Changes Effective July 1, 2010
1. The PFH formula changed such that either the Standard-Standard Payment or the Permanent-Standard Payment, whichever is the higher, is used.

   (Greater of Annual Standard-Standard Payment or Annual Permanent-Standard Payment) > 15%[AGI – (150% Poverty line applicable to family size)]

2. In the case of married borrowers filing a joint tax return, the borrower may include his or her spouse’s eligible loans in the calculation of the Standard-Standard Payment and the Permanent-Standard Payment in order to determine eligibility.

Statutory Changes Effective July 1, 2014
For new borrowers in the Federal Direct Loan Program on or after July 1, 2014, the PFH formula is 10% of the difference between the borrower’s AGI and 150% of the poverty line for the borrower’s family size.

(Greater of Annual Standard-Standard Payment or Annual Permanent-Standard Payment) > 10%[AGI – (150% Poverty line applicable to family size)]
Poverty Line Income: The income categorized by State and family size in the Poverty Guidelines published annually by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). If a borrower is not a resident of a State identified in the Poverty Guidelines, the borrower’s poverty line income is the income used for the 48 contiguous States.

Standard Repayment: The HEA contemplates three possible types of standard payment amounts associated with the IBR plan:

• Standard-Standard: The payment amount calculated for a 10-year repayment period based on the loan balance outstanding when the borrower initially entered repayment on the loan. The 10-year repayment period is used for consolidation loans, regardless as to the original number of years the consolidation loan received.

• Permanent-Standard: The payment amount calculated for a 10-year repayment period based on the loan balance outstanding when the borrower begins repayment on the loan under the IBR plan. The 10-year repayment period is used for consolidation loans, regardless as to the original number of years the consolidation loan received.

• Expedited-Standard: If the borrower chooses to completely leave the IBR plan, the payment amount calculated over:
  ▪ For Stafford, SLS and eligible PLUS loans, the number of months remaining in the 10-year repayment period, or
  ▪ For a consolidation loan, the number of months remaining in the original loan repayment period, (which could have been a 10 to 30-year repayment period depending on the original term of the Consolidation loan).

Eligible Borrowers

A borrower must have a PFH to qualify for the IBR plan. A borrower who at one time had a PFH under the plan, but ceases to have a PFH, will remain in the IBR plan unless the borrower chooses to leave the plan. For a spousal consolidation loan, both borrowers must qualify for IBR. According to guidance from the Department, an incarcerated borrower is eligible for IBR if he or she otherwise qualifies.

Disclosure of Availability of IBR

At the time of offering a borrower a loan and at the time of offering a borrower repayment options, a lender/servicer must provide the borrower with a notice that informs the borrower of the availability of income-sensitive and, except for parent PLUS borrowers and Consolidation loan borrowers whose loans repaid one or more parent PLUS loans, IBR plans.

This information may be provided in a separate notice or as part of the other required disclosures. The notice must inform the borrower:
• That the borrower is eligible for income-sensitive repayment and may be eligible for IBR, including through loan consolidation;
• Of the procedures by which the borrower can elect income-sensitive or IBR; and
• Of where and how the borrower may obtain more information concerning income-sensitive and IBR plans.

The federal promissory note and associated materials, approved by the Department, satisfy the initial loan origination disclosure notice requirements. However the lender is required to provide a borrower with information about all available repayment plans, including IBR, in other required disclosure documents or informational materials.

Conversion to Repayment and Repayment Options

Within six months prior to the date that the borrower's first payment is due, the lender/servicer must offer the borrower a choice of a standard, income-sensitive, income-based, graduated, or, if applicable, an extended repayment schedule.

A lender/servicer must require the borrower to repay the loan under a standard repayment schedule if the borrower:

• Does not select an income-sensitive, IBR, graduated, or if applicable, an extended repayment schedule within 45 days after being notified by the lender/servicer to choose a repayment schedule,
• Chooses an income-sensitive repayment schedule but does not provide the required documentation, or
• Chooses the IBR schedule but does not provide the required income documentation within the time period specified by the lender/servicer.

IBR Plan Election
[Note: see updated changes]

If a borrower elects the IBR plan, the lender/servicer must, unless the borrower requests otherwise, require that all eligible loans owed by the borrower to that lender/servicer be repaid under the IBR plan.

If a borrower has eligible loans held by two or more lender/servicers, the borrower must request IBR from each lender/servicer of eligible loans that the borrower wishes to repay under the IBR plan.

Regulatory Changes Effective July 1, 2013

A borrower requesting the IBR plan on or after July 1, 2013, must repay all eligible loans under the IBR plan. A borrower can no longer elect to leave an eligible loan out of the IBR plan.
The lender/servicer must determine whether a borrower has a PFH to qualify for the IBR plan for the year the borrower elects the plan and at the borrower’s request for each subsequent 12-month period (“annual payment period”) that the borrower remains on the plan.

However, at the discretion of the lender, if the borrower notifies the lender of a change in circumstances, the lender may recalculate a borrower’s PFH payment prior to the end of the annual payment period. Such a recalculation resets the borrower’s anniversary date of the lender’s required annual reevaluation to determine whether the borrower has a PFH.

To make this determination, the lender/servicer must require the borrower to:

- Provide written consent to the disclosure of AGI and other tax return information by the IRS to the lender/servicer. The borrower provides consent by signing a consent form and returning it to the lender/servicer.
- For a spousal consolidation loan, where the borrowers filed separate tax returns, both borrowers must provide written consent to the disclosure of AGI and other tax return information by the IRS to the lender/servicer. Each borrower provides consent by signing a consent form and returning it to the lender/servicer.
- If the borrower’s AGI is not available, or the lender/servicer believes that the borrower’s reported AGI does not reasonably reflect the borrower’s current income, the lender/servicer may use other documentation provided by the borrower to verify income.
- In an E-ANN posted June 12, 2009, and in a clarifying email on June 29, 2009, the Department provided guidance that lenders/servicers may accept a signed copy of the borrower’s most recent federal tax return in lieu of using the 4506-T form. The signature on the return is not required to be an original “pen and ink” signature.
- In an E-ANN posted April 13, 2012, the Department modified the June 12, 2009 guidance by providing that lenders/servicers may accept an unsigned copy of the borrower’s tax return.
- Annually certify the borrower’s family size. If the borrower fails to certify family size, the lender/servicer must assume a family size of one for that year.

Regulatory Changes Effective July 1, 2013

1. The requirement for the borrower (and the spouse in the case of a spousal consolidation where the borrowers filed separate tax returns) to provide written consent for the disclosure of AGI and other tax return information by the IRS is eliminated. The borrower (and spouse, if applicable) must provide a copy of his or her most recent federal income tax return filed within the two most recently completed tax years.

2. In the case of married borrowers who file a joint federal tax return and the spouse has eligible loans which are not held by the lender/servicer, the borrower must ensure the spouse provides his or her consent for the

Continued on next page
Monthly Payment Amount Calculation for Period of Partial Financial Hardship

[Note: see updated changes]

Regulatory Changes Effective July 1, 2013 (continued)

lender/servicer to access the spouse’s loan information on the National Student Loan Data System (NSLDS). Otherwise, the borrower must provide documentation acceptable to the lender/servicer of the spouse’s eligible loan information.

3. If a married borrower files a federal tax return separately from his or her spouse and indicates he or she resides in a community property state, a borrower is permitted to request that the PFH payment amount be calculated based on the borrower’s earned income that does not reflect a share of the community property income. Community property states consider married couples to have equal ownership of income and property acquired during marriage. A borrower living in a community property state may have a higher PFH payment amount due to the equitable ownership of the couple’s combined income. In this situation, the borrower may provide alternative documentation of income to verify the borrower’s earned income.

4. A borrower who is repaying under another repayment plan prior to electing the IBR plan remains on that other repayment plan if:
   • The borrower fails to provide the required income documentation;
   • The spouse does not provide consent for the lender/servicer to access NSLDS or the borrower does not provide the lender/servicer with other documentation of the spouse’s eligible loan information, and the lender/servicer determines the borrower does not have a PFH on his or her own, if applicable; or
   • The lender/servicer determines the borrower does not have a PFH.

Step 1: Calculate

The monthly payment amount during a period of PFH is one-twelfth of the following:

\[0.15 \times (\text{AGI} - (1.5 \times \text{Poverty line applicable to family size}))\]

• The monthly payment amount may be equal to or less than accrued interest. In this case, unpaid principal and interest are postponed until the borrower leaves the IBR plan or no longer has a PFH.

• The monthly payment amount may be $0.

Statutory Changes Effective July 1, 2014

For new borrowers in the Federal Direct Loan Program on or after July 1, 2014, the PFH payment amount formula is 10% of the difference between the borrower’s AGI and 150% of the poverty line for the borrower’s family size.

\[0.10 \times (\text{AGI} - (1.5 \times \text{Poverty line applicable to family size}))\]
Step 2: Prorate
If a borrower’s eligible loans include loans not held by the loan holder, the loan holder will adjust the monthly payment by multiplying the calculated payment by the percentage of total outstanding principal amount of the borrower’s eligible loans that are held by the loan holder. The NSLDS may be used to verify loans held by another holder for this purpose. Note: The term “loan holder” by rule is the eligible lender owning a FFELP loan and therefore is the lender and not the servicer.

Regulatory Changes Effective July 1, 2010
For married borrowers filing a joint tax return, the PFH payment amount is first apportioned over each borrower’s outstanding loans by determining the percentage of each borrower’s amount of debt over their total combined debt. Then the proration for multiple loan holders is done, if applicable.

Step 3: Round
If the calculated amount, or if applicable, the prorated calculated amount, is less than $5.00, the borrower’s monthly payment is $0.00. If the calculated amount is equal to or greater than $5.00 but less than $10.00, the borrower’s monthly payment is $10.00.

General Rounding Rule Exception
Generally, a lender/servicer may round a monthly payment to the next highest whole dollar amount that is a multiple of five dollars. This general rule does not apply to payments established for the IBR plan.

Payment Amount Notice [Note: new section]
Regulatory Changes Effective July 1, 2013
After making a determination that the borrower has a PFH, the lender/servicer must send a written notice to the borrower. The notice must contain the following information and be sent for the initial year the borrower elects the IBR plan and any subsequent year the borrower has a PFH:

• The scheduled PFH payment amount and the time period during which the scheduled monthly payment amount will apply (i.e., the annual payment period).
• The borrower must annually provide either documentation of his or her AGI or other documentation of income if the borrower’s AGI is not available or if the borrower’s reported AGI does not reasonably reflect his or her current income.
• The borrower must ensure his or her spouse annually provides consent for the lender/servicer to access the spouse’s loan information on NSLDS if the borrower is married, files a joint federal income tax

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Payment Application Order

The lender/servicer must apply any payment made under the IBR plan in the following order:

- Accrued interest.
- Collection costs.
- Late charges.
- Loan principal.

The borrower may prepay the whole or any part of a loan at any time without penalty.

Advancing the Due Date for Prepayments

A borrower’s next payment due date is advanced if a prepayment equals or exceeds a scheduled monthly PFH payment amount of $10 or more, unless the borrower requests otherwise. The next payment due date is not advanced...
when the borrower sends a prepayment at a time when the borrower’s PFH monthly payment is $0.

If the borrower’s scheduled monthly payment amount applicable to the loan is insufficient to pay the accrued interest on the borrower’s subsidized Stafford loan(s) or the subsidized portion of the borrower’s Federal Consolidation loan(s), the Department pays to the holder the remaining accrued interest for a period not to exceed three consecutive years from the established IBR repayment period start date on each loan repaid under the IBR plan. The Department will pay the calculated IBR interest subsidy regardless of the actual amount the borrower pays.

Except as noted, the 3-year subsidy period is consecutive, which means the counter continues no matter the status of each loan in IBR.

Exceptions

- **Economic Hardship Deferment**: The three consecutive year subsidy period excludes any period during which the borrower receives an economic hardship deferment.
- **Consolidation**: The three consecutive year subsidy period does not re-start when a loan is consolidated, that is, it includes periods of the 3-year eligibility on the underlying loans.

The borrower’s PFH payment amount is in effect for the annual payment period. The annual payment period begins on the date the borrower enters the IBR plan. For each subsequent year the borrower has a PFH and provides renewal documentation in a timely manner, the new annual payment period begins on the day after the end of the most recent annual payment period.

The borrower’s PFH payment amount is determined annually and may be adjusted based on any changes to the borrower’s income, the borrower’s family size, and the poverty guidelines.

Regulatory Waivers Effective September 27, 2012

The lender/servicer must maintain the most recently calculated PFH payment amount for up to three years, including a three-month transition period immediately following, if the borrower’s status as an affected individual under the HEROES Act prevents him or her from providing updated documentation of income and family size by the annual deadline date. *Note: The industry created a Best Practices document to assist with implementation of HEROES Act.*
Regulatory Changes Effective July 1, 2013

The lender/servicer begins the renewal process by sending the borrower a written notice to collect the borrower’s most recent income and family size information in advance of the annual deadline date. The annual deadline date can be no earlier than 35 days prior to the end of the annual payment period.

The notice must be sent no earlier than 90 days and no later than 60 days prior to the annual deadline date. The notice must inform the borrower of the following:

- The requirement for the borrower to provide documentation of his or her AGI by the annual deadline date. The annual deadline date must be specified.

- If the borrower’s AGI is not available or if the borrower’s reported AGI does not reasonably reflect his or her current income, the borrower must provide other documentation of income.

- If the borrower is married, files a joint federal income tax return with his or her spouse, the spouse has eligible loans, and the lender/servicer does not hold at least one of the spouse’s loans, the borrower must ensure the spouse provides his or her consent for the lender/servicer to access the spouse’s loan information on NSLDS. Otherwise, the borrower must provide documentation acceptable to the lender/servicer of the spouse’s eligible loan information.

- The borrower must certify his or her family size, and if the borrower does not provide this certification, a family size of one will be assumed for that year.

- The consequences if the documentation is not received within 10 days after the annual deadline date, including conversion to the Permanent-Standard monthly payment amount, the effective date of the Permanent-Standard payment amount, and the fact that unpaid accrued interest will be capitalized at the end of the current annual payment period.

If documentation of the borrower’s income is received within 10 days of the annual deadline date, the lender/servicer must promptly determine the new PFH payment amount. If the lender/servicer does not determine the new PFH payment amount by the end of the annual payment period, the current PFH payment amount must be maintained until the new PFH payment amount is determined. The lender/servicer must prevent the Permanent-Standard payment amount from being established.

If the new PFH payment amount is less than the previously calculated PFH payment amount and the borrower made payments at the previously calculated PFH payment amount after the end of the most recent annual payment period, the borrower’s account is adjusted. Unless the borrower requests otherwise, the additional payment amounts made after the most recent annual payment period are not considered prepayments and do not

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Regulatory Changes Effective July 1, 2013 (continued)

advances the next payment due date. The additional payment amounts are
applied in the order outlined in the “Payment Application Order” section. If
applicable, the lender/servicer must make appropriate adjustments to interest
subsidy and special allowance billing.

If the new PFH payment amount is equal to or greater than the previously
calculated PFH payment amount and the borrower made payments at the
previously calculated PFH payment amount after the end of the most recent
annual payment period, no adjustments are made to the borrower’s account.

If documentation of the borrower’s income (or, if applicable, either the
spouse’s consent for the lender/servicer to access NSLDS to obtain the
spouse’s loan information or other documentation of the spouse’s eligible
loan information) is received more than 10 days after the annual deadline
date and the borrower’s monthly payment has been set to the Permanent-
Standard amount, a new annual payment period and corresponding annual
deadline date is established based on the date the new PFH payment amount
is determined.

During a period of PFH, special allowance is paid on an average daily balance
of the outstanding accrued interest that includes the accrued interest that is the
borrower’s responsibility and the accrued interest that is the Department’s
obligation to pay. If the borrower’s PFH period ends prior to the end of a
quarter, the average daily balance calculation will stop as of that date.

To compute the average daily balance of unpaid accrued interest, the
lender/servicer adds the unpaid accrued interest on such loans for each
eligible day of the quarter, divides this sum by the number of days in the
quarter, and rounds the result to the nearest whole dollar. The resulting figure
is the average daily balance for the quarter.

The special allowance rate is calculated as follows:

• Determine the applicable special allowance rate based on regulatory
requirements.

• For purposes of subtracting the applicable interest rate, the rate is deemed to be zero.

• Divide by four.

Collection letters sent during 16-180 days of delinquency must include
information for a borrower regarding the IBR plan in addition to the other
repayment and default avoidance options.
Administrative Forbearance

[Note: see updated changes]

A lender/servicer may grant forbearance, upon notice to the borrower or if applicable, the endorser, with respect to payments of interest and principal that are overdue or would be due:

- For a period of delinquency at the time a borrower makes a change to the repayment plan.
- For a period not to exceed 60 days necessary for the lender/servicer to collect and process documentation supporting the borrower’s eligibility for loan forgiveness under the IBR plan. The lender/servicer must notify the borrower that the requirement to make payments on the loans for which forgiveness was requested has been suspended pending approval of the forgiveness by the guaranty agency.

Regulatory Changes Effective July 1, 2013 [§ 682.211(f)(16)]

During the annual renewal process in the situation where documentation of the borrower’s income (or, if applicable, either the spouse’s consent for the lender/servicer to access NSLDS to obtain the spouse’s loan information or other documentation of the spouse’s eligible loan information) is received more than 10 days after the annual deadline date and the borrower’s monthly payment has been set to the Permanent-Standard amount, a lender/servicer may grant forbearance to resolve any delinquency of payments that are past due or would be past due by the time the new PFH payment is determined, provided the new PFH payment amount is $0 or less than the previously calculated PFH payment amount.

If this forbearance is granted, the interest accrued from the date the payment was changed to Permanent-Standard to the date the forbearance period ends cannot be capitalized.

Loan Forgiveness Criteria

[Note: see updated changes]

To qualify for loan forgiveness after 25 years, the borrower must have participated in the IBR plan and satisfied at least one, or a combination, of the following monthly conditions for a 25-year period:

- Made monthly payments calculated on the basis of the borrower having a PFH, (includes a calculated amount of $0).
- Made monthly “Permanent-Standard” payments.
- Made monthly payments under any repayment plan other than the 10-year standard plan (i.e., income-sensitive, graduated, or extended repayment) that were not less than the calculated “standard-standard” payment amount.
- Made monthly payments under the 10-year standard repayment plan, even if they were less than the Standard-Standard payment amount due to interest rate changes (based on guidance from the Department).
- Received economic hardship deferment.
Payments During Default

- Payments made on a defaulted loan are not counted as qualifying payments toward the 25-year forgiveness period.

Beginning Date

- The beginning date for purposes of counting the 25-year forgiveness period is the date the borrower made a qualifying payment or received an economic hardship deferment on that loan (even payments made or economic hardship deferment periods prior to the borrower entering IBR), but can be no earlier than July 1, 2009.

- The 25-year forgiveness period re-starts when a loan is paid by consolidation.

- A lender is to count all qualifying payments a borrower makes on a Consolidation loan that is made on or after July 1, 2009, which means that qualifying payments made prior to the borrower entering IBR and made after the borrower enters IBR on the consolidation loan would count toward the 25-year forgiveness period.

Statutory Changes Effective July 1, 2014

For new borrowers in the Federal Direct Loan Program on or after July 1, 2014, the forgiveness period is 20 years instead of 25 years.

Loan Forgiveness Payment Processing and Notices

[Note: see updated changes]

A borrower is not required to submit a request for loan forgiveness. No later than 60 days after the lender/servicer determines that a borrower qualifies for loan forgiveness the lender/servicer must request payment from the guaranty agency.

If the lender/servicer requests payment from the guaranty agency later than 60 days after the lender/servicer makes the determination that the borrower qualifies for forgiveness, interest that accrues on the discharged amount after the expiration of the 60-day filing period is ineligible for reimbursement by the Department, and the holder must repay all interest and special allowance received on the discharged amount for periods after the expiration of the 60-day filing period. The holder cannot collect from the borrower any interest that is not paid by the Department.

Within 45 days of receiving the holder’s request for payment, the guaranty agency must determine if the borrower meets the eligibility requirements for loan forgiveness and must notify the holder of its determination. If the guaranty agency approves the loan forgiveness, it must, within the same 45-day period, pay the holder the amount of the forgiveness.

After being notified by the guaranty agency of its determination of the eligibility of the borrower for loan forgiveness, the holder must, within 30
days, inform the borrower of the determination and that the borrower’s repayment obligation on the loans is satisfied. The lender/servicer must also provide the borrower general information on the current treatment of the forgiveness amount for tax purposes and instructions for the borrower to contact the IRS for further information.

The holder must apply the proceeds of the IBR loan forgiveness amount to satisfy the outstanding balance on those loans subject to IBR forgiveness.

If the forgiveness amount exceeds the outstanding balance on the eligible loans subject to forgiveness, the lender/servicer must refund the excess amount to the guaranty agency.

The lender/servicer must promptly return to the sender any payment received on a loan after the guaranty agency pays the amount of loan forgiveness.

If the guaranty agency does not pay the forgiveness claim, the lender/servicer will continue the borrower in repayment on the loan. The lender/servicer is deemed to have exercised forbearance of both principal and interest from the date the borrower’s repayment obligation was suspended until the new payment due date. Unpaid interest during this period may be capitalized, unless the claim denial is due to an error by the lender/servicer.

### Regulatory Changes Effective July 1, 2013

No later than six months prior to the anticipated date that the borrower will meet the loan forgiveness requirements, a lender/servicer must send the borrower a written notice that includes the following:

- An explanation that the borrower is approaching the date that he or she is expected to meet the requirements to receive loan forgiveness.
- A reminder that the borrower must continue to make the scheduled monthly payments.
- General information on current treatment of the forgiveness amount for tax purposes and instructions to contact the IRS for more information.

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**Borrower Ceases Partial Financial Hardship and Notices**

[Note: see updated changes]

If a borrower no longer has a PFH, chooses to stop making PFH payments, fails to renew the required written consent for income verification, or withdraws consent and does not select another repayment plan, the borrower remains under the IBR plan (or IBR “umbrella”) but the lender/servicer must recalculate the borrower’s monthly payment. In either case, the monthly payment amount is the “Permanent-Standard” payment amount. Except for periods of PFH or reduced payment forbearance, the loan once again is required to meet the annual $50 minimum monthly and $600 annual payment amount.
Capitalization
[Note: see updated changes] Accrued interest is capitalized at the time the borrower chooses to leave the IBR plan or no longer has a PFH. If a borrower alternates between periods of PFH and “Permanent-Standard” unpaid interest must be capitalized each time the borrower no longer has a PFH.
If a borrower no longer wishes to pay under the IBR plan, the borrower must pay under a standard repayment plan based on an “Expedited-Standard” payment amount.

**Regulatory Changes Effective July 1, 2013**
If the borrower wishes to switch to a different repayment plan (e.g., graduated or extended), the borrower must make either one Expedited-Standard payment or one payment under a reduced payment forbearance agreement with the lender/servicer. A payment made under a reduced payment forbearance agreement must be greater than $0.
Section II: Eligible Loans Q&As

Q1. How are borrowers notified of the IBR plan?
A1. Lender/servicers are required to disclose certain information at certain time, e.g., prior to disbursement disclosures, prior to repayment disclosures, 60-day delinquent disclosures, monthly billing disclosures, difficulty making payment disclosures and any other times that repayment options are discussed and offered. Students will also hear about the IBR plan during exit counseling which is required when the student loan borrower graduates, drops below half-time enrollment or withdraws from school.

Q2. Regarding the disclosure that is required for lenders to inform the borrower of the availability of IBR, is there a "Sample" of the notice available to ensure proper/correct legal wording?
A2. No. As with other disclosure requirements, the lender/servicer should consult their legal counsel for proper disclosure wording.

Q3. If parent PLUS loans are not eligible for IBR, are Consolidation loans that repaid underlying parent PLUS loans also not eligible for IBR? If the Consolidation loan is not eligible for IBR, is the entire Consolidation loan not eligible, or only the parent PLUS loan portion of the Consolidation loan not eligible?
A3. If a Consolidation loan repaid a parent PLUS loan, the entire Consolidation loan would not be eligible for IBR.

Q4. If a Consolidation loan repaid any HEAL, Perkins, and/or HPSL loans (but not any parent PLUS loan) is it eligible for IBR?
A4. Yes. A FFELP or FDLP Consolidation loan that repaid any underlying HEAL, Perkins, and/or HPSL loan is deemed eligible for IBR (provided the Consolidation loan did not repay any underlying parent PLUS loan).

Q5. If a borrower has both parent PLUS loans and other types of loans and wishes to consolidate the loans, may the borrower obtain two Consolidation loans, one for the parent PLUS loans and one for the other loans, to preserve eligibility for IBR on the other loans?
A5. Yes. Neither the statute nor regulations prohibit a borrower from obtaining two separate Consolidation loans as long as only one application is pending at a time. This would be a counseling issue between the loan holder and the borrower to review the best options for that particular borrower.

Q6. How does a loan holder determine if a PLUS loan being consolidated was made to a Graduate/Professional student or a parent PLUS borrower?
A6. Grad PLUS loans carry their own loan type of GB on NSLDS as well as within a lender/servicer system. This loan type is also used when a lender completes the Lender Verification Certificate (LVC) as part of the consolidation loan process.
Q7. Is it possible for a parent to remove a parent PLUS loan from a Consolidation loan in order to qualify for IBR?
A7. No. Once consolidated, a Consolidation loan is not permitted to be reversed or undone, nor a loan removed.

Q8. Are “re-consolidations” eligible for the IBR plan?
A8. If a borrower re-consolidates an underlying Consolidation loan that repaid IBR-eligible underlying loans, the new Consolidation loan is eligible for the IBR plan. However, if the new Consolidation loan includes an underlying Consolidation loan that repaid one or more Parent PLUS loans, it is not eligible for the IBR plan.

Q9. Are defaulted loans held by a guarantor eligible for IBR?
A9. No. The Higher Education Opportunity Act of 2008 (HEOA) provided a technical amendment to the IBR statute to specifically exclude defaulted loans held by the guarantor from eligibility for IBR.

Q10. Once a loan is in default and placed with an outside collection agency, is IBR a repayment option for the borrower?
A10. No. Defaulted loans are not eligible for the IBR plan.

Q11. If a borrower defaulted on a loan a few years ago, entered a rehabilitation program, and the lender bought back the loan from the guarantor, would the borrower have the option of IBR?
A11. Yes. The borrower would have the option, but must have a PFH to qualify for IBR.

Q12. Are loans with co-makers eligible for IBR? If yes, does the co-maker need to submit income documentation?
A12. Yes, co-made loans are eligible for the IBR plan as long as both borrowers qualify individually. If the co-maker is the spouse then yes his or her income would be taken into consideration. If the co-makers are no longer married, each would have to qualify for IBR based on his or her individual circumstances in regard to family size, tax filing status, and income.

Q13. How delinquent can a borrower be and still be eligible for IBR?
A13. A borrower is eligible for IBR until the loan is in default status. This means a borrower may be able to resolve the default prior to claim payment and obtain IBR. For example, a lender may recall the claim, use forbearance to cover the delinquency, and place the borrower into IBR. The Department has subsequently clarified that the administrative forbearance for delinquency prior to a repayment plan change may not be used after day 270, but before the claim is paid. In this case, the lender/servicer will need to obtain a discretionary forbearance in accordance with §682.211(d).

Q14. Can a borrower exclude IBR-eligible loans from the IBR plan?
A14. A borrower who requests IBR on or after July 1, 2013 may no longer choose to exclude FFELP IBR-eligible loans from the IBR plan based simply on the borrower’s choice. Only loans that are ineligible for IBR (parent PLUS or Consolidation that repaid a parent PLUS) are excluded from the IBR plan. However, a FFELP borrower who has already established an IBR
plan based on the exclusion of IBR-eligible loans may continue to exclude those loans as long as the borrower remains under IBR. [*Federal Register* dated November 1, 2012, Final Rule page 66113; §682.215(b)(3)]
Section III: Monthly Payment Amount Q&As

Q1. For purposes of the partial financial hardship (PFH) calculation, are FDLP loans held by the Department included in the prorated monthly payment amount?
A1. Yes. FDLP loans are deemed eligible for IBR (except FDLP Parent PLUS and Consolidated FDLP Parent PLUS loans). In this case, if a loan holder is aware that a FFELP borrower also has FDLP loans held by the Department, the total calculated PFH payment must be prorated, that is, multiplied by the percentage of the total outstanding principal amount of IBR eligible loans that represents the amount of IBR eligible loans that are held by the loan holder.

Q2. If at the time a borrower requests IBR the loan payments have been prepaid sufficient to advance the due date more than 11 months in the future, should the borrower be placed in IBR or wait until the next payment is due?
A2. As in place today for repayment plan changes, this may be a counseling matter.

Q3. If a borrower’s calculated PFH payment is $0, and the borrower makes a payment greater than $0, how should the loan holder handle the advancement of the next payment due date?
A3. The loan holder may not advance the next payment due date. In addition, §682.215(c)(4) states that if the borrower makes a payment while the PFH payment amount is $0, the loan holder must apply it consistent with the IBR provisions regarding the order of payment allocation.

Q4. What if a borrower is on IBR and at some point asks for his monthly PFH payment amount to be increased? Is the loan holder required to remove the PFH schedule, as a request to increase the payment amount would seem to indicate that the borrower no longer wants the PFH payment and implies he no longer has a PFH?
A4. Under federal regulations, the loan holder is not permitted to increase the PFH payment amount. Any extra amount over the required payment amount should be handled just as such payments are handled today. The borrower also has the option to (1) ask for a re-evaluation which may result in a higher scheduled payment amount; (2) get out of PFH and move to the Permanent-Standard payment amount; or (3) voluntarily leave IBR and go to the Expedited-Standard payment amount, and then change to a different repayment plan.

Q5. For the loans held by the loan holder, is the payment amount subject to the $0 and $10 payment tolerances at the loan level?
A5. No. The $0 and $10 payment tolerances are applied at the loan holder level for all the loans held by that loan holder. If the prorated or straight math method of determining the payment amount for each loan results in a payment that is within the tolerances, the loan holder must apply that calculated payment amount to the individual loan to ensure that the borrower’s payment does not exceed the total PFH payment amount applicable to the borrower for the loans held by that loan holder.

Q6. May the $0 and $10 tolerances be applied at the servicer level?
A6. No. The Department provided guidance that the regulatory term “holder” means “lender”, not “servicer”. The tolerances may only be applied at the loan holder level. The Department
expects loan servicers that are servicing a borrower’s loans for multiple holders to comply by the applicable effective date with the payment adjustment requirements of the regulations. The Department believes this is critical to ensure that borrowers under IBR are treated consistently by all loan holders and are not overbilled. The Department will take steps to ensure that IBR payments are calculated correctly for the FFELP and FDLP loans it holds.

Following are some examples of how this would apply:

**Example 1: Calculated PFH payment $8, multiple holders that service own loans**
Borrower has 50% of loans held/serviced by Lender A and 50% of loans held/serviced by Lender B. Borrower’s total calculated monthly PFH payment is $8. After proration between holders the amounts are $4 for Lender A and $4 for Lender B. Under the $5/$10 rule, borrower would have a monthly payment of $0 for Lender A and $0 for Lender B.

**Example 2: Calculated PFH payment of $8, multiple holders that use same servicer**
Same as Example 1 except all of the borrower’s loans are serviced by Servicer A for both Lender A and Lender B. Proration is done for each loan holder regardless of single servicer; the borrower would pay $0 to both Lender A and Lender B.

**Example 3: Calculated PFH payment of $8, one holder that uses two servicers**
Same as Example 1 except Lender A holds all of the borrower’s loans and 50% are serviced by Servicer A and 50% serviced by Servicer B. Borrower’s total calculated monthly PFH payment is $8. No proration is necessary so the borrower would owe a PFH payment of $10, which will be split $5 for Servicer A and $5 for Servicer B. In this case the $5 PFH payment per servicer is an acceptable amount even though it falls between $0 and $10.

Q7. Please explain the disclosure of repayment terms when disclosing PFH.
A7. This is really up to the lender/servicer on how they will disclose. One method is that the repayment schedule would reflect the first 12 months at the PFH payment amount then the remaining term at the Permanent-Standard payment amount.

Q8. If a borrower elects Expedited-Standard repayment, is the number of months in repayment under IBR counted when determining the maximum remaining months available under the Expedited-Standard repayment plan?
A8. Yes. The number of months in repayment used under IBR does count against the remaining months available.

Q9. If the borrower elects Expedited-Standard repayment, and the borrower qualifies for extended repayment, may the loan holder use a 25-year repayment term when determining the remaining months available under the Expedited-Standard repayment plan?
A9. No. The Expedited-Standard repayment amount must be calculated using the remaining months in a 10-year period for all loans but Consolidation loans. Based on guidance from the Department and technical corrections to the regulations in the November 1, 2012, Final Rules, the Expedited-Standard repayment amount for a Consolidation loan must be calculated on the remaining months in the original Consolidation loan repayment period but based on the amount of the Consolidation loan outstanding at the time the borrower leaves IBR.
Q10. If a borrower elects IBR while he or she is on another repayment plan and the borrower fails to provide the required documentation, or does not qualify for PFH, does the loan holder maintain the current repayment plan or is the loan holder required to convert the borrower to a standard plan as outlined in §682.209(a)(6)(v)?

A10. The borrower would continue in the current repayment plan. [Note: The November 1, 2012 Final Rule confirmed this response in §682.215(e)(6).] In the case of initial repayment, if the borrower does not select another plan, the borrower would receive the standard repayment plan, as occurs today.

Q11. If a PFH payment calculates to $10.35, can the loan holder round it up to the next highest dollar amount of $11.00?

A11. No. §682.215(b)(1) states that the loan holder adjusts the calculated amount only in the four listed instances.

Q12. If a borrower’s AGI is less than 150% of the borrower’s applicable poverty level, then the calculated payment would be a negative number. In this case, is the PFH payment amount set at $0?

A12. Yes.

Q13. The loan holder initially disclosed to a borrower using a 9-year repayment term when the borrower initially entered repayment. The borrower subsequently selects IBR, chooses to leave the plan, and the loan holder is required to recalculate the payment amount using an Expedited-Standard repayment plan. Is the loan holder required to recalculate the payment amount using the remainder of 10 years or the remainder of 9 years as initially disclosed?

A13. §682.215(d)(2)(i) states "The time remaining under the maximum ten-year repayment period" for any loan except a Consolidation loan. Since it specifically states "the maximum ten-year repayment period" and not "up to a maximum ten-year repayment period" the loan holder would use the remaining payments out of 10 years to determine the Expedited-Standard payment amount, subject to the $50 minimum monthly payment.

Q14. In calculating the proration of the PFH payment amount between loan holders, does the loan holder exclude from the calculation the balance of any loan(s) that the borrower chooses not to repay under IBR?

A14. [Revised by November 2012 Final Rule, effective July 1, 2013]: A borrower requesting the IBR plan must include all eligible loans.

[Prior to July 1, 2013]: No. §682.215(b)(1)(i) requires the loan holder to prorate the payment based on the outstanding balances of all eligible loans. “Eligible loan” is defined in §682.215(a)(2) and it does not exclude loans that a borrower does not wish to repay under IBR.

Q15. If a borrower elects to not pay a particular loan(s) under IBR, but wishes to repay another loan(s) under IBR, is the Standard-Standard payment amount on the excluded loan(s) used to determine PFH eligibility?

A15. [Revised by November 2012 Final Rule, effective July 1, 2013]: A borrower requesting the IBR plan must include all eligible loans.
[Prior to July 1, 2013]: Yes. §682.215(a)(4) requires that in determining whether a borrower has a PFH, the loan holder must use the annual amount due on “all of a borrower’s eligible loans.” “Eligible loan” is defined in §682.215(a)(2) and it does not exclude loans that a borrower does not wish to repay under IBR.

Q16. If the borrower elects to exclude some loans from IBR, but chooses to repay other loans under IBR, how is the PFH payment amount allocated across those loans?

A16. [Revised by November 2012 Final Rule, effective July 1, 2013]: A borrower requesting the IBR plan must include all eligible loans.

[Prior to July 1, 2013]: The PFH payment amount is allocated to all of the borrower’s eligible loans, including any that the borrower has chosen to exclude from IBR. The portion of the PFH payment amount attributable to the excluded loans is not reallocated among the other loans; it stays with the excluded loans and covered by whatever alternate repayment plan the borrower chooses on those loans. This policy prevents potentially disparate treatment of different borrowers in different loan holder/servicer situations. The following illustrates this concept.

Two borrowers, each has six IBR-eligible loans but wants one of them left out of IBR because it is being repaid by a parent on a different schedule. Here is the vital information:

Total outstanding balance of eligible loans: $50,000
Initial PFH payment amount (15% of AGI – PLI): $100.00

Loan breakdown (all loans are owned by the same holder):

<table>
<thead>
<tr>
<th>Loan</th>
<th>Amount</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan 1</td>
<td>$1,500</td>
<td>3% of $100 or $3.00</td>
</tr>
<tr>
<td>Loan 2</td>
<td>$2,000</td>
<td>4% of $100 or $4.00</td>
</tr>
<tr>
<td>Loan 3</td>
<td>$8,000</td>
<td>16% of $100 or $16.00</td>
</tr>
<tr>
<td>Loan 4</td>
<td>$10,000</td>
<td>20% of $100 or $20.00</td>
</tr>
<tr>
<td>Loan 5</td>
<td>$21,000</td>
<td>42% of $100 or $42.00</td>
</tr>
<tr>
<td>Loan 6</td>
<td>$7,500*</td>
<td>15% of $100 or $15.00</td>
</tr>
</tbody>
</table>

*This is the loan being voluntarily excluded from IBR repayment. The borrower’s standard payment amount on this loan, based on a ten-year term and a 6.8% fixed interest rate, is $86.31.

BORROWER 1: All six loans are handled by one servicer:

**SCENARIO 1: Applying the full PFH payment on 5 non-excluded loans.** In this case, since the same servicer has all of the loans, they would need to reallocate the $15 payment on loan 6 proportionally among the other 5.

<table>
<thead>
<tr>
<th>Loan</th>
<th>Amount</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan 1</td>
<td>$3.00 + $0.53</td>
<td>$3.00 + $0.53</td>
</tr>
<tr>
<td>Loan 2</td>
<td>$4.00 + $0.71</td>
<td>$4.00 + $0.71</td>
</tr>
<tr>
<td>Loan 3</td>
<td>$16.00 + $2.82</td>
<td>$16.00 + $2.82</td>
</tr>
<tr>
<td>Loan 4</td>
<td>$20.00 + $3.53</td>
<td>$20.00 + $3.53</td>
</tr>
<tr>
<td>Loan 5</td>
<td>$42.00 + $7.41</td>
<td>$42.00 + $7.41</td>
</tr>
<tr>
<td>Loan 6</td>
<td>$86.31</td>
<td>$86.31</td>
</tr>
</tbody>
</table>

Borrower’s total monthly payment amount: $186.31

**SCENARIO 2: Leave PFH payment for loan 6 as part of loan 6**

<table>
<thead>
<tr>
<th>Loan</th>
<th>Amount</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan 1</td>
<td>$3.00</td>
<td>$3.00</td>
</tr>
<tr>
<td>Loan 2</td>
<td>$4.00</td>
<td>$4.00</td>
</tr>
<tr>
<td>Loan 3</td>
<td>$16.00</td>
<td>$16.00</td>
</tr>
<tr>
<td>Loan 4</td>
<td>$20.00</td>
<td>$20.00</td>
</tr>
<tr>
<td>Loan 5</td>
<td>$42.00</td>
<td>$42.00</td>
</tr>
<tr>
<td>Loan 6</td>
<td>$86.31</td>
<td>$86.31</td>
</tr>
</tbody>
</table>

Borrower’s total monthly payment amount: $171.31
BORROWER 2: Loans 1 and 2 under servicer 1, Loans 3, 4 and 5 under servicer 2, Loan 6 under servicer 3

SCENARIO 1: Applying the full PFH payment on 5 non-excluded loans. In this case, servicers 1 and 2 won’t know that Loan 6 was excluded and therefore won’t know to reallocate the PFH payment among the loans they’re servicing.

<table>
<thead>
<tr>
<th>Loan</th>
<th>Loan 2</th>
<th>Loan 3</th>
<th>Loan 4</th>
<th>Loan 5</th>
<th>Loan 6</th>
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<tbody>
<tr>
<td>$3.00</td>
<td>$4.00</td>
<td>$16.00</td>
<td>$20.00</td>
<td>$42.00</td>
<td>$86.31</td>
</tr>
</tbody>
</table>

Borrower’s total monthly payment amount: $171.31

SCENARIO 2: Leave PFH payment for loan 6 as part of loan 6

<table>
<thead>
<tr>
<th>Loan</th>
<th>Loan 2</th>
<th>Loan 3</th>
<th>Loan 4</th>
<th>Loan 5</th>
<th>Loan 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>$3.00</td>
<td>$4.00</td>
<td>$16.00</td>
<td>$20.00</td>
<td>$42.00</td>
<td>$86.31</td>
</tr>
</tbody>
</table>

Borrower’s total monthly payment amount: $171.31

These examples show that reappportioning the PFH payment for the excluded loan among the other loans could result in different payment amounts for different borrowers, depending on how the ownership and servicing of their loans is allocated. So, the only policy that does not result in potentially disparate treatment, with regard to the total monthly payment amount, is to not reallocate the calculated PFH payment amount on the excluded loan among the other loans. The borrower is still, in essence, paying at least the minimum PFH payment amount of $100; it’s just that part of that $100 is being paid under a different plan in one case.

Q17. If a borrower has loans in default and non-default status, are the defaulted loans used to determine the borrower’s PFH eligibility and pro-rated payment amount?

A17. No. §682.215(a)(2) defines "Eligible loan" which states that the term does not include a defaulted loan. Then §682.215(a)(4) defines "Partial financial hardship" which uses the phrase "all of a borrower's eligible loans." The PFH determination would not take into account the payments due on the defaulted loans and if the borrower qualifies on the non-defaulted loans, the PFH payment is only applied to the non-defaulted loans. In other words, the PFH payment is not prorated across the defaulted loans. This same concept would apply to borrowers with other types of loans that are not eligible for IBR, such as parent PLUS, Perkins, NDLS, etc. and consolidation loans that repaid parent PLUS loans.

Q18. Both the Higher Education Opportunity Act (HEOA) and the October 29, 2009 Final Rule state the disclosure before repayment must include “The borrower's repayment schedule, including the due date of the first installment and the number, amount, and frequency of payments based on the repayment schedule selected by the borrower.” If the borrower selects IBR prior to the holder sending the repayment disclosure, how does the holder disclose the number of payments, i.e., 12 payments at the PFH amount, then the remaining number of permanent-standard payments required to pay the loan in full?

A18. It depends on the timing of the repayment disclosure in relation to the offering of the repayment options. If both occur at the same time, this would not be an issue. However, some systems may have the capability to offer repayment options first and then disclose the payment amounts that the borrower would pay under IBR as known at that time.
Q19. If a borrower has a Consolidation loan, would the Standard-Standard and Permanent-Standard amounts be determined based on a ten (10) year term or on the applicable Consolidation loan term?

A19. Federal regulations require that the Standard-Standard and Permanent-Standard payment amounts are based on a 10-year term, regardless of the loan program.

Q20. Do loans with a scheduled PFH payment of $0 have to receive monthly billing statements?

A20. The Department has clarified that the monthly disclosure during repayment required under the HEOA must be provided to the borrower even if the payment amount is $0 under IBR. This disclosure of information may or may not be in the form of a billing statement.

Q21. How do lenders count loans with a scheduled PFH payment of $0 against the number of payments made if a payment is not being sent by the borrower?

A21. The lender/servicer would automatically bank each month that has a zero payment as that month passes.

Q22. If a borrower elects to leave the IBR plan and enters an Expedited-Standard repayment plan, can the borrower subsequently apply for a different repayment option, (e.g., graduated, extended, etc.)?

A22. Yes, to the extent the borrower still has time available under the chosen plan. Note that the time remaining under another plan would exclude any prior months in repayment both before and during IBR.

Q23. If a borrower leaves the IBR umbrella and enters Expedited-Standard, does he or she need to make one payment before switching to a different repayment plan?

A23. Prior to implementation of the November 1, 2012 Final Rule, the borrower was only required to be set up for one payment. However, the November 1, 2012 Final Rule, effective July 1, 2013, now requires at least one payment to be made on the Expedited-Standard repayment plan, but the payment may be made under a reduced-payment (other than $0) forbearance agreement.

Q24. If a borrower is in IBR for five (5) years and then leaves IBR, can he or she enter the extended repayment plan if the loan balance qualifies? Would it be the original loan balance or the current loan balance that would be used to see if the borrower has the $30,000 in federal debt to qualify for extended repayment?

A24. The borrower would have to first “pass-through” Expedited-Standard then could be placed on an extended repayment plan. The ability to obtain the extended plan would be based on the borrower’s CURRENT loan balance. [Note: See A23, regarding November 1, 2012 Final Rule]

Q25. If a borrower leaves IBR and the lender recalculates the monthly payment, can it be higher than the payment amount before the borrower entered IBR?

A25. Yes, especially since the IBR months used will have counted against the maximum repayment months available.
Q26. Under §682.215(d)(2), what would a borrower’s initial monthly payment be if he wished to exit IBR in order to obtain a lower monthly payment under another repayment plan (e.g., Extended) but had no time remaining under the maximum repayment period applicable to the loan type (e.g., 120 months for a Stafford, SLS, or PLUS loan or 240 months for a Consolidation loan)?

A26. As an alternative to requiring a very large payment under §682.215(d)(2), the lender may, under §682.215(d)(3), accept a lower payment under a reduced-payment forbearance agreement and then move the borrower to another repayment plan that gives him more time to make a more affordable monthly payment. As a practical matter, changing to Extended (after making the one payment) would be the borrower’s only viable repayment option. [Note: This was confirmed by the Department in an email on July 22, 2013.]

Q27. Let's say a borrower had a $45,000 Grad PLUS loan. He chooses to leave IBR after 5 years, receives the Expedited-Standard payment, and then requests the Extended repayment plan. Would this borrower have 20 years to pay off the balance or 25 years?

A27. The borrower would have 20 years to pay off the balance (25 year term minus 5 years in IBR).

Q28. Medical students with well over $100,000 in eligible loans do a four-year residency during which time they request IBR. When they finish their residency, they no longer have a PFH, but can stay in IBR. Are payments calculated on Expedited 10-year OR can these borrowers take 25 years (extended repayment plan) less 4 years, for a total of 21 years?

A28. If they remain under the IBR umbrella and never again have a period of PFH, the payment will remain the Permanent-Standard payment that was calculated based on a 10-year term when the borrower entered IBR. To get the 21 remaining years, they would have to leave the IBR umbrella altogether and initially go into Expedited-Standard repayment (payment amount based on current balance and time remaining of the 10-year term, or the original Consolidation loan term), and then request the Extended repayment plan.

Q29. Does the regulation state that borrowers in the IBR plan with a $0 payment amount cannot have their due date moved forward? Wouldn't that cause problems for consumer reporting agency reporting?

A29. The due date can advance as normal; it just cannot be advanced beyond the current month at any point (no prepayments). So, each month the lender/servicer should continue to report to the agencies as a current repayment month or deferred.

Q30. What status should be reported to the credit reporting agency when the loan is in an approved period of PFH with a $0 payment amount?

A30. The credit reporting agencies have indicated that the most precise way to report these loans is as in deferment as this would show that a payment is not due. By reporting the accounts as deferred, anyone looking at the credit report is aware that the consumer is not obligated to make payments at this time. However, a lender may also report the loan as in current repayment but should make sure to report a scheduled monthly payment amount of $0.
Q31. For Grad PLUS loans, is a Standard-Standard payment calculated at final disbursement or at the end of an in-school deferment?
A31. The Standard-Standard payment will be calculated at final disbursement for a Grad PLUS loan since the borrower can opt to not stay in the in-school deferment period.

Q32. If lenders/servicers cannot increase the Permanent-Standard payment amount, how do they account for interest caps that may cause the borrower not to payout in the remaining term?
A32. Once the borrower enters IBR and the Permanent-Standard payment amount established, there's no longer a maximum term remaining unless the borrower voluntarily leaves the IBR umbrella. The payment amount would stay at the Permanent-Standard payment amount and the loan will pay out when satisfied. And, if a balance is still remaining at the end of the 25 years it would be forgiven.

Q33. For variable rate loans, what interest rate is used to calculate the Standard-Standard and Permanent-Standard payment amounts? (i.e. maximum, minimum, current)
A33. This is really a lender/servicer decision and can follow their current policy for disclosure of any other repayment plan. Some loan holders calculate and disclose the payment amount at the maximum interest rate possible. Others calculate and disclose the payment amount using the variable rate in effect at the time of disclosure.

Q34. What is the interest rate for IBR? How is it determined with multiple loans?
A34. Each loan will retain its regulatory interest rate.

Q35. Can a borrower be on IBR with scheduled PFH payments of $0 for 25 years?
A35. Yes, if the borrower remains eligible for a PFH with a calculated payment amount that allows for the $0 payment amount.

Q36. If a borrower continues to have a PFH in subsequent years (and does not request an early re-evaluation), how is the borrower’s new annual payment period (“anniversary date”) determined?
A36. For borrowers that recertify in a timely manner, the borrower’s new annual payment period begins on the day after the end of the most recent annual payment period. For borrowers who do not recertify in a timely manner such that the lender/servicer cannot process the renewal before the end of the current annual payment period, the new annual payment period will begin upon approval of the new PFH. [§682.215(e)(iii); §685.221(e)(8)(ii)]

Q37. Can a borrower request a re-evaluation of the PFH payment amount prior to his/her “anniversary date”?
A37. Yes. The newly approved IBR/PAYE/ICR Request form provides borrowers with an opportunity to request early re-evaluation. In addition, the borrower will be reminded of this option by the lender/servicer on an annual basis. [§682.215(e)(2)]
Q38. If a borrower pays a loan in full after the lender/servicer has allocated the PFH payment to the borrower’s loans, must the lender/servicer reallocate the portion of the PFH payment that was allocated to the paid-in-full loan to the other outstanding loans to ensure that the borrower continues to pay the full PFH payment amount?

A38. No. The lender/servicer is not required to adjust the allocation of the PFH payment amount at the time the loan(s) is paid in full. The next renewal will cause the PFH payment to be allocated to the remaining loans.
Section IV: Loan Forgiveness Q&As

Q1. What are qualifying payments for purposes of IBR loan forgiveness?
A1. First, only payments made on or after July 1, 2009 can be qualifying payments, and the borrower must use IBR at some point. Once both of those criteria are met, qualifying payments include the following:
- Payments outside of IBR totaling at least the Standard-Standard payment amount
- Payments outside of IBR made under a 10-year standard repayment plan
- Months of economic hardship deferment
- Payments under a PFH plan, including a payment amount of $0
- Payments under IBR, but outside of PFH, totaling at least the Permanent-Standard payment amount

See the November 1, 2012 Final Rule effective July 1, 2013, that provides technical corrections regarding what types of payments qualify for IBR forgiveness.

Q2. Would payments made after the borrower has left IBR count toward forgiveness?
A2. As long as the payments are not less than the borrower’s Standard-Standard payment amount or are based on a 10-year standard repayment plan, they will count toward the 300 payments required for forgiveness.

Q3. If a borrower has pre-paid loans before July 1, 2009, such that the due date is extended after July 1, 2009, do the payments count toward forgiveness?
A3. Note that it will be possible for certain payments made before entering IBR to count toward forgiveness, provided the payment was made on or after July 1, 2009. However, in this example, since the prepayment is made before July 1, 2009, that payment does not count toward forgiveness even though the prepayment may advance a due date until on or after July 1, 2009.

Q4. For a borrower who is in repayment for several years before entering IBR, what kind of payments count toward the 25 years for forgiveness? Would only Standard-Standard payments count, or would payments in other plans like graduated and income-sensitive count?
A4. Only payments made on or after July 1, 2009, may be considered for eligibility toward the required number of payments for forgiveness (300 payments). Payments made under a 10-year standard repayment plan would be counted, and payments made under any other type of repayment plan would be counted as eligible payments as long as they are not less than the Standard-Standard payment amount. Although a borrower may request a graduated or income-sensitive repayment plan when initially entering repayment, the loan holder will still need to calculate a Standard-Standard payment amount to measure against in the future.

Q5. Can a borrower make a lump sum payment to accelerate the forgiveness of the loan?
A5. Lump sum payments may be applied as future payments and, if otherwise eligible, may count toward the 300 payments required for forgiveness. However, the other criterion for forgiveness is that 25 years must have also passed. So a borrower may not accelerate the forgiveness by paying ahead.
Q6. Does a payment made on behalf of a borrower, such as a Department of Defense (DOD) loan repayment program payment, AmeriCorps, and Teacher Loan Forgiveness count toward the number of payments required for forgiveness?

A6. This type of payment should be treated the same as such a payment is treated today outside of IBR in regard to how it is applied: principal reduction or advancement of monthly payments.

Q7. When does the 25-year forgiveness period begin?

A7. For loans in repayment on or before July 1, 2009, the 25-year forgiveness period may begin as early as July 1, 2009, if the borrower makes a qualifying payment or receives a period of economic hardship deferment as of that date. For loans that enter repayment after July 1, 2009, the 25-year forgiveness period begins on the date the borrower makes a qualifying payment or receives a period of economic hardship deferment. The earliest any loan could qualify for forgiveness is July 1, 2034. [Note: For Consolidation loans made on or after July 1, 2009, see Q9 below.]

Q8. Please provide an example of how the 25-year forgiveness period and the 300 payments/deferment requirement interact in regard to forgiveness eligibility.

A8. Loan forgiveness eligibility is dependent on both the passage of 25 years of time and the occurrence of 25-years’ worth of qualifying payments and economic hardship deferment.

Example 1: If on or after July 1, 2009, a borrower makes 300 eligible payments, which includes payments deferred by economic hardship deferment, then on or after July 1, 2034 (i.e., 25 years from July 1, 2009), the lender/servicer may file a loan forgiveness claim with the guaranty agency. However, if on July 1, 2034, the borrower only made 290 eligible payments, which includes payments deferred by economic hardship deferment, the borrower must meet 10 more months of qualifying payments or economic hardship deferment to reach the 300-month requirement before qualifying for loan forgiveness.

Example 2: The borrower makes his first qualifying payment in July 2009. Occasionally, he doubles up on payments and in January 2034 he has made 300 qualifying payments. The borrower must continue to make payments or qualify for a deferment or forbearance until July 2034 at which time he is eligible for forgiveness.

Q9. There seems to be a conflict in §682.215(f)(3) of the October 23, 2008 Final Rule between the 25-year period start-date for Consolidation loans made before July 1, 2009, sub-paragraph (i), and those made after July 1, 2009, sub-paragraph (iv). When does the 25-year forgiveness period start for Consolidation loans made on or after July 1, 2009, on the date the borrower makes a payment on the Consolidation loan or on the date the borrower qualifies for IBR?

A9. The Department has stated that the phrase “after qualifying for the income-based repayment plan” is a technical error and will be removed as a technical correction. Any qualifying payment made on the Consolidation loan that meets the requirements in §682.215(f)(1) counts toward forgiveness, not just those qualifying payments made after the borrower qualifies for IBR. [Note: The technical correction to §682.215(f)(3)(iv) was made in the November 1, 2012 Final Rule]
Q10. Do accumulated partial payments that total a PFH, Standard-Standard, or Permanent-Standard payment amount count toward forgiveness? For example, the borrower has a PFH/Standard-Standard / Permanent-Standard payment of $100, and the borrower makes multiple $50 payments.
A10. Yes. As is the case for partial payments made today under other repayment plans, partial payments made under an IBR plan may accumulate and apply toward forgiveness.

Q11. Are reduced monthly payments agreed to by the borrower and the loan holder, such as those made under a reduced-payment forbearance, either before, during, or after IBR, considered qualifying payments for the IBR forgiveness provision?
A11. Scheduled monthly payments made prior to the borrower entering IBR and scheduled monthly payments made after the borrower completely exits IBR must be no less than the Standard-Standard monthly payment amount or based on a 10-year standard repayment plan to qualify for forgiveness. Based on guidance from the Department, scheduled monthly payments made under the umbrella of the IBR plan, i.e., the PFH payment amount (including $0 monthly payments) or a payment that is equal to the Permanent-Standard payment amount while the borrower remains in IBR (a borrower cannot be required to pay more than the Permanent-Standard amount while in IBR), count toward the number of monthly payments required to qualify for forgiveness.

Q12. Does the period of administrative forbearance found under §682.211(f)(13) run concurrently with the 60-day claim filing period found in §682.215(g)(1)?
A12. No, they are separate periods. If the loan holder determines borrower does not qualify for IBR loan forgiveness during the 60-day administrative forbearance period, collection activity would resume upon expiration of the 60-day period or earlier upon determination of ineligibility. The 60-day claim filing period in §682.215(g)(1) does not begin until the loan holder’s date of determination of the borrower’s qualification for forgiveness.

Q13. Is the loan holder allowed to suspend collection activity on a borrower, or any endorser, from the date the loan holder determines that a borrower qualifies for IBR loan forgiveness?
A13. Yes. To comply with the notice to the borrower in §682.211(f)(13), a loan holder must suspend collection activity on a loan from the loan holder’s date of determination of the borrower’s qualification until the loan is forgiven or until a new payment due date is established. In accordance with §682.215(g)(6), this period would be covered by forbearance if the guarantor does not pay the forgiveness claim. This is also consistent with other claim filing processes.

Q14. Does the forbearance in §682.211(f)(13) and §682.215(g)(6) cover the same time frame?
A14. Not always. The forbearance in §682.215(g)(6) could only retroactively cover the same 60-day period of forbearance in §682.211(f)(13) if the loan did not resume repayment after the 60-day administrative forbearance expired, the claim was filed before the administrative forbearance expired, and the claim was subsequently denied.
Q15. If a borrower requests and is granted an economic hardship deferment that includes any period of time that equals 3 full years on or after July 1, 2009, and never requests the IBR plan, will the borrower’s loan qualify for forgiveness after 25 years of combined deferment and payments assuming a balance remains? Must the borrower request IBR or does an economic hardship deferment act as that request?

A15. §682.215(f)(1) states that in order to qualify for forgiveness, "the borrower must have participated in the income-based repayment plan" and then satisfied one of the following conditions, of which economic hardship deferment is one. Economic hardship deferment in and of itself does not qualify the borrower for potential forgiveness.

Q16. For periods of economic hardship deferment to count toward 300 payments, must the deferment cover an entire month? For example, the deferment is 6 1/2 months long. Does it count for 6 months or 7 months?

A16. It depends on how many payment due dates the deferment covered.

Q17. If a borrower qualifies for an economic hardship deferment (EHD) on May 1, 2009, would July 2009 through April 2010 months in EHD count towards the 300 qualifying payments?

A17. Yes, these payments would count.

Q18. Regarding forgiveness payments, would a lender/servicer use the 1099 form to report to the IRS and would the current $600 or greater be applicable?

A18. As of the date of this version of the Implementation Guide, any amount forgiven may be taxable for the borrower. Who actually reports the amount of forgiveness has not been made clear. The lender is not the one forgiving the amount as the lender is made whole.

Q19. When "counting" payments towards forgiveness, are the payments counted when made or when satisfied? For example; a borrower who is delinquent in May & June makes his full payment to become current in July 2009, does this count as one payment or two?

A19. The lender/servicer would essentially count the number of full installments that were satisfied by the payment, even if some of those installments were paid late. In this example, the borrower would be credited for two payments and two months satisfied.

Q20. With forgiveness, do payments made under an income-sensitive repaying plan count?

A20. The payments made under an income-sensitive plan can count as long as the payment amount is not less than the Standard-Standard payment. [Note: See the November 1, 2012 Final Rule effective July 1, 2013, that provides technical corrections regarding what types of payments qualify for IBR forgiveness.]

Q21. If a borrower had made 300 payments over 25 years, what are some reasons forgiveness will be denied?

A21. This is difficult to determine at this time. Generally, the denial by the guaranty agency will probably be the result of a servicer error in determining forgiveness eligibility such as non-qualifying payments.
Q22. What happens if the lender does not request the forgiveness payment from the guaranty agency within the required 60-day time frame?
A22. The interest that accrues on the discharged amount after the expiration of the 60-day filing period is ineligible for reimbursement by the Secretary, and the servicer must repay all interest and special allowance received on the discharged amount for periods after the expiration of the 60-day filing period, and is not able to collect any interest from the borrower that is not paid by the Secretary.

Q23. Who ends up paying the forgiveness claim; lender, guaranty agency, or Department?
A23. The guaranty agency will pay the lender. Then the Department will pay the guaranty agency.

Q24. When a default, bankruptcy or TPD claim is paid, must the guarantor capture the IBR fields at claim time and store them so that these amounts can be forwarded to the new loan holder either at the point of rehabilitation, repurchase and/or assignment to the Department (Subrogation)?
A24. Yes. For purposes of loan forgiveness, the eligible payments made by the borrower must be reported by the loan holder on the claim form, stored by the guarantor, and then forwarded to the new loan holder, if applicable. [Note: See Section XI: Forms Q&As for additional information]

Q25. If a borrower resolves a default by consolidation vs. rehabilitation, do prior payments made with the lender also count toward the 25-year payment period?
A25. No, when consolidating, the 25-year clock starts over.

Q26. If a borrower is in default and is starting the rehabilitation process with a collection agency after July 1, 2009, can the payments made to the collection agency be counted towards IBR?
A26. No; only the payments subsequently made to the rehabilitation lender will count. [Note: See the November 1, 2012 Final Rule effective July 1, 2013, that provides a technical correction regarding what types of payments qualify for IBR forgiveness and specifically excludes payments made while the loan is in default (rehabilitation payments would not count)].

Q27. Will the interest that has accrued on the loan also be forgiven after 25 years?
A27. Yes, any outstanding accrued interest will be forgiven.

Q28. Does Public Service Loan Forgiveness (PSLF) apply to both FFELP and FDLP loans?
A28. No. Only FDLP loans are eligible for PSLF. However, if a borrower consolidates his or her FFELP loans and is employed by certain public service organizations, the payments made on the new Direct Consolidation loan may qualify for PSLF.
**Section V: Deferment and Forbearance Q&As**

**Q1.** Must a loan holder send a separate notification to a borrower and any applicable endorser when administrative forbearance is used to cover a period of delinquency prior to granting IBR?
**A1.** As with all administrative forbearances, notification to the borrower and any applicable endorser is required.

**Q2.** Can the borrower receive a deferment or forbearance while under the IBR umbrella?
**A2.** Yes, a borrower under the IBR “umbrella” may receive deferment or forbearance, if otherwise eligible.

**Q3.** If the borrower requests and receives a deferment or a forbearance while the borrower is currently under PFH, does the repayment plan automatically revert back to PFH if there is any time remaining under the annual certification period or does it convert to a Permanent-Standard repayment plan after the deferment or forbearance ends, in which case the borrower would need to re-request PFH payments?
**A3.** The Department clarified on July 3, 2013, that a borrower repaying under IBR does not trigger a loss of PFH and the associated capitalization of unpaid accrued interest by entering a deferment or forbearance period. Any period of PFH and deferment runs simultaneously (but independently) and all applicable IBR and deferment/forbearance notices are still expected.

**Q4:** Under the November 1, 2012 Final Rule (77 FR 66088), effective July 1, 2013, if the borrower receives a deferment or forbearance while in PFH, and the deferment or forbearance extends beyond the end of that annual PFH payment period, must the lender/servicer still send the borrower an annual renewal notice?
**A4:** Yes, the lender/servicer is expected to send the borrower an annual renewal notice. The lender/servicer may not wait until the deferment or forbearance period ends.

**Q5.** May the administrative forbearance in §682.211(f)(14) be used to cover a period of delinquency prior to the borrower entering only IBR?
**A5.** This administrative forbearance is not limited to a period of delinquency prior to the borrower entering into just the IBR plan. It may be used for any delinquency that exists prior to the borrower entering into any type of repayment plan.

**Q6.** May the administrative forbearance under §682.211(f)(14) be used when a borrower is delinquent at the time of any of the repayment term changes under the IBR umbrella, including, but not limited to, situations such as PFH status end (with conversion to Permanent-standard), recertification of PFH status, and changes in the IBR payment amount?
**A6.** Prior to the November 1, 2012 Final Rule, it was believed that the administrative forbearance under §682.211(f)(14) could be granted for any payment change under the IBR umbrella. Per the November 1, 2012 Final Rule (77 FR 66088), the administrative forbearance provided under §682.211(f)(14) could no longer be used for any delinquency that existed at the time of any payment changes under the IBR plan. However, a new administrative forbearance provided under §682.211(f)(16) can be granted under the IBR umbrella only if the borrower –
In this latter situation, the interest accrued from the end of the most recently expired PFH period to the end of the administrative forbearance period **may not** be capitalized.

**Q7.** Can a borrower enter into deferment/forbearance after leaving IBR?

**A7.** Yes.

**Q8.** Can a graduate student request to end his or her in-school deferment on a Grad PLUS loan and get under the IBR umbrella before graduation on those particular loans?

**A8.** Yes.

**Q9.** Can interest be capitalized at the end of a forbearance or deferment during non-PFH periods while in IBR?

**A9.** Yes, normal capitalization rules apply in these instances. [*for more Q&As on capitalization, see Section VI: Capitalization*]

**Q10.** If a student is in IBR and returns to school, would he or she be advised to request an in-school deferment but continue to make payments in order to reach 300 payments in 25 years?

**A10.** If a borrower enters into a deferment period, other than the economic hardship deferment, and payments are made, such payments would not count toward forgiveness. However, if the borrower requests that those payments be applied as prepayments to cover the payments due after the deferment period, the payments may qualify if such payments still meet the criteria for qualifying forgiveness payments as explained in Section IV, Loan Forgiveness Q&As.

**Q11.** If a borrower enters Expedited-Standard and can’t afford the one monthly payment required on this plan, can he or she request a forbearance to serve as the one monthly installment before choosing a different plan?

**A11.** Yes, prior to the November 1, 2012 Final Rule; however, the lender/servicer had to bill the borrower for one Expedited-Standard payment and the borrower had to either make or forbear that expedited payment. Upon implementation of the November 1, 2012 Final Rule (77 FR 66088) (but no later than July 1, 2013), the borrower must make at least one payment under the Expedited-Standard repayment plan, or request and make at least one payment under a reduced-payment (other than $0) forbearance agreement on that Expedited-Standard plan.
Section VI: Capitalization Q&As

Q1. If a borrower is in a PFH period and the borrower requests a deferment or forbearance, may the loan holder capitalize unpaid interest according to the rules that apply to a deferment and forbearance?

A1. [Revised July 8, 2013 per a Department ruling]: Interest capitalization may occur only at the end of the deferment or forbearance period or at the end of the most recently certified annual payment period under PFH, whichever is later. The deferment or forbearance does not cause the borrower to exit PFH immediately. See new Q9 below for more information.

[Prior to guidance issued by the Department on July 8, 2013]: If a borrower enters into a deferment or forbearance after entering PFH, such event would cause the borrower to exit PFH. Any unpaid accrued interest is capitalized as of the date the borrower leaves PFH. Once the borrower is in a deferment or forbearance, the normal capitalization rules apply, even though the borrower is still under the IBR plan. If the deferment or forbearance ends prior to the end of the borrower’s annual PFH certification period, the loan holder may choose to use the remaining PFH certification period [See Section V: Deferment and Forbearance, Q2].

Q2. May a loan holder capitalize unpaid interest during a period of administrative forbearance authorized under §682.211(f)(13) in cases where it is necessary for a loan holder to collect and process documentation supporting the borrower’s eligibility for loan forgiveness (up to 60 days)?

A2. The regulations in §682.211(f)(13) do not expressly prohibit capitalization of the interest during this period.

Q3. May a loan holder capitalize unpaid interest during a period of administrative forbearance for a period of delinquency at the time a borrower is granted an IBR plan, which is authorized under federal regulation §682.211(f)(14)?

A3. Yes. The period of delinquency is for a time frame that precedes the time frame when a borrower is under an IBR PFH.

Q4. If the guarantor denies the IBR forgiveness request, may the loan holder capitalize the outstanding interest and resume payments on the loan?

A4. Yes, with one exception. Federal regulation §682.215(g)(6) states that the loan holder may capitalize any unpaid accrued interest in accordance with §682.202(b) if the denial was not due to an error by the loan holder. In either case, the borrower must resume payments on the loan.

Q5. Can the borrower be on IBR and a deferment at the same time, such as a school deferment?

A5. [Revised July 8, 2013 per a Department ruling]: Yes. If the borrower is on PFH when the deferment begins, he or she will remain in PFH until the end of the annual payment period and must be permitted to renew the PFH status at that time if the borrower is still eligible. The borrower may not be moved to Permanent-Standard immediately as a result of the deferment. See new Q9 below for more information.

[Prior to guidance issued by the Department on July 8, 2013]: Yes, a borrower may enter a deferment while under the IBR umbrella. Once the borrower enters a deferment, they are deemed to have left PFH. However, when the deferment ends, the borrower will still be under the IBR
umbrella, most likely in Permanent-Standard unless new paperwork has been submitted and the borrower is deemed to have a PFH.

**Q6.** Can interest be capitalized at the end of a forbearance or deferment during non-PFH periods while in IBR?

**A6.** Yes, normal capitalization rules apply in these instances.

**Q7.** For a borrower who left PFH to enter a deferment period, would there actually be two events of capitalization—one because the borrower left PFH, and one at the end of the deferment?

**A7. [Revised July 8, 2013 per a Department ruling]:** No, interest may be capitalized only once. The application of a deferment may not cause PFH to end prior to the deferment begin date, such that capitalization would be required at that time and permitted again at the end of the deferment period. The PFH status must be maintained until the end of the annual payment period, and beyond if the borrower renews it. Interest may be capitalized only at the end of the deferment period or at the end of the most recently renewed annual payment period under PFH, whichever is later. See new Q9 below for more information.

**[Prior to guidance issued by the Department on July 8, 2013]:** Yes, interest would be capitalized twice.

**Q8.** When should interest be capitalized when a borrower is still on PFH during a deferment or forbearance period, since capitalization is normally required or optional at the end of each of these periods?

**A8.** Per a Department ruling dated July 8, 2013, if the PFH and deferment/forbearance periods overlap, the interest should only be capitalized once, based on whichever capitalizing event ends last. If the PFH and deferment/forbearance periods do not overlap, interest can be capitalized at the end of each period. Consider the following examples:

a. Borrower was on PFH from 7/1/12 through 6/30/13 but did not provide renewal documentation; is also on an unemployment deferment from 4/1/13 through 12/31/13. In this case, since the last capitalizing event is the deferment, the interest should cap at the end of the deferment period only.

b. Borrower is on PFH from 10/1/12 through 9/30/13, but doesn’t continue to have a PFH, and was also on an in-school deferment from 1/1/13 through 5/31/13. In this case, since the last capitalizing event is the PFH status, the interest should cap at the end of the PFH period only.

c. Borrower was on PFH from 7/1/12 through 6/30/13 and sent in sufficient renewal documentation by 5/31/13 to extend his or her PFH status through 6/30/14. Borrower is also on a discretionary forbearance from 4/1/13 through 12/31/13. In this case, since the last capitalizing event is the renewed PFH status, the interest should cap at the end of the PFH period only (barring any further timely renewal of PFH, which would result in the capitalization occurring at the end of that new PFH period).

d. Borrower was on PFH from 7/1/12 through 6/30/13 and sent in sufficient renewal documentation, but not until 7/25/13. Borrower then received a new PFH period of 8/1/13 through 7/31/14. Borrower is also on a mandatory forbearance from 4/1/13 through 12/31/13. In this case, since the last capitalizing event is the renewed PFH status, the interest should cap at the end of the PFH period only.
e. Borrower is on PFH from 7/1/12 through 6/30/13 but is delinquent from 1/1/13. Borrower then submits a fellowship deferment for the period of 4/1/13 through 12/31/13, and the lender applies an administrative forbearance to satisfy the payments due from 1/1/13 through 3/1/13. Borrower then fails to renew his or her PFH status beyond 6/30/13. In this case, since the last capitalizing event is the fellowship deferment, the interest should cap at the end of the deferment period only.

f. Borrower is on PFH from 7/1/12 through 6/30/13 but does not renew his or her PFH status beyond 6/30/13. Borrower then takes out a mandatory forbearance from 7/1/13 through 6/30/14. In this case, the interest must be capitalized upon the expiration of the PFH status and can be capitalized again at the end of the forbearance period.
Section VII: IBR Eligibility Documentation and Verification Q&As

Note: On June 12, 2009, the Department posted an Electronic Announcement providing for Interim Guidance on the use of tax return copies in lieu of the 4506-T transcript process. On June 29, 2009, the Department provided additional guidance regarding the required signatures on the tax return copies. [See Section XII for Q&As regarding the interim guidance]

Note: On April 13, 2012, the Department posted an Electronic Announcement that permits lenders or servicers to accept an unsigned copy of the borrower's tax return, unless the lender or servicer has questions about the validity of the copy of the tax return submitted by the borrower. See Section XII for more information. Some of the answers in this Section may be superseded by this Interim Guidance.

Note: On January 11, 2013, the Department informed the community of Federal Student Aid's readiness to work with all FFEL lenders and lender servicers and assist them in becoming participants in the Electronic IBR application process that provides a direct link to the borrower’s AGI information from the IRS. In September 2013, the Department submitted an updated SAIG Enrollment Form that will allow FFELP lenders and servicers to enroll for the ability to obtain electronic applications information through SAIG.

Note: The following Q&As are based on the IRS Form 4506-T as it is used today. In the future, the IRS may require a revised/new form for this authorization. Also, a better process may be developed as the industry and the IRS gain experience in the IBR process. On October 21, 2009, the IRS issued a new short form 4506T-EZ that may be used instead of the form 4506-T if the taxpayer filed a 1040 series return. In addition, the Income Verification Express Service (IVES) process was improved in August 2012, and this guide has been updated to reflect the changes. [See Section VIII for more information.]

Q1. If a borrower has loans under an IBR plan, and subsequently obtains new loans, may the loan holder automatically add the new loans to the existing IBR plan or must the loan holder provide the borrower an option to repay the new loans under another repayment plan?

A1. [Revised by November 1, 2012 Final Rule]: Yes. Under the changes made by the November 1, 2012 Final Rule, borrowers who have requested IBR are required to repay all new eligible loans under an IBR plan, so the lender must add those loans to the IBR plan.

[Prior to November 1, 2012 Final Rule]: No. Since a loan holder must provide the borrower a repayment disclosure not less than 30 days, and no more than 150 days before repayment starts on the loan(s) [$682.205(c)(1)] and the repayment disclosure must provide all repayment options [§682.205(c)(2)] a borrower would have to contact the loan holder and select IBR for any new loans initially entering repayment. The possible scenarios are as follows:

1. Borrower does not contact loan holder before repayment on the new loan(s) begins or fails to submit required IBR paperwork in order to determine PFH eligibility. The loan holder is required to disclose under a standard repayment plan. A borrower may request that the new loan(s) be added to IBR at a later date upon the loan holder’s determination that the borrower qualifies for IBR using PFH eligibility guidelines.
2. Borrower contacts the loan holder to request IBR on the new loan(s) and the current loans are in PFH IBR. The loan holder can add the new loan(s) to IBR. For the new loan(s), the loan holder should re-review the multiple-holder proration, and must calculate a Standard-Standard and Permanent-Standard payment amount and set counters as of the IBR start date or the date the new loan(s) enter IBR. The PFH payment would be allocated across all loans in IBR. All loans may be re-certified at the end of the current PFH period or as of the certification period.

3. Borrower contacts loan holder to request IBR on the new loan(s) and the current loans are in Permanent-Standard IBR. The borrower must submit an application to qualify the new loan(s) for IBR using the PFH eligibility requirements. If the borrower qualifies for PFH, then the new loans would qualify for IBR and all loans would be in PFH IBR. The loan holder should re-review the multiple-holder proration, and must calculate a Standard-Standard and Permanent-Standard amounts for the new loan(s) and set the counters on the new loan(s) as of the IBR start date or the date the new loan(s) enter IBR. The PFH payment is allocated across all loans in IBR. All loans may be re-certified at the end of current PFH period or as of the certification period.

4. If the borrower does not qualify for PFH, then the new loan(s) do not qualify for IBR, and must continue in the repayment plan selected by the borrower or a standard repayment plan if the borrower failed to select a repayment plan. The loan holder may try to qualify all loans for IBR using PFH eligibility guidelines at a future date or at the IBR re-certification date as requested by the borrower.

Q2. If the borrower has loans not currently included in an existing IBR plan and elects IBR for a new loan(s) or loan(s) not previously included in IBR do the borrower’s PFH payment, Standard-Standard and Permanent-Standard amounts have to be re-calculated?

A2. No. The Standard-Standard and Permanent-Standard payment amounts are maintained at a loan level. The Standard-Standard and Permanent-Standard payment amounts for the existing loans would remain the same. The loan holder must re-review the multiple-holder proration, and must calculate a Standard-Standard and Permanent-Standard amounts for the new or added loan(s) and set the counters on the new loan(s) as of the IBR start date or the date the new loan(s) enter IBR. The PFH payment would be allocated across all loans in IBR.

Q3. If the borrower has any loan(s) currently not included in an existing IBR plan and subsequently elects IBR for any loan(s) not previously included in IBR, must the borrower submit new PFH documentation and may the loan holder use this documentation to restart the annual re-certification period on all loans?

A3. The possible scenarios are as follows:

1. If the existing loans are in PFH IBR, the loan holder may elect to use the existing PFH documentation to add the new loan(s) to the IBR plan for the remaining amount of time in the PFH period. For the new loan(s), the loan holder should re-review the multiple-holder proration, and must calculate Standard-Standard and Permanent-Standard payment amounts and set counters as of the IBR start date or the date the new loan(s) enters IBR. The PFH payment would be allocated across all loans in IBR. All loans may be re-certified at the end of the current PFH period or as of the certification period.

2. If the existing loans are in Permanent-Standard IBR, the borrower must submit IBR documentation to qualify the new loan(s) for IBR using the PFH eligibility requirements. If the borrower qualifies for PFH, then the new loan(s) would qualify for IBR and all loans would be in PFH IBR. The loan holder should re-review the multiple-holder proration, and must calculate Standard-Standard and Permanent-Standard amounts for the new loan(s) and set the counters on the new loan(s) as of the IBR start date or the date the new loan(s) enters IBR. The PFH payment
is allocated across all loans in IBR. All loans may be re-certified at the end of current PFH period or as of the certification period.

Q4. A borrower is applying for IBR in February 2013 and has not yet filed her 2012 tax return. Can she use the Adjusted Gross Income (AGI) from her 2011 tax return?

A4. Yes. Section 4, #8 on the “Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request” form (expiration date of 11-30-2015), allows the borrower to provide a tax return from either of the two most recently completed tax years. However, the form also allows the borrower to provide alternative documentation of income if the borrower’s current income is significantly different than the income used to determine the Adjusted Gross Income (AGI) that was reported to the IRS on the 2011 tax return.

Q5. Is it permissible to have the borrower send his or her tax forms (W-2, tax return, 1099, etc.) directly to the loan holder rather than asking for written consent for disclosure of AGI and other tax return information (a tax return transcript) by the IRS to the loan holder?

A5. [Revised by November 1, 2012 Final Rule]: The November 1, 2012 Final Rule revised the regulations to allow the loan holder to accept any form of documentation of the AGI that is acceptable to the loan holder. The 4506-T authorization and direct reporting from the IRS is no longer required. In addition, the borrower may indicate to the loan holder that the AGI as reported to the IRS and/or supplied on the documentation is no longer reflective of the borrower’s current income and may provide alternative documentation of income.

[Prior to November 1, 2012 Final Rule]: §682.215(e) stated that the borrower must provide written consent to disclose tax information by the IRS to the loan holder. The borrower provided consent by signing an approved IRS form, such as IRS Form 4506-T. Upon receiving the borrower’s signed consent, the loan holder submitted the consent to the IRS. The IRS returned to the loan holder, as indicated on the borrower’s signed consent form, a transcript of the borrower’s tax return for the years requested and/or confirmation that the borrower has not filed a tax return for the years requested. The loan holder could have obtained alternative documentation to determine IBR using PFH eligibility requirements when:

- No transcript was available from the IRS; or
- If the borrower indicated and/or the loan holder believed that the borrower’s circumstances changed, making the IRS reported AGI no longer an indicator of the borrower’s current income.

Q6. If a borrower qualifies for PFH in July but the paperwork is not completed until August, does the lender/servicer enter the effective date of July or August?

A6. The lender/servicer won’t know if the borrower qualifies for a PFH until the paperwork is completed, so an effective date of August should be used.

Q7. Would a loan holder be "required" to use NSLDS for loan verification or can the loan holder follow current procedures similar to the extended repayment plan where the borrower needs to send in proof of other loans from other loan holders to qualify?

A7. The Department provided a preamble comment to the October 23, 2008 final rules stating that loan verification for purposes of IBR was an acceptable use of NSLDS. However, the loan
holder would not be required to use NSLDS for this purpose and may require the borrower to provide documentation of other loans.

Q8. Must a loan holder include the income of a borrower’s spouse when determining the borrower’s PFH?
A8. If the borrower and the borrower’s spouse file a joint tax return, the spouse’s income would be included. If the borrower and the borrower’s spouse file separately, the spouse’s income would not be included.

Q9. For purposes of a Grad PLUS loan, at what point does the loan holder calculate the Standard-Standard payment amount when the borrower elects to defer repayment while in school?
A9. A Grad PLUS loan enters repayment on the date of the final disbursement. The Standard-Standard payment amount is calculated at that point in time.

Q10. Are the Standard-Standard and Permanent-Standard payment amounts subject to the $50 minimum monthly payment provision, even if the borrower’s actual payment is less due to an agreement with the borrower?
A10. Yes. The Standard-Standard and Permanent-Standard payment amounts are subject to the $50 minimum because neither the regulations nor the statute exclude these payment amounts from the applicable minimum. The Department has stated that only the PFH payment amount is exempt from the $50 minimum payment requirement.

Q11. What interest rate does the loan holder use when calculating the Standard-Standard and Permanent-Standard payment amounts on a variable rate loan, the current rate or the maximum rate?
A11. Loan holders and servicers should continue to use the same interest rate they use when calculating payments under other plans when calculating the IBR payment amounts. Please note that once the Standard-Standard and Permanent-Standard payment amounts are calculated, they would not change, based solely on interest rate changes.

Q12. For borrowers who have loans in multiple statuses, how does a loan holder determine eligibility for PFH when not all loans have yet entered repayment? For example, one borrower may have a variety of loans that are in grace, deferment, and repayment status at the same time.
A12. To determine PFH eligibility, the loan holder must use the annual amount due on all of a borrower’s eligible loans. While all of the borrower’s loans may be an eligible type for purposes of the IBR plan, in some statuses they do not yet have an established payment amount due. Systems handle the establishment of repayment terms differently. Loan holders should process the IBR repayment plan request similar to processing existing repayment plan requests. If the loan holder’s system would allow a loan to be included in the IBR repayment plan, that loan can be included in the PFH calculations.
Q13. If loans are on the IBR plan at the time the loans are transferred to another holder (i.e., PUT to the Department, sold to another lender, transferred to claim, etc.) and some of the borrower’s loans will not be transferred, must the holder adjust the PFH amount immediately after the transfer or wait until the next annual certification? For example, if the PFH amount on the loans remaining now falls into the $5 or $10 tolerance, does the holder adjust the payment amount accordingly?

A13. The lender/servicer is not required to adjust the allocation of the PFH payment amount at the time the loan(s) is transferred. The next renewal will cause the PFH payment to be allocated to the remaining loans. It should be noted that in the case of transfer due to claim payment for default, the defaulted loans should not be used in the next annual determination of PFH eligibility. This situation may have to be carefully monitored for purposes of Public Service Loan Forgiveness requirements.

Q14. Many married borrowers have asked holders to provide them with guidance as to whether the borrower should file their income tax return separately in order to qualify for IBR. Should holders be giving such advice?

A14. The borrower should consult his or her own tax accountant because each borrower’s situation is different. There are some tax benefits that would be forgone by the borrower if he or she files separately (such as the deduction for student loan interest). The borrower will need to make a determination as to which filing status provides the most benefit taking into account his or her particular situation.

Q15. How does a holder or servicer use NSLDS to obtain the information needed on loans held by other holders?

A15. To find the information on NSLDS for the loans held by other holders, a holder or servicer should follow these steps:

1. Log into NSLDS: [https://www.nsldsfap.ed.gov/nslds_FAP/default.jsp](https://www.nsldsfap.ed.gov/nslds_FAP/default.jsp)
2. Enter the borrower’s SSN, First Name and Date of Birth in the applicable fields on the NSLDS Menu screen
3. Select Loan History
4. Identify the loans that have an outstanding principal balance (OPB)
5. Loan by loan choose:
6. Loan Detail
7. Under Details for Loan, make note of the Loan Type
8. Under Details for Loan, make note of the Original Interest Rate (if variable, you need to determine the original rate based on loan type, disbursement date, and the date the loan entered repayment)
9. Under Amounts for Loan, select the H next to Outstanding Principal Balance
10. When you see the status code change from IG (in grace) to RP (repayment), make note of the:
   a. Outstanding Principal Balance (Original Balance)
   b. Outstanding Principal Balance Current (Current Balance)
   c. Outstanding Interest Balance
   d. The date the loan entered repayment (RP)
   e. If the loan is unsubsidized you may need to add the Current Balance and Outstanding Interest together at the time of RP to get the balance after interest capitalized or check the next monthly reporting to get the new balance.
Q16. How does the loan holder identify the amount of interest capitalized on NSLDS in the case of a late notification of separation situation?

A16. The loan holder would use its best efforts to determine the balance outstanding at the time the loan initially enters repayment. If the loan holder is unable to identify a late-notification situation on NSLDS, the loan holder would use the balance and interest reported on the date the loan entered repayment. If this amount does not qualify the borrower for PFH, the loan holder may ask the borrower to supply documentation of the balance at the time the loan was placed in repayment based on the late notification.

Q17. What steps should a loan holder take to determine a borrower’s AGI when a borrower works and earns money in a foreign country?

A17. U.S. citizens working and earning money in a foreign country must still file an IRS tax return, either 1040 or 1040 EZ. Loan holders can continue to request either copies of a borrower’s tax return or the IRS Form 4506-T. However, if the borrower indicates that he or she has not filed a recent IRS tax return, the loan holder may accept pay stubs or other alternative documentation to determine estimated gross income and, as necessary, convert the earnings into U.S. dollars. The following are links to currency exchange calculators:

http://www.oanda.com/currency/converter/

http://www.xe.com/ucc/

Q18. Please explain how the family size is determined for a borrower who files married/separate, and has dependent children. For example, if a borrower reports a family size on the IBR application that is larger than was reported on his tax forms, how does the lender determine the correct family size?

A18. Family size is self certified on the IBR application regardless of how the borrower(s) filed his or her taxes. This position was further verified by the Department as a result of an audit finding and a response from the Department during the development of the new “Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request” form with the expiration date of 11-30-2015. The Department stated in their response to a comment made by the IBR Workgroup in regard to self-certification of family size: “As to the issue with the auditor, the Department believes that the family size field is a self-certification field that the loan holder is not required to reconcile every different [sic] between the number of exemptions claimed on the borrower’s tax return and the family size certified. The Department is currently working with its auditing team to better explain the family size requirement.”

Q19. For purposes of determining IBR eligibility, how is the AGI determined for married borrowers who live in a community property state and file their tax returns separately.

A19. Married borrowers who file separate tax returns and live in a community property state may be disadvantaged because they are required, as a general matter, to pool community property income and split it equally between them when they file their taxes separately. Therefore, if the borrower indicates that the AGI reported on his/her separate Federal tax return does not reflect the borrower’s actual income due to this situation, the lender/servicer may accept alternative documentation of income to determine IBR eligibility. The loans of the spouse may not be considered in determining IBR eligibility in this situation. [Federal Register dated November 1, 2012, Final Rule, p. 66112; HEA Section 493(a)(3)(B)(i) and §682.215(e)(1)(iii)(B)]
Q20. If the income information indicates the borrower is no longer eligible for a PFH, what action does the lender/servicer need to take?
A20. The loan(s) would be converted to the Permanent-Standard payment amount and any unpaid accrued interest should be capitalized.

Q21. If a borrower who has not yet entered repayment must be placed on the standard repayment plan because he or she does not submit IBR documentation, does this mean that the borrower is already placed on the IBR plan before eligibility for IBR is verified?
A21. No. Eligibility for IBR cannot be determined until the required income documentation is received and processed. If the borrower does not submit the IBR income documentation before the end of the grace period, the borrower will be placed in the standard repayment plan.

Q22. If a borrower in repayment on any other type of repayment plan requests IBR but does not submit the required income documentation, does this mean that the borrower is placed on the IBR plan before eligibility for IBR is verified?
A22. No. Eligibility for IBR cannot be determined until the required income documentation is received and processed. Therefore, the borrower would remain in their current repayment plan.

Q23. Please clarify how a borrower’s repayment term is affected while in IBR; i.e., when does term freeze, when does it decrement? Is the remaining term calculated for the Expedited-Standard payment based on the term remaining prior to entering IBR or post IBR? If it is post IBR, what if the borrower used up the 10-year term?
A23. [Revised by November 1, 2012 Final Rule]: The term does not freeze while in IBR. However, see the November 1, 2012 Final Rule effective July 1, 2013, that now requires at least one payment to be made on the Expedited-Standard repayment plan, but may be made under a reduced-payment (other than $0) forbearance agreement. This may allow such a borrower to move to another repayment plan.

[Prior to July 1, 2013]: The term does not freeze while in IBR. If the borrower elected to leave IBR and had used the entire 10-year term, Expedited-Standard would require the borrower to pay the remaining balance in full.

Q24. Please address what obligation the borrower has, when FIRST applying for IBR, to disclose and supply alternative documentation if his/her prior year tax information is not representative of current circumstances, e.g., last year’s tax return had no income while in-school, but now the borrower has a full-time job with steady income.
A24. [Revised by November 1, 2012 Final Rule]: See the November 1, 2012 Final Rule effective July 1, 2013, and the “Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request” form with the expiration date of 11-30-2015 for the new process to allow a borrower to self-certify that the borrower’s AGI does not reflect his current circumstances and provide alternative documentation.

[Prior to July 1, 2013]: It was the lender’s discretion to make a determination, based on the dynamic described here (for example), that the prior year’s AGI was not reflective of the borrower's current income, and the lender could require the borrower to provide more current, alternative documentation.
Q25. Can a borrower self-certify that he or she had zero income during the past year?
A25. Yes. The Department clarified in an electronic announcement dated June 12, 2009 that the lender may accept a borrower’s written certification that no tax return was or will be filed. However, if the lender has reason to question such a claim, it must require the borrower to obtain IRS documentation that no tax return was filed. See the November 1, 2012 Final Rule effective July 1, 2013, and the “Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request” form with the expiration date of 11-30-2015 for the new process to allow a borrower to self-certify that the borrower has no taxable income.

Q26. Many Puerto Rican residents are not required to file a Federal Income Tax Return. How will AGI be determined?
A26. If a borrower is not required to file a tax return with the IRS, the borrower is permitted to provide alternative income documentation to qualify for PFH/IBR.

Q27. Are there any provisions in IBR that would allow someone who worked last year and had income but is NOT working during the period in which the borrower is required to start making payments, that looks at CURRENT or PROJECTED income?
A27. In this instance the borrower is permitted to submit alternative documentation to support the change in income status.

Q28. In the event a lender is willing to look at future income when determining payments under IBR, what kind of documentation might the lender accept in lieu of tax return from the previous year?
A28. Based on the regulations, lenders/servicers cannot look at future income when determining PFH eligibility. A lender/servicer must first try and obtain the AGI from the most recent tax year in order to qualify the borrower under PFH/IBR. See the November 1, 2012 Final Rule effective July 1, 2013, and the “Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request” form with the expiration date of 11-30-2015 for the new process to allow a borrower to self-certify that the borrower’s AGI does not reflect his current circumstances and provide alternative documentation.

Q29. What proof of income is used if a borrower is not required to file taxes?
A29. The borrower should complete and submit the form along with supporting documentation. Examples of alternative documentation include but are not limited to: pay stubs, letter from employer, interest or bank statements, dividend statements, canceled checks. See the November 1, 2012 Final Rule effective July 1, 2013, and the “Income-Based (IBR) / Pay As You Earn / Income-Contingent (ICR) Repayment Plan Request” form with the expiration date of 11-30-2015 for the new process to allow the borrower to provide alternative documentation.

Q30. If a borrower’s situation changes, such as annual income or family size, during the 12-month period of PFH payments, may the loan holder recalculate the borrower’s PFH amount before the end of the current PFH 12-month period?
A30. [Revised by November 1, 2012 Final Rule]: If the borrower’s financial circumstances change during the 12-month period of PFH payments, the lender must recalculate the borrower’s PFH amount.
[Prior to July 1, 2013]: The Department has stated that a lender may recalculate a borrower’s payment prior to the required annual evaluation. The Department also stated that such a recalculation resets the borrower’s anniversary date for annual reevaluation.

Q31. IBR requires the borrower’s income to be verified “annually.” Does that mean the first of each year, or on the anniversary date of going into IBR?
A31. Annually, based upon the borrower’s anniversary date established by the lender/servicer.

Q32. Is the lender required to request annual recertification or is it the responsibility of the borrower? If the borrower does not recertify, when does the lender return the borrower to the standard payment plan? 30 days, 45 days, etc.
A32. It is the lender’s responsibility to request / notify the borrower of the annual recertification for PFH determination as long as the borrower is under the IBR umbrella. If the borrower does not provide updated income information then the borrower reverts to or continues to make the Permanent-Standard payment amount.

Q33. Is there a deadline for a borrower to submit annual documentation of AGI and family size?
A33. Yes. Borrowers are notified by their lender/servicer of the specific deadline for submitting the income information. There is an additional 10-day window following the specified annual deadline date to allow for mail time. Borrowers are not subject to any adverse consequences if their income information is received by the end of the additional 10-day window. [Federal Register dated November 1, 2012, Final Rule; §682.215(e)(3); §685.221(e)(3)]

Q34. How does a lender/servicer establish the deadline date and at what time does the lender/servicer send the annual renewal notice?
A34. The deadline date must be no earlier than 35 days before the end of the annual payment period. This will allow the lender/servicer to build in the amount of time it needs for processing and the additional 10-day mail time window. No earlier than 90 days and no later than 60 days before the deadline date established, the lender/servicer must send the annual renewal notice to the borrower. [Federal Register dated November 1, 2012 Final Rule; §682.215(e)(3); §685.221(e)(3)]

Q35. What happens if the borrower meets the deadline, but the lender/servicer isn’t able to process the application before the end of the annual payment period?
A35. The lender/servicer must maintain the borrower’s current monthly PFH payment amount until the new payment amount is determined. The lender/servicer must prevent the conversion to Permanent-Standard repayment. Once the lender/servicer is able to determine the new payment amount (PFH if borrower continues to qualify, Permanent-Standard if not), the lender/servicer makes appropriate adjustments (see July 17, 2012 NPRM preamble p. 42106) to the account if the new payment is less than the previous PFH payment. [Federal Register dated November 1, 2012 Final Rule; §682.215(e)(8); §685.221(e)(8)]
Q36. What happens if a borrower fails to provide the annual renewal information by the deadline plus the additional 10-day window?

A36. If the lender/servicer is unable to determine the borrower’s new monthly payment amount before the end of the borrower’s current annual payment period, the borrower’s loan(s) will be converted to the Permanent-Standard payment and any unpaid interest will be capitalized. [Federal Register dated November 1, 2012 Final Rule; §682.215(e)(7); §685.221(e)(7)]

Q37. If a borrower, who is currently under PFH, does not submit the required annual PFH certification documentation for PFH in a timely manner, the loan holder will capitalize interest and put the borrower on the Permanent-Standard schedule. Later, the borrower submits the documentation needed to qualify the borrower again for PFH. (Keep in mind that this could happen when the borrower is very delinquent.) Does the loan holder need to retroactively process the PFH to cover the missed payments and reverse the capitalized interest or does it apply to future payments only?

A37. [Revised by November 1, 2012 Final Rule]: The November 1, 2012 Final Rule revised the regulations to clarify that in this case, the new annual certification does result in a new annual payment period. The Final Rule also revised the regulations to provide for an administrative forbearance in §682.211(f)(16) for any prior delinquency under the IBR “umbrella” if all of the following are met: 1) borrower was untimely in providing renewal documentation, 2) conversion to Permanent-Standard has occurred, and 3) the new PFH payment amount is $0 or less than the prior PFH payment amount. Any unpaid interest attributable to the period of the administrative forbearance that falls after the date the conversion to Permanent-Standard occurred may not be capitalized. The amount of interest capitalized at the time of conversion to Permanent-Standard may remain capitalized. The administrative forbearance at §682.211(f)(14) may no longer be used within the IBR “umbrella”.

[Prior to November 1, 2012, Final Rule]: The loan holder was not required to retroactively process the new PFH documentation. The loan holder should have granted the new annual certification period prospectively with the new certification, and could have covered any delinquency under the administrative forbearance provided for repayment plan changes.

Q38. What must the annual renewal information consist of and what items are absolutely needed by the end of the 10-day additional window?

A38. The annual renewal information includes documentation of the borrower’s income and family size. Documentation of income may be a copy of the tax return, or other documentation of AGI acceptable to the lender/servicer, or may be alternative documentation of income. If the family size is the only information that is not received in a timely manner, the lender/servicer will assume a family size of one, which may result in a higher PFH payment or ineligibility for continued PFH. [November 1, 2012 Final Rule; §682.215(e)(3); §685.221(e)(3)]

Additional requirements for married borrowers: If the borrower is married and has filed his/her federal income tax return jointly with his/her spouse, the documentation requirements and family size process are the same as above, except that:

- Documentation of the spouse’s income must be provided as well, through documentation of their joint AGI or, if applicable, alternative documentation of income, and
• If the spouse also has IBR-eligible student loans, those loans may be considered in determining PFH eligibility. If the lender/servicer does not also service at least one of the spouse’s loans, then the borrower must ensure that the spouse’s loan information is provided to the lender/servicer, either by having the spouse provide authorization and access for the lender/servicer to view the spouse’s loan information on NSLDS, or by providing other documentation of the spouse’s loans acceptable to the lender/servicer. [§682.215 (e)(1)(iii)]

Q39. Please give examples of when a borrower would elect to leave IBR.
A39. If the borrower wishes to enter into a different repayment plan such as extended repayment that would allow for a longer repayment term. Also, a borrower may have a smaller payment under their remaining original term on a Consolidation loan than the Permanent-Standard payment amount.

Q40. Can a borrower that left IBR come back at a later time and request it again?
A40. Yes, but the borrower must have a PFH to qualify for IBR. Borrowers who leave the IBR umbrella altogether cannot later opt directly back into Permanent-Standard.

Q41. If a borrower decides to opt out of the IBR umbrella, enters an Expedited-Standard repayment plan, and later wants to re-enter IBR, must the borrower reapply for the IBR plan and submit new documentation?
A41. Yes. The potential scenarios include:
1. A borrower wants to re-enter IBR to include the same loans that were in the IBR plan when the borrower elected to exit IBR. The borrower must qualify for IBR using PFH eligibility requirements. The loan holder would proceed as follows:
   a. The loan holder must obtain PFH documentation from the borrower.
   b. If the borrower qualifies for IBR using PFH eligibility requirements, then the borrower re-enters IBR.
   c. The loan holder should re-review the multiple-holder proration, and would not recalculate the Standard-Standard and Permanent-Standard payment amounts.
   d. The PFH payment is allocated across all loans in IBR.
   e. If the borrower does not qualify for IBR using PFH eligibility requirements, then the loans are not eligible to re-enter IBR.
2. A borrower wants to re-enter IBR to include the same loans that were in the IBR plan when the borrower elected to exit IBR, and is also requesting to add loan(s) previously not included in the prior IBR plan. The borrower must qualify for IBR using PFH eligibility requirements. The loan holder would proceed as follows:
   a. The loan holder must obtain PFH documentation from the borrower.
   b. If the borrower qualifies for IBR using PFH eligibility requirements, then the loans are eligible for IBR.
   c. The loan holder should re-review the multiple-holder proration.
   d. The loan holder does not recalculate the Standard-Standard and Permanent-Standard payment amounts for the loans previously in the IBR plan.
e. The loan holder must calculate Standard-Standard and Permanent-Standard payment amounts for the new loan(s) and set the counters on the loan(s).

f. The PFH payment is allocated across all loans.

g. If the borrower does not qualify for IBR using PFH eligibility requirements, then the loans are not eligible for IBR.

3. **[Revised by November 1, 2012 Final Rule]:** A borrower must include all eligible loans when requesting the IBR plan.

   **[Prior to November 1, 2012 Final Rule]:** A borrower wants to re-enter IBR to include fewer loans than were in the IBR plan when the borrower elected to exit IBR. The borrower must qualify for IBR using PFH eligibility requirements. The loan holder would proceed as follows:

   a. The loan holder must obtain PFH documentation from the borrower.

   b. If the borrower qualifies for IBR using PFH eligibility requirements, then the borrower resumes IBR.

   c. The loan holder should re-review the multiple-holder proration.

   d. The loan holder does **not** recalculate the Standard-Standard and Permanent-Standard payment amounts.

   e. The PFH payment is allocated across all loans in IBR.

   f. If the borrower does not qualify for PFH, then the loans are not eligible to resume IBR.
Section VIII: IRS Income Verification Q&As

Note: On June 12, 2009, the Department issued an Electronic Announcement providing for Interim Guidance on the use of tax return copies in lieu of the 4506-T transcript process. On June 29, 2009, the Department provided additional guidance regarding the required signatures on the tax return copies. [See Section XII for Q&As regarding the interim guidance]

Note: On April 13, 2012, the Department issued an Electronic Announcement that permits lenders or servicers to accept an unsigned copy of the borrower's tax return, unless the lender or servicer has questions about the validity of the copy of the tax return submitted by the borrower. See Section XII for more information. Some of the answers in this Section may be superseded by this Interim Guidance.

Note: On January 11, 2013, the Department informed the community of Federal Student Aid's readiness to work with all FFEL lenders and lender servicers and assist them in becoming participants in the Electronic IBR application process that provides a direct link to the borrower’s AGI information from the IRS. In September 2013, the Department submitted an updated SAIG Enrollment Form that will allow FFELP lenders and servicers to enroll for the ability to obtain electronic applications information through SAIG. For more information about participation in the electronic process, refer to 011113LSIPOC4FFELendersandLenderServicersInterestedinElectronicIBRPay.html.

Note: The following Q&As are based on the IRS Form 4506-T as it is used today. In the future, the IRS may require a revised/new form for this authorization. Also, a better process may be developed as the industry and the IRS gain experience in the IBR process. On October 21, 2009, the IRS issued a new short form 4506T-EZ that may be used instead of the form 4506-T if the taxpayer filed a 1040 series return. In addition, the Income Verification Express Service (IVES) process was improved in August 2012, and this guide has been updated to reflect the changes.

Questions regarding the form

Q1. How long does it take the IRS to process and post a tax return once it is filed by the borrower/taxpayer?
A1. It generally takes between 4 and 6 weeks for normal processing to post so that transcripts are available. Tax returns filed close to the April 15 deadline may take 8 weeks or more.

Q2. What tax years can be requested on the IRS Form 4506-T?
A2. The current tax year and the three prior tax years.

Q3. Can IRS Form 4506-T be e-signed?
A3. No, the IRS requires a wet signature on the form. This is in large part because it is authorizing a third-party to view the taxpayer’s return.
Q4. Is there a different format of IRS Form 4506-T that loan holders can use to pre-populate from their system and send to borrowers?

A4. The PDF on the IRS website allows a loan holder to pre-populate fields.

Q5. Can IRS Form 4506-T be pre-printed with the loan holder’s name and address (line 5) before sending to the borrower?

A5. Yes, a loan holder may pre-populate line 5 of the IRS Form 4506-T with its name, address, and telephone number prior to sending to the borrower/taxpayer.

Q6. Can the loan holder pre-fill any of the following lines on IRS Form 4506-T?
   - Line 1a, 1b, 3, 4
   - Lines 2a and 2b if the borrower/taxpayer filed a joint return and the loan holder is aware of the spouse’s name and social security number
   - Line 6 - 1040
   - Box 6a. Returned Transcripts
   - Box 7. Verification of Non-filing (only when using the regular filing method)
   - Line 9. Year(s) or period(s) requested – 12/31/XX

A6. Yes the loan holder can pre-fill all lines on the IRS Form 4506-T except the borrower/taxpayer’s signature and the date. However, only box 6a OR box 7 can be pre-filled for each tax year requested on a single request.

Q7. What line items on IRS Form 4506-T need to be completed by the borrower/taxpayer in order for the loan holder to receive a 1040 transcript if the loan holder does not provide a pre-filled form?

A7. The following line items should be completed on IRS Form 4506-T with borrower/taxpayer information:
   - Line 1a, 1b, 3, 4
   - Lines 2a and 2b should be completed if the borrower/taxpayer filed a joint tax return
   - Line 6
   - Box 6a
   - Line 9. Year(s) or period(s) requested – 12/31/XX
   - All applicable lines in the signature section.

The loan holder should populate line 5 with its name, address, and telephone number prior to sending to the borrower.

Q8. What line items on IRS Form 4506-T need to be completed by the borrower/taxpayer in order for the loan holder to verify that the borrower/taxpayer did not file a return if the loan holder did not provide a pre-filled form?

A8. The following Line items should be completed on IRS Form 4506-T with borrower/taxpayer information:
   - Line 1a, 1b, 3, 4
   - Lines 2a and 2b should be completed if the borrower/taxpayer filed a joint tax return
   - Line 6
   - Box 7 (only when using regular process; can not verify non-filing using Income Verification Express Service (IVES; see more about this process below)
• Line 9. Year(s) or period(s) requested – 12/31/XX
• All applicable lines in the signature section.
The loan holder should populate line 5 with its name, address, and telephone number prior to sending to the borrower/taxpayer.

Q9. What will occur if the IRS is not able to process the request due to missing or incorrect information on the IRS Form 4506-T?

A9. The request will be denied, the borrower/taxpayer will be informed of the error and the loan holder will be notified of the rejection, but not the reason. Therefore it is in the best interest of all to ensure that the IRS Form 4506-T is complete and accurate before submission to the IRS. Some of the most common problems include:

• Failure to get a signature and/or date on the request
• Failure to provide the address on the return for the year desired
• Failure to provide the current address of the filer(s), if new
• Illegible form
• Missing IRS cover sheet
• Failure to include IVES user ID (used to access IRS site) at the end of line five on the 4506T, after servicer address.
• Transcript requests will be rejected if return only recently filed (within days), and request must be resubmitted.

Q10. How long does it take for the borrower/taxpayer to receive the explanation of why the return information could not be provided to the loan holder and in what format?

A10. Borrower/taxpayer should receive a written notice through the mail within 21 days from the date the IRS received the IRS Form 4506-T under the regular process and within 9-11 days from that date under IVES.

Q11. If the loan holder receives a rejected notification from the IRS, what action should the loan holder take with the borrower/taxpayer?

A11. The loan holder should notify the borrower/taxpayer that the request has been rejected by the IRS and inform the borrower/taxpayer to contact the loan holder to resolve. Borrower/taxpayer will receive the notice explaining the rejection within 9-21 days from the date the IRS received the IRS Form 4506-T, depending on the submission process used (see previous question).

Q12. If there is more than one tax year entered on IRS Form 4506-T in line 9 (current year plus the 3 prior years), will the IRS return a single transcript with all four years, or will they return four separate 1040 transcripts?

A12. Each transcript represents a single return. The IRS would return 4 separate transcripts.
Mail or Fax Submissions (normal Return and Income Verification Services (RAIVS) process)

Q13. Can the loan holder mail or fax IRS Form 4506-T to any RAIVS Center, or does the form have to be sent to the RAIVS Center based on the borrower’s residence?
A13. IRS Form 4506-T should be faxed or mailed to the RAIVS Team for the state where the borrower/taxpayer filed the most recent return.

Q14. What is the turnaround time for the IRS to process IRS Form 4506-T and return the transcript to the loan holder using the normal mail or fax process?
A14. 10 calendar days.

Q15. How does the IRS send the transcript information to the loan holder, by mail or by fax?
A15. The transcript will be mailed to the servicer.

Q16. Does the IRS charge a fee for processing 4506-T forms that are submitted through the normal RAIVS process?
A16. No, the IRS does not charge a fee for the normal RAIVS process.

Q17. If the borrower can provide alternative AGI information, why can’t the lender/servicer bypass IRS completing the 4506-T form?
A17. Per the regulations, lenders are required to collect consent from the borrower to obtain income information from the IRS. The 4506-T form is the IRS method of doing so. However, under recent guidance from the Department, the lender/servicer may accept a copy of the first two pages of the income tax form. See the Electronic Announcement dated April 13, 2012, and the November 1, 2012 Final Rule effective July 1, 2013, that provide for relaxed AGI documentation requirements. In addition, the Department has introduced an electronic IBR application process that provides a direct link to the borrower’s AGI information from the IRS. This process will be available for all participating servicers, regardless as to the borrower’s loan program, in the near future.

Q18. Can a borrower withdraw his or her authorization to IRS information? Is this an annual authorization or permanent?
A18. The borrower could withdraw his or her authorization; however, this information is needed to make a PFH determination. The authorization is obtained annually and if obtained through the IRS Form 4506-T, it is only good for 120 days from the date on the form. See the Electronic Announcement dated April 13, 2012, and the November 1, 2012 Final Rule effective July 1, 2013 that provide for relaxed AGI documentation requirements. In addition the Department has introduced an electronic IBR application process that provides a direct link to the borrower’s AGI information from the IRS. This process will be available for all participating servicers, regardless as to the borrower’s loan program, in the near future.
Submissions using the IVES process

Q19. Does the IRS have a process to submit IRS Form 4506-T electronically through a batch process based on volume?
A19. Not at this time.

Q20. Does the IRS have a service to expedite the processing of IRS Form 4506-T?
A20. Yes, the IRS has a fee-based process called the IRS Income Verification Express Service (IVES). A user must apply to participate in the IVES process and a RAIVS Team address and fax number will be assigned to the user. When using the IVES system, the 4506-T forms must be faxed in batches of 50 with a cover sheet to the assigned RAIVS Center location, and the transcript is returned electronically via the IVES system. Information on the IVES system can be found at the following links:
- e-Services Registration: [http://www.irs.gov/Individuals/e-Services-Registration](http://www.irs.gov/Individuals/e-Services-Registration)

The site includes tutorials on how to apply to participate in IVES and examples of the mail that will be delivered to the user’s secure mailbox. However, there is no example showing what a tax transcript looks like.

Q21. Is there a cost to using this process?
A21. Yes, there is a fee of $2.00 for each transcript requested. If the loan holder requests transcripts for multiple years, then there will be a charge of $2.00 for each year requested. (Each year’s tax return equates to a separate transcript)

Q22. How does IVES bill for the transcripts?
A22. IVES participants receive monthly bills (generally on the 5th of the month). Bills may only be paid using either ACH debit or credit, through the Pay.gov site at [https://www.pay.gov/paygov/](https://www.pay.gov/paygov/).

Q23. What if there are less than 50 IRS Form 4506-Ts (for example 35)? Or what if there are 235 IRS Form 4506-Ts? Can a batch of less than 50 be faxed under any circumstances?
A23. The IRS strongly prefers batches of 50 but will work with the loan holder.

Q24. What is the turnaround time for the IRS to process and return a transcript through the IVES process?
A24. The IRS provides a return transcript within 2 business days.

Q25. How is the transcript delivered to the loan holder?
A25. The transcript information is delivered to a secure mailbox, which the loan holder receives when it registers to use the IVES system.
Q26. What format is the transcript?
A26. The transcript is a PDF document.

Q27. How long does the transcript remain available in the secure mailbox?
A27. An item in the secure mailbox remains available for 3 business days after the item is opened. If the item has not yet been opened it remains available in the secure mailbox for 7 business days.

Q28. Are there commercial services that provide submission to the IRS on the loan holder’s behalf?
A28. Yes. Internet research reveals several commercial services that provide this service. Some advertise that they will provide a transcript within 24 hours, and the cost appears to run between $15 and $20. They also use the IVES system, however, and have been promised no more expedited service than 2 business days.

**Regulatory Question**

Q29. How long is the IRS Form 4506-T valid after the borrower/taxpayer signs the form?
A29. 120 days; since the IRS Form 4506-T is only valid for 120 days after the borrower/taxpayer signs the form, the loan holder must ensure that it is transmitted to the IRS within that time frame.

**IRS Output Results Scenarios**

The following Q&As and chart are a quick reference of output results based on different request scenarios.

**RAIVS Process**

Q30. If Box 6A (Return Transcript) is checked to request a transcript, what will the IRS return to the loan holder if the borrower/taxpayer did not file a return?
A30. The loan holder will receive a response of “no record of return filed.”

Q31. If Box 6A (Return Transcript) is checked to request a transcript and Section 9 contains multiple years, what will the IRS return to the loan holder if the borrower/taxpayer filed a return in some of the years, but did not file a return in all of the years?
A31. The loan holder will receive a response of “no record of return filed” for the year(s) the borrower/taxpayer did not file a return. The loan holder will receive the transcript(s) for the year(s) the borrower/taxpayer did file.
Q32. If Box 7 (Verification of Non-filing) is checked to confirm that a return was not filed, what will the IRS return to the loan holder if the borrower/taxpayer did not file a return?
A32. The loan holder will receive verification that a return was not filed.

Q33. If Box 7 (Verification of Non-filing) is checked to confirm that a return was not filed, what will the IRS return to the loan holder if the borrower/taxpayer did in fact file a return?
A33. The loan holder will receive a letter advising it to contact the borrower/taxpayer. The borrower/taxpayer will get a letter with a copy of the transcript.

Q34. If Box 7 (Verification of Non-filing) is checked to confirm that a return was not filed and Section 9 contains multiple years, what will the IRS return to the loan holder if the borrower/taxpayer did in fact file a return for some of the years?
A34. The loan holder will receive verification of non-filing for any year in which the borrower/taxpayer did not file. For any requested year in which the borrower/taxpayer did file, the loan holder will receive a letter advising it to contact the borrower/taxpayer, and the borrower/taxpayer will receive a letter with a copy of the transcript.

IVES Process

Q35. If Box 6A (Return Transcript) is checked to request a transcript, what will the IRS return to the loan holder if the borrower/taxpayer did not file a return?
A35. The loan holder will receive a response of “no record of return filed.”

Q36. If Box 6A (Return Transcript) is checked to request a transcript and section 9 contains multiple years, what will the IRS return to the loan holder if the borrower/taxpayer filed a return in some of the years, but did not file a return in all of the years?
A36. The loan holder will receive a response of “no record of return filed” for the year(s) the borrower/taxpayer did not file a return. The loan holder will receive the transcript(s) for the year(s) the borrower/taxpayer did file.

Q37. If Box 7 (Verification of Non-filing) is checked to confirm that a return was not filed, what will the IRS return to the loan holder if the borrower/taxpayer did not file a return?
A37. The loan holder should not submit any forms through the IVES process with Box 7 checked. IVES is not currently able to verify non-filing.

See summary chart on next page for quick reference to filing via RAIVS or IVES process.
The following chart summarizes Section VIII, Questions 32 through 39 for quick reference:

<table>
<thead>
<tr>
<th>Method of Filing</th>
<th>If Box 6A Checked</th>
<th>If Box 7 (Verification of Nonfiling) Checked</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paper/ Fax (RAIVS)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
|                    | If return filed, loan holder receives transcript | If return was filed, what response?
|                    | If no return filed, loan holder receives response “no record of return filed” | Separate response to taxpayer and loan holder.
|                    | If IRS Form 4506-T is for multiple years (line 9 says 2007 and 2008), what is response if borrower/taxpayer filed in 2008, but not in 2007? Loan holder receives transcript for 2008. For 2007, loan holder receives “no record of return filed.” | Taxpayer receives letter with copy of transcript; loan holder receives letter advising to contact taxpayer. |
| IVES               | If return filed, loan holder receives transcript | IVES unable to verify non-filing at this time. Loan holder should not send any forms with Box 7 checked through the IVES process. |
|                    | If no return filed, loan holder receives response “no record of return filed” | IVES unable to verify non-filing at this time. Loan holder should not send any forms with Box 7 checked through the IVES process. |
|                    | If IRS Form 4506-T is for multiple years (line 9 says 2007 and 2008), what is response if taxpayer filed in 2008, but not in 2007? Loan holder receives transcript for 2008. For 2007, loan holder receives “no record of return filed.” | IVES unable to verify non-filing at this time. Loan holder should not send any forms with Box 7 checked through the IVES process. |
Section IX: Interest Subsidy and Special Allowance Q&As

Q1. When does the 3-year period start and end in which the Department will pay interest subsidy?
A1. In the preamble to the October 23, 2008 Final Rule, the Department stated that IBR starts on the day the repayment period begins under IBR. This date is different on the systems used to service loans. Therefore, it is the date the borrower is “deemed in IBR on the servicing system used. The 3-year subsidy period begins on the date the borrower initially enters IBR PFH repayment on each loan and ends exactly three years later. This 3-year period is not interrupted except for periods of economic hardship deferment. The 3-year period continues to run even if the borrower no longer qualifies for PFH.

Q2. How is the 3-year period of interest subsidy calculated when an economic hardship deferment is granted before the 3-year period ends?
A2. The 3-year limit on interest subsidy is suspended during the periods of economic hardship deferment, and resumes after the deferment.

Q3. Does consolidation restart the 3-year period?
A3. No. The 3-year interest subsidy “clock” keeps ticking, even during the transition period between the date the underlying loans were paid in full and the first payment due date on the Consolidation loan. The only event that would temporarily stop this clock and extend the subsidy period would be the application of an economic hardship deferment.

Q4. Does the HEAL portion of a Consolidation loan get Special Allowance Payments under IBR?
A4. No. The HEAL portion of a Consolidation loan is never eligible for federal interest benefits and therefore would not be eligible for either the 3-year interest subsidy or the Special Allowance on the average daily balance of accrued interest.

Q5. If the borrower enters into a forbearance or deferment while in PFH, can the lender bill SAP on the unpaid interest during the forbearance or deferment period?
A5 Yes, the lender may bill for SAP on the unpaid accrued interest, for as long as the PFH status persists during the deferment or forbearance period. This was affirmed by the Department in e-mails dated November 25, 2009 and July 8, 2013.

Q6. If the loan holder bills for interest and SAP on the unpaid interest outstanding at the end of the quarter, then the borrower pays the outstanding interest in the next quarter, does the loan holder have to refund any interest subsidy and/or SAP paid in the previous quarter?
A6. No. Just like today, the loan holder billed correctly on what was outstanding at the end of the quarter or on the correct average daily balance for the quarter. However, if the payment is posted retroactively with an effective date on or prior to the last day of the previous quarter, the loan holder may have to adjust billings accordingly.
Q7. Will the government interest billed during a period of economic hardship deferment while the borrower is in an IBR plan be based solely on accrued interest during the deferment period or will the borrower’s scheduled payment amount be factored into the amount billed?
A7. Subsidized interest accrued during any deferment while the borrower is in IBR will be billed as normal deferment interest.

Q8. If an enrollment update results in the borrower being returned to an in-school or grace status on a Stafford loan, would the Standard-Standard and Permanent-Standard payments amounts need to be adjusted, would PFH eligibility based on new Standard-Standard payment need to be re-evaluated, and would all counters (including the 3-year interest subsidy counter) need to be adjusted? For example, Bobby Borrower’s initial grace-end date was 12/31/12, and his IBR start date was 2/1/13. On 8/1/13, Bobby’s lender receives an enrollment update indicating that Bobby was continuously enrolled through 5/31/13, making his true grace end date 11/30/13.
A8. Yes. Since a borrower is unable to waive their grace period for any reason, including to enter IBR early, the borrower could no longer be considered to be in IBR. The lender/servicer would have to reevaluate IBR eligibility and determine the Standard-Standard and Permanent-Standard amounts based on the new grace-end date. On a subsidized loan, the lender/servicer would also have to reset the 3-year interest subsidy period to begin no earlier than the day after the new grace-end date, refund all IBR subsidy interest previously billed from the old IBR start date, and retroactively bill the Department for all interest accrued from the old grace-end date.

Q9. If the Permanent-Standard amount happens to be less than the monthly interest accruing, may the loan holder bill the Department for subsidized interest during the 3-year period?
A9. It is very unlikely that a Permanent-Standard payment amount would ever be less than accrued interest, particularly during the three-year subsidy window. However, if this were to occur, billing would be permitted because §682.215(b) and §682.300(b) do not limit the subsidy to periods of a PFH, but rather authorize a subsidy to all periods under an IBR plan for the first three consecutive years from the established repayment start date.

Q10. The preamble to the October 23, 2008 Final Rule [page 63237] states that "A borrower's scheduled monthly payment amount, regardless of whether it covers accrued interest, is the borrower's payment obligation. During the 3-year period, the Department's obligation under the law is to pay only the amount of unpaid accrued interest that is not the borrower's obligation to pay during this period." Does the Department’s subsidy payment for a borrower remain unchanged regardless of the actual amount that the borrower pays relative to the borrower’s scheduled monthly payment amount? Is this true if a borrower makes a payment that exceeds the scheduled IBR payment amount? Are such prepayments from a borrower applied as provided under §682.215(c)(1)?
A10. The Department has stated that they will pay the calculated interest during the 3-year period regardless of the amount the borrower actually pays. This is the case both when the borrower pays less than the borrower's scheduled monthly payment or if the borrower pays more than the borrower’s scheduled monthly payment. Any prepayments or excess payments made by the borrower should be applied as provided under §682.215(c)(1).
Q11. Is the “scheduled payment amount” based on all loans, all subsidized loans, or on the payment amount for each subsidized loan?
A11. The calculated PFH payment amount should be allocated across all loans for a borrower with a specific loan holder. This could mean that a borrower has a very low scheduled payment amount allocated to a loan that is not adjusted under the $5 and $10 tolerances. Interest subsidy would be calculated at the loan level for LaRS reporting based on the scheduled payment amount allocated to that subsidized loan or the subsidized portion of a Consolidation loan.

Q12. When determining the average daily balance of the unpaid accrued interest on the loan, does the loan holder include any interest during the 3-year subsidy period that has accrued in the quarter that is the Department’s obligation to pay?
A12. Yes, the portion of the Department’s accrued interest would be included when determining the average daily balance of the unpaid accrued interest.

Q13. What changes will occur to Part II, Interest Subsidy, of the LaRS report?
A13. Beginning with the September 30, 2009 quarter, the Department requires loan holders to use the following new billing codes in Column C, Billing Code and report the amount of interest in Column F, Interest Amount on the ‘Lender’s Interest and Special Allowance Request and Report (LaRS/799)’ even if the billing is for the current quarter. While the Department will pay the amount in Column F, the loan holder will be responsible for maintaining the supporting documentation showing how the amounts were determined. The Department has asked that the interest rate be reported and zero dollar amounts will be accepted in Column D, Ending Principal Balance and Column E, Average Daily Principal Balance.

IC - Billing Current
II - Previous quarter increase adjustment
ID - Previous quarter decrease adjustment

Q14. What changes will occur to Part III, Special Allowance, of the LaRS report?
A14. The same billing codes used in Part II will be used in Part III, Column A, Billing Code. The special allowance will be calculated on an average daily balance of the outstanding accrued interest that includes the accrued interest that is the borrower’s responsibility and the accrued interest that is the Department’s obligation to pay. If the borrower’s PFH ends prior to the end of a quarter, the average daily balance calculation will stop as of that date. Report on LaRS/799 using the same special allowance code as used on the principal amount for loan type in Column E, Special Allowance Category with a 0% interest rate in Column F, Interest Rate and use the average daily balance of the unpaid accrued interest. As is reported today, current quarter billings are reported in Column H, Average Daily Principal Balance and prior quarter adjustments are reported in Column I, Adjustment for Difference in Average Daily Principal Balance. The loan holder will be responsible for maintaining the supporting documentation showing how the amounts were determined.

Q15. What changes will occur to Parts IV and V of the LaRS report?
A15. None. The ending balances should not be carried forward to either Parts IV or V.
Q16. How can interest subsidy stop on the 61st day after a borrower is eligible for forgiveness if it is only a 36-month period? Please clarify.

A16. The 61st day is just another point at which interest subsidies stop in general. So, if the borrower was in an economic hardship deferment, for example, when the 300th qualifying month hits, and the lender did not file for forgiveness by the 60th day following the lender’s determination date, the interest subsidies associated with that deferment period would stop.

Q17. How is the 3-year interest subsidy "clock" calculated? For example, if a borrower enters repayment and elects IBR (with PFH determination) on two subsidized Stafford loans for one year, goes back to school and takes out one new subsidized Stafford, re-enters repayment on all loans and re-enters IBR with PFH determination, how much time is left on the interest subsidy clock for each of the loans?

A17. On the first two loans, the 3-year clock will continue to run while the borrower is back in school, so how much subsidy time remains is based on how long the borrower remains in an in-school deferment on those loans. (Basically, take the 36 months minus the 12 months of subsidy already used minus the months of in-school deferment used.) The new loan would get a full 36 months from the time it entered IBR after the in-school period.

Q18. Is SAP billing on the unpaid accrued interest dependent upon the loan being in the 3-year IBR subsidy period?

A18. No. The SAP billing applies to all of the loans in PFH, not just the subsidized ones, and it applies during all periods of PFH, no matter how long those periods last or how far into the borrower's overall repayment period they begin or resume. Also, the Department has clarified that lenders/servicers are to include the IBR subsidy interest that is the Department's obligation to pay in the average daily accrued interest calculation.

Q19. A HEAL loan is not eligible for SAP billing due to the fact that loan type is not eligible for government interest subsidy. Can it be more generally said that unsubsidized balances of any loan type are ineligible for SAP billing?

A19. No. Unsubsidized FFELP loans are eligible for Special Allowance on the unpaid accrued interest; they are just not eligible for the additional interest subsidy during the first three years of IBR.

Q20. Should the average balance reported for subsidized loans be the same for interest billing as well as special allowance billing? Is there an example as to why they wouldn't?

A20. The average daily balance of unpaid accrued interest is an entirely different calculation than the 3-year interest subsidy, much like the traditional average daily principal balance is completely separate from, and different than, the interest for which you would bill the Department on subsidized loans during deferment periods. One amount (the interest subsidy) is a straightforward difference between the monthly payment amount and the accrued monthly interest amount, and the other (the average daily accrued interest) is an average of the outstanding daily interest amounts.
Q21. What day does IBR start for purposes of tracking the time periods?
A21. In the preamble to the October 23, 2008 Final Rule, the Department stated that IBR starts on the day the repayment period begins under IBR. This date is different on the systems used to service loans. Therefore, it is the date the borrower is “deemed” in IBR on the servicing system used.

Q22. If a borrower consolidates, how will the servicer be notified of the amount of time the borrower has already used of the 3-year IBR interest subsidy?
A22. The Loan Verification Certificate (LVC) forms in use today by Direct Loans have the data fields to capture the required information needed. [Note: See Section XI: Forms Q&As for more information]

Q23. Is the average daily balance of accrued interest based on the interest amount accrued each day or on the running total of unpaid interest through each day?
A23. The average daily balance is based on the running total of outstanding unpaid interest on each day of the quarter on which the borrower is on PFH.

Q24. If there is unpaid accrued interest prior to the borrower’s IBR start date, can the loan holder include that interest in the average daily balance of accrued interest calculation while the borrower is on PFH?
A24. Yes, per a final ruling from the Department dated July 3, 2013, loan holders can include unpaid interest accrued prior to the IBR start date in the average daily balance of accrued interest calculation while the borrower is on PFH, for all quarters beginning April 1, 2013.

Q25: If the lender/servicer included unpaid accrued interest prior to the IBR start date in the average daily balance of accrued interest calculation, for quarters prior to April 1, 2013, do they need to refund any paid SAP derived from that pre-IBR interest?
A25: No. The Department established the April 1, 2013 date only as a limitation for those lenders who were not previously including the pre-IBR accrued interest in the average daily balance of accrued interest calculation, and who might want to bill for extra SAP based on such interest retroactively.

Q26. If the borrower was in a deferment on a subsidized loan prior to entering IBR, and there was deferment interest billable to the government when IBR began, can the loan holder include this interest in the average daily balance of accrued interest calculation while the borrower is on PFH, along with any unpaid accrued interest owed by the borrower?
A26. Yes. Consistent with the Department’s final ruling dated July 3, 2013, for all quarters beginning April 1, 2013, the loan holder can include both government interest outstanding and borrower interest outstanding as of the IBR start date in the average daily balance of accrued interest calculation while the borrower is on PFH. The government interest outstanding will simply fall off the running interest total at the end of the quarter, when it is billed to the Department via LaRS.
Q27. If an enrollment update results in a later repayment start date on a Stafford loan but does not return the borrower to an in-school or grace status, and this later start date is after the original IBR start date, would all counters (including the 3-year interest subsidy counter) need to be adjusted? For example, Brenda Borrower’s initial grace-end date was 1/15/13, and her IBR start date was 3/1/13. On 8/1/13, Brenda’s lender receives an enrollment update indicating that Brenda was continuously enrolled through 10/15/12, making her true grace-end date 4/15/13.

A27. Yes. On subsidized loans, the lender/servicer would need to reset the 3-year interest subsidy period to begin on the day after the new grace-end date, refund to ED any IBR subsidy interest billed between the old IBR start date and the new grace-end date, and bill ED for the traditional subsidy interest accrued between the old and new grace-end dates.
Section X: Payment Application Q&As

Q1. If payments are made by someone other than the borrower (DOD, AmeriCorps, etc), are they applied to interest first as required under IBR rules?
A1. Absent specific instructions from the third party, these payments are to be applied according to §682.215(c).

Q2. How does the loan holder handle a payment that would pay a loan ahead beyond the 12th month of a PFH term?
   Example 1: Borrower's PFH payment is $10 for 12 months. In month 12, the borrower makes a $20 payment. That $20 satisfies the $10 payment due for month 12 of the PFH term. How do you apply the remaining $10?
   Example 2: A borrower's 12th PFH payment of $20 is due on June 10, 2010. He sends in $40 and wants to re-qualify for another year of PFH payments. Does the additional $20 pay toward the July 10 payment, even though his payment amount may or may not be $20 for the next year of PFH payments?
A2. §682.215(c)(3) provides for advancing payment due dates under §682.209(b)(2)(ii) based on the monthly payment for the borrower's repayment schedule established for the loan. Since the scheduled monthly payment amount will likely vary between PFH periods and permanent-standard periods, as well as for consecutive PFH periods, any advancement of due dates for a prepayment should correspond to the scheduled monthly payment for the applicable period, at the loan holder’s discretion.

Q3. A borrower has both subsidized and unsubsidized loans. The monthly interest is more than the PFH payment amount. How should the PFH payment be applied to each loan type, proportionally based on the loan balances or is all of the subsidized interest paid first and the remainder to the unsubsidized? Or could the borrower direct all of the payment to the unsubsidized interest to take full advantage of the subsidy?
A3. The Department has approved the following answer: Consistent with the application of a borrower payment to a borrower's consolidated account (meaning combined, not consolidation loan) under other repayment plans, we believe the application would be proportional based on the loans included in that account and represented in the combined payment due amount. Payment application under IBR is first to accrued interest, then to collection costs, then to late charges, and finally to loan principal. If the appropriate portion of the consolidated payment applied to any subsidized loan in the IBR plan is insufficient to cover the accrued interest on that loan, the Department would pay the "supplemental" portion of interest on that loan for three years. If the appropriate portion of the consolidated payment applied to any unsubsidized loan in the IBR plan is insufficient to cover the accrued interest on that unsubsidized loan, the unpaid, accrued interest on that unsubsidized loan (and on any subsidized loan after the three-year subsidy period) would remain outstanding unless the borrower’s PFH payment increases (due to a recalculation) to an amount greater than monthly accrued interest (thus sufficient to pay down the outstanding accrued interest) or until the borrower no longer qualifies for PFH or leaves IBR entirely. The borrower no longer qualifying for PFH or leaving IBR entirely would trigger capitalization of any accrued, unpaid interest on the loans. [Note: e-mail dated 9-3-2009]
**Q4.** When applying PFH payments, may the lender/servicer allocate the payment first to any unpaid interest accrued (for example, un-capitalized, unpaid interest that has accrued from the last payment date to the start of the PFH period, or un-capitalized, unpaid interest that accrued prior to a period of deferment before the borrower entered IBR)?

**A4.** Yes. §682.215(c)(1) states that any payment made under the IBR plan umbrella must be first applied to “accrued interest”. As this does not limit “accrued interest” to just the interest that accrues during PFH status, the payment must be applied to satisfy the oldest outstanding interest first, as required under simple interest rules. [Note: e-mail dated 8-11-2011; the Department confirmed that the payment may first be applied to the most past-due interest as it otherwise would be under simple interest rules.]
Section XI: Forms Q&As

Q1. How do industry participants report any use of the 3-year subsidy period on the underlying loans to the consolidating lender?
A1. The Direct Loan Consolidation loan “Loan Verification Certificate” includes fields to be used by the underlying loan holder to report any period of IBR and economic hardship deferment granted. [Note: See Section IX; Q22]

Q2. How are certain data elements reported to the guarantor during a claim process?
A2. The claim form and the electronic claim file accommodate the data reporting elements required due to the borrower’s prior or future eligibility for IBR. The claim form and CAM record 54 are available in the NCHER e-library: http://www.ncher.gov/?page=e0063

Q3. Are there IBR-related data elements that must be provided at the time of claim filing, even if the borrower has never been under an IBR plan?
A3. Yes. Certain fields must be populated in Section X (Income Based Repayment) of the Claim Form, even if the borrower has never been under an IBR plan. Those fields are:
Field 62-Loan ID
Field 63-Standard-Standard $
Field 65-25-Year Forgiveness Begin Date
Field 66-# Qualifying Forgiveness Mths

Fields 62 and 63 must always be populated. Fields 65 and 66 must be populated if any qualifying payments have been made on or after July 1, 2009 and/or the borrower has been on an Economic Hardship deferment beginning on or after July 1, 2009. If field 65 is populated, field 66 must be populated, and vice versa. This data is required in order that it may be passed by the guarantor to any subsequent holder (e.g. resulting from loan rehabilitation) should the borrower apply and qualify for IBR at a later date.

Note: IBR data is never required for claims on Parent PLUS or Consolidation loans that include Parent Plus. It is also never required for claims submitted due to Closed School, Death, False Certification, Identity Theft, or Ineligible Borrower.

Q4. If data provided in fields 65 and 66 is the result of periods of economic hardship deferment, must field 68 (# Days HRD Def) also be populated?
A4. Not necessarily. Field 68 should only be populated if the borrower has been under an IBR plan. Consequently, if field 68 is populated, field 67 (IBR Start Dt) must also be populated. While the number of months on an economic hardship deferment must be included in field 66 (# Qualifying Forgiveness Mths), it should be noted that field 68 captures the number of days on an economic hardship deferment and is intended for a very specific purpose. Claim Form instructions state that field 68 must reflect “the number of days the loan was on an Economic Hardship deferment on or after the date in field 67”. Data in field 68 is required in order that it may be passed by the guarantor to any subsequent holder (e.g. resulting from loan rehabilitation) so that the new loan holder can determine if any portion of the allotted 3-year period of subsidized interest allowed under IBR remains. Any periods of economic hardship deferment while the borrower is on an IBR plan are considered to have stopped the 3-year “clock”.

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Q5. Under certain scenarios, it may be very difficult for a loan holder to calculate and provide the guarantor at claim filing an accurate Standard-Standard payment amount. For example, there may be times when a subsequent loan holder may not know the Standard-Standard payment amount or the outstanding balance at initial repayment to calculate the Standard-Standard payment amount because the data was not provided by the original loan holder. This is especially true if it is a rehabilitated loan, a loan acquired from another lender no longer in business, etc. If the Standard-Standard payment amount is not readily available, what is the expectation for the loan holder to determine/calculate that amount?

A5. Loan holders will need to utilize any and all resources at their disposal, e.g., NSLDS or records from previous holder(s), to calculate/determine the Standard-Standard payment amount to the best of their ability. Guarantors will accept the accuracy of the data elements submitted by the loan holder at claim filing.

Q6. If the loan is more than 270 days delinquent but the claim is not paid yet, is the language on any of the OMB-approved IBR request forms sufficient for an “agreement to repay the debt” in order to grant forbearance after default?

A6. Prior to the first OMB-approved forms announced in Dear Colleague Letter GEN-10-11 on June 17, 2010 (distribution of forms began as early as July 1, 2010) the industry-approved form did include such language so that the IBR form could be used to grant forbearance after default. However, the Department did not agree to include the borrower agreement “to repay the debt according to the terms and conditions of the promissory note” language in the OMB-approved forms. Therefore, the IBR request form is not sufficient for an “agreement to repay the debt” in order to grant forbearance after default. [Note: The first OMB-approved IBR Plan Request and IBR Plan Alternative Documentation of Income forms must be made available to borrowers no later than September 1, 2010.]

Note: Dear Colleague Letter GEN-12-22 (December 22, 2012) announced the approval of the form Direct Loan and FFEL borrowers will use to request an income-driven repayment plan (IBR, ICR and Pay As You Earn) and provides guidance on the implementation of the form.

Questions based upon the combined IBR/Pay As You Earn/ICR Request form issued on December 22, 2012

Q7. Does a borrower currently on the IBR plan use this new form to provide the required annual documentation to determine a new monthly payment amount for IBR?

A7. Yes. In addition, Item 1 of the new IBR/Pay As You Earn/ICR Request form presents borrowers with check boxes to indicate the reason they are submitting the form. Specifically, borrowers may indicate that they are submitting the form to:

- Request an income-driven repayment plan or request a change to their income-driven repayment plan (e.g., changing from the IBR to Pay As You Earn plan);
- Submit annual documentation for the recalculation of their monthly payment amount under their current repayment plan; or
- Request that their loan holder recalculate the monthly payment amount because the borrower’s circumstances have changed.
Q8. Is the electronic application process currently available for all borrowers requesting IBR?

A8. At this time, the electronic application is not available to FFELP-only servicers and lenders. On January 11, 2013, the Department informed the community of Federal Student Aid’s readiness to work with all FFEL lenders and lender servicers and assist them in becoming participants in the Electronic Income-Based (IBR)/Pay As You Earn/Income-Contingent Repayment (ICR) Repayment Plan Request process. As a participant in the electronic application process, a lender’s or lender servicer’s borrowers who have eligible commercially-held FFEL Program loans will be able to apply for the IBR Plan through the electronic process.

In September 2013, the Department submitted an updated SAIG Enrollment Form that will allow FFELP lenders and servicers to enroll for the ability to obtain electronic applications information through SAIG. For more information about participation in the electronic process, refer to 011113LSIPOC4FFELendersandLenderServicersInterestedinElectronicIBRPay.html.
Section XII: ED Interim Guidance on Accepting Tax Return Copies

Note: This Section is retained for historical purposes. See Section VII: IBR Eligibility Documentation and Verification Q&As for current documentation requirements.

Q1. Are lenders/servicers required to collect and retain a new borrower wet signature on the copy, even if the copy already has the borrower's signature on it? What about e-signed tax forms, does the borrower print and wet sign those copies?

A1. According to the June 29, 2009 additional guidance, the Department determined that it is acceptable for the lender/servicer to accept a copy of the borrower's tax return form that includes a copied signature and an "original pen and ink" signature is not required. That way the borrower can simply make a photocopy before sending the original to the IRS. Or, in the case where the borrower's copy was not signed, he or she can sign it and send either that form or a photocopy to the lender. Or, in the case where the return was filed electronically, the borrower can print a copy in the normal 1040 format, sign it and send it or a copy in. This now also allows the return to be submitted either by FAX or by e-mailing a scanned copy of the return.

Q2. Is the lender still allowed to use IRS Form 4506-T process?

A2. Yes, the announcement from the Department stated the use of the tax return copies was optional. However, lenders should consider that guarantors and others may assist the borrower in obtaining documentation for IBR and it may only include tax return copies. And the use of IRS Form 4506-T may result in a delay in obtaining the AGI information from the IRS.

Q3. Do lenders/servicers still need to collect a release of tax information consent from the borrower?

A3. No; not for the use of the tax return copies. The fact that the borrower is sending the copies to the lender is consent. However, if the lender has questions about the accuracy of the copies, the lender will need to obtain a signed IRS Form 4506-T from the borrower and file it with the IRS to confirm the borrower's information.

Q4. If the borrower is sending the tax return copies, does the borrower need to complete an Alternative Documentation of Income form?

A4. No. The tax return copies replace IRS Form 4506-T. If the AGI on the tax form does not represent the borrower's current income, the lender would request alternative documentation.

Q5. How will a lender collect the borrower's self-certification of non-filing?

A5. ED stated that the self-certification must be written. At this point it will be up to each lender/servicer to develop a method of obtaining this written self-certification. However, if the borrower reports income to the lender that indicates the borrower should have filed a tax return the lender must verify non-filing through the IRS process.
Q6. The “Interim Guidance” states that the borrower must provide a copy of “both sides” of the borrower’s tax return. The 1040EZ only contains one side. Is this acceptable?

A6. Yes. The purpose is to obtain the pages with both the borrower’s AGI and signature. Since the 1040EZ has both on the same page, and does not have a second page, a copy of the first page is acceptable.

Q7. If the borrower filed a joint tax return, are both spouses required to sign the copy of the tax return if not already signed?

A7. No. This process should mirror IRS Form 4506-T process in that regard. Only one spouse’s signature is required to authorize the release of the tax information on a joint return.

Q8. What obligation does the lender have if the borrower claims he or she is not required to file a tax return but the income documentation suggests that the borrower should have? Does the borrower qualify for IBR if a discrepancy exists?

A8. It is highly unlikely that a holder will have a situation where they have enough documentation to make a determination as to whether the borrower should have filed for a particular tax year. Since the alternative income documentation cannot be more than 90 days old and the tax return for the prior year is not due until April 15 (or October 15 if an extension is filed), the lender would not have sufficient information to determine filing requirements. Per the June 12, 2009 Electronic Announcement, the only obligation the holder has is to obtain verification of non-filing from the IRS. If the borrower qualifies for IBR based on the income documentation presented, the borrower should be granted IBR, even if the lender believes the borrower should have filed a tax return.