

## Black, Elliott (OST)

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**From:** AMJP  
**Sent:** Monday, April 26, 2021 7:23 PM  
**To:** Black, Elliott (OST); Jenkins-Reid, Alexis (OST); Black, Elliott <FAA>  
**Subject:** FW: AMJP: Frequently Asked Questions [from MARPA and ASA]  
**Attachments:** 2021-04-26 MARPA and ASA - AMJP Frequently Asked Questions.pdf

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**From:** jason@washingtonaviation.com <jason@washingtonaviation.com>  
**Sent:** Monday, April 26, 2021 11:22:38 PM (UTC+00:00) Monrovia, Reykjavik  
**To:** AMJP <AMJP@dot.gov>  
**Cc:** Black, Elliott (OST) <elliott.black1@dot.gov>; 'Michele Dickstein' <michele@aviationsuppliers.org>; ryan@WashingtonAviation.com <ryan@WashingtonAviation.com>  
**Subject:** AMJP: Frequently Asked Questions [from MARPA and ASA]

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Dear Ms. Jenkins-Reid:

Thank you for being open to receiving industry questions about the Aviation Manufacturing Job Protection (AMJP) Program, which was the subject of an emergency Paperwork Reduction Act request described in Docket No: OST-2021-0038 and at 86 F.R. 19695 (April 14, 2021).

MARPA and ASA are two trade associations who represent a significant portion of the organizations likely to be eligible for the AMJP. MARPA is the trade association for FAA-approved aircraft parts manufacturers and ASA is the trade association representing the aviation supply chain, and their members include manufacturers, repair stations and suppliers holding AS9100 certification.

We have assembled a preliminary list of questions that we believe will represent "Frequently Asked Questions" among potential industry applicants concerning this AMJP program. Having answers to these questions at the time that the program application is published will make it easier for industry to apply and to ensure compliance.

The information is in the attached PDF. If you have any further questions or comments, please do not hesitate to call or email me.

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*on behalf of MARPA and ASA*  
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### **Aviation Manufacturing Job Protection (AMJP) Program**

Questions (and Proposed Answers) on the AMJP  
In Support of Development of Frequently Asked Questions Guidance  
and in Response to 86 F.R. 19695 (April 14, 2021)

**Submitted by the  
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## **Aviation Manufacturing Job Protection (AMJP) Program**

Questions (and Proposed Answers) on the AMJP  
In Support of Development of Frequently Asked Questions Guidance  
and in Response to 86 F.R. 19695 (April 14, 2021)

Submitted to DOT at [AMJP@dot.gov](mailto:AMJP@dot.gov)

April 26, 2021

Alexus Jenkins-Reid  
Office of the Secretary of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

Dear Ms. Jenkins-Reid:

Thank you for being open to receiving industry questions about the Aviation Manufacturing Job Protection (AMJP) Program, which was the subject of an emergency Paperwork Reduction Act request described in Docket No: OST-2021-0038 and at 86 F.R. 19695 (April 14, 2021).

Our two trade associations represent a significant portion of the organizations likely to be eligible for the AJMP. MARPA is the trade association for FAA-approved aircraft parts manufacturers and ASA is the trade association representing the aviation supply chain, and their members include manufacturers, repair stations and suppliers holding AS9100 certification.

We have assembled a preliminary list of questions that we believe will represent “Frequently Asked Questions” among potential industry applicants concerning this AMJP program. Having

answers to these questions at the time that the program application is published will make it easier for industry to apply and to ensure compliance.

We believe that the most expeditious way to publish frequently asked questions and the answers thereto will be to publish them on the DOT AMJP website, so the answers are available to the entire aviation industry.

The following questions are raised as reasonable preliminary questions that industry participants are likely to have about the AMJP program. In many cases we have offered proposed answers. Some of the proposed answers are derived from the statutory language, but others are more speculative in nature. The proposed answers are offered as templates for DOT responses to the FAQs, and are not meant to reflect definitive statements of DOT policy.

- If DOT agrees with a proposed answer then please feel free to use it;
- If DOT disagrees with a proposed answer then please provide the more correct answer so that industry understands the DOT's expectations;
- In some cases we have offered multiple options to stimulate potential DOT responses; in these cases DOT may wish to select none, one, some, or all of the responses as valid answers;
- Where industry has a 'frequently asked question' but does not yet have a proposed answer, the answer will show as "\*\*\*\*\*" and we look forward to DOT's response.

To make it easier for DOT to parse through the proposed questions, we have divided them into four categories:

- Total Compensation
- The Business
- Eligible Employee Group
- Aviation Manufacturing Company

## The Questions

### Category: Total Compensation

**Question:** How do I define total compensation level?

**Proposed Answer:** The term "total compensation level" means the level of total base compensation and benefits being provided to an eligible employee group employee, excluding overtime and premium pay, and excluding any Federal, State, or local payroll taxes paid, as of April 1, 2020.

**Question:** Can I have an employee in the Eligible Employee Group whose total compensation exceeds \$200,000, and just limit the amount covered under the program?

**Proposed Answer:** No. The Eligible Employee Group may only include employees with a total compensation level of \$200,000 or less per year.

**Question:** What is the correct way to calculate “total compensation” for any given employee in an Eligible Employee Group?

**Proposed Answer:** For each employee in an Eligible Employee Group, “total compensation” will be equal to *[DOT should choose one, or make it clear that the applicant has options among those chosen by DOT; these options are not exclusive, and DOT may identify other reasonable approaches]*:

- [Option One] For each employee in the Eligible Employee Group, Total Compensation is equal to the base compensation and benefits that was paid by the employer to the employee between April 2, 2019 and April 1, 2020 (inclusive).
- [Option Two] For each employee in the Eligible Employee Group, Total Compensation is equal to twelve time the base compensation and benefits that was paid by the employer to the employee between April 1, 2020 and April 30, 2020 (inclusive).
- [Option Three] For each employee in the Eligible Employee Group, Total Compensation is equal to twelve time the base compensation and benefits that was paid by the employer to the employee between March 2, 2020 and April 1, 2020 (inclusive).
- [Option Four] For each employee in the Eligible Employee Group, Total Compensation is equal to the base compensation and benefits that was paid by the employer to the employee between January 1, 2020 and March 31, 2020 (the amount paid to the employee in 2020 but before April 1, 2020) multiplied by four.
- [Option Five] For each employee in the Eligible Employee Group, Total Compensation is equal to the expected base compensation and benefits that would have been paid to the employee if the employee’s base salary/wages and benefits had remained fixed at the rate that was being paid to the employee as of April 1, 2020. In the event the employee’s base salary/wages and/or benefits changed effective April 1, 2020, then the changed amount (applicable after April 1, 2020) would be used to calculate Total Compensation.
- [Option Six] For each employee in the Eligible Employee Group, Total Compensation is equal to the actual base compensation and benefits that were paid to the employee for the quarter that included April 1, 2020 and that were disclosed as part of the business’ Form 941 that was filed to cover the period that included the April 1, 2020.
- [Option Seven] For each employee in the Eligible Employee Group, Total Compensation is equal to the actual base compensation and benefits that were paid to the employee for the last quarter that ended on or before April 1, 2020, and that were disclosed as part of the business’ Form 941 that was filed to cover the period that included such a period.

**Question:** *[Assumes that DOT chooses to identify Total Compensation based on a “Base Period”]* If an employee in the Eligible Employee Group was hired during the applicable base period for calculating Total Compensation, or laid off or took unpaid leave before April 1, 2020 (so he or she was not employed for the entire base period) then how should that employee’s Total Compensation be calculated?

**Proposed Answer:** If the employee was hired during the base period for calculating Total Compensation (based on actual pay during a time period), then the employee’s Total Compensation should be adjusted by multiplying the actual total compensation paid by the employer to the employee during this period by the number of expected work-days (including paid holidays) in the relevant base period and dividing by the number of days for which the employee was actually paid. For example, let us assume that the base period was the period between January 1, 2020, and March 31, 2020, and there were 65 work-days during this period. The employee was hired and began work on the 14th work -day of the new year, so the employee was only paid for 52 work-days during this period. In such a case, the employee’s actual base pay and benefits would be multiplied by 65/52 (1.25) in order to arrive at the modified amount that will be used to reflect Total Compensation for this employee.

**Question:** What if I define an employee in the Eligible Employee Group whose total compensation was less than \$200,000 before April 1, 2020, but an increase in benefits costs (including health insurance) caused the employee’s total average annual compensation to exceed \$200,000 as of April 1, 2020?

**Proposed Answer:** For purposes of the program, the compensation level is based on the base compensation and benefits being provided to the employee as of April 1, 2020; but this amount will be calculated based on the formula shown in response to the ‘base period’ question, above. If the employee’s Total Compensation based on the defined method of calculation exceeds \$200,000 then the employee is not eligible to be part of the Eligible Employee Group.

## **Category: The Business**

**Question:** The Eligible Employee Group can be no greater than 25% of the U.S. workforce for the business but how do we define the business for a company that has multiple affiliates?

### **Proposed Answers:**

- (Option One): DOT plans to rely on the SBA affiliation rules found in 13 C.F.R. 121.103 and will incorporate them by reference. These will apply regardless of whether the applicant is a small business. All affiliates are expected to file a single application that defines a single Eligible Employee Group among the affiliates.
- (Option Two): Without regard to affiliation rules, each business entity that files a Form 941 may apply under this program to identify an Eligible Employee Group among the personnel subject to that business’ Form 941 (using the Form 941 that was filed to cover the period that included the April 1, 2020). The Eligible Employee Group for such a business should be no more than 25% of the U.S. workforce for the business as disclosed in the applicable Form 941 that is used as the basis for defining the relevant period during which to identify Total Compensation for each member of the Eligible Employee Group.

## Category: Eligible Employee Group

**Question:** How do I define my Eligible Employee Group?

**Proposed Answer:** The Eligible Employee Group can be any group of employees as long as the employees meet the following criteria:

- Each employee in the Eligible Employee Group is part of the employer's United States workforce;
- Each employee in the Eligible Employee Group is engaged in aviation manufacturing activities and services, or maintenance, repair, and overhaul activities and services;
- The total number of employees in the Eligible Employee Group does not exceed 25% of the employer's United States workforce; and
- The total compensation of each employee in the Eligible Employee Group does not exceed \$200,000.

**Question:** Under the eligibility criteria, each employee in the Eligible Employee Group must be engaged in aviation manufacturing activities and services, or maintenance, repair, and overhaul activities and services (the "engaged in" criterion). If my company operates a process certified to SAE AS9100 related to the design, development, or provision of an aviation product or service, including a part, component, or assembly, then what do my employees need to do in order to meet the "engaged in" criterion? Is it sufficient that my employees supply goods under an AS9100 process to a production approval holder or a maintenance provider?

**Proposed Answer:** For an otherwise-eligible employer who operates an AS9100 process, any employee who performs one of the following tasks will be considered to meet the "engaged in" criterion:

- Procurement of aviation products, including parts, components, assemblies;
- Procurement of services on aviation products, parts, components, or assemblies, including maintenance services;
- Storage of aviation products, including parts, components, assemblies in between procurement (including procurement of services) and distribution/supply;
- Distribution/supply of aviation products, including parts, components, assemblies.



**Question:** What if I include an employee in the Eligible Employee Group who was not employed with my business as of April 1, 2020? Employees who were hired after April 1, 2020 could include:

- an employee who was hired to replace a furloughed employee who refused to return to service following a recall;
- an employee who was hired to replace a deceased employee; or
- an employee who was hired to replace a retired employee.

How do I calculate total compensation for such an employee?

**Proposed Answer:** \*\*\*\*

**Question:** Can the Eligible Employee Group span different departments of a single employer?

**Proposed Answer:** Yes, the Eligible Employee Group may span different departments of a single employer, as long as the defined Eligible Employee Group meets the statutory requirements.

## **Category: Aviation Manufacturing Company**

**Question:** The term “aviation manufacturing company” includes a corporation, firm, or other business entity that actively manufactures an aircraft, aircraft engine, propeller, or a component, part, or systems of an aircraft or aircraft engine under a Federal Aviation Administration production approval. What is Federal Aviation Administration production approval?

**Proposed Answer:** The term “Federal Aviation Administration production approval” means:

- a production certificate issued under 14 C.F.R. Part 21 Subpart B;
- a parts manufacturer approval issued under 14 C.F.R. Part 21 Subpart K;
- a technical standard order authorization issued under 14 C.F.R. Part 21 Subpart O; or
- any other production approval under 14 CFR 21.8(d).

Production under an FAA production approval means production only of those articles that are authorized to be produced under the FAA production approval. Note that a corporation, firm, or other business entity that actively manufactures or supplies an aerospace article that is NOT subject to a production approval may still be eligible for the AMJP program if it meets the AS9100 criterion.

**Question:** The term “aviation manufacturing company” includes a business entity that operates a process certified to SAE AS9100 related to the design, development, or provision of an aviation product or service, including a part, component, or assembly. Does this include a business entity that operates an otherwise eligible process that is certified to one of the derivative standards (AS9110 for provision of services and AS9120 for provision of products)?

**Proposed Answer:** Companies that provide an aviation product, including a part, component, or assembly, may choose to be certified to AS9100 or AS9120. In practice, similarly situated companies have opted to choose different versions of these two standards. For example, there are suppliers of aviation part who provide those parts in the ASD supply chain under AS9100, and there are similarly situated companies who perform the same actions under an AS9120 certification. The most significant difference between AS9100 and AS9120 are that AS9120 does not have these three requirements: (1) Planning of Product Realization, (2) Design and Development and (3) Validation of Processes for Production. There are AS9120 companies that nonetheless provide aviation parts. Eligibility for the AMJP program should not be based on the accident of which version of the SAE standard a business chose, where companies are otherwise similarly situated. Therefore:

- If the business is otherwise qualified (in that it operates an AS9110 operates a process certified to SAE AS9110 related to the design, development, or provision of an aviation product or service, including a part, component, or assembly) then it will be considered eligible for the program under the AS9100 provision. Note that most such businesses certified under AS9110 will also qualify because they hold a certificate issued under part 145 of title 14, Code of Federal Regulations.
- If the business is otherwise qualified (in that it operates an AS9120 operates a process certified to SAE AS9120 related to the design, development, or provision of an aviation product or service, including a part, component, or assembly) then it will be considered eligible for the AMJP program under the AS9100 provision. This includes a number of businesses who do not hold FAA production approval but are nonetheless important elements of the aviation industry supply chain.

## Conclusion

MARPA and ASA look forward to working with the Department of Transportation to help sustain the aviation maintenance and manufacturing industry. We are happy to sit down with you to work on ways to clarify guidance and policy if you would like further input, and as we identify other areas that require guidance, we pledge to provide additional information to DOT. Your consideration of these comments is greatly appreciated.

Respectfully Submitted,



Jason Dickstein  
President

Modification and Replacement Parts Association



Michele Dickstein  
President  
Aviation Suppliers Association